

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND
WASHINGTON AVE BID INC.**

**TO CONDUCT A SPECIAL MAIL BALLOT ELECTION TO APPROVE THE
CREATION OF THE SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE
WASHINGTON AVENUE BUSINESS IMPROVEMENT DISTRICT, AND TO PROVIDE
FUNDING FOR THE CITY'S COSTS ASSOCIATED THEREWITH**

This Memorandum of Understanding ("MOU") is hereby entered into this ____ day of January, 2018, by and between the City of Miami Beach, a Florida municipal corporation with offices at 1700 Convention Center Drive, Miami Beach, Florida 33139 ("City"), and Washington Ave BID Inc., a Florida not for profit corporation with offices at 2700 Bay Ave., Miami Beach, FL 33140 (the "BID") (altogether, the "Parties").

RECITALS

WHEREAS, Washington Ave BID Inc. is a Florida not for profit corporation, which represents a group of property owners of real estate in the vicinity of, abutting, or located on Washington Avenue; and

WHEREAS, on October 18, 2017, the Mayor and City Commission adopted Resolution No. 2017-30065, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, a special assessment district to be known as the Washington Avenue Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve the Washington Avenue retail business district, which is located within a nationally recognized historic district, through promotion, management, marketing, and other similar services; and

WHEREAS, the District is bounded on the north by 17th Street and on the south by 5th Street, and consists of properties abutting Washington Avenue and/or the cross-streets intersecting Washington Avenue; provided, however, that the following properties shall be excluded and exempted from the District: (1) residential properties; (2) common areas owned by condominium associations; (3) any property owned by a City, County, State, or Federal governmental entity or school district; and (4) any property owned or occupied by a religious institution and used as a place of worship or education (as defined in Section 170.201(2), Florida Statutes); and

WHEREAS, a special mail ballot election shall be held to determine whether, pursuant to Chapter 170, Florida Statutes, a majority (50% plus one) of the affected property owners approve the creation of the District (the "Election"); and

WHEREAS, the City and the BID hereby agree to the terms of this MOU, which shall set forth the obligations of the Parties with respect to the Election.

NOW, THEREFORE, in consideration of the foregoing, the parties agree as follows:

1. RECITALS

The recitals are true and correct and hereby incorporated into and made a part of this MOU.

2. CITY'S OBLIGATIONS

The City, through the Office of the City Clerk and Office of the City Attorney, shall provide the following services relative to the Election:

- A. Conduct the Election, pursuant to the Special Mail Ballot Election Procedures, attached hereto and incorporated herein as Exhibit "A."
- B. Prepare and disseminate any documents necessary to effectuate the Election, including the official ballot, instruction sheet, and form affidavit affirming the voter's authority to vote on behalf of a property owner, as well as any notices and advertisements required by law.
- C. Communicate with the Mayor and City Commission regarding the progress of the Election.

3. TERM AND EXPIRATION DATE

This MOU and the Parties' obligations hereunder shall commence upon the full execution of this MOU, and shall terminate upon the City Clerk's certification of the results of the Election to the City Commission.

4. COMPENSATION

The BID shall pay and/or reimburse the City for all costs necessary to conduct the Election, including the City's staff costs, as well as the cost of postage, printing, mailing supplies, advertising, and translation (the "Fee"), as set forth in the proposed budget, attached hereto as Exhibit "B." The total Fee due to the City shall not exceed **\$21,000**, unless otherwise mutually agreed to and approved, in writing, by the Parties. For purposes of this Section 4, the City Manager shall be authorized to act on behalf of the City.

THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK.

IN WITNESS WHEREOF, the parties have affixed their signatures, effective on the date first written above.

CITY OF MIAMI BEACH, FLORIDA

ATTEST:

By: _____
Rafael Granado
City Clerk

Jimmy Morales
City Manager

WASHINGTON AVE BID INC.

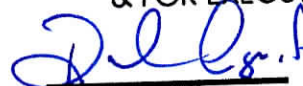
ATTEST:

By: _____
Signature

Print Name / Title

Andrew Resnick
President

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 1-8-18
City Attorney Date

NK

EXHIBIT "A"

WASHINGTON AVENUE BUSINESS IMPROVEMENT DISTRICT SPECIAL MAIL BALLOT ELECTION PROCEDURES

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

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

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

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

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

7. The Office of the City Clerk shall mail all Official Ballots to the property owners on the same day, via First Class U.S. Mail, unless the BID notifies the City in writing that the BID desires that the Official Ballots be sent via FedEx or any other delivery service, at the BID's expense; in such event, the BID shall provide the City with pre-addressed labels and any and all necessary packing and mailing materials for that particular delivery service. In the event that the BID elects to use a delivery service other than U.S. Mail, the procedure in Section 6 shall still apply, except that Envelope 1 shall be placed inside a postage prepaid envelope for that particular delivery service.
8. As voting envelopes are returned, the Office of the City Clerk shall track, on a daily basis, the number of ballots received, by property address, using the Certified List. The count will be posted on the City's website at the end of each day.
9. If the Office of the City Clerk receives two or more envelopes referencing the same folio number, the ballots in those envelopes shall be voided, and that property owner will be considered to have not voted.
10. The Canvassing Board for this special mail ballot election shall consist of the following individuals:
 - a. Rafael E. Granado, City Clerk
 - b. Raul J. Aguila, City Attorney
 - c. Nick E. Kallergis, Senior Assistant City Attorney
11. A "yes" vote of the owners of a simple majority (50% plus one) of the affected properties is required to approve the proposed District.
12. A property owner who fails to return an Official Ballot to the Office of the City Clerk within the allotted timeframe will be considered to have voted "no" to the creation of the District.

13. The City Clerk shall keep the BID president informed of all election-related activities, and the BID president is responsible for disseminating all information to the owners of properties within the District.
14. The ballots will be opened at a publicly noticed meeting of the Canvassing Board, at a prescribed date, time, and location, as follows:
 - a. Envelope 2 will be opened and Envelope 3 and the Affidavit will be removed from Envelope 2.
 - b. Envelope 2 will be placed in a separate stack.
 - c. The Canvassing Board will review the Affidavit to ensure that it is complete and validly executed and notarized. If the Affidavit is not complete or validly executed or notarized, the Affidavit will be stapled to the corresponding Envelope 3 and rejected. If the Affidavit is complete and validly executed and notarized, the Affidavit and Envelope 3 will be placed in separate stacks.
 - d. If the Affidavit is deemed valid, the corresponding Envelope 3 will be opened and the Official Ballot will be removed and placed in a separate stack.
 - e. Those Official Ballots deemed valid pursuant to Section 14(d) herein will be counted. The Office of the City Clerk will prepare a tally of "yes" votes, "no" votes, unreturned ballots, and rejected ballots.
 - f. The Canvassing Board will review any ballot lacking a clear ballot response to determine, if possible, the voter's intent.
15. Once the count has been finalized and the count is reconciled, the Office of the City Clerk will prepare an Official Election Certification.

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EXHIBIT "B"
WASHINGTON AVENUE BUSINESS IMPROVEMENT DISTRICT
2018 SPECIAL ELECTION COST ESTIMATE

The Miami Herald Ads	Page	No.	Cost	Total	PAID
Notice of Special Election Ads & Canvassing Board	full	5	\$630	\$3,150.00	
Resolution Calling for a Special Election	full	1	\$630		
Sample Ballot	half	1	\$460	\$460.00	
Notice of Public Hearing - Final Assessment Roll	full	2	\$630	\$1,260.00	
El Nuevo Herald	Page	No.	Cost		
Aviso de Elección Especial y Junta de Escrutinio	10.20x10"	5	\$1,400	\$7,000.00	
Muestra de Boleta	5.01x10x0.20x5	1	\$1,680	\$1,680.00	
Translating to Spanish services				\$250.00	
Printing					
125 Ballots 5 x 7 in color		125		\$96.00	
125 Ballot Instructions 5 x 7 in white		125		\$96.00	
125 Affidavits		125		\$31.00	
Stamps					
125 stamps - Envelope No. 1		125	\$1.40	\$175.00	
125 stamps - Envelope No. 2		125	\$1.20	\$150.00	
125 stamps (Final Assessment Roll)		125	\$0.46	\$57.50	
Supplies					
White flat envelopes 7 1/2 x 10 - 3 boxes		3	\$55	\$165.00	
Brown envelopes, 9.5 x 12 - 1= 2 boxes		2	\$40	\$80.00	
Office envelopes (125 @ \$0.13) - Final Assessment PH		125	\$0.13	\$16.25	
Labels - 3 boxes		3	\$110	\$330.00	
Labor					
40 hours @ \$39 per hour		40	\$39	\$1,560.00	
GRAND TOTAL ESTIMATE COST				\$16,556.75	