



# City of Miami

## Legislation

### Resolution

City Hall  
3500 Pan American  
Drive  
Miami, FL 33133  
www.miamigov.com

File Number: 14-00422

Final Action Date:

A RESOLUTION OF THE MIAMI CITY COMMISSION, WITH ATTACHMENT(S), APPROVING, SETTING FORTH AND SUBMITTING TO THE ELECTORATE A PROPOSED CHARTER AMENDMENT, AMENDING THE CHARTER OF THE CITY OF MIAMI, FLORIDA, AS AMENDED, KNOWN AS CHARTER AMENDMENT NO. \_; AMENDING SECTION 29-B, ENTITLED "CITY-OWNED PROPERTY SALE OR LEASE-GENERALLY", TO AUTHORIZE THE CITY TO ENTER INTO LEASES OR MANAGEMENT AGREEMENTS FOR ANY CITY-OWNED SUBMERGED LANDS WITH ENTITIES HAVING POSSESSORY OR OWNERSHIP INTEREST IN THE ABUTTING RIPARIAN UPLANDS FOR BUILDING MARINAS, DOCKS OR LIKE FACILITIES USING METHODS TO BE ADOPTED BY ORDINANCE ON THE CONDITION THAT SUCH LEASES OR MANAGEMENT AGREEMENTS RESULT IN A RETURN TO THE CITY OF FAIR MARKET VALUE; CALLING FOR AND PROVIDING THAT CHARTER AMENDMENT NO. \_ WILL BE SUBMITTED TO THE ELECTORATE AT THE PRIMARY ELECTION TO BE HELD ON AUGUST 26, 2014; DESIGNATING AND APPOINTING THE CITY CLERK AS THE OFFICIAL REPRESENTATIVE OF THE CITY COMMISSION WITH RESPECT TO THE USE OF VOTER REGISTRATION BOOKS AND RECORDS; FURTHER DIRECTING THE CITY CLERK TO CAUSE A CERTIFIED COPY OF THE HEREIN RESOLUTION TO BE DELIVERED TO THE SUPERVISOR OF ELECTIONS OF MIAMI-DADE COUNTY, FLORIDA, NOT LESS THAN 45 DAYS PRIOR TO THE DATE OF SUCH PRIMARY ELECTION; PROVIDING AN IMMEDIATE EFFECTIVE DATE FOR THIS RESOLUTION.

BE IT RESOLVED BY THE COMMISSION OF THE CITY OF MIAMI, FLORIDA:

Section 1. Section 29-B of the Charter of the City of Miami, Florida, as amended, is proposed to be amended in the following particulars:{1}

"CHARTER AND CODE OF THE CITY OF MIAMI, FLORIDA

SUBPART A. THE CHARTER

Sec. 29-B. City-owned property sale or lease-Generally.

Notwithstanding any provision to the contrary contained in this Charter or the City Code, and except as provided below, the city commission is prohibited from favorably considering any sale or lease of property owned by the city unless there is a return to the city of fair market value under such proposed sale or lease. The city commission is also prohibited from favorably considering any sale or lease of city-owned property unless (a) there shall have been, prior to the date of the city commission's consideration of such sale or lease, an advertisement soliciting proposals for said sale or lease published in a daily

newspaper of general paid circulation in the city, allowing not less than ninety (90) days for the city's receipt of proposals from prospective purchasers or lessees, said advertisement to be no less than one-fourth ( $\frac{1}{4}$ ) page and the headline in the advertisement to be in a type no smaller than 18-point and, (b) except as provided below, there shall have been at least three (3) written proposals received from prospective purchasers or lessees; however, if there are less than three (3) such proposals received and if the guaranteed return under the proposal whose acceptance is being considered is equal to fair market value the city commission determines that the contemplated sale or lease will be in the city's best interest then, subject to the approval of a majority of the votes cast by the electorate at a referendum, the sale or lease may be consummated. In the case of city-owned property which is not waterfront, when the value of such property to be sold or leased (individual leaseholds within a single city-owned property shall not be considered as a single parcel of property for such valuation purposes) is five hundred thousand dollars (\$500,000) or less, based on an appraisal performed by a state-certified appraiser, the city commission, by a  $\frac{4}{5}$ ths affirmative vote, may sell or lease said city-owned property after compliance with the advertisement requirements set forth above but without the necessity of a referendum.

The above provisions and any other city requirements for competitive bidding shall not apply when:

- (a) conveying property to implement housing programs or projects which are intended to benefit persons or households with low and/or moderate income, the criteria of which to be provided for by federal and/or state law or by the city commission;
- (b) conveying property to implement projects authorized under the Florida Community Redevelopment Act of 1969, as amended;
- (c) conveying property to implement projects of any governmental agency or instrumentality;
- (d) disposing of property acquired as a result of foreclosure;
- (e) disposing of property acquired in connection with delinquent taxes which properties were conveyed to the city by the Miami-Dade board of county commissioners under the provisions of Section 197.592 Florida Statutes, as amended; and
- (f) disposing of non-waterfront property to the owner of an adjacent property when the subject property is 7,500 square feet or less or the subject non-waterfront property is non-buildable.

Notwithstanding anything herein to the contrary, the city commission, by a  $\frac{4}{5}$ ths affirmative vote, may:

- (a) grant a lessee of city-owned property a one-time extension during the last five years of its lease, without the necessity of a referendum, for the purpose of funding additional capital improvements. The extended term shall not exceed twenty-five percent of the original term or ten years, whichever is less. The granting of such an extension is subject to the lessee paying fair market rent as determined by the city at the time of such extension and not being in default of its lease with the city nor in

arrears of any monies due the city; and

- (b) amend the Lease Agreement between the City of Miami and Biscayne Bay Restaurant Corp., d/b/a Rusty Pelican, dated February 13, 1970, as amended, to (i) extend the lease for an additional term of fifteen (15) years, with the option to renew for two (2) additional five (5) year periods, (ii) increase the amount of the minimum guarantee to the City to at least \$360,000 per lease year effective upon execution of the lease amendment, and (iii) require Rusty Pelican to complete capital improvements to the property, including a public baywalk, in the amount of not less than \$3 Million, within twenty-four (24) months of the effective date of the lease amendment.

Notwithstanding anything in this Charter to the contrary, the City may enter into leases or management agreements, for any City-owned submerged lands, with entities having a possessory or ownership interest in the abutting riparian uplands for building marinas, docks or like facilities, using methods adopted by ordinance on the condition that such leases or management agreements result in a return to the City of at least fair market value.

The Charter Amendment proposed in this Section shall be known as Charter Amendment No. \_\_.

Section 2. In accordance with the provisions of the City Charter, as amended and §6.03 of the Miami-Dade County Home Rule Charter, a Primary Election is called and directed to be held in the City of Miami, Florida, from 7:00 A.M. until 7:00 P.M., on Tuesday, August 26, 2014, for the purpose of submitting to the qualified electors of the City of Miami for their approval or disapproval the measure known as Charter Amendment No. \_\_.

Section 3. The Primary Election shall be held at the voting places in the precincts designated, all as shown on the list attached hereto and made a part hereof and referred to as Exhibit No. 1 or as may be designated by the Supervisor of Elections of Miami-Dade County, Florida, in conformity with the provisions of the general laws of the State. The Precinct Election Clerks and Inspectors to serve at said polling places on said Primary Election date shall be those designated by the Supervisor of Elections of Miami-Dade County, Florida, for such purpose in accordance with the general laws of the State. A description of the registration books and records which pertain to Primary election precincts wholly or partly within the City and which the City is adopting and desires to use for holding such Primary Election is as follows: all registration cards, books, records and certificates pertaining to electors of the City of Miami and established and maintained as official by the Supervisor of Elections of Miami-Dade County, Florida, in conformity with the provisions of the general laws of the State of Florida, are adopted and declared to be, and shall hereafter be recognized and accepted as, official registration cards, books, records and certificates of the City of Miami.

Section 4. In compliance with Section 100.342, Florida Statutes, the City Clerk is authorized and directed to publish notice of the adoption of the herein resolution and of the provisions hereof, at least twice, once in the fifth week and once in the third week prior to the week in which the aforesaid Primary Election is to be held, in newspaper(s) of general circulation in the City of Miami, Florida, which notice shall be substantially in the following form:

NOTICE OF PRIMARY ELECTION  
TO AMEND THE MIAMI CITY CHARTER TO BE HELD ON  
TUESDAY, AUGUST 26, 2014  
IN THE CITY OF MIAMI, FLORIDA  
PURSUANT TO RESOLUTION NO. 12-0237

A Primary Election will be held on Tuesday, August 26, 2014 from 7:00 A.M. until 7:00 P.M. in the City of Miami, Florida, at the polling places in the several Primary election precincts designated by the Board of County Commissioners of Miami-Dade County, Florida, as set forth herein, unless otherwise provided by law, and submitting to the qualified electors of the City of Miami, Florida, the following question:

"Shall the Miami Charter be changed to allow the City to enter into leases or management agreements, for City-owned submerged lands (lands under water including bay bottoms), with entities having possessory or ownership interest in abutting uplands (lands bordering water) to build marinas, docks or like facilities, using methods adopted by ordinance, on the condition that such leases or management agreements result in a return to the City of at least fair market value?"

Charter Amendment No. \_ will amend Section 29-B of the Miami Charter to authorize the City to enter into leases or management agreements with entities controlling the riparian uplands for marinas, docks or like facilities using methods to be adopted by ordinance on the condition that such leases or agreements result in a return to the City of at least fair market value.

By order of the Commission of the City of Miami, Florida.

---

City Clerk

A list of City of Miami polling places follows:  
(Insert list of City of Miami Polling Places.)

YES  
(For the Measure)

NO  
(Against the Measure)

Section 5. The official ballot to be used at said Primary Election shall be in full compliance with the laws of the State of Florida with respect to absentee ballots and to the use of the mechanical voting machines or the Computer Election System, and shall be in substantially the following form, to wit:

"OFFICIAL BALLOT  
PRIMARY ELECTION  
TUESDAY, AUGUST 26, 2014  
FOR APPROVAL OR DISAPPROVAL OF  
THE FOLLOWING QUESTION:

-----  
Leasing of city-owned submerged lands to  
entities having possessory or ownership interest  
in bordering uplands  
-----

\_\_\_\_\_ YES  
(For the Measure)

"Shall the Miami Charter be changed to allow the City to enter into leases or management agreements, for City-owned submerged lands (lands under water including bay bottoms), with entities having possessory or ownership interest in abutting uplands (lands bordering water) to build marinas, docks or like facilities, using methods adopted by ordinance, on the condition that such leases or management agreements result in a return to the City of at least fair market value?"

\_\_\_\_\_ NO  
(For the Measure)

Section 6. Electors desiring to vote in approval of the Question described above, shall be instructed to vote their selection next to the word "YES" within the ballot frame containing the statement relating to the Question. Electors desiring to vote to disapprove the Question, shall be instructed to vote their selection next to the word "NO" within the ballot frame containing the statement relating to the Question. Once individuals are satisfied with their choice, they shall press the "Vote" button and the ballot shall be cast.

Section 7. The City Clerk shall cause to be prepared absentee ballots containing the Question set forth in Section 5 above for the use of absentee electors entitled to cast such ballots in said Primary Election.

Section 8. All qualified electors of said City shall be permitted to vote in said Primary Election and the Supervisor of Elections of Miami-Dade County, Florida, is requested, authorized, and directed to furnish, at cost and expense of the City of Miami, a list of all qualified electors residing in the City of Miami as shown by the registration books and records of the Office of said Supervisor of Elections and duly certify the same for delivery to and for use by the election officials designated to serve at the respective polling places in said Primary election precincts.

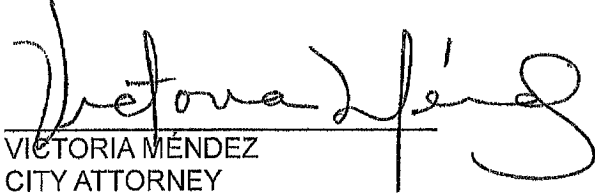
Section 9. For the purpose of enabling persons to register who are qualified to vote in said Primary Election to be held on August 26, 2014, and who have not registered under the provisions of the general laws of Florida and Chapter 16 of the Code of the City of Miami, Florida, or who have transferred their legal residence from one voting precinct to another in the City, they may register Monday through Friday, from 8:00 A.M. to 5:00 P.M. at the Miami-Dade County Elections Department located at 111 Northwest 1st Street, Miami, Florida, within such period of time as may be designated by the Supervisor of Elections of Miami-Dade County, Florida.

Section 10. Todd Hannon, the City Clerk of the City of Miami, Florida, is designated and appointed as the official representative of the Commission of the City of Miami, Florida, in all transactions with the Supervisor of Elections of Miami-Dade County, Florida, related to matters pertaining to the use of the registration books and the holding of said Primary Election.

Section 11. The City Clerk shall deliver a certified copy of this Resolution to the Supervisor of Elections of Miami-Dade County, Florida, not less than forty-five days prior to the date of the Primary Election.

Section 12. This Resolution shall become effective immediately upon its adoption and signature of the Mayor.{1}

APPROVED AS TO FORM AND CORRECTNESS:

  
VICTORIA MÉNDEZ  
CITY ATTORNEY

---

Footnotes:

{1} If the Mayor does not sign this Resolution, it shall become effective at the end of ten (10) calendar days from the date it was passed and adopted. If the Mayor vetoes this Resolution, it shall become effective immediately upon override of the veto by the City Commission.