

32 South Miami, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, March 19, 2024, for the purpose
33 of submitting to the electorate the proposed amendment to the City Charter which is set forth
34 herein; and

35 **WHEREAS**, that the appropriate and proper Miami-Dade County election officials shall
36 conduct the said Special Election hereby called, with acceptance of the certification of the results
37 of said Special Election to be performed by the City Commission. The official returns shall be
38 furnished to the City Clerk as soon as the ballots from the precinct have been tabulated and in
39 accordance with applicable laws; and

40 **WHEREAS**, not less than thirty (30) days' notice of the adoption of this Resolution and
41 of its provisions calling this Special Election shall be given by publication in the Miami Herald, a
42 newspaper of general circulation in South Miami, Miami-Dade County, Florida. Such publication
43 shall be made once in the fifth week before the election and once in the third week before the
44 election in accordance with the provisions of Section 100.342, Florida Statutes; and

45 **WHEREAS**, the City Commission finds that this Resolution is in the best interest and
46 welfare of the City.

47 **NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE**
48 **CITY OF SOUTH MIAMI, FLORIDA, AS FOLLOWS:**

49 **Section 1. Recitals.** The above-stated recitals are true and correct and are incorporated
50 herein by this reference.

51 **Section 2. Special Election Called; Notice of Election.** That a special election is
52 hereby called, to be held on Tuesday, March 19, 2024, to present to the qualified electors of the
53 City of South Miami, the ballot question provided in this Resolution. Notice of said election shall
54 be published in accordance with Section 100.342, Florida Statutes, in the Miami Herald, a

55 newspaper of general circulation in South Miami, Miami-Dade County, Florida, at least thirty (30)
56 days prior to said election, the first publication to be in the fifth week prior to the election (to-wit:
57 during the week commencing Sunday, February 11, 2023), and the second publication to be in the
58 third week prior to the election (to-wit: during the week commencing Sunday, February 25, 2023),
59 and shall be in substantially the following form:

60 **“CITY OF SOUTH MIAMI, FLORIDA**

61 **NOTICE OF SPECIAL ELECTION**

62 **PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO**
63 **RESOLUTION NO. 2023-_____ ADOPTED BY THE CITY COMMISSION**
64 **OF THE CITY OF SOUTH MIAMI, FLORIDA (“CITY”), A SPECIAL**
65 **ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN**
66 **THE CITY ON TUESDAY, MARCH 19, 2024, BETWEEN THE HOURS OF**
67 **7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING**
68 **CHARTER AMENDMENT QUESTION SHALL BE SUBMITTED TO THE**
69 **QUALIFIED ELECTORS OF THE CITY:**

70 **PROVIDING THAT LEASES OF CITY PROPERTY ARE NOT**
71 **FRANCHISES**

72 The City Charter currently provides that leases of City property are franchises
73 subject to enactment procedures and term limitations. Shall the Charter be amended
74 to provide that leases of City property are not franchises subject to the limitations
75 in the Charter?

76 YES []

77 NO []

78 Polling place information, the enabling Resolution, including the full text of the
79 proposed City Charter Amendments and the ballot questions, are available at the
80 Office of the City Clerk located at 6130 Sunset Drive, South Miami, Florida 33143.

81 _____
82 Nkenga “Nikki” Payne, CMC, FCRM, City Clerk

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84 **Section 3. Form of Ballot; Ballot Question.** That the official ballot to be used in the
85 Special Election to be held on Tuesday, March 19, 2024, as hereby called, shall be in
86 substantially the following form, to-wit:

87 **“OFFICIAL BALLOT**
88 **PROVIDING THAT LEASES OF CITY PROPERTY ARE NOT**
89 **FRANCHISES**
90 The City Charter currently provides that leases of City property are franchises
91 subject to enactment procedures and term limitations. Shall the Charter be amended
92 to provide that leases of City property are not franchises subject to the limitations
93 in the Charter?

94 YES []

95 NO [] ”

96 **Section 4. Balloting.** That balloting shall be conducted between the hours of 7:00 a.m.
97 until 7:00 p.m. on election day. Vote-by-mail ballots and early voting shall be provided as
98 authorized by law. All qualified City electors who are timely registered in accordance with law
99 shall be entitled to vote.

100 **Section 5. Charter Amendment Text; Effectiveness.** The text of the proposed
101 Charter amendment (the “Charter Amendment”) is set forth in Exhibit “A”, which is attached
102 hereto and incorporated herein. The Charter Amendment shall become effective if the majority of
103 the qualified electors of the City voting on the Charter Amendment vote for its adoption, and it
104 shall be considered adopted and effective upon the certification of the Special Election results.
105 Following the adoption of the Charter Amendment, the City Clerk shall file the adopted Charter
106 Amendment with the Clerk of the Circuit Court of Miami- Dade County, Florida.

107 **Section 6. Available for Public Inspection; City Clerk to Utilize the Services of**
108 **Miami-Dade County Supervisor of Elections.** Copies of this Resolution providing for the
109 special election referendum are on file in the Office of the City Clerk located at City of South
110 Miami, 6130 Sunset Drive, South Miami, Florida 33143, and are available for public inspection
111 during regular business hours. Furthermore, the City Clerk is authorized to utilize the services of
112 Miami-Dade County Supervisor of Elections for any assistance required in the administration of
113 the election. The City shall pay all expenses for conducting this Special Election and will pay such
114 expenses to Miami-Dade County upon receipt of invoice or statement approved by the Supervisor
115 of Elections of Miami-Dade County, Florida.

116 **Section 7. Authorization of City Officials.** The City Manager, City Attorney and City
117 Clerk are hereby authorized to take all steps necessary to complete the execution and
118 implementation of the terms and purposes of this Resolution, and the Special Election Referendum
119 if adopted and effective.

120 **Section 8. Effective Date.** This Resolution shall become effective immediately upon
121 adoption.

122 PASSED AND ADOPTED this ____ day of _____, 2023.

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ATTEST:

CITY CLERK

READ AND APPROVED AS TO FORM,
LANGUAGE, LEGALITY AND
EXECUTION THEREOF

WEISS SEROTA HELFMAN COLE
& BIERMAN, P.L.
CITY ATTORNEY

APPROVED:

MAYOR

COMMISSION VOTE:
Mayor Javier Fernández:
Vice Mayor Lisa Bonich:
Commissioner Steve Calle:
Commissioner Joshua Liebman:
Commissioner Brian Corey:

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EXHIBIT “A”

TEXT OF PROPOSED CHARTER AMENDMENT OF THE CITY OF SOUTH MIAMI¹

CITY OF SOUTH MIAMI CHARTER

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ARTICLE VI. – GENERAL PROVISIONS

SECTION 4. Franchise

(A) Definitions:

(1) The word “franchise” shall mean all contracts, including any and all agreements of whatever nature, that grant a right to use real property owned by the City of South Miami, ~~excluding~~ including leases, when the contract or agreement provides for a term greater than three (3) years and with two (2) ~~one~~ (1) year extensions, or grants, gives, conveys, mortgages, encumbers or otherwise gives a person any interest in any real property owned by the City of South Miami for a limited term of years.

(2) The word “person” shall mean any individual, legal entity or any other entity, legal or otherwise.

(3) The word “newspaper of general circulation” shall mean a newspaper of general circulation in the City of South Miami. (Amended 2/11/14)

(4) The word “local newspaper” shall mean a newspaper distributed in the City of South Miami, whether free to its readership or otherwise available.

(B) Restrictions:

The City of South Miami shall not enter into any franchise contract or agreement, as defined in this Section, to or with any person, as defined in this Section, nor shall the City renew an existing franchise, grant an extension to the franchise term or in any other way make a material change to an existing franchise contract or agreement unless the City enacts an ordinance, in accordance with the requirements of this Section, approving the contract or agreement.

¹Proposed additions to existing Town Charter text are indicated by underlining; proposed deletions from existing Town Charter text are indicated by ~~strike through~~.

183 Article VI. Continued
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186 (C) Requirements:
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188 All proposed ordinances approving any franchise contract or agreement, the
189 renewal of an existing franchise, the grant of an extension to the franchise term or any
190 material change to an existing franchise, may only be enacted if approved by a vote of
191 4/5 of all members of the City Commission. The term limit for all franchise contracts or
192 agreements, as defined in this Section, including any renewal or extension to the term of
193 same, shall be (50) years. No change in ownership or control of an artificial person with
194 whom the City has entered into a franchise contract or agreement, as defined by this
195 Section, nor shall any ownership or control be transferable in any way, including but not
196 limited to assignments and conveyances of an ownership interest, unless it is approved
197 by an ordinance enacted by members of the City Commission. The enactment of all
198 ordinances required by this Section shall be heard at two public meetings/hearings and
199 the title of the ordinance shall be published in a newspaper of general circulation, as
200 defined in this Section, and it shall also be published in a local newspaper, as defined in
201 this Section, at least five (5) days before the first meeting (first reading of the ordinance).
202 At least ten (10) days before the second and final reading of the franchise ordinance, its
203 title shall be published in a newspaper of general circulation and, in addition, it shall be
204 published in a local newspaper, if available, so as to provide as much notice as possible,
205 but, in any event, the notice need not exceed ten (10) days before the second reading.
206 The timeliness of the publication in the local newspaper shall not be grounds for
207 challenging the ordinance unless such a newspaper is available for publication and then
208 only if it was published less than five (5) days before the second reading.
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