

MIAMI BEACH

OFFICE OF THE CITY ATTORNEY


RAUL J. AGUILA, CITY ATTORNEY

COMMISSION MEMORANDUM

To: Mayor Dan Gelber
Members of the City Commission

Date: September 12, 2018

cc: Jimmy L. Morales, City Manager
Rafael E. Granado, City Clerk

From: Raul J. Aguila, City Attorney 

Subject: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING IN SUBSTANTIAL FORM AND AUTHORIZING THE OFFICE OF THE CITY MANAGER AND OFFICE OF THE CITY ATTORNEY TO FINALIZE A MEMORANDUM OF UNDERSTANDING WITH WASHINGTON AVE BID INC., 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, IF SUCCESSFUL, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE MEMORANDUM OF UNDERSTANDING ON BEHALF OF THE CITY.

A. Background

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.

On January 17, 2018, the Mayor and City Commission adopted Resolution No. 2018-30150, which called for a special mail ballot election (the "Election") to be held from March 8, 2018 to April 20, 2018, to determine whether a majority of the affected property owners approved the creation of the District. The affected property owners approved the creation of the District, as follows: 67 ballots were cast in favor of the creation of the District, 12 ballots were cast in opposition to the creation of the District, 5 ballots were rejected as improperly cast, and 26 ballots were not returned.

Pursuant to Sections 170.07 and 170.08, Florida Statutes, the Mayor and City Commission held a duly noticed public hearing on June 6, 2018, for the owners of the property to be assessed or any other interested persons to appear before the Mayor and City Commission and be heard as to the propriety and advisability of making such improvements and providing such services (and funding them with special assessments on property), as to the cost thereof, as to the manner of

payment therefor, and as to the amount thereof to be assessed against each property so improved.

Following the testimony, the Mayor and City Commission voted to levy the special assessments. Thereafter, pursuant to Section 170.08, Florida Statutes, the Mayor and City Commission met as an equalizing board to hear and consider any and all complaints as to the special assessments and to adjust and equalize the assessments on a basis of justice and right, following which the Mayor and City Commission approved the final assessment roll for the District.

B. Memorandum of Understanding

The City now desires to enter into a Memorandum of Understanding ("MOU") with Washington Ave BID Inc., a Florida not-for-profit corporation (the "BID") that has been incorporated to administer the District. The MOU sets forth, among other things, the obligations of the BID to administer the District, as well as the rights and obligations of the City to collect the special assessments, conduct an annual review of the BID's budget and activities, and audit the BID. The City also desires to enter into the MOU to ensure the BID's compliance with Chapter 170, Florida Statutes; the requirements of the Uniform Special District Accountability Act, set forth in Chapter 189, Florida Statutes; and Florida Sunshine Law, including, without limitation, Chapter 286, Florida Statutes. The MOU authorizes the City Manager to, after consultation with the Executive Committee of the BID, appoint an Authorized Representative as a non-voting, *ex officio* member of the Board of Directors of the BID. The City Manager shall have the sole and final authority to select the City's appointee.

The attached Resolution approves in substantial form and authorizes the Office of the City Manager and Office of the City Attorney to finalize the MOU and, if successful, authorizes the Mayor and City Clerk to execute the MOU on behalf of the City.