RESOLUTION OF THE MAYOR AND **CITY** COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA, CALLING A SPECIAL ELECTION TO BE HELD ON MARCH 19, 2024, FOR THE PURPOSE SUBMITTING TO THE ELECTORATE A PROPOSED AMENDMENT TO SECTION 4 "FRANCHISE" OF ARTICLE VI "GENERAL PROVISIONS" OF THE CITY CHARTER, AS PRESENTED IN A BALLOT QUESTION TO REMOVE THE 50-YEAR FRANCHISE TERM LIMITATION FOR LEASE(S) OF CITY PROPERTY INVOLVING CITY HALL REDEVELOPMENT; PROVIDING FOR REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE: PROVIDING FOR REQUISITE BALLOT LANGUAGE AND CHARTER AMENDMENT TEXT FOR SUBMISSION TO THE ELECTORATE; PROVIDING FOR THE CITY CLERK TO UTILIZE THE SERVICES OF MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS FOR THE SPECIAL **PROVIDING ELECTION: FOR AUTHORIZATION,** IMPLEMENTATION, CORRECTIONS AND AN EFFECTIVE DATE.

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**WHEREAS,** Section 7. "Amendments" of Article VI. "General Provisions" of the City Charter of the City of South Miami ("City") provides that the Charter may be amended as provided by the Home Rule Charter of Miami-Dade County and Florida Statutes; and

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**WHEREAS,** the City Commission recognizes the importance of periodically amending and updating the City Charter to serve the needs of the City and its residents; and

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**WHEREAS,** City Charter Section 4. "Franchise" of Article VI. "General Provisions," currently provides that leases of City property are franchises subject to enactment procedures and a 50-year term limitation; and

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**WHEREAS,** the City Commission wishes to seek the approval of the electors by a ballot question referendum concerning amendments to City Charter Section 4. "Franchise" of Article VI. "General Provisions" to remove the 50-year term limitation for leases of City property involving the redevelopment of City Hall; and

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WHEREAS, in accordance with provisions of the Charter of the City and the general laws of the State of Florida, a Special Election is hereby called and directed to be held in the City of South Miami, Florida, from 7:00 a.m. to 7:00 p.m. on Tuesday, March 19, 2024, for the purpose of submitting to the electorate the proposed amendment to the City Charter which is set forth herein; and

44 45 **WHEREAS,** that the appropriate and proper Miami-Dade County election officials shall conduct the said Special Election hereby called, with acceptance of the certification of the results of said Special Election to be performed by the City Commission. The official returns shall be furnished to the City Clerk as soon as the ballots from the precinct have been tabulated and in accordance with applicable laws; and

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

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

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

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

Section 2. Special Election Called; Notice of Election. That a special election is hereby called, to be held on Tuesday, March 19, 2024, to present to the qualified electors of the City of South Miami, the ballot question provided in this Resolution. Notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in the Miami Herald, a newspaper of general circulation in South Miami, Miami-Dade County, Florida, at least thirty (30) days prior to said election, the first publication to be in the fifth week prior to the election (to-wit: during the week commencing Sunday, February 11, 2023), and the second publication to be in the third week prior to the election (to-wit: during the week commencing Sunday, February 25, 2023), and shall be in substantially the following form:

### "CITY OF SOUTH MIAMI, FLORIDA

### NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO RESOLUTION NO. 2023-\_\_\_\_\_ ADOPTED BY THE CITY COMMISSION OF THE CITY OF SOUTH MIAMI, FLORIDA ("CITY"), A SPECIAL ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE CITY ON TUESDAY, MARCH 19, 2024, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT QUESTION SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE CITY:

REMOVING THE 50-YEAR TERM LIMIT FOR LEASE(S) OF CITY PROPERTY INVOLVING CITY HALL REDEVELOPMENT

The City Charter currently provides that leases of City property are franchises subject to a 50-year term limitation. Shall the Charter be amended to remove the 50-year term limitation on lease(s) of City property involving the redevelopment of City Hall?

YES [ ] NO [ ]

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

Nkenga "Nikki" Payne, CMC, FCRM, City Clerk

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

## "OFFICIAL BALLOT

# REMOVING THE 50-YEAR TERM LIMIT FOR LEASE(S) OF CITY PROPERTY INVOLVING CITY HALL REDEVELOPMENT

The City Charter currently provides that leases of City property are franchises subject to a 50-year term limitation. Shall the Charter be amended to remove the 50-year term limitation on lease(s) of City property involving the redevelopment of City Hall?

YES [ ] NO [ ] "

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

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

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137 Available for Public Inspection; City Clerk to Utilize the Services of Miami-Dade County Supervisor of Elections. Copies of this Resolution providing for the 138 139 special election referendum are on file in the Office of the City Clerk located at City of South 140 Miami, 6130 Sunset Drive, South Miami, Florida 33143, and are available for public inspection during regular business hours. Furthermore, the City Clerk is authorized to utilize the services of 141 142 Miami-Dade County Supervisor of Elections for any assistance required in the administration of 143 the election. The City shall pay all expenses for conducting this Special Election and will pay such 144 expenses to Miami-Dade County upon receipt of invoice or statement approved by the Supervisor of Elections of Miami-Dade County, Florida. 145 146 **Authorization of City Officials.** The City Manager, City Attorney and City 147 Section 7. Clerk are hereby authorized to take all steps necessary to complete the execution and 148 149 implementation of the terms and purposes of this Resolution, and the Special Election Referendum 150 if adopted and effective. 151 152 **Effective Date.** This Resolution shall become effective immediately upon Section 8. 153 adoption. PASSED AND ADOPTED this \_\_\_\_\_ day of\_\_\_\_\_\_\_\_, 2023. 154 155 APPROVED: 156 ATTEST: 157 158 159 CITY CLERK MAYOR 160 161 162 READ AND APPROVED AS TO FORM, COMMISSION VOTE: 163 LANGUAGE, LEGALITY AND Mayor Javier Fernández: 164 **EXECUTION THEREOF** Vice Mayor Lisa Bonich: Commissioner Steve Calle: 165 Commissioner Joshua Liebman: 166 167 Commissioner Brian Corey: WEISS SEROTA HELFMAN COLE 168 169 & BIERMAN, P.L. 170 **CITY ATTORNEY** 

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### 172 **EXHIBIT "A"**

## TEXT OF PROPOSED CHARTER AMENDMENT OF THE CITY OF SOUTH MIAMI<sup>1</sup>

CITY OF SOUTH MIAMI CHARTER

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ARTICLE VI. - GENERAL PROVISIONS

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## **SECTION 4.** Franchise

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#### (C) Requirements:

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All proposed ordinances approving any franchise contract or agreement, the renewal of an existing franchise, the grant of an extension to the franchise term or any material change to an existing franchise, may only be enacted if approved by a vote of 4/5 of all members of the City Commission. The term limit for all franchise contracts or agreements, as defined in this Section, including any renewal or extension to the term of same, shall be (50) years, except that lease(s) of City property involving the redevelopment of City Hall shall not be subject any such term limit. No change in ownership or control of an artificial person with whom the City has entered into a franchise contract or agreement, as defined by this Section, nor shall any ownership or control be transferable in any way, including but not limited to assignments and conveyances of an ownership interest, unless it is approved by an ordinance enacted by members of the City Commission. The enactment of all ordinances required by this Section shall be heard at two public meetings/hearings and the title of the ordinance shall be published in a newspaper of general circulation, as defined in this Section, and it shall also be published in a local newspaper, as defined in this Section, at least five (5) days before the first meeting (first reading of the ordinance). At least ten (10) days before the second and final reading of the franchise ordinance, its title shall be published in a newspaper of general circulation and, in addition, it shall be published in a local newspaper, if available, so as to provide as much notice as possible, but, in any event, the notice need not exceed ten (10) days before the second reading. The timeliness of the publication in the local newspaper shall not be grounds for challenging the ordinance unless such a newspaper is available for publication and then only if it was published less than five (5) days before the second reading.

<sup>&</sup>lt;sup>1</sup>Proposed additions to existing Town Charter text are indicated by <u>underlining</u>; proposed deletions from existing Town Charter text are indicated by <u>strikethrough</u>.