

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: September 11, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING AND RESTATING RESOLUTION NO. 2020-31144, 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 SOUTH BEACH BUSINESS IMPROVEMENT DISTRICT," FOR A TERM OF TEN (10) YEARS, TO STABILIZE AND IMPROVE THAT CERTAIN AREA OF THE CITY OF MIAMI BEACH HEREIN REFERRED TO AS THE OCEAN DRIVE AND COLLINS AVENUE RETAIL BUSINESS DISTRICT, WHICH DISTRICT IS GENERALLY LOCATED WITHIN A NATIONALLY RECOGNIZED HISTORIC DISTRICT, THROUGH PROMOTION, MANAGEMENT, MARKETING, AND OTHER SIMILAR SERVICES (THE "SERVICES"); PROVIDING FOR THE LEVY AND COLLECTION OF SPECIAL ASSESSMENTS, IN THE REVISED AMOUNT OF \$2,147,242 PER YEAR, WHICH SHALL INCREASE EACH YEAR ACCORDING TO THE CUMULATIVE PERCENTAGE CHANGE IN THE CONSUMER PRICE INDEX (CPI) BUT NOT TO EXCEED TWO PERCENT (2%) PER YEAR; INDICATING THE LOCATION, NATURE, AND ESTIMATED COST OF THE SERVICES, WHOSE COSTS ARE TO BE DEFRAYED BY THE SPECIAL ASSESSMENTS; PROVIDING THE MANNER IN WHICH SUCH SPECIAL ASSESSMENTS SHALL BE MADE; PROVIDING WHEN SUCH SPECIAL ASSESSMENTS SHALL BE MADE; DESIGNATING THE LANDS UPON WHICH THE SPECIAL ASSESSMENTS SHALL BE LEVIED; PROVIDING FOR PUBLICATION OF THIS RESOLUTION, IN ACCORDANCE WITH SECTION 170.05, FLORIDA STATUTES; AUTHORIZING THE CITY ADMINISTRATION TO CAUSE TO BE MADE A PRELIMINARY ASSESSMENT ROLL, IN ACCORDANCE WITH SECTION 170.02, FLORIDA STATUTES; AND UPON COMPLETION OF SUCH PRELIMINARY ASSESSMENT ROLL, PROVIDING THAT SUCH ASSESSMENT ROLL SHALL BE ON FILE WITH THE CITY CLERK'S OFFICE AND OPEN TO THE INSPECTION OF THE PUBLIC.

### **RECOMMENDATION**

The Administration recommends the Mayor and City Commission adopt the Resolution, amending and restating Resolution No. 2020-31144, which created the South Beach Business Improvement District ("District"), subject to the approval of a majority of property owners in a special mail ballot election.

The Resolution approves the District's preliminary assessment roll, annual assessment rate and methodology, first-year budget, and proposed services. Additional City Commission action will be necessary to formally establish the District, including authorizing a special mail ballot election of affected property owners, who will vote on whether or not to approve the annual assessments.

### **BACKGROUND/HISTORY**

Chapter 170, Florida Statutes, authorizes municipalities, with the approval of a majority of affected property owners, to levy and collect special assessments on properties that benefit from the assessments. The purpose is to stabilize and improve retail and wholesale business districts or

nationally recognized historic districts through promotion, management, marketing, and similar services.

On December 17, 2014, the Mayor and City Commission adopted Resolution No. 2014-28881, initially contemplating a special assessment district for the Ocean Drive retail business district. Following this, a steering committee of property owners proposed expanding the district to include the Collins Avenue corridor, from 5th Street to 21st Street.

On September 12, 2018, the Mayor and City Commission adopted Resolution No. 2018-30487, authorizing the City Manager and City Attorney to collaborate with a steering committee of Ocean Drive and Collins Avenue property owners to establish a special assessment district under Chapter 170, Florida Statutes. The district was intended to enhance the retail business district, located within a nationally recognized historic district, through promotion, management, marketing, and other services.

On January 15, 2020, the Mayor and City Commission adopted Resolution No. 2020-31144, creating the District, subject to approval by a majority of the affected property owners, for a term of ten years. Pursuant to Chapter 170, Florida Statutes, creation of the District aimed to stabilize and improve the Ocean Drive and Collins Avenue retail business district, with services funded by special assessments in the amount of \$2,093,335 annually throughout the District's 10-year term. The Resolution also provided details on the levy, collection, and publication of these assessments.

On February 12, 2020, the Mayor and City Commission adopted Resolution No. 2020-31168, calling for a special mail ballot election from June 1, 2020, to August 31, 2020, to determine if a majority of affected property owners approved the District's creation. Resolution No. 2020-31169 authorized a Memorandum of Understanding (MOU) for the special election. On March 13, 2020, the City and South Beach BID Partners, Inc., a Florida not-for-profit representing property owners in the District ("South Beach BID Partners"), executed the MOU, which outlined the special election process and funding for the City's associated costs.

On April 22, 2020, the Mayor and City Commission adopted Resolution No. 2020-31236, repealing Resolution No. 2020-31168, due to the rapidly spreading COVID-19 pandemic. The City Commission's decision to postpone the special election was made in the interest of public health, safety, and welfare.

South Beach BID Partners, Inc., proponents of the District's formation, have requested the Mayor and City Commission resume the statutory process to create the District. The attached Resolution, required under Chapter 170, Florida Statutes, is sponsored by Commissioner Joseph Magazine and co-sponsored by Mayor Steven Meiner, Vice Mayor Alex Fernandez, Commissioner Kristen Rosen Gonzalez, Commissioner Laura Dominguez, Commissioner Tanya K. Bhatt, and Commissioner David Suarez.

## **ANALYSIS**

### **A. The Proposed South Beach Business Improvement District**

The attached Resolution amends and restates Resolution No. 2020-31144, which created the special assessment district to be known as the "South Beach Business Improvement District", for a ten-year term. This District aims to stabilize and improve the Ocean Drive and Collins Avenue retail business district, located within a nationally recognized historic district, through promotion, management, marketing, and similar services. The District will be generally bounded by 1601 Collins Avenue/1610 Collins Avenue on the north and 5th Street on the south.

The Resolution provides for the creation of a preliminary assessment roll, the levy and collection of special assessments totaling \$2,147,242 in the first year (with annual increases), and outlines the services funded by these assessments. Additional details on the levy, collection, and publication of these special assessments is included.

Key elements of the proposed District:

### **1. District Boundaries**

The District will be bounded on the north by the northern boundaries of 1601 Collins Avenue (Loews Miami Beach Hotel) and 1610 Collins Avenue (Berkeley Shore Hotel) and on the south by 5th Street. It consists of properties abutting Collins Avenue and Ocean Drive. The following properties will be excluded from the District:

- a. Residential properties;
- b. Common areas owned by condominium associations;
- c. Properties owned by government entities or school districts;
- d. Properties owned or occupied by religious institutions and used for worship or education (as defined in Section 170.201(2), Florida Statutes); and
- e. Properties that are 60 square feet or less.

An assessment plat showing the area to be assessed will be on file with the City Clerk, and open to public inspection at the time of the Resolution's adoption, as required by Section 170.04, Florida Statutes. The proposed assessment plat is attached as Exhibit "F" to the Resolution.

### **2. Term/Duration of the District**

The term of the proposed District is ten years.

### **3. Special Assessments**

The total amount of special assessments to be levied and collected will be \$2,147,242 in the first fiscal year, increasing annually based on the cumulative percentage change in the Consumer Price Index (CPI)<sup>1</sup>, but not exceeding two percent (2%) per year. This annual adjustment tied to inflation represents a material change from Resolution No. 2020-31144 and will align with standard practices of other recently established or renewing BIDs in the city.

### **4. Assessment Methodology <sup>2</sup>**

The assessment is based on the ground floor size of each specially benefitting property, as determined by the Miami-Dade County Property Appraiser. The proposed rates are:

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<sup>1</sup> CPI refers to the measure of the average change over time in the prices paid by urban consumers for goods and services. Designed to estimate changes in the cost of living, CPI is published by the U.S. Bureau of Labor Statistics (BLS) and is the most widely used measure of inflation.

<sup>2</sup> As proponents of the District's creation, South Beach BID Partners previously provided the City Attorney's Office with an opinion of counsel relating to the legal sufficiency of the proposed assessment formula, which was attached as Exhibit "1" to the Commission Memorandum accompanying Resolution No. 2020-31144, and is included in Exhibit "D". The opinion of counsel from Michael Llorente, Esq., dated November 1, 2019, concludes that the assessment methodology proposed by South Beach BID Partners complies with applicable legal requirements.

- Ocean Drive: \$2.00 per square foot for properties fronting Ocean Drive.
- Collins Avenue: \$1.00 per square foot for properties fronting Collins Avenue.

**Additional Assessment Details:**

- **Condominium property:** Consistent with the ownership structure of condominium buildings, the assessment shall be calculated per square foot of each ground-floor condominium unit, excluding common areas.
- **Non-condominium property:** Shall be assessed per square foot of the property's lot size.
- **Annual Rate Adjustment:** Uniform escalation tied to CPI, not exceeding 2% annually. (This represents a material modification from the methodology approved by the Mayor and City Commission in 2020.)
- **Extraordinarily Large Properties (Lot Size of 50,000 square feet or greater):** To avoid an undue burden upon extraordinarily large properties while recognizing the special benefit to be derived by these businesses, the following scaled assessment formula is proposed:
  - The initial 49,999 square feet shall be assessed at 100% of the rate set forth above;
  - Each square foot between 50,000 and 100,000 shall be assessed at 90% of the rate;
  - Each square foot between 100,001 and 150,000 shall be assessed at 80% of the rate;
  - Each square foot between 150,001 and 200,000 shall be assessed at 70% of the rate; and
  - Each square foot greater than 200,000 square feet shall be assessed at 60% of the rate.

Two properties shall be assessed pursuant to this formula: the Royal Palm South Beach Miami, 1545 Collins Avenue (81,124 sf), and the Loews Miami Beach Hotel, 1601 Collins Avenue (219,625 sf).

- **Properties within Washington Avenue Business Improvement District:** Properties that are also located within the boundaries of the Washington Avenue Business Improvement District shall be assessed at \$0.60 per square foot.

Presently, this applies to only one property: 1500 Collins Avenue.

- **Unique Property Adjustments:** Special provisions have been made for properties with unique conditions or configurations to ensure that these properties are assessed in a manner that is proportionate to the special benefit to be derived.
  - 530 Ocean Drive (Barbizon Beach Club Condominium) and 1330 Ocean Drive (The Netherland Condominium): In addition to ground level condominium units, the assessment shall include any commercial units in a below grade basement.
  - 1412 Ocean Drive and 1300 Collins Avenue (non-condominium residential properties): Assessment shall be based solely on the portion of ground level used for commercial purposes.

- **Comparison with Resolution No. 2020-31144:** The preliminary assessment roll now includes 219 folios (two (2) fewer folios compared to the roll accompanying the original approval by the Mayor and City Commission in 2020). The total assessment is approximately 2.5% greater than the District as originally proposed. The only significant change to the assessment methodology approved in 2020 is the introduction of an annual rate adjustment tied to the Consumer Price Index (CPI), capped at 2%. This adjustment aligns with the District proponents' objective of maintaining consistent revenue to support providing essential services in the District. Furthermore, capping annual increases at 2% offers predictability for property owners, allowing them to plan for modest, regular adjustments.

## **5. Services to be Provided**

The special assessments will fund services outlined in Exhibits "B" and "C" to the Resolution. The first-year budget projection includes the following categories: marketing (e.g., advertising and promotional branding); programming (e.g., events and activations, subject to required City approvals); beautification (e.g., lighting and seasonal displays); sanitation (e.g., contracted maintenance and cleaning to supplement City services); and security (e.g., off-duty police, licensed private security, and ambassador services).

Given the methodology's assessment rate differential for the two (2) separate corridors, Ocean Drive and Collins Avenue, the Administration will seek a detailed explanation from the District proponents' regarding their strategy for the balanced distribution of services throughout the District, including proposed activities in Lummus Park, before the final resolution establishing the District is considered by the City Commission.

## **B. Procedure following Adoption of the Resolution**

### **1. Notice Requirement**

Upon adopting Resolution, the City Clerk will publish the Resolution in a newspaper of general circulation within Miami Beach, as required by Section 170.05, Florida Statutes.

### **2. Preliminary Assessment Roll**

A preliminary assessment roll, prepared in accordance with the assessment methodologies provided in the Resolution, and showing the properties to be assessed and the amount of the assessments, has been made available for public inspection in the City Clerk's office, as required by Section 170.02, Florida Statutes. A draft of the preliminary assessment roll is attached to the Resolution as Exhibit "E".

### **3. Special Mail Ballot Election**

Following adoption of the Resolution and completion of the preliminary assessment roll, the City Commission will consider additional resolutions to authorize the special mail ballot election and a Memorandum of Understanding (MOU) with the South Beach BID Partners to govern the election procedures. The City Clerk, in consultation with the City Attorney's Office, will conduct the election, with a majority of affected property owners (50% plus one) needed to approve the special assessments.

### **4. Final Hearing to Hear Testimony and Levy the Special Assessments**

If a majority of affected property owners approve the District, the City Commission will schedule a public hearing by resolution, where property owners and interested parties can express their views on the proposed assessments and the provision of District services. The City Commission will then decide on whether to levy the special assessments and, if necessary, adjust them based on fairness and equity.

Following the public hearing, the City Commission shall make a final decision on whether to levy the special assessments by renewing the District. At that time, the City Commission shall also serve as an “equalizing board”, to hear and consider any complaints as to the special assessments and, if necessary, adjust the assessments on a basis of justice and right.

Once equalized and approved by the City Commission, a final assessment roll will be filed with the City Clerk and the special assessments will be confirmed as legal, valid, and binding liens on the assessed properties until paid.

### **FISCAL IMPACT STATEMENT**

There is no direct fiscal impact to the City by adopting the Resolution. If the City Commission subsequently calls for a special mail ballot election, the Office of the City Clerk will administer it, with all related costs incurred by the City reimbursed by South Beach BID Partners. Should the District be approved, a separate MOU will outline the responsibilities of the City and the BID, including payment by the BID, of an annual administrative fee to the City and reimbursement of certain administrative costs.

### **Does this Ordinance require a Business Impact Estimate?**

(FOR ORDINANCES ONLY)

**If applicable, the Business Impact Estimate (BIE) was published on:**

**See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>**

### **FINANCIAL INFORMATION**

Based on the current preliminary assessment roll, the District’s proposed year-one budget has increased by 2.5% compared with the initial proposed budget for FY 2021, approved as an exhibit to Resolution No. 2020-31144. While the total number of folios has decreased from 221 to 219 since the City Commission approved Resolution No. 2020-31144, the proposed budget for FY 2026 in Exhibit “B” reflects proportional increases across service categories, except for administrative expenses, which remain unchanged, a slightly reduced marketing budget, and a higher allocation for security-related services.

### **CONCLUSION**

The attached Resolution shall become effective upon adoption. However, if the proposed special assessment district does not receive majority approval from affected property owners (50% plus one), the Resolution will be null and void.

The Administration recommends that the City Commission proceed with creating the proposed District by adopting the Resolution. If adopted, the next step will be for the City Commission to call for a special mail ballot election, administered by the Office of the City Clerk.

On behalf of property owners in the district and stakeholders in the retail, tourism, hospitality, and entertainment industries, the BID proponents request the City Commission allow property owners to decide in an election whether to assess themselves. If a majority vote yes, every member of

the public will have an opportunity to address the City Commission at a duly noticed public hearing.

**Attachments**

- Exhibit A Resolution No. 2020-31236
- Exhibit B Year One Budget
- Exhibit C Budget and Services Narrative
- Exhibit D Assessment Methodologies
- Exhibit E Preliminary Assessment Roll
- Exhibit F Assessment Plat

**Applicable Area**

South Beach

**Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?**

No

**Is this item related to a G.O. Bond Project?**

No

**Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** Yes

If so, specify the name of lobbyist(s) and principal(s): South Beach BID Partners, Inc. / Jonathan Plutzik and Ceci Velasco

**Department**

Economic Development

**Sponsor(s)**

Commissioner Joseph Magazine

**Co-sponsor(s)**

- Mayor Steven Meiner
- Commissioner Kristen Rosen Gonzalez
- Commissioner Laura Dominguez
- Commissioner Alex Fernandez
- Commissioner Tanya K. Bhatt
- Commissioner David Suarez

**Condensed Title**

Reaffirm Creation of S. Bch BID, Subject to Majority Approval of Affected Property Owners. (JM/SM/KRG/LD/AF/TB/DS) ED