

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 MARCH 1, 2025, TO APRIL 30, 2025, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF THE SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE SOUTH BEACH 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:

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: November 20, 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 MARCH 1, 2025, TO APRIL 30, 2025, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF THE SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE SOUTH BEACH 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.

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 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 South Beach Business Improvement District (the "District"), subject to approval by a majority of the affected property owners, for a term of ten (10) 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.

On September 11, 2024, the Mayor and City Commission adopted Resolution No. 2024-33229, amending and restating Resolution No. 2020-31144, which created the District, subject to the approval of a majority of affected property owners. Pursuant to Chapter 170, Florida Statutes, Resolution No. 2024-33229 established the District for a term of ten (10) years, with the aim to stabilize and improve the Ocean Drive and Collins Avenue retail business district, with services funded by special assessments starting at \$2,147,242 in the first fiscal year, increasing annually based on the Consumer Price Index (CPI), but not exceeding two percent (2%) per year. The Resolution also provided details on the levy, collection, and publication of these assessments.

A separate Resolution has also been placed on the November 20, 2024 City Commission meeting agenda, regarding a memorandum of understanding (MOU) to conduct the special mail ballot election to be held from March 1, 2025 to April 30, 2025, to determine whether a majority of the affected property owners approve the creation of the District (the "Election").

ANALYSIS

The Resolution calls for a special mail ballot election (the "Election") to be held from March 1, 2025, to April 30, 2025, allowing affected property owners within the proposed South Beach BID boundaries to vote on the establishment of the BID. The Office of the City Clerk will conduct the Election in accordance with special mail ballot election procedures established 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, instructing each voter to indicate their response by drawing a circle around the appropriate option.

The Resolution also directs the City Clerk to publish election notices in compliance with 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 South Beach BID Partners, as outlined in the Election-related Memorandum of Understanding (MOU) between the City and South Beach BID Partners, which also includes a detailed cost estimate of approximately \$7,858.31. The Election-related MOU is attached as an exhibit to the companion resolution to this item.

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, estimated at approximately \$7,858.31, will be fully reimbursed by South Beach BID Partners and are consistent with those incurred during recent special mail ballot elections, to establish the 41st Street BID in June 2023 (approved by Resolution Nos. 2023-32565 and 2023-32566) and to renew the Lincoln Road BID, which is currently underway (approved by Resolution Nos. 2024-33230 and 2024-33231).

CONCLUSION

The proposed Resolution approves the form of ballot and establishes election dates for a special mail ballot election, enabling affected property owners to decide on the creation of the South Beach 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. If creation of the District is supported in the Election, 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.

If approved, the collection of assessments from District members will provide funding for services that aim to enhance and sustain the Ocean Drive and Collins Avenue retail corridors, fostering a cohesive and vibrant business environment that benefits property owners, visitors, and the community alike.

For these reasons, the Administration supports the establishment of the South Beach BID and recommends adopting 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): 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 Tanya K. Bhatt
Commissioner Laura Dominguez
Commissioner Kristen Rosen Gonzalez
Commissioner Alex Fernandez
Commissioner David Suarez

Condensed Title

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

SOUTH BEACH 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 South Beach Business Improvement District (the "District") (altogether, the "Election").

1. South Beach BID Partners, Inc. ("South Beach BID Partners"), shall provide the City Clerk with a Certified List, approved by the president of South Beach BID Partners and attested to by its secretary, of each benefited property address within the District, and each property owner's mailing address. In addition, South Beach BID Partners 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 South Beach BID Partners, to verify the accuracy of the names of the property owners and mailing addresses submitted by South Beach BID Partners pursuant to Section 1 above.
3. The Office of the City Attorney shall draft the ballot question.
4. Upon the approval of the ballot question by South Beach BID Partners, 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 South Beach BID Partners. 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 South Beach BID Partners notifies the City in writing that it desires that the Official Ballots be sent via FedEx or any other delivery service, at the expense of South Beach BID Partners; in such event, South Beach BID Partners 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 South Beach BID Partners 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 South Beach BID Partners elects, pursuant to Section 7, to use a delivery service other than U.S. Mail, South Beach BID Partners 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 South Beach BID Partners informed of all election-related activities, and South Beach BID Partners 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 MARCH 1, 2025, TO APRIL 30, 2025, TO DETERMINE WHETHER A MAJORITY OF THE AFFECTED PROPERTY OWNERS APPROVE THE CREATION OF THE SPECIAL ASSESSMENT DISTRICT TO BE KNOWN AS THE SOUTH BEACH 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.

WHEREAS, on September 11, 2024, the Mayor and City Commission adopted Resolution No. 2024-33229, amending and restating Resolution No. 2020-31144, which created, pursuant to Chapter 170, Florida Statutes, and subject to the approval of a majority of affected property owners, the special assessment district to be known as the South Beach Business Improvement District (the "District"), for a term of ten (10) years, to stabilize and improve the Ocean Drive and Collins Avenue retail business district, which district is generally located within a nationally recognized historic district, and generally bounded on the north by the northern boundary lines of the properties located at 1601 Collins Avenue and 1610 Collins Avenue, and on the south by 5th Street, through promotion, management, marketing, and other similar services funded by special assessments starting at \$2,147,242 in the first year, increasing annually based on the Consumer Price Index (CPI), but not exceeding two percent (2%) per year; 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 South Beach BID Partners, Inc., a Florida not-for-profit corporation ("South Beach BID Partners"), intend to enter into a Memorandum of Understanding (the "MOU") to conduct the Election; and

WHEREAS, pursuant to the MOU, South Beach BID Partners 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 March 1, 2025, to April 30, 2025, for the purpose of submitting to the affected property owners the following question:

Shall the South Beach Business Improvement District be created for a 10-year term, with an estimated annual budget of \$2,147,242, to stabilize and improve the Ocean Drive and Collins Avenue retail business district, generally located within a nationally recognized historic district, through promotion, management, marketing, and similar services, which District shall be funded by special assessments against benefited properties, with assessments increasing pursuant to the Consumer Price Index, up to 2% 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 Joseph Magazine and Co-sponsored by Mayor Steven Meiner, Vice Mayor Alex Fernandez, Commissioner Tanya Bhatt, Commissioner Laura Dominguez, Commissioner Kristen Rosen Gonzalez, and Commissioner David Suarez)

APPROVED AS TO
FORM AND LANGUAGE
& FOR EXECUTION

Nick Kalligas
for City Attorney NK

11/13/24
Date