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OFFICE OF THE CITY

CLERK LTC # 170-2024

LETTER TO COMMISSION

TO: Mayor Steven Meiner and Members of the City Commission

CC: Rickelle Williams, Interim City Manager
Ricardo J. Dopico, City Attorney
Joseph M. Centorino, Inspector General

FROM: Rafael E. Granado, City Clerk 

DATE: May 3, 2024

SUBJECT: FINAL REPORT AND RECOMMENDATIONS OF THE 2023-24 AD HOC
ADVISORY CHARTER REVIEW AND REVISION BOARD

Attached is the Final Report and Recommendations of the 2023-24 Ad Hoc Advisory Charter Review and Revision Board for your review and consideration.

Should you have any questions or require further clarification, do not hesitate to reach out.

Thank you for your attention to this matter.



AD HOC ADVISORY CHARTER REVIEW AND REVISION BOARD

LETTER TO COMMISSION

TO: Mayor Steven Meiner and Members of the City Commission

FROM: Jorge M. Gonzalez, Chair DocuSigned by: Jorge Gonzalez
Members of the Ad Hoc Advisory Charter Review and Revision Board L74C6D2F779854D7

DATE: May 3, 2024

SUBJECT: **FINAL REPORT AND RECOMMENDATIONS OF THE 2023-24 AD HOC ADVISORY CHARTER REVIEW AND REVISION BOARD**

PART A. INTRODUCTION/BACKGROUND

In accordance with Section 8.01 of the Miami Beach City Charter, the Charter “shall be reviewed ten years from November 3, 1993, and each tenth year thereafter.”

On December 19, 2022, pursuant to City Resolution No. 2022-32448 (and as subsequently amended by Resolution No. 2023-32606 on May 17, 2023), the Mayor and City Commission created the Ad Hoc Charter Review and Revision Board (the “Board”), for the purpose of reviewing the City Charter, seeking public input, and eventually presenting its findings and recommendations regarding amendments to the City Charter to the Mayor and City Commission.

Members of the Board were directly appointed by the Mayor and each member of the City Commission.¹ The term of the Board commenced on February 6, 2023, and expires on June 30, 2024. The Board’s current members are:

- Jorge M. Gonzalez, Chair;
- Ronald Starkman, Vice Chair;
- Michael Band, Esquire;
- Julie Basner;
- Elizabeth Latone; and
- Samuel Rabin, Esquire.

The Board held eighteen (18) public meetings between February 6, 2023, and April 16, 2024.

All meetings were open to the public. Meetings were also live streamed via Zoom. The City Clerk’s Office created a dedicated Charter Review webpage, where members of the public could submit written comments to the Board by sending an e-mail to CharterReview@miamibeachfl.gov.

¹ Note: Brian Goldberg, who was originally appointed in 2023, served on the Board until November 16, 2023.

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Additionally, because of the importance of the Charter Review process, the Board felt it was necessary to reach as many citizens as possible. Meetings were held in the evenings, commencing at 5:30 pm, in order to allow interested parties to attend or participate without interfering with regular work hours. Meetings were advertised in the Miami Herald (Miami Beach Neighbors Section), and meeting dates, times, and topics were posted on the City's website. The City's website was also utilized to post the full text of meeting agendas (including memoranda, draft Charter amendments, and draft ballot questions) and meeting minutes. Additionally, at the direction of the Board, the City Clerk provided notice to the City's 49 registered neighborhood associations (which includes community-based organizations), as well as to all the City's Boards and Committees, informing them of the work of the Charter Review Board and asking for their suggestions on possible modifications to the Charter. A letter was transmitted to registered associations and City Boards and Committees, inviting them to attend Charter Review Board meetings to share any proposed suggestions as to how the City Charter should be revised. The letter provided information as to how representatives of these groups could address the Board. To gather the opinions of the City's Spanish-speaking community, three (3) Spanish-language advertisements were published in El Nuevo Herald, including notice of Charter Review Board meeting dates.

During the course of its meetings, the Board heard extensive comments and testimony from City staff, members of the public including City residents and community-based organizations and associations, and other interested parties. Public testimony and presentations were heard from the following individuals and organizations:

- City of Miami Beach Commissioner Kristen Rosen Gonzalez;
- City of Miami Beach Commissioner David Suarez;
- City Manager Alina T. Hudak and members of her senior executive staff;
- City Attorney Ricardo J. Dopico, former City Attorney Rafael Paz, Chief Deputy City Attorney Nick Kallergis, and Special Counsel Raul J. Aguila and Jean K. Olin;
- City of Miami Beach Inspector General Joseph Centorino;
- Past Charter Review Chairman Stephen H. Zack, Esquire;
- Past Charter Review member and former City Commissioner Víctor Díaz;
- City of Miami Beach Human Rights Committee Chair Amanda Knapp;
- City of Miami Beach Budget Advisory Committee, Chair Janet Silverman
- Resident members of the Sunset Harbor Neighborhood Association;
- Housing Authority of the City of Miami Beach Executive Director Miguell Del Campillo;
- Jose Arrojo, Executive Director, Miami Dade County Commission on Ethics and Public Trust; and
- Christina White, Supervisor of Elections, Miami Dade County Elections Department.

This Final Report, which was unanimously approved by the Board at its regular meeting on April 16, 2024, sets forth the Board's recommendations to the Mayor and City Commission concerning proposed Charter Amendments for placement on the November 5, 2024 ballot. These

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recommendations are the product of an intensive process involving countless hours of fact-finding; independent research; public discussion and public input from interested parties, stakeholders and experts; and extensive public debate among Board members, which included consultation with the City's legal team and input into the drafting (and redrafting) of proposed ballot questions and accompanying amended Charter texts. The Board's process therefore embodied the legislative analysis, public hearing, and policy debate elements that are inherently part of amendment processes upheld by the Courts. Finally, it should be noted that all of the Board's recommended amendments were UNANIMOUSLY approved by the Board.

The Board's recommended Charter amendments along with proposed ballot questions are set forth in Part II of this Report for the City Commission's consideration. The draft ballot questions, and full text of the draft City Charter amendments are set forth in the attached Appendix. Each of the Board's recommended amendments are logically and naturally related as part of a dominant plan.

Through and through, this has been a collaborative effort and, accordingly, the Board is proud to recommend the following Charter Amendments for the Mayor and City Commission's consideration. The Board worked diligently to address the matters raised as part of the "data collection" phase of its work. The recommendations presented represent our best efforts to enhance governance, transparency, and citizen engagement in Miami Beach. The Board's recommendations generally fall into the following key themes or goals of the Ad Hoc Advisory Charter Review and Revision Board:

Enhanced Bill of Rights, with improved mechanisms to protect residents' rights

- Amendment 1
- Amendment 2

Enhanced protections for public land

- Amendment 3

Enhanced transparency, ethics, and electoral process, and compensation adjustment

- Amendment 4
- Amendment 5
- Amendment 6
- Amendment 8

Enhanced opportunities for public input and engagement

- Amendment 7

Clarifications and "cleanup"

- Amendment 9

Procedurally, should the City Commission approve any - or all - of the Board's recommended Charter Amendments for placement on the November 5, 2024 ballot, the deadline (per the Miami Dade County Elections Department) by which the City Commission must adopt a Resolution

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placing each Charter Amendment on the ballot is July 26, 2024. Therefore, the last regularly scheduled City Commission Meeting to adopt a Resolution(s) calling for a special election for November 5, 2024, for a Charter Amendment ballot question(s) is July 24, 2024.

The review of the City Charter on a regular basis is critical to ensure that our Charter and particularly our Bill of Rights remains one of the most progressive in the region. In addition, the review ensures that the Charter is up to date and relevant to the current governance environment. The Board wishes to extend its appreciation to City Clerk Rafael Granado, Chief Deputy City Attorney Nick Kallergis, and Special Counsel Raul J. Aguila and Jean Olin for their commitment and support as we performed our work. Lastly, we wish to thank the City Commission for appointing us to the Ad Hoc Charter Review and Revision Board and giving us the opportunity and resources to conduct this important task.

Thank you for your consideration.

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PART B. SUMMARY OF CHARTER REVIEW BOARD'S RECOMMENDED CHARTER AMENDMENTS

Below is a summary of each proposed ballot question and corresponding City Charter amendment recommended by the Charter Review Board. The full text of each ballot question and proposed Charter amendment is set forth in the attached Appendix.

Amendment No. 1

Charter's "Citizens' Bill of Rights": Expanding Existing Rights, Creating New Rights, County Ethics Commission's Enforcement.

Shall Bill of Rights be amended:

- *expanding existing rights* to public records, right to no unreasonable postponements, and rights to notice and be heard on City matters, amendments including limits on deferring agenda items, increased public hearings and notice requirements; incorporating by reference classification categories in Code Chapter 62 "Human Relations" into existing "Nondiscrimination" rights;
- *creating new rights* entitled "Historic Preservation," "Affordable Housing," "Gender Neutral Language," "Gambling Opposition Policy";
- incorporating County Ethics Commission's enforcement powers?

Since its first meeting in February 2023, the Board has emphasized its need for a thorough analysis of the Citizens' Bill of Rights (hereafter "BOR") to ensure that it continues to have a meaningful and relevant impact on the public's right to good and open government. As stated most eloquently in the BOR's introductory paragraph:

This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

With the above purpose-statement in mind, the Board evaluated concerns expressed by the public (issues regarding in particular, perceived negative impacts upon the **public's right to be heard, right to notice, and rights to no unreasonable postponements of agenda items**), and engaged in extensive discussion and analysis of corresponding rights currently established in the BOR. Following extensive review and discussion, the Board recommended amendments to expand upon existing rights believed to address the above concerns and better ensure the

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public's right to know how City government officials conduct business and make decisions that affect them.

Further, given that the Bill of Rights was last amended more than 10 years ago, the Board also conducted extensive review (on its own initiative and via public comment) of BOR provisions to determine if more current, additional issues existed that are of concern to today's public. This review has resulted in the recommended addition of the following four (4) new citizen rights believed by the Board to warrant recognition placement in the BOR as a citizen's right:

- **Historic Preservation:** Establish historic preservation as a policy priority of the City, through legislation, zoning incentives, cultural programming, and promotion and marketing efforts.
- **Affordable Housing:** Identify affordable housing as a goal of the City, reference the Affordable Housing Advisory Committee in the BOR, and encourage affordable housing that is consistent with the scale and character of the City's historic districts and neighborhoods.
- **Gender Neutral Language:** Recognize that the use of gender-neutral language enhances the City's commitment to being an inclusive and welcoming community.
- **Gambling Opposition Policy:** Establish in the BOR, consistent with the City's longstanding positions, that it shall be the policy of the City of Miami Beach to oppose any casino gambling activity in Miami Beach, in recognition of the longstanding prohibition on gambling in the City's Land Development Regulations.

Finally, inasmuch as the Miami-Dade County Commission on Ethics and Public Trust has enforcement powers (in addition to the Circuit Court, see below) over municipal BORs per County law, the Board further recommended including an amendment referencing the Ethics Commission's jurisdiction.

Amendment No. 2

Charter's "Citizens' Bill of Rights": Circuit Court Remedies for Violations.

Shall Bill of Rights "remedies" be amended:

- allowing cost award in Court for any successful party (instead of just plaintiff), plus award of attorney fees, with defendant's fee award only if action frivolous or filed in bad faith;
- conforming existing "forfeiture of office or employment" remedy for willful violations as subject to collective bargaining agreements (per State law), establishing such forfeiture remedy as discretionary instead of mandatory with established criteria for Court's exercise of discretion?

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In response to several comments of past Charter Review Board members presented to the Board at its initial meetings last year, the Board undertook an intensive analysis of the existing penalties for BOR violations to determine the viability of establishing stricter penalties to ensure more effective enforcement.

Under the existing BOR, both the Circuit Court and the Miami-Dade County Ethics Commission have enforcement powers over alleged BOR violations (the latter's penalties established by County Code). The Circuit Court's penalties in the BOR presently include costs for the successful plaintiff and forfeiture of office or employment for willful BOR violations.

The Board's recommendations expand upon these penalties² by allowing costs and attorney's fees to any successful party, with the proviso that such fees may be awarded to a defendant only upon a showing that the case was frivolous or filed in bad faith. Furthermore, with regards to the forfeiture penalty for willful violations, given its limited applicability to officers or employees not subject to rights per collective bargaining, and the potential that such penalty may not consistently fit the severity of the violation, the Board determined it more reasonable and responsive to the affected interests of both the public and City personnel that the forfeiture remedy be imposed in the Court's discretion (based on established criteria³) rather than mandatory automatic forfeiture. The Board thus recommends the above amendments, believing them to be more effective deterrents to future potential BOR violations than presently exists.

Amendment No. 3

Charter Section 1.03: Sale/Lease of City Property; Right of Way Vacations; Management/Concession Agreements.

Shall Charter be amended, requiring:

- majority voter approval for all (not some) "right of way vacations" and "sale/leases" (10 years or more) of City property (includes changing approval for "Convention Center Campus/Parking Lots" from 60% to majority);
- for vacations/sales/leases: expanded Planning Board review and incorporating Code provisions requiring planning analysis, appraisal, public hearing, bidding;
- for management/concession agreements (10 years or more): hearing and 5/7 (instead of 6/7) Commission vote?

² The Board's recommended amendments reference that the penalties apply "except as otherwise provided by law and subject to rights established in collective bargaining agreements."

³ The criteria upon which the Court may impose the forfeiture penalty are (1) whether a willful violation has occurred and (2) whether the violator has committed repeated violations of the Bill of Rights.

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Section 1.03 is one of the most often cited and referenced provisions in the Charter. It governs the disposition of City property and establishes procedures and requirements in the Charter for the sale of City property; the lease, of ten years or more, of City property; the vacation of streets, alleys, and right of ways which are either City owned or where the City has a dedicated interest such as a public easement; and for the approval of management and/or concession agreements, of ten years or more, for the management of City property/facilities by private operators.

The Charter Review Board's main objective in its proposed amendment to Section 1.03 was to streamline the provision and, in doing so, create a concise, uniform set of procedures for the disposition of City property. Since 1993, Section 1.03 had been amended numerous times, the end result being that different procedures and requirements applied to different properties. For example, some properties required referendum to be sold, leased, or vacated, while others only required Commission approval.

In amending this Charter Section, first and foremost, the Board recognized and acknowledged the value of City property—i.e. by 2024, fewer unencumbered City properties remain available, and what property remains has appreciated tremendously in value. Therefore, the decision was made that, prior to selling, leasing (for more than 10 years), or vacating ANY—not just some—City property, majority approval of the voters in a Citywide referendum should be required. This would apply to all City property, including without limitation air rights, property owned by the Miami Beach Redevelopment Agency, and property owned by any other City entity or agency.

Additionally, the Board found the disposition of all City property—not just some—should be subject to Planning Board review, but in an advisory capacity. The Board also felt it was in the City's best interest to safeguard, in the City Charter, those procedures for sale, lease and vacation of City property that are contained in City Code Chapter 82, which require an appraisal, Planning Department analysis, competitive bidding, and public hearing. The Board recommends incorporating these provisions in the Charter so that, going forward, they cannot be deleted or diluted without voter referendum approval. This approach is consistent with prior City Charter amendments with respect to safeguarding the City's Historic Preservation laws, Ethics/Standards of Conduct (as written in Chapter 2 of the City Code), and nondiscrimination provisions (as set forth in Chapter 62 of the City Code).

Finally, as to the approval of management and concession agreements of ten years or more, the Board recommends requiring City Commission approval by 5/7ths vote (instead of current 6/7ths vote) and, in order to be completely transparent and afford the opportunity for public input, that these agreements should be approved following a noticed public hearing before the City Commission, so that requirement was added.

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Amendment No. 4

City Commission Elections: Moving Qualifying and Mayoral Election Dates, Changing Commissioners' Election Method⁴.

Commencing with 2025 general election, shall Charter be amended:

- moving qualifying *from* September *to* August, Mayoral general election *from* November *to* October, Mayoral runoff *from* 2 weeks following general election *to* first Tuesday in November;
- eliminating Commissioner runoffs and group designations whereby each group's majority vote winner elected, *providing instead* Commissioner candidates receiving highest votes among all candidates elected to staggered cycle's open seats;
- establishing installation day (upon which corresponding outgoing terms expire); conforming provisions?

The Board recommends the above Charter amendments to provide, commencing with City's general election in 2025, changes to certain dates for election of the City Commission, changes to the method of electing Commissioners (which would not apply to the Mayor), and conforming related Charter provisions.

By way of background, the Miami-Dade County Supervisor of Elections informed the City Clerk and Charter Review Board that the Elections Department will no longer be able to accommodate the current 2-week gap between the City's general election and runoff election,⁵ but instead needs at least 4 weeks between the general and the runoff to allow it time to conduct the elections. The Supervisor has further informed the Clerk and the Board that for odd-numbered year elections, moving the election dates to an October-November election cycle is recommended. Accordingly, this was a motivating factor in the Board's recommended October-November election cycle.

⁴ At the March 4, 2024 CRB meeting, City Commissioner Kristen Rosen Gonzalez discussed 2 suggested Charter amendments regarding: changing the City's existing form of government to a Strong Mayor form of government, and changing City's odd-numbered year elections for Mayor and Commissioners to even-numbered years (to coincide with Countywide and State election ballot cycles). The Board considered these suggestions and opted not to recommend them. Commissioner Rosen-Gonzalez's subject suggested Charter amendments have since been referred to the City's Public Safety Neighborhood and Quality of Life Committee.

⁵ The cities of Miami and Hialeah also have a 2-week gap between their elections for City Commission, and the Supervisor has informed those cities as well of the need for a minimum 4-week intervening period between elections.

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Board deliberations involved extensive research and discussion. The desired outcome was to have a method of election which was fair to the residents and all candidates; and consistent with the parameters established by the Supervisor of Elections. In addition, the Board sought to develop a method of election that would improve the process in the following manner:

- Ensure that the Run-Off for the Mayor's seat (if required) will occur on the date of the General Election in November, which traditionally has the highest voter turnout;
- Eliminate the "jockeying" between candidates and groups that currently occurs. Eliminating the Group designations, which do not have any technical meaning other than a designation for a specific seat, ends the need to choose a particular Group;
- Better ensures that the Commission elections remain free from partisan influence;
- Enhances the competitiveness of Commission elections, reducing the likelihood of unopposed candidates;
- Reduce the cost for candidates to run a campaign. Eliminating the "Run-Off" for Commission candidates eliminates a possible campaign contribution cycle altogether, reducing the need to solicit campaign contributions for a second election in a two-week timeframe, thereby limiting the influence of campaign contributions; and
- Potentially reduces the City's administrative cost to conduct elections.

While Ranked Choice Voting was a promising alternative that has been employed in other states, when researched, this method of election was found to be prohibited by the Florida Statutes. The Board discussed various other alternatives to both the method of election and the specific dates for elections and concluded that the proposed method is the one that best addressed the concerns the Board was attempting to remedy. To address its concerns, the Board thus recommends changing the existing method of electing Commissioners from majority vote winner per Commissioner group designation, to a plurality method whereby all Commissioner candidates are on the ballot, with the highest vote-getters equaling number of open Commissioner seats for each staggered election cycle elected. This approach would obviate the need for Commissioner runoff elections. The general election for City Commissioners would be held on the same date as the current City general election date (the first Tuesday in November).

The Board further recommends retaining the existing method of electing the Mayor (majority vote with runoff election if needed), with the Mayoral general election moved from first Tuesday in November to the first Tuesday in October and the runoff (if needed) held on the first Tuesday in November (concurrent with Commissioners' general election). Related recommended amendments will change qualifying dates from September to August (to accommodate the above election-date changes), establish an installation day for newly-elected Commission members (when corresponding outgoing terms expire), and amendments of other related Charter sections to conform to the subject election date/method changes.

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Finally, it is important to note that the above subject Charter amendments will not affect/change existing incumbent Commission members terms expiring in 2025 and 2027, in that the Board's recommended installation day is the same day upon which Commission members' terms presently expire (upon installation of new Commission officers following City Commission's acceptance of election results).

Amendment No. 5

Charter Section 2.02: Mayor and Commissioners--Request Ethics Opinion, City Commission Compensation.

Shall Charter be amended:

- Requiring Mayor and Commissioners request State/County ethics opinions regarding post-November 2024 employment or contractual relationships entered into during office term;
- Establishing the sole, exclusive annual compensation (comprising salary, stipend, allowances) of \$65,000 for Mayor and \$60,000 for Commissioners, *instead of* Charter's \$10,000 Mayoral compensation and Commissioners' \$6,000 compensation, and authorizing annual compensation increase based upon Consumer Price Index, not to exceed three percent per year?

Existing Charter section 2.02 establishes the annual compensation of \$10,000 for the Mayor and \$6,000 for City Commissioners, with any increases requiring voter approval. Historically, and as recently as March of this year, Commission members have received (in addition to the compensation provided in the Charter) increased allowances and stipends, which have contributed to their total City earnings in excess of the subject Charter compensation limits.

The Charter Review Board recognizes that the Charter's compensation amounts (originally established in 1966) are outdated and fail to reflect the extensive time devoted to City business by today's elected officials, yet is concerned that the current practice of increasing Commission members' earnings without voter approval creates a lack of transparency and does not comport with the spirit of Charter 2.02's voter approval requirement. The Board believes that an increase will not only provide the Commission with fair compensation but will also serve as an incentive for additional individuals to become candidates for the City Commission. As such, the Board (prior to the Commission's above-referenced actions in March) invested considerable time in analyzing an increased, and comprehensive, compensation package for the Mayor and City Commission. Among the issues considered by the Board were:

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- full-time service for Commission members;
- prohibited outside employment;
- compensation increase commencement date;
- creation of an independent compensation commission to set salary.

After extensive analysis and debate, as well as evaluation of salary and related earnings and benefits of Commission members (in effect prior to the Commission's subject actions in March), the Board finalized a recommended Charter amendment which would have increased Commission members' compensation by approximately 30% (reflecting 3% per year for each of the ten years until the next Charter Review process in 2033), with the Mayor's total annual compensation set at \$60,000 and Commissioners' total annual compensation at \$55,000—the idea behind this proposal was to provide a baseline for fair and up-to-date compensation that could easily be adjusted moving forward. The recommendation was also meant to simplify, clarify, and make transparent the process for the public and future generations of elected officials.

After the Commission took its March action to increase their stipend and allowances,⁶ the Board evaluated those increased earnings and, based upon those amounts, the Board changed its recommendation by rounding off the amount of total earnings for Commissioners to a total of \$60,000 annual compensation, with a recommended \$65,000 total annual compensation for the Mayor (reflecting the increased duties of Mayor). The Board's recommendation expressly references the proposed revised compensation amounts as the "sole, exclusive compensation" of Commission members (inclusive of all allowances, stipends, and salary), which will apply instead of the Charter's existing compensation of \$10,000 for Mayor and \$6,000 for Commissioners. The Board's recommendation also includes an annual CPI increase, consistent with the CPI for all urban consumers (CPI-U) for Miami-Fort Lauderdale-West Palm Beach, not to exceed three percent per year. Any future amendment to these provisions will continue to require voter approval.

Finally, and in further support of the rationale for increased City compensation, the Board recognized that the City's elected officials are subject to ethics laws which may restrict their abilities to earn compensation in their private lives. The Board's proposal thus includes a related requirement that Commission members seek ethics opinions prior to engaging in certain employment or contractual relationships, to ensure that any such outside relationships (and corresponding earnings) are consistent with ethics laws.

⁶ The Commission's subject March 2024 actions resulted in current total annual earnings of \$59,041.06 for Mayor and \$59,638.80 for Commissioners.

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Amendment No. 6

Charter section 2.03 “Powers of City Commission”—Prohibited Gift Acceptance, Non-Interference with City Administration.

Shall Charter be amended per City Resolution 2024-____ :

- establishing stricter rule than State/County laws which prohibit Commission members’ knowingly accepting “gifts” (regulated/defined in said laws) over \$100 from lobbyists or vendors, by prohibiting Commission members’ knowingly accepting such gifts *of any value*, requiring implementing legislation with definitions;
- establishing limitations on Commission members’ involvement with City Administration, including no power to give orders to City Manager’s subordinates?

Charter Section 2.03 establishing “Powers of City Commission” provides in general the governing body’s powers but does not specifically address ethics restrictions applicable to Commission members. Since its initial meeting last year, the Board has been concerned with the effectiveness of ethics laws in the particular context of elected officials’ receipt of gifts, stemming in part from reports in the media over the past 2 years in which a neighboring municipality’s elected officials have been accused of ethics violations stemming from their allegedly improper gift acceptance. Upon extensive discussion and analysis concerning the scope and applicability of existing ethics laws, the Board voted to recommend a Charter amendment that will effectively eliminate an exception in ethics laws whereby elected officials may accept gifts (as defined in said laws) from lobbyists or vendors under \$100 in value. This stricter ethics law would now prohibit City Commission members from knowingly accepting any such gift from a lobbyist or vendor, regardless of the gift’s value.

In addition to the above, the Board also recommends amending Charter Section 2.03 to incorporate, per request of the City’s Inspector General, a provision establishing limits on City Commission members’ involvement with the City’s Administration, which restrictions are commonly found in municipal charters with the City’s Commission-City Manager form of government. The recommended Charter amendment includes provisions to ensure the appropriate separation of duties and functions of the elected officials and the City Administration, and to shield City staff from potential political interference by Commission members. To be clear, the Board’s recommendation does not confirm that any past (alleged) improper interference has occurred (nor does it confirm past related findings by the City’s OIG), but instead is aimed at providing clear language in the City Charter limiting powers of the City Commission with the goal of assisting the City Commission and Administration towards avoiding any future improper interference.

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Amendment No. 7

Charter Section 2.05: Public Hearings and Public Notice.

Shall Charter 2.05 be amended:

- establishing process requiring two public hearings instead of one for proposed City ordinances except emergency ordinances and proposed ordinances subject to adoption procedures established in City's Zoning Ordinance
- authorizing City's alternative optional publication of notice of proposed ordinances on a publicly accessible website in accordance with Chapter 50, Florida Statutes, instead of requiring publication of such notices only in a newspaper of general circulation within City?

In response to public comment during the Board's meetings, and as expressed by several of Board members, there exists a perceived need to expand the public's opportunity to address the Commission on proposed ordinances. Accordingly, the Board is recommending an amendment to related Charter Section 2.05, entitled "Procedures for Passing Ordinances Generally," to require that the Commission increase the number of public hearings from one to two (subject to/retaining the existing exception for emergency ordinances and proposed ordinances controlled by the adoption procedures established in City's Zoning Ordinance). The Board believes that expanding such opportunity for public comment will also contribute to a more well-informed City Commission, providing the Commission with greater awareness of their constituents' positions on upcoming legislative actions.

In addition to the above, and pursuant to the request of City Commissioner David Suarez, the Board considered a related issue concerning a 2022 legislative enactment authorizing municipalities to notice legally required advertisements and notices on a publicly accessible website of the County per Florida Statute section 50.0311, in context with Charter 2.05's requirement that public notice of proposed City ordinances be noticed in a newspaper of general circulation within the City. The Board heard comment of the City Clerk confirming that the cost of publishing advertisements and public notices on a publicly accessible website is significantly less than the cost of publishing advertisements and public notices in a newspaper, and upon further discussion the Board found this proposal to be in the best interests of the City and of its residents and voted to recommend amending Charter 2.05 to allow for such alternative noticing of proposed City ordinances.

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Amendment No. 8

Charter Section 2.07 “Vacancies in City Commission”.

Shall Charter Section 2.07 be amended per City Resolution 2024-
_____ to:

- require election to fill vacancy unless City Commission appoints person to fill vacancy within 30 days;
- provide that Commission’s power to appoint shall commence upon vacancy or submittal of resignation (if filed) instead of 30 days later;
- require appointments by remaining Commission members be super-majority (majority plus 1) vote instead of majority vote;
- clarify election and installation dates regarding vacancies due to resignation?

The Board recommends the above Charter amendments to address and resolve issues previously faced by the City in filling vacancies in the City Commission. Specifically, the amendments will clearly establish that vacancies on the Commission shall be filled by election when the City Commission has not appointed a person to fill such vacancy (a necessary⁷ Charter amendment to ensure that vacancies will not be left unfilled because of potential political stalemates regarding the filling of vacancies), establish an earlier date upon which appointment powers commence, and in accordance with the Board’s belief that residents prefer vacancies be filled by election, require Commission appointments be made by a super-majority vote of remaining Commission members instead of the existing majority vote. Finally, the proposed amendments will clarify and amend some of the election and installation dates related to vacancies caused by an incumbent’s resignation.

⁷ In particular, the proposed Charter amendment requiring an election to fill vacancy if appointment has not occurred is time-sensitive given the uncertainty of if/when a vacancy on the City Commission will next occur.

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Amendment No. 9

Charter Amendments: Clarify/Conform to Applicable Laws, Requirements and Legal Precedent, Delete/Clarify Obsolete Language.

Shall Charter be amended per Resolution 2024- _____, to clarify and conform to legal precedent qualifying's one-year residency requirement as "immediately" prior to qualifying, clarify filing requirements for qualifying by petition (Charter 6.03); clarify and conform to Florida law restriction on qualifying for more than 1 City office, delete certain obsolete references to "Commissioner" and clarify/update by referencing instead "Commission member" (Charter 2.01); conform Charter 1.07 to all Code Chapter 62's nondiscrimination classification categories?

Upon the Board's finalization of its recommendations concerning the above-proposed Charter amendments, an issue remained concerning miscellaneous housekeeping amendments needed to update the Charter to clarify and/or conform to existing law, requirements and recent legal precedent, as well as to delete and clarify obsolete language. The majority of the affected Charter sections deal with qualifying for elected office and address: clarifying/conforming the City's one-year durational residency requirement to recent legal precedent by specifically designating it as "immediately" prior to qualifying (consistent with City's past practice based upon legislative intent), clarifying Charter's existing provisions regarding filing requirements to qualify by petition, and specifically referencing applicability to all City Commission candidates the statutory restriction on qualifying for more than 1 City elected office; included as well is deletion/clarification of certain obsolete references to "Commissioner" in Charter Sec. 2.01 and replacing that term with "Commission member" (re: qualified elector, and above restriction on qualifying for one (1) City office); finally, in order to ensure compliance with Charter section 1.07's referendum requirement prior to dilution of Code Chapter 62's nondiscrimination rights, the listed classification categories in Section 1.07 require update to conform, via incorporation by reference, to all classification categories in Chapter 62.

PART C. CONCLUSION

Should the City Commission place any of the above proposed Charter amendments on the November 5, 2024 City Special Election ballot and a majority of the City's voting residents approve the measure(s), those amendments shall become effective upon the City Commission's acceptance of certification of final election results, whereupon the City Clerk shall file the revised Charter language with the Department of State and with Miami-Dade County. Conversely, those measures not approved by majority vote of City electors who have voted shall not be adopted and the related Charter sections shall remain as said provisions existed prior to the election.

JMG/NEK/RJA/JKO/REG

cc: Ricardo J. Dopico, City Attorney
Rafael E. Granado, City Clerk

2023-24
AD HOC ADVISORY CHARTER
REVIEW AND REVISION BOARD

APPENDIX
TO FINAL REPORT AND
RECOMMENDATIONS

Amendment Nos. 1 and 2
Citizens' Bill of Rights

Draft Ballot Questions:

Charter’s “Citizens’ Bill of Rights”: Expanding Existing Rights, Creating New Rights, County Ethics Commission’s Enforcement.

Shall Bill of Rights be amended:

- *expanding existing rights* to public records, right to no unreasonable postponements, and rights to notice and be heard on City matters, amendments including limits on deferring agenda items, increased public hearings and notice requirements; incorporating by reference classification categories in Code Chapter 62 “Human Relations” into existing “Nondiscrimination” rights;
- *creating new rights* entitled “Historic Preservation”, “Affordable Housing”, “Gender Neutral Language”, “Gambling Opposition Policy”;
- incorporating County Ethics Commission’s enforcement powers?

Charter’s “Citizens’ Bill of Rights”: Circuit Court Remedies for Violations.

Shall Bill of Rights “remedies” be amended:

- allowing cost award in Court for any successful party (instead of just plaintiff), plus award of attorney fees, with defendant’s fee award only if action frivolous or filed in bad faith;
- conforming existing “forfeiture of office or employment” remedy for willful violations as subject to collective bargaining agreements (per State law), establishing such forfeiture remedy as discretionary instead of mandatory with established criteria for Court’s exercise of discretion?

Draft BOR Text:

CITIZENS' BILL OF RIGHTS

(A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:

1. *Convenient access.* Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Commission to provide, within the City's budget limitations, reasonably convenient times and places for required inspections, and for transacting business with the City.
2. *Truth in government.* No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
3. *Public records.* All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection and copying, consistent with the requirements of the State of Florida's public records laws, at reasonable times and places convenient to the public.
4. *Minutes and ordinance register.* The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances and resolutions¹ listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting.

¹Editor's note(s)—The following footnote to this section on citizen's bill of rights was adopted with the Charter:¹ "Ordinance" means an official legislative action of the Miami Beach City Commission, which action is a regulation of a general and permanent nature and

5. *Right to be heard.* So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Commission or any City agency, board or department for the presentation, adjustment or determination of an issue, request or controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.²

At each regular meeting of the City Commission there shall be two Dr. Stanley Sutnik Citizens Forums, both attended by a quorum of the City Commission, one to be held at the meeting's commencement and one to be held after 12 noon, at which members of the public shall have an opportunity to address the City Commission on any matter relating to the City.

6. *Right to notice.* Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.

The City shall also provide targeted neighborhood notice, timely opportunities for input, and procedural fairness in hearings for any proposed policy, ordinance, project, or other matter that impacts residents' quality of life³.

7. *No unreasonable postponements.* No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Commission, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.

Any City Commission agenda item that has been deferred by the City Commission member who has sponsored the item and the item has not been heard within 3 regularly-scheduled City Commission meetings following the meeting date the item was first placed on a City Commission agenda shall be automatically withdrawn, and no item based on the same proposal may be placed on another Commission agenda within the following 3 regularly-scheduled City Commission meetings unless waived by a six-sevenths vote of the City Commission.

8. *Right to public hearing.* Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City nor to any body whose duties and responsibilities are solely advisory.

At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the

enforceable as a local law. "Resolution" means an expression of the Miami Beach City Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the Miami Beach City Commission.

² See also, City of Miami Beach Code section 2-1 "Reasonable Opportunity to be Heard".

³ See City of Miami Beach Code section 2-17 "Residents' Right to Know".

record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.

9. *Notice of action and reasons.* Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. *Managers' and attorneys' reports.* The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
11. *Budgeting.* In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.
12. *Quarterly budget comparisons.* The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
13. *Adequate audits.* An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.
14. *Representation of public.* The City Commission shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.
15. *Natural resources and scenic beauty.* It shall be the policy of the City of Miami Beach to conserve and protect its natural resources and scenic beauty, which policy shall include the abatement of air and water pollution and of excessive and unnecessary noise.
16. *Nondiscrimination.* No person shall be deprived of any rights and privileges conferred by law because of race, color, national origin, religion, gender, sexual orientation, disability, marital status, familial status, ~~or~~ age, or any other classification category set forth in City Code Chapter 62 entitled "Human Relations".
17. *Nondiscrimination in City Employment and Benefits.* The City of Miami Beach shall not discriminate in employment practices and benefits offered based upon an employee or applicant's race, color, national origin, religion, gender, sexual orientation, gender identity, disability, marital status, familial status, ~~or~~ age, or any other classification category set forth in City Code Chapter 62 entitled "Human Relations".
18. *Ethics in Government.* The public's confidence and trust in City of Miami Beach operations and government must meet the most demanding ethical standards and demonstrate the highest level of achievement in its adherence to ethics laws. City of Miami Beach officials and employees are agents of the people and hold their positions for the benefit of the public—as public servants, they are to observe in their official acts a high standard of conduct and to discharge faithfully the duties of their office

regardless of personal considerations and interests, recognizing that promoting the public interest and maintaining the respect of the people in their government must be of foremost concern. In upholding the values of accountability and responsibility, all city officials and employees shall abide by applicable codes of ethical conduct, and be subject to all penalties provided for in such regulations.

19. *Improvement of Public Educational Facilities available to Miami Beach Citizenry.* It shall be the policy of the City of Miami Beach to cooperate with the Miami-Dade County public schools, and with other appropriate governmental agencies, which will strive to improve the quality and quantity of public educational facilities available to the citizenry of the City of Miami Beach, Florida.
20. *City Assistance to Condominium and Co-op Owners.* The City of Miami Beach hereby acknowledges the purpose and duties of the City's Administration as assisting condominium and co-op owners to navigate through the City's permitting process; to facilitate the resolution of other condominium-related issues with other outside agencies; and to act as a liaison between condominium or co-op owners, management firms and the City.
21. *Historic Preservation.* It shall be a policy priority of the City of Miami Beach to promote the preservation, restoration, rehabilitation, and resiliency of the City's historic resources, including the City's National Register historic districts, individually listed National Register historic sites, local historic districts, and individually listed local historic sites. This may include the adoption of legislation by the City Commission, zoning incentives, cultural programming, and promotion and marketing efforts.
22. *Affordable Housing.* The City of Miami Beach acknowledges that safe, secure and affordable housing is an important goal of the City and a key factor of individual and community health and wellbeing; in furtherance of this policy, the City's Affordable Housing Advisory Committee has been created to review established policies and procedures, ordinances, land development regulations and adopted comprehensive plan of the City and to recommend to the City Commission specific actions or initiatives to encourage or facilitate affordable housing that is appropriate and consistent with the scale and character of the City's neighborhoods and historic districts.
23. *Gender Neutral Language.* The City of Miami Beach recognizes that gender-neutral language by the City can enhance and demonstrate the City's commitment to being a safe, inclusive, diverse, and welcoming community.
24. *Gambling Opposition Policy.* It shall be the policy of the City of Miami Beach to oppose any casino gambling activity in the City of Miami Beach, in recognition of (1) the complete prohibition on gambling in the City's Land Development Regulations, and (2) the City Commission's longstanding opposition to any effort by the Florida Legislature to authorize gambling in Miami Beach.

(B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the intelligent participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.

(C) Remedies for violations. Except as otherwise provided by law and subject to rights in collective bargaining agreements, the following remedies shall apply herein:

- 1) In any suit by a citizen alleging a violation of this Bill of Rights filed in the Miami-Dade County circuit Court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs and reasonable attorney fees as fixed by the court; if the court finds no violation of this Bill of Rights, defendant shall be entitled to recover costs as fixed by the court and shall, if the action was filed in bad faith or was frivolous, also be entitled to recover reasonable attorney fees as fixed by the court.

- 2) Any public official or employee who is found by the court to have ~~willfully~~ violated this ~~article~~ Bill of Rights shall forthwith may be required to forfeit his office or employment, subject to the Court's discretion based upon the Court's determination of whether a willful violation has occurred and whether the violator has committed repeated violations of this Bill of Rights.

Per Miami-Dade County law, the Miami-Dade County Commission on Ethics and Public Trust has concurrent jurisdiction with the Miami-Dade County Circuit Court, so that the Commission may also enforce the provisions of this Bill of Rights and may impose any penalty authorized by County Code not otherwise prohibited by a collective bargaining agreement, for a violation of this Bill of Rights, and any penalty imposed by the Commission on Ethics and Public Trust pursuant to this subsection may be enforced in the Miami-Dade County Circuit Court.

- (D) Construction. All provisions of this ~~article~~ Bill of Rights shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this ~~article~~ Bill of Rights shall be declared invalid, it shall not affect the validity of the remaining provisions.

Amendment No. 3
Charter Section 1.03

Charter Section 1.03: Sale/Lease of City Property; Right of Way Vacations; Management/Concession Agreements.

Shall Charter be amended, requiring:

- majority voter approval for all (not some) “right of way vacations” and “sale/leases” (10 years or more) of City property (includes changing approval for “Convention Center Campus/Parking Lots” from 60% to majority);
- for vacations/sales/leases: expanded Planning Board review and incorporating Code provisions requiring planning analysis, appraisal, public hearing, bidding;
- for management/concession agreements (10 years or more): hearing and 5/7 (instead of 6/7) Commission vote?

Sec. 1.03. - Powers of City.

- (a) *General.* The City shall have all governmental, corporate, and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes except as expressly prohibited by law or this Charter.
- (b) *Disposition of City Property.*
- ~~1. The sale, exchange, conveyance, or lease of ten (10) years or longer (including option periods) of City-owned park, recreation, or waterfront property shall require approval by a majority vote of the voters in a City-wide referendum. This provision shall be liberally construed in favor of the preservation of all park, recreation and waterfront lands.~~
 - ~~2. The sale, exchange, conveyance or lease of ten years or longer of the following properties shall also require approval by a majority vote of the voters in a City-wide referendum: (1) *Lots West of the North Shore Open Space Park:* All City-owned property bounded by 87th Street on the North, Collins Avenue on the East, 79th Street on the South, and Collins Court on the West; (2) *Cultural Campus:* All City-owned property bounded by 22nd Street on the North, Park Avenue on the West, 21st Street on the South, and Miami Beach Drive on the East; (3) *72nd Street Parking Lot:* The City-owned surface parking lot bounded by 73rd Street on the North, Collins Avenue on the East, 72nd Street on the South, and Harding Avenue on the West; (4) *Lincoln Road Parking Lots:* All City-owned surface parking lots in the vicinity of Lincoln Road located within the area bounded by 17th Street on the North, Euclid Avenue on the East, 16th Street on the South, and West Avenue on the West; and (5) *41st Street Corridor:* All City-owned property in the vicinity of 41st Street, in the area bounded by West 43rd Street on the North, West 40th Street on the South, Pine Tree Drive on the East, and Alton Road on the West.~~
 - ~~3. The sale, exchange, conveyance or lease of ten years or longer of the following properties shall require approval by vote of at least sixty (60) percent of the City's voters voting thereon in a City-wide referendum: (1) *Convention Center Parking Lots:* All City-owned surface parking lots located in the Civic and Convention Center District, generally bounded by Lincoln Lane on the South, Washington Avenue on the East, Meridian Avenue on the West and Dade Boulevard on the North; (2) *Convention Center Campus:* All City-owned property, except for the Convention Center and Carl Fisher Club House, located within the Civic and Convention Center District (includes City Hall, 1701 Meridian Street, 555 17th Street, 21st Street Community Center, The Fillmore Miami Beach/Jackie Gleason Theater, and the 17th Street Parking Garage). All local laws, charter provisions and ordinances of the City in conflict with this~~

~~provision are hereby repealed. This provision shall become effective immediately upon acceptance of the certification of election results by the City Commission.~~

- ~~4. The sale, exchange, conveyance or lease of ten years or longer of all remaining City-owned property (other than public beach rights-of-way — see (d) herein below, and other than those properties addressed more specifically in this Charter [section 1.03](#)) shall, as provided by Ordinance, require approval by a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission. The sale, exchange, conveyance or lease of ten years or longer of property owned by the Miami Beach Redevelopment Agency (Agency) shall require approval by a majority 4/7 vote of all members of the Planning Board and 7/8 vote of the Agency.~~
- ~~5. The terms of this Charter section shall not apply to any valid written contractual commitments or bids or bonded indebtedness, which commitments, bids or indebtedness existed prior to January 14, 2004; nor shall this Charter section apply to any City property which is the subject of a settlements of a claim which the City had notice of as of January 14, 2004.~~

1. The sale, exchange, conveyance (collectively the “sale”), or lease of ten (10) years or longer (including option periods/renewal terms), of any City-owned property (including, without limitation, air rights, property owned by the Miami Beach Redevelopment Agency, or any other City entity/agency) shall be subject to the following requirements:

- i. The proposed sale or lease shall be transmitted by the City Manager to the Finance and Economic Resiliency Committee (or its successor committee) for its review;
- ii. The City’s Planning Department shall prepare a written analysis to be submitted to the City Commission concurrent with its consideration of the proposed sale or lease. The minimum criteria for the planning analysis shall be as set forth in the City Code, as same may be amended from time to time;
- iii. The City shall obtain an independent appraisal of the fair market or rental value of the property. The City Commission may waive this requirement by 5/7th vote, upon a finding that the public interest would be served by waiving such requirement;
- iv. There shall be no sale or lease of City property unless there has been an advertised public competitive bidding process. The City Commission may waive this requirement by 5/7th vote, upon a finding that the public interest would be served by waiving such requirement;
- v. The proposed sale or lease shall be referred to the City’s Planning Board for its review and advisory recommendation (which shall not be binding on the City Commission);
- vi. The proposed sale or lease shall be approved by a majority vote of the City Commission (A) subject to the City Commission being presented and having considered the material terms of the proposed sale or lease, and (B) following a duly noticed public hearing in order to obtain citizen input into the proposed sale or lease; and
- vii. The proposed sale or lease shall require approval by a majority of the voters in a City-wide referendum. At least thirty (30) days prior to the referendum date, the material terms of the proposed sale or lease shall be posted in the Office of the City Clerk and shall be made available for inspection by the public.

2. Vacation of City Right of Way. The vacation, sale, exchange, lease, or any other transfer (collectively, the “vacation”) of any City-owned, or of any City interest (including, without limitation, air rights) in any street, street-end, sidewalk, alley, or any other right of way (collectively, the “right of way”) shall be subject to the following requirements:

- i. The proposed vacation shall be transmitted by the City Manager to the Finance and Economic Resiliency Committee (or its successor committee) for its review;
- ii. The City’s Planning Department shall prepare a written analysis to be submitted to the City Commission concurrent with its consideration of the proposed vacation. The

minimum criteria for the planning analysis shall be as set forth in the City Code, as same may be amended from time to time;

- iii. The City shall obtain an independent appraisal of the fair market value of the property to be vacated. The City Commission may waive the appraisal requirement by 5/7th vote, upon a finding that the public interest would be served by waiving such requirement;
- iv. The proposed vacation shall be referred to the City's Planning Board for its review and advisory recommendation (which shall not be binding on the City Commission);
- v. The proposed vacation shall be approved by a majority vote of the City Commission following a duly noticed public hearing in order to obtain citizen input into the proposed vacation; and
- vi. The proposed vacation shall be approved by a majority of the voters in a Citywide referendum.

3. Management and Concession Agreements with Private Operators. The City shall not enter into a management or concession agreement with a private party or operator, having a term of ten (10) years or longer (including option periods/renewal terms), for the management, operation, and/or use of City property (including, without limitation, the City's public beachfront), or of a City facility, without complying with the following requirements:

- i. The proposed agreement shall be transmitted by the City Manager to the Finance and Economic Resiliency Committee (or its successor committee) for its review;
- ii. The proposed agreement shall be referred to the City's Planning Board for its review and advisory recommendation (which shall not be binding on the City Commission);
- iii. The proposed agreement shall be approved by 5/7ths vote of the City Commission (A) subject to the City Commission being presented and having considered the final negotiated agreement, and (B) following a duly noticed public hearing in order to obtain citizen input into the proposed sale or lease.

(c) The floor area ratio of any property or street end within the City of Miami Beach shall not be increased by zoning, transfer, or any other means from its current zoned floor area ratio as it exists on the date of adoption of this Charter Amendment [November 7, 2001], including any limitations on floor area ratios which are in effect by virtue of development agreements through the full term of such agreements, unless any such increase in zoned floor area ratio for any such property shall first be approved by a vote of the electors of the City of Miami Beach. The provision shall not preclude or otherwise affect the division of lots, or the aggregation of development rights on unified abutting parcels, as may be permitted by ordinance, except that all or a portion of any street, alley, right-of-way, or any public property, may not be vacated, deeded, or otherwise sold or conveyed, if it has the effect of aggregating the floor area of any unified abutting parcels, unless such aggregation of floor area is first approved by a vote of the electors of the City of Miami Beach. In addition, this provision shall not apply to settlements of any claims the City has notice of as of December 10, 2003. This Charter Amendment shall become effective on the day after its approval by the voters of the City of Miami Beach. No rights in derogation of the provisions of this Amendment under any ordinance or any other action of the Miami Beach City Commission between the time this measure is approved by the Miami Beach City Commission for placement on a ballot and the adoption of this Amendment shall be enforced against the City of Miami Beach.

~~(d) *Public Beach Rights of Way.* The sale, exchange, conveyance, lease, or any other transfer of any City interest in a public beach right of way (extending eastward from Collins Avenue/Ocean Drive to the erosion control line) shall require approval by a majority vote of the voters in a Citywide referendum, excluding permits of no greater than one year, and excluding the sale, exchange, conveyance, lease or any other transfer not exceeding 10% in width of such public beach right of way.~~

- ~~(e) *Public Street Ends Bordering GU, GC, or Waterfront Land.* The sale, exchange, conveyance, lease, or any other transfer of any City interest in any public street end bordering on land designated "Government Use", "Golf Course" or Waterfront land, shall require either the unanimous approval of those members of the City Commission with power to vote or approval by a majority vote of the voters in a Citywide referendum, excluding a sale, exchange, conveyance, lease, or any other transfer not exceeding 10% in width of such street end which advances a significant public purpose, and excluding underground utility easements.~~
- ~~(f) *Management and Concession Agreements with Private Operators.* The City shall not enter into a management agreement or concession agreement with a private party or operator, having a term of ten (10) years or longer (including option periods), for the management, operation, and/or use of City owned property, or of a City owned facility, without obtaining the approval of a majority 4/7 vote of all members of the Planning Board and 6/7 vote of the City Commission. For purposes of this subsection, the term "City property" shall include the City's public beach areas in the City of Miami Beach, from Government Cut to 87th Terrace. The term "private party or operator" shall exclude any political subdivision and/or governmental agencies, departments, and/or divisions of the United States, the State of Florida, or Miami-Dade County.~~

Amendment No. 4
Charter Section 2.01

Draft Ballot Question:

City Commission Elections: Moving Qualifying and Mayoral Election Dates, Changing Commissioners' Election Method.

Commencing with 2025 general election, shall Charter be amended:

- moving qualifying *from* September *to* August, Mayoral general election *from* November *to* October, Mayoral runoff *from* 2 weeks following general election *to* first Tuesday in November;
- eliminating Commissioner runoffs and group designations whereby each group's majority vote winner elected, *providing instead* Commissioner candidates receiving highest votes among all candidates elected to staggered cycle's open seats;
- establishing installation day (upon which corresponding outgoing terms expire); conforming provisions?

Draft Charter Text:

Charter section 2.01- Number and selection.

The City Commission shall consist of six (6) City Commissioners and a Mayor who shall be elected at large. Each City Commissioner shall be a qualified elector of the City. City Commissioners shall be elected for groups numbered and designated I—VI; commencing however with City's general election in 2025, City Commissioners shall not be elected by groups but shall instead be elected pursuant to provisions below. No candidates for the office of Commissioner shall be permitted to qualify for more than one (1) group, or for the office of Mayor.

Commencing with the City's general election in 2025, the following provisions shall apply: Commissioners in groups numbered I, II and III shall be elected

The three (3) City Commissioner seats expiring in 2025 (previously designated as groups numbered I, II and III, hereafter designated as "Commissioners A") shall be filled and elected at the City Commissioners' general election to be held on the first Tuesday in November, 1997 2025 and at each such general election each four (4) years thereafter. Commissioners in groups numbered IV, V, and VI shall be elected. The three (3) City Commissioner seats expiring in 2027 (previously designated as groups numbered IV, V and VI, hereafter designated as "Commissioners B") shall be filled and elected at the City Commissioners' general election to be held on the first Tuesday in November, 1995 2027 and at each such general election each four (4) years thereafter. The Mayoral seat expiring in 2025 shall be elected filled and elected at the Mayoral general election to be held on the first Tuesday in November, 1995 October, 2025 and at each such Mayoral general election each two (2) years thereafter.

A candidate for Mayor must receive a majority of the votes cast to be deemed elected. If no candidate for Mayor receives a majority of the votes cast at the Mayoral general election, there will be a runoff election between the two Mayoral candidates in each group receiving the highest number of votes; should a tie result, the outcome shall be determined by lot. This runoff election shall occur two weeks from the date of general election on the first Tuesday in November (concurrent with the City Commissioners' general election). Candidates for City Commissioner shall not be elected by majority vote but shall instead be elected by presentation on the City Commissioners' general election ballot of names of qualified Commissioner candidates for each particular staggered election cycle, with electors permitted to cast one vote per candidate up to a maximum number of votes equal in number to the City Commissioner seats to be filled for that particular staggered election cycle, with the Commissioner candidates equal in number to each such staggered cycle's Commissioner seats to be filled who have received the highest number of votes to be deemed elected (thus, no Commissioner runoff election). If there is a tie vote among Commissioner candidates with highest number of votes and said candidates are greater in number than seats to be filled, then the outcome for each such particular tie vote shall be determined by lot.

Upon the City Commission's acceptance of final election returns from the City's November elections (City Commissioners general election and Mayoral runoff election if required) on the first business day immediately following the county elections supervisor's issuance of such final election results, the new Commission members shall be installed and their terms shall commence, and corresponding outgoing terms shall expire. The

subject election date change commencing in 2025 and corresponding installation date of new officers does not require any adjustment in terms of existing (as of these amendments' effective date) incumbent Commission members whose terms expire in 2025 and 2027 on installation day, consistent with the above.

In the event that no candidate has qualified ~~in any group,~~ for City Commissioner or for Mayor, a vacancy shall be deemed to have occurred, and shall be filled as provided by the Charter of the City of Miami Beach for the filling of a vacancy.

Sec. 2.04. Election of Vice-Mayor and meetings.

The City Commission shall, at its first meeting after ~~each general election (or at its first meeting after the runoff election, if a runoff election is held),~~ new Commission members are installed and assume office following each biennial election commencing 2025, initially elect from its membership a Vice-Mayor who, during the absence or disability of the Mayor, shall perform the duties of Mayor. In the absence or disability of both the Mayor and Vice-Mayor, the said duty shall be performed by another member appointed by the Commission.

* * *

Sec. 6.03. Qualifying.

The City Commission shall cause to be placed on the ballot to be used in the general elections for Mayor and City Commissioners the name of any qualified elector of the City residing within the City at least one year prior to qualifying and who, commencing with the 2025 general election, within the four (4) consecutive days immediately following the first Monday of ~~September~~ August prior to ~~said the~~ general elections for Mayor and City Commissioners,

* * *

Sec. 6.04. - Vacancy in Candidacy Following end of Qualifying Period.

If the death, withdrawal or removal of a qualified candidate for Miami Beach City Commission following the end of the qualifying period results in fewer than two candidates remaining on the ballot for that office, or commencing with the 2025 general elections there remain in such instances fewer than two candidates for Mayor's office or candidates fewer than or equal in number to the seats to be filled for the office of City Commissioner, there shall be one supplemental qualifying period for the office of Mayor and/or Commissioner of five (5) days beginning on the first business day following the subject vacancy in candidacy. No further supplemental qualifying period shall thereafter be established at all if a vacancy in candidacy occurs within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor.

If within forty-five (45) days prior to the date of the election for the office of City Commissioner or Mayor, there is only one candidate on the ballot for an elected office, said candidate shall be declared elected and no election for that office shall be required; commencing with the 2025 general elections, if within said forty-five (45) days prior to the date of the election for the office of Mayor there is only one candidate on the ballot for that office said candidate shall be declared elected and no election for the office of Mayor shall be required, and if within said 45 days prior to the date of the election for the office of Commissioner there are candidates fewer than or equal in number to the seats to be filled for the office of City Commissioner those candidates shall be declared elected and no election for the office of Commissioner shall be required.

Amendment No. 5
Charter Section 2.02

Draft BQ

Charter Section 2.02: Mayor and Commissioners--Request Ethics Opinion, City Commission Compensation.

Shall Charter be amended:

- Requiring Mayor and Commissioners request State/County ethics opinions regarding post-November 2024 employment or contractual relationships entered into during office term;
- Establishing the sole, exclusive annual compensation (comprising salary, stipend, allowances) of \$ 65,000 for Mayor and \$ 60,000 for Commissioners, *instead of* Charter’s \$10,000 Mayoral compensation and Commissioners’ \$6,000 compensation, and authorizing annual compensation increase based upon Consumer Price Index, not to exceed three percent per year?

Draft Amended Charter text:

Charter section 2.02. -Term, Term Limits, and Compensation, and Requirement to Request Ethics Opinion.

* * *

“...The sole, exclusive annual compensation (comprising salary, stipend, allowances) for the office of Commissioner shall be ~~six thousand dollars (\$6,000.00)~~ sixty thousand dollars (\$60,000) and the compensation for the office of Mayor shall be ~~ten thousand dollars (\$10,000.00)~~ sixty-five thousand dollars (\$65,000). The Mayor and City Commissioners’ annual compensation shall be increased annually based upon the Consumer Price Index for all urban consumers (CPI-U) for Miami-Fort Lauderdale-West Palm Beach, as issued by the U.S. Department of Labor, in an amount not to exceed three (3) percent, per year. ~~a~~Any increase in salary for the Mayor’s compensation and/or increase in the office of Commissioner’s compensation, shall require approval of a majority of the electorate voting at a City election.

The Mayor and City Commissioners shall request an opinion from the Florida Commission on Ethics and the Miami Dade County Commission on Ethics and Public Trust regarding their post-November 2024 employment or contractual relationships governed by ethics laws entered into during terms of office; requests for opinion concerning such employment or contractual relationships shall be made within 30 days from entering into such employment or contractual relationships. Upon the Mayor and Commissioners’ transmittal of such request for opinion they shall provide the City Clerk with a copy thereof, as well as provide the Clerk a copy of responses from the State and County Ethics Commissions, with the Clerk upon receipt to post such requests and responses on the City’s website.

The above ethics provisions governing requirement to request ethics opinion shall be incorporated into the City of Miami Beach’s code of conduct, set forth in City Code Chapter 2, Article VII, and thus subject to enforcement by the Miami-Dade County Commission on Ethics and Public Trust.

Amendment No. 6
Charter Section 2.03

Draft BQ:

Charter section 2.03 “Powers of City Commission”— Prohibited Gift Acceptance, Non-Interference with City Administration.

Shall Charter be amended per City Resolution 2024-____ :

- establishing stricter rule than State/County laws which prohibit Commission members’ knowingly accepting “gifts” (regulated/defined in said laws) over \$100 from lobbyists or vendors, by prohibiting Commission members’ knowingly accepting such gifts *of any value*, requiring implementing legislation with definitions;
- establishing limitations on Commission members’ involvement with City Administration, including no power to give orders to City Manager’s subordinates?

Draft amended Charter text:

Charter section 2.03.- Powers of the City Commission.

All powers of the City shall be vested in the City Commission except those powers specifically given to the Mayor, the City Manager, the City Attorney, and the City Clerk, as provided in this Charter and except those powers specifically reserved in this Charter to the electors of the City. Moreover, the City Commission shall have all powers and privileges not inconsistent herewith, granted to the City Commission of cities and towns by the general laws of the State of Florida, and shall have power to do and perform all things necessary for the government of the City not inconsistent with the constitution of the State of Florida, the Constitution and laws of the United States, and the terms and provisions of this Charter.

Members of the City Commission shall not knowingly accept, directly or indirectly, a gift (as regulated/defined in State and County ethics laws¹) of any value from a lobbyist or City vendor; this gift restriction shall be implemented with definitions via incorporation into the City of Miami Beach’s code of conduct, set forth in City Code Chapter 2, Article VII, and thus subject to enforcement by the Miami-Dade County Commission on Ethics and Public Trust.

Neither the Mayor or any Commissioner shall direct or request the appointment of any person to, or his or her removal from, employment or office by any subordinate of the City Manager, or take part in the appointment or removal of officers and employees in City Administration, nor shall any subordinate of the City Manager accede to such direction or request.

Except where otherwise prohibited by ordinance, members of the City Commission shall be permitted to communicate and make inquiries of the administrative personnel for the purpose of transmitting constituent inquiries or assisting Commission members in the exercise of their powers as set forth hereinabove. Except as provided elsewhere in this Charter, members of the City Commission shall not be permitted to give orders, either publicly or privately, to any subordinate of the City Manager.

No City employee or official, shall respond to or undertake any action to comply with any request by any member of the City Commission which violates the provisions of this Charter section. The City Manager shall not knowingly allow any member of the City Commission to deal with otherwise interfere with City Administration in violation of the provisions of this Section.

The City Commission shall appoint a City Manager, a City Attorney, and a City Clerk; the City Commission shall have the power to remove the City Manager, City Attorney, and/or City Clerk at any time by a majority vote of the Commission, or, in the event of an employment agreement between the parties removal shall occur pursuant to the terms of said agreement.

¹ See, Florida’s Code of Ethics for Public Officers and Employees, at Chapter 112, Part III, Florida Statutes (*inter alia* Fla. Stat. section 112.3148); and Miami-Dade County Conflict of Interest and Code of Ethics Ordinance, at County Code section 2-11.1(e).

The Commission may also investigate the official acts and conduct of any City official, and by similar investigations may secure information upon any matter. In conducting such investigations, the Commission may require the attendance of witnesses and the production of books, papers and other evidence.

The Inspector General shall be appointed by the Ad Hoc Inspector General Selection Committee, as further established by ordinance; however, before any appointment by the Ad Hoc Inspector General Selection Committee shall become effective, the appointment must be approved by a majority vote of the City Commission. The Inspector General may be removed from office upon a five-sevenths (5/7) vote of the City Commission.

The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. Duties, method of selection and method of compensation of the independent City Auditor shall be established by ordinance.

Amendment No. 7
Charter Section 2.05

Draft BQ

Charter Section 2.05: Public Hearings and Public Notice.

Shall Charter 2.05 be amended:

- establishing process requiring two public hearings instead of one for proposed City ordinances except emergency ordinances and proposed ordinances subject to adoption procedures established in City's Zoning Ordinance
- authorizing City's alternative optional publication of notice of proposed ordinances on a publicly accessible website in accordance with Chapter 50, Florida Statutes, instead of requiring publication of such notices only in a newspaper of general circulation within City?

Draft Amended Charter text:

Charter section 2.05 Procedures for passing ordinances generally.

The City Commission shall have the power to make, establish and ordain for the government of the City of Miami Beach and the officers of said City, ordinances in writing not inconsistent with this Charter, the Constitution and laws of the State of Florida and of the United States, as it may deem necessary provided a majority of the City Commission shall consent thereto.

Each ordinance shall be introduced in writing and shall embrace one subject and matters properly connected therewith. The subject shall be clearly stated in the title. The enacting clause shall be "BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION..." No ordinance shall be revised or amended by reference to its title only. Ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. A proposed ordinance may be read by title, or in full, on at least two (2) separate dates, ~~and shall,~~ The City shall conduct two advertised public hearings on all proposed ordinances (except emergency ordinances, and subject to adoption procedures established in the City of Miami Beach's Zoning Ordinance, as provided below). ~~At least ten~~ (10) days prior to both first reading and adoption, the proposed ordinance shall be noticed once in either a newspaper of general circulation in the municipality or on a publicly accessible website as permitted by Florida Statutes section 50.0311. The notices of proposed enactment shall state the date, time, and place of the ~~meeting~~ first and second public hearings conducted by the City Commission, the title or titles of proposed ordinances, and the place or places within the municipality where such proposed ordinance or ordinances may be inspected by the public. Said notices shall also advise that interested parties may appear at the City Commission meetings and be heard at the public hearings with respect to the proposed ordinance or ordinances. No ordinances shall be declared invalid by reason of any defect in publication or title if the published ~~summary notices~~ gives reasonable notice of its intent. At the time and place so advertised, or at any time and place to which such public hearings may, from time to time, be adjourned, the ordinance shall be read by title and ~~a~~ the public hearings shall be held. After the second public hearing, the City Commission may pass the ordinance with or without amendment. The effective date shall not be earlier than ten (10) days after its enactment.

Proposed ordinances which enact or amend the City's Zoning Ordinance or comprehensive Plan of the City of Miami Beach shall be adopted according to the procedures set forth in the City of Miami Beach's Zoning Ordinance.

To meet a public emergency affecting life, health, property or public safety, the City Commission by two-thirds ($\frac{2}{3}$) vote of the members of the City Commission may adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately. After adoption of an emergency ordinance, the City Commission shall cause it to be published in full within ten (10) days in a newspaper of general circulation in the municipality or on a publicly accessible website, as permitted by Chapter 50, Florida Statutes. No emergency ordinance shall be enacted which enacts or amends a land use plan or which rezones private property.

Amendment No. 8
Charter Section 2.07

Draft Ballot Question:

Charter Section 2.07 “Vacancies in City Commission”

Shall Charter Section 2.07 be amended per City Resolution 2024-_____ to:

- require election to fill vacancy unless City Commission appoints person to fill vacancy within 30 days;
- provide that Commission’s power to appoint shall commence upon vacancy or submittal of resignation (if filed) instead of 30 days later;
- require appointments by remaining Commission members be super-majority (majority plus 1) vote instead of majority vote;
- clarify election and installation dates regarding vacancies due to resignation?

Draft Charter Text:

Charter section 2.07. - Vacancies in City Commission.

Any vacancy occurring in the City Commission shall be filled as follows by the scheduling of an election, unless the City Commission appoints a person to fill said vacancy, pursuant to the following process:

- (a) *Vacancy for reasons other than resignation.* The City Commission shall, have within 30 days after the vacancy occurs, the power decide whether to fill said vacancy by City election or by Commission appointment. ~~Should the Commission choose to appoint, said action shall be taken by vote of the super-majority vote (majority plus 1) of the remaining Commission members (thus not including the Commission member who created the vacancy) of the City Commission within 30 days after the expiration of the above subject initial 30-day period,~~ with the appointee serving the remainder of the unexpired term until the next succeeding ~~G~~general City ~~E~~election (applicable to the subject office being filled) and with any further remainder of said unexpired term to be filled by a Commission member elected at said ~~G~~general ~~E~~election. If the remaining members of the City Commission shall ~~choose instead to fill such vacancy by election~~ not so appoint, then a ~~S~~special ~~E~~election shall be called to be held within 90 days after the expiration of the subject 30-day period to elect a Commission member to fill such vacancy for the remainder of the unexpired term.
- (b) *Vacancy due to resignation.* Resignations from office shall be filed with the City Clerk and shall be irrevocable upon such filing, thus creating a vacancy in office per the Resignation’s effective date. The Commission shall have, within 30 days from submittal of a resignation to the City Clerk, the power decide whether to fill said vacancy by City election or by Commission appointment. ~~1. Should the Commission choose to appoint, said action shall be taken by vote of the super-majority vote (majority plus 1) of the remaining Commission members (thus not including the Commission member who has resigned) of the Commission within 30 days after expiration of the subject 30-day period (referenced in (b) above), with the appointee serving the remainder of the unexpired term from the date the resigning official would take office, if elected (assuming the resignation was filed pursuant to Section 99.012, Florida Statutes) until the next succeeding Ggeneral City Eelection (applicable to the subject office being filled), and with any further remainder of the unexpired term to be filled by a Commission member elected at said Ggeneral Eelection. However, if the resignation was not filed pursuant to Section 99.012, Florida Statutes, then the appointee shall serve the remainder of the unexpired term from either the resignation's effective date or from the date the appointee is appointed, whichever occurs later, and shall serve until the next succeeding Ggeneral City Eelection (applicable to the subject office being filled), and with any further remainder of the unexpired term to be filled by a Commission member elected at said Ggeneral Eelection.~~
2. If the remaining members of the City Commission shall ~~choose instead to fill such vacancy by election,~~ not appoint, then a ~~S~~special ~~E~~election shall be called to be held within 120 days after expiration of the subject ~~initial 30-day period (referenced directly above in (b) above)~~ to elect a Commission member to fill such vacancy for the remainder of the unexpired term; but if a City or County-wide election is

otherwise scheduled to be held during the intervening period from expiration of the subject ~~initial~~ 30-day period through and including the resignation's effective date; or (if vacancy due to resignation filed pursuant to Section 99.012, Florida Statutes) the date the resigning official would take office, if elected, then the Special Election to fill the vacancy for the unexpired term as provided above may occur at any such City or County-wide election.

Any person who has been elected to fill a vacancy due to resignation filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office ~~following~~ on whichever of the following occurs later: the date the resigning official would take office, if elected, or upon the City Commission's acceptance of final election returns from the City's special election to fill vacancy (if no City runoff election is required) or runoff election (if required), but if the subject election to fill vacancy is held at time of the City's biennial general election cycle, such person shall be installed and take office on the date the resigning official would take office if elected or the date Commission members elected at said general election cycle are installed, whichever occurs later. ~~;~~ ~~Any person who has been elected to fill a vacancy due to resignation not filed pursuant to Section 99.012, Florida Statutes, shall be installed and take office following~~ on whichever of the following occurs later: the effective date set forth in said resignation, or upon the City Commission's acceptance of final election returns from the City's special election to fill vacancy (if no City runoff election is required) or runoff election (if required), but if the subject election to fill vacancy is held at time of the City's biennial general election cycle, such person shall be installed and take office on the effective date set forth in said resignation or date Commission members elected at said general election cycle are installed, whichever occurs later.

- (c) *Resolution calling Special Election.* Provisions related to a ~~Special Election~~ called pursuant to this section, including the qualifying period and ~~Runoff Election~~ (if required), shall be established in the City Resolution calling the ~~Special Election~~.

Amendment No. 9

Clarify/Conform,
and Delete Obsolete Language

Draft Ballot Question:

Charter Amendments: Clarify/Conform to Applicable Laws, Requirements and Legal Precedent, Delete/Clarify Obsolete Language.

Shall Charter be amended per Resolution 2024-_____, to clarify and conform to legal precedent qualifying’s one-year residency requirement as “immediately” prior to qualifying, clarify filing requirements for qualifying by petition (Charter 6.03); clarify and conform to Florida law restriction on qualifying for more than 1 City office, delete certain obsolete references to “Commissioner” and clarify/update by referencing instead “Commission member” (Charter 2.01); conform Charter 1.07 to all Code Chapter 62’s nondiscrimination classification categories?

Draft Charter Text:

Charter section 1.07. Public vote required to repeal, diminish, or otherwise negatively impact a right or duty established in Miami Beach City Code Chapter 62 that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, ~~and age,~~ and all other classification categories set forth in and as defined in City Code Section 62-31.

Any revision to Chapter 62 of the Code of the City of Miami Beach, entitled Human Relations, that repeals, diminishes, or otherwise negatively impacts a right or duty established in that section that inures to the benefit of a member of the classification categories of race, color, national origin, religion, sex, gender identity, sexual orientation, disability, marital status, familial status, ~~and age,~~ and all other classification categories set forth in Code Chapter 62, as defined in section 62-31, must be approved by a majority of the voters in a city-wide referendum.

Charter section 2.01. Number and selection.

The City Commission shall consist of six (6) City Commissioners and a Mayor who shall be elected at large. Each City Commissioner ~~member~~ shall be a qualified elector of the City. City Commissioners shall be elected for groups numbered and designated I—VI. No candidates for ~~the office of a Commissioner~~ member office shall be permitted to qualify for more than one (1) ~~group, or for the Commission~~ office of ~~Mayor~~ (may qualify for either Mayor or Commissioner).

* * *

Sec. 6.03. Qualifying.

The City Commission shall cause to be placed on the ballot to be used in the general election the name of any qualified elector of the City residing within the City at least one year immediately prior to qualifying and who, within the four (4) consecutive days immediately following the first Monday of September prior to said general election, 1) shall have submitted one (1) or more documents upon which he/she relies upon to evidence that he/she has resided in the City for at least one year immediately prior to qualifying, which type document(s) shall include but not be limited to: a Florida government issued identification, a voter's registration card, driver's license, property tax receipt, homestead exemption, utility bill or lease agreement, 2) shall have paid to the City Clerk of the City of Miami Beach the sum equal to seven and one-half percent (7½%) of the annual salary of the office to which he/she seeks election as a qualifying fee, and 3) shall have been photographed and fingerprinted by the identification bureau of the Police Department of the City, unless such person shall file with the City Clerk no later than noon of the 14th day prior to the first day of qualifying as a candidate for such office; the above qualifying documents evidencing residency, photograph and fingerprints (no qualifying fee), along with a petition approving his candidacy signed by sufficient qualified and registered voters to constitute not less than two percent (2%) of this number of such voters as the same shall be on the date sixty (60) days prior to the first day of qualifying as a candidate for office; in the event the Miami-Dade County Elections Department has not issued its certificate verifying the required number of valid signatures on the subject qualifying petition by 5:00 p.m. on the second day of the City's four-day qualifying period, the City's 7½% qualifying fee shall be waived by the City in

the event the subject candidate should otherwise qualify for office pursuant to this Charter section. All candidates qualifying for office shall have taken, signed and subscribed to an oath or affirmation in writing in which he/she shall state (1) the title of the office for which he/she is a candidate; (2) that he/she is a qualified elector of the City of Miami Beach, Florida, and has resided in the City at least one year immediately prior to qualifying; (3) his/her legal residence, by street and number; (4) that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of the City of Miami Beach, Florida, to hold the office for which he/she is a candidate.

Such oath or affirmation shall be substantially in the following form:

STATE OF FLORIDA)	
		SS:
COUNTY OF DADE)	

Before me, an officer authorized to administer oaths, personally appeared to me well known who, being sworn, says that he/she is a candidate for the office of City Commissioner (Group No. _____ (or Mayor) for the City of Miami Beach, Florida; that he/she is a qualified elector of said City residing within the City at least one year ~~before~~ immediately prior to qualifying for City of Miami Beach elected office; that his/her legal residence is: _____, Miami Beach, Dade County, Florida; that he/she is qualified under the ordinances (including Miami Beach City Code Chapter 38 governing "Elections") and Charter of said City to hold such office; and that he/she has paid (if applicable) the required qualification fee.

Signature of Candidate

Sworn to and subscribed before me this ___ day of _____ A.D., 19 ___.

Authorized Officer

The City Commission shall, by ordinance, prescribe the manner of holding general and special elections not inconsistent with the provisions hereof, and shall, by ordinance or resolution, prescribe polling places in the various voting precincts in the City.