

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CALLING FOR A NOVEMBER 5, 2019 CITY OF MIAMI BEACH SPECIAL ELECTION, FOR THE PURPOSE OF SUBMITTING TO THE ELECTORATE OF THE CITY OF MIAMI BEACH A QUESTION ASKING WHETHER CITY CHARTER SECTION 2.07, WHICH ESTABLISHES PROCEDURES FOR THE FILLING OF VACANCIES IN THE CITY COMMISSION, SHOULD BE AMENDED TO CREATE SPECIFIC PROCEDURES FOR THE FILLING OF A VACANCY CAUSED BY THE RESIGNATION OF A CITY COMMISSION MEMBER, AND TO CLARIFY THAT IN CASE OF ANY VACANCY THE COMMISSION IS NOT REQUIRED TO APPOINT SOMEONE TO FILL THE VACANCY BUT INSTEAD MUST DECIDE WHETHER TO APPOINT OR SCHEDULE AN ELECTION, WITH ELECTION-RELATED PROVISIONS TO BE ESTABLISHED IN THE CITY RESOLUTION SCHEDULING SAID SPECIAL ELECTION.

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

**SECTION 1.**

In accordance with provisions of the Charter of the City of Miami Beach, Florida and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the City of Miami Beach, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, November 5, 2019, for the purpose of submitting to the electorate the question as set forth hereinafter.

**SECTION 2.**

That the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the City Commission. The official returns for each precinct shall be furnished to the City Clerk of the City of Miami Beach as soon as the ballots from all precincts have been tabulated.

**SECTION 3.**

That the said voting precincts in the City of said Special Election shall be as established by the proper and appropriate Miami-Dade County Election Officials. All electors shall vote at the polling places and the voting precincts as determined by the Miami-Dade County Election

Officials.<sup>1</sup>

**SECTION 4.**

Not less than thirty days' notice of the adoption of this Resolution and of its provisions calling this Special Election shall be given by publication in the Miami Herald, a newspaper of general circulation in Miami Beach, Miami-Dade County, Florida. Such publication shall be made in accordance with the provisions of Section 100.342, Florida Statutes, and Section 38-3 of the Code of the City of Miami Beach.

**SECTION 5.**

The Notice of Election shall be substantially in the following form:

THE CITY OF MIAMI BEACH, FLORIDA

NOTICE OF SPECIAL ELECTION

NOTICE IS HEREBY GIVEN THAT A SPECIAL ELECTION HAS BEEN CALLED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AND WILL BE HELD IN SAID CITY FROM 7:00 A.M. UNTIL 7:00 P.M. ON THE 5<sup>TH</sup> DAY OF NOVEMBER, 2019, AT WHICH TIME THERE SHALL BE SUBMITTED TO THE DULY REGISTERED AND QUALIFIED VOTERS OF THE CITY OF MIAMI BEACH THE FOLLOWING QUESTION:

**City Charter Section 2.07:**  
**Amending Procedures for Filling of Vacancies in City Commission**

**Shall City Charter Section 2.07, which establishes procedures for filling vacancies in the City Commission, be amended to create specific procedures for filling vacancies due to resignation of a Commission member, and to clarify that in case of any vacancy the Commission is not required to appoint someone to fill the vacancy but instead must decide whether to appoint or schedule an election, with election-related provisions established in the Resolution scheduling said election?**

Yes \_\_\_\_\_  
No \_\_\_\_\_

Said Notice shall further set forth pertinent information regarding eligibility of electors to participate in said elections.

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<sup>1</sup> Pursuant to City Code section 38-3(b): "The City Clerk shall further publish, in a newspaper meeting the requirements set forth in Florida Statute § 50.031 and on the City's website, the polling places for the election twice, once in the third week and once in the first week prior to the week in which the election is to be held."

**SECTION 6.**

That the official ballot to be used in the Special Election to be held on November 5, 2019, hereby called, shall be in substantially the following form, to-wit:

**“OFFICIAL BALLOT”**

**City Charter Section 2.07:**  
**Amending Procedures for Filling of Vacancies in City Commission**

**Shall City Charter Section 2.07, which establishes procedures for filling vacancies in the City Commission, be amended to create specific procedures for filling vacancies due to resignation of a Commission member, and to clarify that in case of any vacancy the Commission is not required to appoint someone to fill the vacancy but instead must decide whether to appoint or schedule an election, with election-related provisions established in the Resolution scheduling said election?**

Yes \_\_\_\_\_

No \_\_\_\_\_

**SECTION 7.**

The form of the ballots to be used in this Special Election and their preparation shall be in compliance with all statutory requirements relating to the use of mechanical or other approved voting machines or devices.

**SECTION 8.**

Registration of persons desiring to vote in the Special Election shall be in accordance with the general law of the State of Florida governing voter registration. Qualified persons may obtain registration forms to vote at the Office of the City Clerk, City Hall, 1700 Convention Center Drive, First Floor, Miami Beach, Florida 33139, during normal business hours, and at such other voter registration centers and during such times as may be provided by the Supervisor of Elections of Miami-Dade County. The Miami-Dade County Supervisor of Elections will register voters for this Special Election until 5:00 p.m. on October 7, 2019. All persons eligible to vote at this Special Election must be registered before the time and date set forth herein or have registered previously, as provided by law. Each person desiring to become a registered voter shall be responsible for properly filling out the registration form and returning it to the Miami-Dade County Elections Department. All questions concerning voter registration should be directed to the Miami-Dade County Elections Department, 2700 N.W. 87<sup>th</sup> Avenue, Miami, Florida 33172; Telephone: (305) 499-VOTE (8683).

**SECTION 9.**

That voters participating via a vote-by-mail ballot in said Special Election shall be entitled to cast their ballots in accordance with the provisions of the Laws of the State of Florida with respect to such voting.

**SECTION 10.**

That the City of Miami Beach shall pay all expenses for conducting this Special Election and will pay to Miami-Dade County or directly to all persons or firms, upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida.

**SECTION 11.**

If any section, sentence, clause or phrase of this Resolution or of the ballot measure set forth above in this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of said Resolution or ballot measure.

**SECTION 12.**

This Resolution shall be effective immediately upon its passage.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2019.

**ATTEST:**

\_\_\_\_\_  
Dan Gelber  
Mayor

\_\_\_\_\_  
Rafael E. Granado  
City Clerk

(Requested by Commissioner Micky Steinberg)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION  
  
\_\_\_\_\_  
City Attorney  
7/10/19  
Date  
NK

**CITY CHARTER SECTION 2.07:  
BALLOT QUESTION AND PROPOSED AMENDED CITY CHARTER TEXT  
NOVEMBER 5, 2019 SPECIAL ELECTION**

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**I. BALLOT QUESTION:**

**City Charter Section 2.07:  
Amending Procedures for Filling of Vacancies in City Commission**

Shall City Charter Section 2.07, which establishes procedures for filling vacancies in the City Commission, be amended to create specific procedures for filling vacancies due to resignation of a Commission member, and to clarify that in case of any vacancy the Commission is not required to appoint someone to fill the vacancy but instead must decide whether to appoint or schedule an election, with election-related provisions established in the Resolution scheduling said election?

Yes \_\_\_\_\_

No \_\_\_\_\_

**II. PROPOSED AMENDED CITY CHARTER TEXT:**

**City of Miami Beach Charter, Section 2.07: "Vacancies in eCity eCommission."**

Any vacancy occurring in the City Commission shall be filled as follows:

(a) Vacancy for reasons other than resignation. The City Commission shall, within 30 days after the vacancy occurs, decide whether to fill said vacancy by City election or by the Commission appointment. Should the Commission choose to appoint, said action shall be taken by vote of the majority of the remaining members of said the City Commission within said 30-day period, with the appointee serving the remainder of the unexpired term until the next succeeding gGeneral City eElection and with any further remainder of said unexpired term to be filled by a Commissioner member elected at said gGeneral eElection. If the remaining members of the City Commission shall fail or refuse choose instead to fill such vacancy within 30 days by election, after it occurs and if no general City election will be held within 90 days after the expiration of said 30 days, then a sSpecial eElection shall be called and to be held within 90 days after the expiration of the subject 30-day period to elect a Commissioner 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. The Commission shall, within 30 days from submittal of a resignation to the City Clerk, 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 majority of the remaining members of the Commission within the subject 30-day period, 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 General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election. 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 General City Election, and with any further remainder of the unexpired term to be filled by a Commission member elected at said General Election.

2. If the remaining members of the City Commission shall choose instead to fill such vacancy by election, then a Special Election shall be called to be held within 120 days after expiration of the subject 30-day period 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 the resignation's filing date with the City Clerk, up to and including the resignation's effective date, 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 the date the resigning official would take office, if elected. 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 the effective date set forth in said resignation.

(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.