

COMMISSION MEMORANDUM

TO: Mayor Dan Gelber and Members of the City Commission
City Manager Alina T. Hudak

FROM: Rafael A. Paz, City Attorney



DATE: May 4, 2022

SUBJECT: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA CALLING FOR AN AUGUST 23, 2022 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 6.03 SHOULD BE AMENDED TO CREATE AN ADDITIONAL QUALIFYING REQUIREMENT THAT CANDIDATES SUBMIT DOCUMENTS EVIDENCING COMPLIANCE WITH THE CITY CHARTER'S EXISTING REQUIREMENT THAT CANDIDATES RESIDE IN CITY FOR AT LEAST ONE YEAR PRIOR TO QUALIFYING FOR OFFICE.

Pursuant to the request of City Commissioner Mark Samuelian, the attached Resolution has been prepared calling for a City of Miami Beach Special Election to be held on August 23, 2022 for the purpose of submitting to the City's voters the following ballot question:

Charter Section 6.03:
Creating Additional Qualification Requirement for City Commission Candidates:
Proof of Residency Documents.

Shall Charter Section 6.03 regarding "qualifying" for City elected office, be amended to create an additional qualifying requirement that candidates submit one (1) or more proof of residency documents upon which candidates rely to evidence their compliance with the Charter's existing requirement that candidates reside in the City for at least one year prior to qualifying for office?

By way of background, City Charter Section 6.03 requires that a candidate for election to the City Commission be a resident of the City for at least 1 year prior to qualifying for office, and file with the City Clerk during the qualifying period his/her fingerprints and photograph, oath of candidacy, and payment of qualifying fee.¹

During the City's 2021 General Election season, Commissioner Samuelian was informed by several City residents of their beliefs that certain candidates had not resided in the City for the required-one year period—this concern was confirmed with regard to one such candidate who was disqualified/deemed ineligible by a Judge in the Eleventh Judicial Circuit Court for not having satisfied the subject one-year residency requirement.

¹ Fee applicable unless qualifying by petition.

Recognizing the significance of transparency to a healthy democracy, and for purposes of fostering the integrity of our municipal elections, Commissioner Samuelian is thus proposing presentation to the City's voters of an amendment to Charter Section 6.03 to create an additional qualification requirement whereby qualifying candidates must file 1 or more documents evidencing their compliance with the Charter's one-year residency requirement.² Commissioner Samuelian believes that by providing City residents and the public in general with greater opportunity to review and assess a City Commission candidate's compliance with the Charter's residency requirement, enhanced voter confidence and trust in the election process will be achieved.

Pursuant to Commissioner Samuelian's request, as City Attorney I have studied the subject proposal, and have opined that requiring all qualifying candidates to submit evidence of compliance with the City's existing residency requirement in order to enhance the voters' ability to evaluate those who seek City office, comports with legal dictates as it is both reasonable and nondiscriminatory, and justified by the City's important governmental interest of fostering transparency, fundamental to the integrity of our electoral system, and further warranted by related relevant and legitimate governmental interests sufficiently weighty to justify it.

The County's deadline for City Commission adoption of a Resolution placing a matter on the August 23, 2022 CMB Special Election ballot is May 27, 2022. Accordingly, it should further be noted that other than the Commission's May 25, 2022 Presentation and Awards meeting, the May 4, 2022 City Commission meeting is the last regularly-scheduled meeting of the City Commission at which a Resolution may be adopted placing a ballot question on the City's August 23, 2022 Special Election ballot.

FISCAL IMPACT STATEMENT

The Miami-Dade County Elections Department has provided the City Clerk with an estimate of approximately \$28,499.90 (Cost Estimate for One Page Ballot) and \$56,449.80 (Cost Estimate in the Scenario Multiple Questions Triggers an Additional Page) to conduct the August 23, 2022 Special Election, which includes the costs associated with 14 days of Early Voting. (See Department of Election Estimates). Additionally, the City will incur approximately \$42,000 in legally mandated advertisements, required by the Florida Statutes and the City Code, to notice this Special Election.

Amount(s)/Account(s):

\$28,499.90 – Estimate 1-page ballot (Scenario 1)

\$56,449.80 – Estimate 2-page ballot (Scenario 2)

\$42,000.00 – Legally Mandated Advertisements

Maximum Estimated Amount: \$98,449.80

Account: 011-9322-000312-90-400-592-00-00-00

RAP/JO/ag

² As with all qualification requirements, given the City Clerk's ministerial role in the processing of qualifying papers, any challenge to a candidate's compliance with Section 6.03's residency requirement and his/her eligibility to run for City office, remain subject to a legal challenge initiated by a private party in a Court of law.

ESTIMATE

City of Miami Beach - Piggyback Election - August 23, 2022

Rafael E. Granado, City Clerk
City of Miami Beach
1700 Convention Center Dr., #200
Miami Beach, FL 33139

Estimate N°: MBEACH-PB-082322
Estimate Date: December 16, 2021

Registered Voters:	50,498	Early Voting Days:	0
Precincts:	25	Early Voting Sites:	0
Polling Places:	-		
Permanent Absentee Ballots:	15,218		

Personnel	\$ -
<i>Salaries & Fringe Benefits, Overtime, Poll Workers</i>	
Polling Places	-
<i>Security, Polling Place Rentals</i>	
Supplies and Services	-
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>	
Trucks and Vehicles	-
<i>Truck Rentals, GSA Vehicles</i>	
Printing and Advertising	25,249.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>	
Postage	-
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>	
Ballot Creation	660.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>	
Administrative Overhead	2,590.90
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>	
*TOTAL	\$ 28,499.90

* Please note these costs are estimates and are subject to change. This estimate does include the cost of ballot printing; however, if your question(s)/race(s) creates an additional ballot page, the cost will be adjusted accordingly.

For more information, you may contact:

Jose J. Ponce
Deputy Supervisor of Elections
Miami-Dade Elections Department
2700 NW 87 Avenue
Miami, Florida 33172

Office: 305-499-8320 E-mail: jose.ponce@miamidade.gov

ESTIMATE

City of Miami Beach - Piggyback Election - August 23, 2022 w/ additional page

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City of Miami Beach
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Miami Beach, FL 33139

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Polling Places	-
<i>Security, Polling Place Rentals</i>	
Supplies and Services	-
<i>Election Supplies, Communication Charges, Absentee Ballots Set Up</i>	
Trucks and Vehicles	-
<i>Truck Rentals, GSA Vehicles</i>	
Printing and Advertising	50,498.00
<i>Absentee, Early Voting & Precinct Ballots, Temporary Polling Place Change Notices, Newspaper Ads</i>	
Postage	-
<i>Absentee Ballots Sent and Business Reply, Temporary Polling Place Change Notices, Letters</i>	
Ballot Creation	820.00
<i>In-House & Outside Contractual Services, Translations - Based on one question</i>	
Administrative Overhead	5,131.80
<i>Indirect Costs, Logic & Accuracy, Post-Election Audits</i>	
*TOTAL	<u>\$ 56,449.80</u>

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