

RESOLUTION NO. 2023-32566

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CALLING FOR A SPECIAL MAIL BALLOT ELECTION TO BE HELD FROM JUNE 5, 2023, TO JUNE 27, 2023, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF A SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE 41ST STREET BUSINESS IMPROVEMENT DISTRICT; PROVIDING THAT THE OFFICE OF THE CITY CLERK AND OFFICE OF THE CITY ATTORNEY SHALL CONDUCT SUCH ELECTION; PROVIDING FOR THE FORM OF BALLOT; AND DIRECTING THE CITY CLERK TO GIVE NOTICE OF SUCH ELECTION AS REQUIRED BY THE CITY CODE AND STATE LAW.

WHEREAS, on March 27, 2023, the Mayor and City Commission adopted Resolution No. 2023-32544, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the 41st Street Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve that certain area of the City of Miami Beach herein referred to as the 41st Street Business Improvement District, which District is generally bounded on the west by Alton Road, on the east by Indian Creek Canal, and consists of properties abutting West 41st Street/Arthur Godfrey Road, through promotion, management, marketing, and other similar services; and provided for the levy and collection of special assessments, which shall increase by five (5%) percent every two (2) years; and

WHEREAS, the Mayor and City Commission hereby call for a special mail ballot election (the "Election") to determine whether a majority (50% plus one) of the affected property owners approve the creation of the District; and

WHEREAS, the City and Middle Beach Partnership, Inc., a Florida nonprofit corporation (the "BID"), intend to enter into a Memorandum of Understanding (the "MOU") to conduct the Election; and

WHEREAS, pursuant to the MOU, the BID shall cover the costs of the Election, including the City's staff costs, as well as the cost of postage, printing, mailing supplies, advertising, and translation; and

WHEREAS, the Office of the City Clerk and Office of the City Attorney have prepared special mail ballot election procedures for the proposed Election, which procedures are attached and incorporated as Exhibit "A."

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:

SECTION 1.

In accordance with the provisions of the Code of the City of Miami Beach and the general laws of the State of Florida, a special mail ballot election is hereby called and directed to be held in the City of Miami Beach, Florida, from June 5, 2023, to June 27, 2023, for the purpose

of submitting to the affected property owners the following question:

Shall 41st Street Business Improvement District be created for a term of 10 years, with estimated annual budget of \$195,246, to stabilize and improve properties abutting West 41st Street/Arthur Godfrey Road, between Alton Road on the west and Indian Creek Canal on the east, through promotion, management, marketing, and other similar services, which District shall be funded by special assessments against benefited properties, with assessments increasing by 5% every two (2) years?

SECTION 2.

The Office of the City Clerk and Office of the City Attorney shall conduct the special mail ballot election authorized herein, in accordance with the special mail ballot election procedures attached hereto and incorporated herein as Exhibit "A".

SECTION 3.

The form of the ballot shall be a paper ballot, which shall be mailed to affected property owners.

SECTION 4.

The City Clerk is hereby directed to give notice, as required by law, of the adoption of this Resolution and of the special mail ballot election herein prescribed.

SECTION 5.

This Resolution shall be effective immediately upon its passage. If a majority (50% plus one) of the affected property owners approve the creation of the District, the City Commission will hold a public hearing for the City Commission to (i) make a final decision on whether to levy the special assessments, and (ii) meet as an Equalizing Board to hear and consider any and all complaints as to the special assessments, and adjust and equalize the assessments on a basis of justice and right.

PASSED AND ADOPTED this 28 day of April, 2023.

ATTEST:



Rafael E. Granado, City Clerk

MAY 8 2 2023



Dan Gelber, Mayor

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

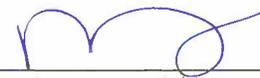

City Attorney NK 4-20-23
Date



EXHIBIT "A"

41st STREET BUSINESS IMPROVEMENT DISTRICT SPECIAL MAIL BALLOT ELECTION PROCEDURES

The following procedures shall govern the special mail ballot election, which shall be conducted by the Office of the City Clerk and Office of the City Attorney, to determine whether a majority (50% plus one) of the affected property owners approve the creation of the proposed 41st Street Business Improvement District (the "District") (altogether, the "Election").

1. Middle Beach Partnership, Inc. (the "BID"), shall provide the City Clerk with a Certified List, approved by the BID president and attested to by the BID secretary, of each benefited property address within the District, and each property owner's mailing address. In addition, the BID will provide the City with a mailing label and a return-mailing label for each address. The format of the mailing labels and return-mailing labels (the "Labels") shall be as determined by the City.
2. The City reserves the right to hire a consultant, at the sole cost and expense of the BID, to verify the accuracy of the names of the property owners and mailing addresses submitted by the BID pursuant to Section 1 above.
3. The Office of the City Attorney shall draft the ballot question.
4. Upon the BID's approval of the ballot question, and the City's receipt of the Labels and Certified List, the Office of the City Clerk, in consultation with the Office of the City Attorney, shall prepare the Official Ballot. The City's seal will be embossed on each Official Ballot.
5. The City shall translate or arrange the translation of any documents necessary to effectuate the Election, including the Official Ballot.
6. The mail package for each Official Ballot shall be as follows:

Envelope 1: Envelope 1, the outer envelope, shall be affixed with a mailing label provided by the BID. This envelope shall contain (i) the Official Ballot, (ii) a form affidavit affirming the voter's authority to vote on behalf of the property owner (the "Affidavit"), (iii) an instruction sheet detailing when the Official Ballot must be returned and the date, time, and location of when the Official Ballots received will be opened, (iv) Envelope 2, and (v) Envelope 3.

Envelope 2: Envelope 2, which will be placed inside Envelope 1, shall be stamped and pre-addressed for mailing to the Office of the City Clerk. A return address label printed with the folio number, name of the property

owner, and mailing address of the property owner shall be affixed to Envelope 2.

Envelope 3: Envelope 3 is the ballot secrecy envelope. To preserve the secrecy of the ballot, the property owner will be instructed to remove the Official Ballot from Envelope 1, and cast a vote by drawing a circle around the appropriate ballot response. After voting, the property owner will be instructed to place the completed Official Ballot inside Envelope 3, seal Envelope 3, and place Envelope 3 into Envelope 2. The property owner will be instructed to place the Affidavit inside Envelope 2 and not to place the Affidavit inside Envelope 3, to preserve the secrecy of the ballot. The property owner shall return a sealed Envelope 2, containing the Affidavit and a sealed Envelope 3, to the City by (i) mailing the pre-addressed Envelope 2 to the Office of the City Clerk, or (ii) physically bringing Envelope 2 directly to the Office of the City Clerk.

7. The Office of the City Clerk shall mail all Official Ballots to the property owners on the same day, via First Class U.S. Mail, unless the BID notifies the City in writing that the BID desires that the Official Ballots be sent via FedEx or any other delivery service, at the BID's expense; in such event, the BID shall provide the City with pre-addressed labels and any and all necessary packing and mailing materials for that particular delivery service. In the event that the BID elects to use a delivery service other than U.S. Mail, the procedure in Section 6 shall still apply, except that Envelope 1 shall be placed inside a postage prepaid envelope for that particular delivery service.
8. As voting envelopes are returned, the Office of the City Clerk shall track, on a daily basis, the number of ballots received, by property address, using the Certified List. The count will be posted on the City's website at the end of each day.
9. In the event that, following the tenth (10th) day after the start of the Election, a property owner has not yet received an Official Ballot, the property owner may submit a written request to the City Clerk for a Duplicate Ballot. Upon receipt of the property owner's request, the City Clerk shall promptly mail a Duplicate Ballot to the property owner. If the BID elects, pursuant to Section 7, to use a delivery service other than U.S. Mail, the BID shall provide the City with a pre-addressed label and any and all necessary packing and mailing materials for that particular delivery service. If a property owner does not receive the Duplicate Ballot, the property owner may, again, submit a written request to the City Clerk for a Duplicate Ballot; however, the property owner (or a representative of the property owner) shall be required to retrieve the Duplicate Ballot from the Office of the City Clerk in person.
10. If the Office of the City Clerk receives two or more envelopes referencing the same folio number, the ballots in those envelopes shall be voided, and that property owner will be considered to have not voted.

11. The Canvassing Board for this special mail ballot election shall consist of the following individuals:
 - a. Rafael E. Granado, City Clerk
 - b. Feroat Andasheva, Senior Assistant City Attorney
 - c. Rogelio A. Madan, Development & Resiliency Officer, Planning Department
12. A “yes” vote of the owners of a simple majority (50% plus one) of the affected properties is required to approve the creation of the proposed District.
13. A property owner who fails to return an Official Ballot to the Office of the City Clerk within the allotted timeframe will be considered to have voted “no” to the creation of the District.
14. The City Clerk shall keep the BID president informed of all election-related activities, and the BID president is responsible for disseminating all information to the owners of properties within the District.
15. The ballots will be opened at a publicly noticed meeting of the Canvassing Board, at a prescribed date, time, and location, as follows:
 - a. Envelope 2 will be opened and Envelope 3 and the Affidavit will be removed from Envelope 2.
 - b. Envelope 2 will be placed in a separate stack.
 - c. The Canvassing Board will review the Affidavit to ensure that it is complete and validly executed and notarized. If the Affidavit is not complete or validly executed or notarized, the Affidavit will be stapled to the corresponding Envelope 3 and rejected. If the Affidavit is complete and validly executed and notarized, the Affidavit and Envelope 3 will be placed in separate stacks.
 - d. If the Affidavit is deemed valid, the corresponding Envelope 3 will be opened and the Official Ballot will be removed and placed in a separate stack.
 - e. Those Official Ballots deemed valid pursuant to Section 15(d) herein will be counted. The Office of the City Clerk will prepare a tally of “yes” votes, “no” votes, unreturned ballots, and rejected ballots.
 - f. The Canvassing Board will review any ballot lacking a clear ballot response to determine, if possible, the voter’s intent.
16. Once the count has been finalized and the count is reconciled, the Office of the City Clerk will prepare an Official Election Certification.

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission
FROM: Alina T. Hudak, City Manager
DATE: April 28, 2023

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CALLING FOR A SPECIAL MAIL BALLOT ELECTION TO BE HELD FROM JUNE 5, 2023, TO JUNE 27, 2023, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF A SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE 41ST STREET BUSINESS IMPROVEMENT DISTRICT; PROVIDING THAT THE OFFICE OF THE CITY CLERK AND OFFICE OF THE CITY ATTORNEY SHALL CONDUCT SUCH ELECTION; PROVIDING FOR THE FORM OF BALLOT; AND DIRECTING THE CITY CLERK TO GIVE NOTICE OF SUCH ELECTION AS REQUIRED BY THE CITY CODE AND STATE LAW.

RECOMMENDATION

Adopt the Resolution which is sponsored by Commissioner Steven Meiner.

BACKGROUND/HISTORY

Chapter 170, Florida Statutes, authorizes any municipality, subject to the approval of a majority of the affected property owners, to levy and collect special assessments against property benefitted for the purpose of stabilizing and improving retail business districts, wholesale business districts, or nationally recognized historic districts, or any combination of such districts, through promotion, management, marketing, and other similar services.

On October 26, 2022, the Mayor and City Commission adopted Resolution No. 2022-32348 which, in pertinent part, authorized the Offices of the City Manager and City Attorney to work with the Steering Committee of 41st Street commercial property owners, for the purpose of establishing a special assessment district, pursuant to Chapter 170, Florida Statutes, to stabilize and improve the 41st Street retail business district, through promotion, management, marketing, and other similar services.

On March 27, 2023, the Mayor and City Commission adopted Resolution No. 2023-32544, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the 41st Street Business Improvement District (the "District"), for a term of ten (10) years, to stabilize

and improve that certain area of the City of Miami Beach herein referred to as the 41st Street Business Improvement District, which District is generally bounded on the west by Alton Road, on the east by Indian Creek Canal, and consists of properties abutting West 41st Street/Arthur Godfrey Road, through promotion, management, marketing, and other similar services. The resolution also provided for the levy and collection of special assessments, in the amount of \$195,246 in the first year, which shall increase by five (5%) percent every two (2) years.

ANALYSIS

The attached Resolution calls for a special mail ballot election (the "Election") to be held from June 5, 2023 to June 27, 2023, to determine whether a majority of the affected property owners approve the creation of the District. The Office of the City Clerk shall conduct the Election in accordance with the special mail ballot election procedures developed by the Office of the City Clerk and Office of the City Attorney, which procedures are attached to the Resolution as Exhibit "A." The form of the ballot shall be a paper ballot, upon which each voter will be directed to draw a circle around the appropriate ballot response. The Resolution directs the City Clerk to publish any election notices required by the City Code and Florida Statutes.

SUPPORTING SURVEY DATA

As currently proposed in its Year 1 Budget, the District's most heavily weighted area of services focuses on branding and marketing. According to the 2022 City of Miami Beach Community Survey, when asked what type of support would help advance their business, the highest number of responses—reflecting some 27.5% of businesses participating in the survey—selected 'support with business marketing, branding, and social media'.

FINANCIAL INFORMATION

There is no direct fiscal impact to be borne at the responsibility of the City through adoption of the Resolution. If the City Commission calls for the Election, to be administered by the Office of the City Clerk, the related costs will be reimbursed entirely by the BID. A detailed summary of the related costs for the Election in the amount of approximately \$18,805.48 are attached as an exhibit to the companion resolution authorizing a Memorandum of Understanding with the BID.

CONCLUSION

The owners of property proposed to be assessed will vote in the Election on whether to assess themselves, and if a majority of the owners vote to approve the assessments, any concerned property owner will, subsequently, have an opportunity to address the City Commission (serving as the Equalizing Board) at a duly noticed public hearing. With commercial property owners voting to assess themselves and invest collectively in services that benefit the district, the BID could serve as an economic funding tool and forge a unified voice among 41st Street stakeholders in their relationship with the City.

The Administration recommends that the City Commission proceed with this step in the creation and establishment of the proposed District by adoption of the Resolution as set forth above.

Applicable Area

Middle Beach

Is this a "Residents Right to Know" item, pursuant to

Does this item utilize G.O. Bond Funds?

City Code Section 2-14?

Yes

No

Strategic Connection

Prosperity - Revitalize targeted areas and increase investment.

Legislative Tracking

Economic Development

Sponsor

Commissioner Steven Meiner

ATTACHMENTS:

Description

- Exhibit A - Election Procedures
- Resolution