

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, CALLING FOR A SPECIAL MAIL BALLOT ELECTION TO BE HELD FROM MARCH 8, 2018 TO APRIL 20, 2018, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF A SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE WASHINGTON AVENUE BUSINESS IMPROVEMENT DISTRICT (THE "DISTRICT"); PROVIDING THAT THE OFFICE OF THE CITY CLERK AND OFFICE OF THE CITY ATTORNEY SHALL CONDUCT SUCH ELECTION; PROVIDING FOR THE FORM OF BALLOT; AND DIRECTING THE CITY CLERK TO GIVE NOTICE OF SUCH ELECTION AS REQUIRED BY THE CITY CODE AND STATE LAW.

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

WHEREAS, the City and Washington Ave BID Inc. (the "BID") intend to enter into a Memorandum of Understanding ("MOU") to conduct the Election; and

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

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

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

SECTION 1.

In accordance with the provisions of the Code of the City of Miami Beach and the general laws of the State of Florida, a special mail ballot election is hereby called and directed to be held in the City of Miami Beach, Florida, from March 8, 2018 to April 20, 2018, for the purpose of submitting to the affected property owners the following question:

Shall a special assessment district known and designated as the Washington Avenue Business Improvement District (the "District") be created for a term of ten (10) years, with an estimated annual budget of \$511,331, 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, which District is to be funded by special assessments against benefited properties?

SECTION 2.

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

SECTION 3.

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

SECTION 4.

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

SECTION 5.

This Resolution shall be effective immediately upon its passage.

PASSED and **ADOPTED** this _____ day of _____, 2018.

ATTEST:

Rafael E. Granado
City Clerk

Dan Gelber
Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

1-8-18

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.

F:\ATTO\KALN\Washington Avenue\ELECTION\Washington Avenue BID Special Mail Ballot Election Procedures.doc