

C7 F A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MIAMI BEACH AND THE LINCOLN ROAD BUSINESS IMPROVEMENT DISTRICT, INC. (THE "BID"), TO CONDUCT A SPECIAL MAIL BALLOT ELECTION 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, WHICH ELECTION SHALL BE CONDUCTED BY THE OFFICE OF THE CITY CLERK AND THE OFFICE OF THE CITY ATTORNEY, AND TO PROVIDE THAT THE BID SHALL COVER THE COSTS OF CONDUCTING SUCH ELECTION.

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, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MIAMI BEACH AND THE LINCOLN ROAD BUSINESS IMPROVEMENT DISTRICT, INC. (THE "BID"), TO CONDUCT A SPECIAL MAIL BALLOT ELECTION 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, WHICH ELECTION SHALL BE CONDUCTED BY THE OFFICE OF THE CITY CLERK AND THE OFFICE OF THE CITY ATTORNEY, AND TO PROVIDE THAT THE BID SHALL COVER THE COSTS OF CONDUCTING SUCH ELECTION.

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 Lincoln Road Business Improvement District, Inc. (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 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.

The proposed Resolution under consideration calls for a Memorandum of Understanding, which is addressed further below. The Resolution 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.

A separate Resolution has been placed on the September 11, 2024 City Commission meeting agenda, 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 creation of the District (the "Election").

ANALYSIS

The Resolution authorizes the City Manager to execute a Memorandum of Understanding (MOU) between the City and the BID, attached as Exhibit "A" to the Resolution. The MOU outlines the agreement for conducting the Election, with the City responsible for administering it according to the procedures attached to the MOU ("Election Procedures"). The BID agrees to cover all City-related costs for the Election, including staffing, postage, printing, mailing, supplies, advertising, and translation, as summarized in the Cost Estimate attached to the MOU.

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 BID, as outlined in the MOU. 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-notices/>

FINANCIAL INFORMATION

The Cost Estimate attached to the MOU provides a detailed breakdown of the anticipated expenses for conducting the Election, including newspaper advertising in English and Spanish, translation services, ballot printing, stamps, supplies, and approximately 20 hours of labor. These costs 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

The Resolution authorizes a Memorandum of Understanding (MOU) with the Lincoln Road BID to:

- Conduct 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.
- Require the BID to cover the costs associated with conducting the election.

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 votes in favor of the renewal of the District, 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

<u>Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?</u>	<u>Is this item related to a G.O. Bond Project?</u>
Yes	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)

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

Condensed Title

Execute MOU w/ LRBID, Conduct Special Mail Ballot Election. (SM/AF/KRG/LD/TB/JM/DS) ED

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING BETWEEN THE CITY OF MIAMI BEACH AND THE LINCOLN ROAD BUSINESS IMPROVEMENT DISTRICT, INC. (THE "BID"), TO CONDUCT A SPECIAL MAIL BALLOT ELECTION 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, WHICH ELECTION SHALL BE CONDUCTED BY THE OFFICE OF THE CITY CLERK AND THE OFFICE OF THE CITY ATTORNEY, AND TO PROVIDE THAT THE BID SHALL COVER THE COSTS OF CONDUCTING SUCH ELECTION.

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 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 have called for a special mail ballot election (the "Election") to determine whether a majority 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"), desire to enter into a Memorandum of Understanding ("MOU"), attached as Exhibit "A" hereto, pursuant to which the City shall agree to conduct the Election, and the BID shall agree to cover the City's 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 shall conduct the Election; and

WHEREAS, the Office of the City Clerk and Office of the City Attorney have prepared special mail ballot election procedures for the Election, which procedures shall be incorporated in the MOU.

NOW, THEREFORE, THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby approve and authorize the City Manager to execute a Memorandum of Understanding between the City of Miami Beach and the Lincoln Road Business Improvement District, Inc. (the "BID"), to conduct a special mail ballot election 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, which election shall be conducted by the Office of the City Clerk and the Office of the City Attorney, and to provide that the BID shall cover the costs of conducting such election.

PASSED and ADOPTED THIS ____ day of _____ 2024.

ATTEST:

Rafael E. Granado, City Clerk

Steven Meiner, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

9/3/2024

Date

NK

(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)

**MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND
LINCOLN ROAD BUSINESS IMPROVEMENT DISTRICT, INC.
TO CONDUCT A SPECIAL MAIL BALLOT ELECTION
TO APPROVE THE RENEWAL OF THE SPECIAL ASSESSMENT DISTRICT
KNOWN AS THE LINCOLN ROAD 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 _____, 2024, 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 Lincoln Road Business Improvement District, Inc., a Florida not-for-profit corporation with offices at 1620 Drexel Avenue, Suite 100, Miami Beach, FL 33139 (the "BID") (altogether, the "Parties").

RECITALS

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, a 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, through promotion, management, marketing, and other similar services;

WHEREAS, the District consists of those commercial properties 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; provided, however, that the following properties shall be excluded and exempted from the District: (1) residential properties; (2) 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 (3) common areas owned by condominium associations; 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 **\$30,000**, 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 E. Granado
City Clerk

Eric T. Carpenter
City Manager

Date

Date

LINCOLN ROAD BUSINESS IMPROVEMENT DISTRICT, INC.

ATTEST:

By:

Signature

Lyle Stern
President

Print Name / Title

Date

Date

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

9/31/2024

Date

NK

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.

Exhibit
Lincoln Road Business Improvement District
2024 Special Election
With First-Class Mail Cost Estimate

The Miami Herald Ads	Page	No.	Cost	TOTAL
Notice of Special Election Ads & Canvassing Board	half	6	\$515	\$3,090.00
Resolution Calling for a Special Election	full	1	\$825	\$825.00
Sample Ballot	half	1	\$515	\$515.00
Notice of Public Hearing - Final Assessment Roll	full	2	\$825	\$1,650.00
El Nuevo Herald	Page	No.	Cost	
Aviso de Elección Especial y Junta de Escrutinio	quarter	6	\$1,500	\$9,000.00
Muestra de Boleta	quarter	1	\$1,500	\$1,500.00
Translating to Spanish services (If needed, we will charge the actual cost.)				
Printing				
Replacement ballots, affidavits (If needed, we will charge the actual cost.)				
Ballots 5 x 7 in color		71	\$0.12	\$8.52
Ballot Instructions 5 x 7 in white		71	\$0.12	\$8.52
Affidavits		71	\$0.12	\$8.52
Final Assessment Mailer - 3 pages		213	\$0.07	\$14.91
Stamps				
Replacement ballot stamps (If needed, we will charge the actual cost.)				
Stamps - Envelope No. 1 First-Class - See Note 1		71	N/A	N/A
Stamps - Envelope No. 2 First-Class - See Note 1		71	N/A	N/A
Stamps (Final Assessment Roll) First-Class		71	\$1.77	\$125.67
Supplies				
White flat envelopes 7 x 10 1 box		1	\$18.99	\$18.99
Brown envelopes 9 x 12 1 box		1	\$20.49	\$20.49
Yellow envelopes 6 x 9 1 box		1	\$12.99	\$12.99
#10 envelopes regular City of Miami Beach		71	\$0.13	\$9.23
Labels - 5161 Avery 1 Box		1	\$26.31	\$26.31
Labels - 6878 Avery 2 Boxes		2	\$10.64	\$21.28
Paper for Ballots - Card Stock Box		1	\$10.30	\$10.30
Paper for Ballot Instructions, Affidavit, and Final Assessments 2 Box		2	\$4.00	\$8.00
Labor				
20 hours @ \$46.93 per hour		20	\$46.93	\$938.60
Miscellaneous costs			\$500.00	\$500.00
GRAND TOTAL ESTIMATE COST				\$18,312.33

Note: The BID has informed the City that they will be using FedEx (or another courier service) to mail and return the ballots.