

C7 E 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 NOVEMBER 12, 2024, TO DECEMBER 16, 2024, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE RENEWAL OF THE SPECIAL ASSESSMENT DISTRICT KNOWN AS THE LINCOLN ROAD BUSINESS IMPROVEMENT 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.

Applicable Area:



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, CALLING FOR A SPECIAL MAIL BALLOT ELECTION TO BE HELD FROM NOVEMBER 12, 2024, TO DECEMBER 16, 2024, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE RENEWAL OF THE SPECIAL ASSESSMENT DISTRICT KNOWN AS THE LINCOLN ROAD BUSINESS IMPROVEMENT 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; DIRECTING THE CITY CLERK TO GIVE NOTICE OF SUCH ELECTION AS REQUIRED BY THE CITY CODE AND STATE LAW.

RECOMMENDATION

The Administration recommends the Mayor and City Commission adopt the Resolution.

BACKGROUND/HISTORY

Chapter 170, Florida Statutes, authorizes any municipality, subject to approval by a majority of the affected property owners, to levy and collect special assessments against benefitted properties for the purpose of stabilizing and improving retail business districts, wholesale business districts, or nationally recognized historic districts, through promotion, management, marketing, and other similar services.

On April 15, 2015, the Mayor and City Commission adopted Resolution No. 2015- 28992, creating the Lincoln Road Business Improvement District ("District") for a ten-year period to stabilize and improve the Lincoln Road retail business district, which is located within a nationally recognized historic district.

On February 21, 2024, the Mayor and City Commission adopted Resolution No. 2024-32911, authorizing the Offices of the City Manager and City Attorney to work with the BID on renewing the District, set to expire in 2025, pursuant to Chapter 170, Florida Statutes.

On July 24, 2024, the Mayor and Commission adopted Resolution No. 2024-33178, renewing the District, subject to approval by a majority of the affected property owners, for an additional ten (10) years. Pursuant to Chapter 170, Florida Statutes, the renewal aimed to continue stabilizing and improving the Lincoln Road retail business district, with services funded by special assessments starting at \$1,570,117 in the first year, increasing by three percent (3%) annually. The Resolution also provided details on the levy, collection, and publication of these assessments.

This proposed resolution calling for a special mail ballot election, is sponsored by Mayor Steven Meiner, and co-sponsored by Vice Mayor Alex Fernandez and Commissioners Kristen Rosen Gonzalez, Laura Dominguez, Tanya K. Bhatt, and Joseph Magazine.

ANALYSIS

The attached Resolution calls for a special mail ballot election (the "Election") to be held from November 12, 2024, to December 16, 2024, to determine whether a majority of the affected property owners approve the creation of the District. The Office of the City Clerk will conduct the Election in accordance with the special mail ballot election procedures developed by the Office of the City Clerk and the Office of the City Attorney ("Election Procedures"), which are attached to the Resolution as Exhibit "A." The ballot will be a paper form, directing each voter to draw a circle around the appropriate response. The Resolution also directs the City Clerk to publish any election notices required by the City Code and Florida Statutes.

FISCAL IMPACT STATEMENT

If the City Commission approves the Resolution and the Election is administered by the Office of the City Clerk, the City's related costs will be fully reimbursed by the Lincoln Road Business Improvement District, Inc. ("BID"), as outlined in the Election-related Memorandum of Understanding (MOU) between the City and the BID, attached as an exhibit to the companion resolution to this item. A detailed summary of these costs is included in the Cost Estimate attached to the MOU.

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

The Election-related MOU, attached to the companion resolution for this item, contains a Cost Estimate with a detailed breakdown of the anticipated expenses for conducting the Election. These costs, which will be fully reimbursed by the BID, are consistent with those incurred during the special mail ballot election to establish the 41st Street BID in June 2023, approved by Resolution Nos. 2023-32565 and 2023-32566.

CONCLUSION

If adopted, the proposed Resolution approves the form of ballot and dates for a special mail ballot election to determine whether a majority of the affected property owners approve the renewal of the Lincoln Road Business Improvement District. The Resolution also authorizes the City Clerk and City Attorney to conduct the election and directs the City Clerk to notice the election in accordance with law.

On behalf of its membership, the Lincoln Road BID has requested that the City Commission provide property owners with the opportunity to decide whether to continue assessing themselves. If a majority of property owners vote in favor of the renewal of the District, any concerned property owners and/or members of the public will have the opportunity to address the City Commission at a duly noticed public hearing.

Since its formation, the District has successfully unified Lincoln Road stakeholders and provided funding for services that enhance this prominent commercial district. For these reasons, the Administration supports the renewal of the District and recommends the adoption of the Resolution as outlined above.

Applicable Area

South Beach

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

Yes

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): Lincoln Road Business Improvement District, Anabel Llopis, Executive Director

Department

Economic Development

Sponsor(s)

Mayor Steven Meiner

Co-sponsor(s)

Commissioner Alex Fernandez
Commissioner Kristen Rosen Gonzalez
Commissioner Laura Dominguez
Commissioner Tanya K. Bhatt
Commissioner Joseph Magazine
Commissioner David Suarez

Condensed Title

Call Special Mail Ballot Election, Lincoln Road Business Improvement District.
(SM/AF/KRG/LD/TB/JM/DS) ED

LINCOLN ROAD 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 renewal of the proposed Lincoln Road Business Improvement District (the "District") (altogether, the "Election").

1. Lincoln Road Business Improvement District, 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, at the sole cost and expense of the BID, to verify the accuracy of the names of 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. In the event that, following the tenth (10th) day after the start of the Election, a property owner has not yet received an Official Ballot, the property owner may submit a written request to the City Clerk for a Duplicate Ballot. Upon receipt of the property owner's request, the City Clerk shall promptly mail a Duplicate Ballot to the property owner. If the BID elects, pursuant to Section 7, to use a delivery service other than U.S. Mail, the BID shall provide the City with a pre-addressed label and any and all necessary packing and mailing materials for that particular delivery service. If a property owner does not receive the Duplicate Ballot, the property owner may, again, submit a written request to the City Clerk for a Duplicate Ballot; however, the property owner (or a representative of the property owner) shall be required to retrieve the Duplicate Ballot from the Office of the City Clerk in person.
10. 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.
11. The Canvassing Board for this special mail ballot election shall consist of the following individuals:
 - a. Rafael E. Granado, City Clerk
 - b. Farooq Andasheva, Senior Assistant City Attorney
 - c. Rogelio A. Madan, Development & Resiliency Officer, Planning Department

In the event that one or more of the members are unavailable, a substitute member shall be appointed by the City Attorney.
12. A "yes" vote of the owners of a simple majority (50% plus one) of the affected properties is required to approve the creation of the proposed District.
13. 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.
14. The City Clerk shall keep the Executive Director of the BID informed of all election-related activities, and the Executive Director is responsible for disseminating all information to the owners of properties within the District.

15. 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 15(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. The Canvassing Board may accept a ballot where the Board finds that the ballot substantially complies with the requirements of this Procedure, as long as the Affidavit is properly completed, the property is located within the District, and the voter’s intent is clear.
16. Once the count has been finalized and the count is reconciled, the Office of the City Clerk will prepare an Official Election Certification.

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 NOVEMBER 12, 2024, TO DECEMBER 16, 2024, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE RENEWAL OF THE SPECIAL ASSESSMENT DISTRICT KNOWN AS THE LINCOLN ROAD BUSINESS IMPROVEMENT 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; DIRECTING THE CITY CLERK TO GIVE NOTICE OF SUCH ELECTION AS REQUIRED BY THE CITY CODE AND STATE LAW.

WHEREAS, on July 24, 2024, the Mayor and City Commission adopted Resolution No. 2024-33178, which renewed, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of the affected property owners, the special assessment district known as the Lincoln Road Business Improvement District (the "District"), which is set to expire in 2025, for an additional term of ten (10) years, to stabilize and improve the Lincoln Road retail business district, which District is located within a nationally recognized historic district, and generally bounded on the west by Alton Road, on the east by Washington Avenue, on the north by 17th Street, and on the south by Lincoln Lane South, through promotion, management, marketing, and other similar services; and provided for the levy and collection of special assessments, which shall increase by three (3%) percent annually; 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 Lincoln Road Business Improvement District, Inc., a Florida not-for-profit corporation (the "BID"), intend to enter into a Memorandum of Understanding (the "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 are attached and incorporated as Exhibit "A."

NOW, THEREFORE, BE IT DULY 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 November 12, 2024, to December 16, 2024, for the purpose of submitting to the affected property owners the following question:

Shall Lincoln Road Business Improvement District be renewed for an additional 10-year term, with estimated annual budget of \$1,570,117, to stabilize and improve commercial properties between Alton Road on the west, Washington Avenue on the east, 17th Street on the north, and Lincoln Lane South on the south, through promotion, management, marketing, and other similar services, which District shall be funded by special assessments against benefited properties, with assessments increasing 3% annually?

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 law, 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. If a majority (50% plus one) of the affected property owners approve the creation of the District, the City Commission will hold a public hearing for the City Commission to (i) make a final decision on whether to levy the special assessments, and (ii) meet as an Equalizing Board to hear and consider any and all complaints as to the special assessments, and adjust and equalize the assessments on a basis of justice and right.

PASSED and ADOPTED THIS ____ day of _____ 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

(Sponsored by Commissioner Steven Meiner and co-sponsored by Vice Mayor Alex Fernandez, Commissioner Tanya Bhatt, Commissioner Laura Dominguez, Commissioner Joseph Magazine, and Commissioner Kristen Rosen Gonzalez)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

9/3/2024

Date

NK