

## **RESOLUTION 23-**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, FLORIDA, SCHEDULING A SPECIAL ELECTION TO FILL THE OFFICE OF MAYOR; SETTING OCTOBER 10, 2023, AS THE DATE OF SUCH ELECTION, AND ESTABLISHING AUGUST 21, 2023 AT 8:00 A.M. THROUGH AUGUST 25, 2023 AT 5:00 P.M. AND SATURDAY AUGUST 26 FROM 8:00 A.M. TO 12:00 P.M. AS THE TIME TO QUALIFY THEREFORE; DESCRIBING PERSONS QUALIFIED TO VOTE IN SAID ELECTION; DESCRIBING THE REGISTRATION BOOKS AND RECORDS TO BE USED FOR THE ELECTION; DESIGNATING AND APPOINTING THE CITY CLERK AS THE OFFICIAL REPRESENTATIVE WITH RESPECT TO THE USE OF SUCH REGISTRATION BOOKS AND RECORDS; DIRECTING THE CITY CLERK TO GIVE NOTICE OF THIS RESOLUTION'S ADOPTION AND TRANSMIT A CERTIFIED COPY TO THE MIAMI-DADE COUNTY SUPERVISOR OF ELECTIONS**

**WHEREAS**, pursuant to Chapter 166, *Florida Statutes* and Section 1.4 of the Charter of the City of North Miami Beach ("City"), the City shall have all available governmental, corporate, and proprietary powers and may exercise them except when prohibited by law; and

**WHEREAS**, on June 5<sup>th</sup>, 2023, pursuant to Executive Order 23-118, Governor DeSantis suspended Mayor Anthony F. DeFillipo II from the public office and prohibited from performing any official act, duty, or function of public office; from receiving any pay or allowance; and from being entitled to any of the emoluments or privileges of public office during the period of this suspension, until a further Executive Order is issued or as otherwise provided by law. July 1, 2023, and

**WHEREAS**, at the time of Mayor Anthony F. DeFillipo, II's suspension from public office, more than one year of the Mayor's term remained prior to the next general election, and therefore Section 4.5 of the City Charter states that the mayoral vacancy "shall be filled by a special election to fill the vacancy for the unexpired term;" and

**WHEREAS**, the next general municipal election for City Commissioners will be held on November 7, 2024; and

**WHEREAS**, the Miami-Dade County Supervisor of Elections has informed City staff that her office can conduct the special election on October 10, 2023, and a run-off election – if needed – can be conducted on November 7, 2023; and,

**WHEREAS**, the City Commission wishes to call a special election to fill the vacancy created by the suspension of Mayor Anthony F. DeFillipo, II.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF NORTH MIAMI BEACH, AS FOLLOWS:**

**Section 1.** The foregoing whereas clauses are true and correct and adopted as the legislative and administrative findings of the City Commission and made a specific part of this Resolution; all exhibits attached hereto are made a specific part of this Resolution.

**Section 2.** A special election to fill the vacancy of the Mayor's office is scheduled and the date of October 10, 2023, is set as the date of such special election.

**Section 3.** August 21, 2023, at 8:00 a.m. through August 25, 2023, at 5:00 p.m. (8:00 a.m. through 5:00 p.m. daily) and Saturday, August 26, 2023, from 8:00 a.m. to 12:00 p.m. is set as the time period for qualifying for the special election. The qualifying cut-off time on August 26, 2023, shall be 12:00 p.m. (noon).

**Section 4.** The Election Clerks and Inspectors to serve at designated polling places on said date shall be designated by the Supervisor of Elections for Miami-Dade County ("Supervisor") for such purposes.

**Section 5.** To enable persons to register who are qualified to vote in said special election and who have not registered under the provisions of the general laws of Florida, or who have transferred their legal residence from one voting precinct to another voting precinct in the City, voter registration can be accomplished at such permanent branch offices as may be approved by the Supervisor and at said Supervisor's office which will be open during the following days and time:

MIAMI-DADE COUNTY ELECTIONS DEPARTMENT  
2700 Northwest 87th Avenue, Doral, Florida Monday to Friday, inclusive.  
8 a.m. to 5 p.m.

In addition to the above, said qualified persons may register at branch offices and may also use any means as provided by the general laws of Florida for the purpose of registration to vote in the special election during such times and on such dates as may be designated by the Supervisor.

**Section 6.** The special election shall be held at the voting places in the precincts designated by the Supervisor, in conformity with the provisions of the general laws of the State. A description of the registration books and records which pertain to election precincts wholly or partly within the City and which the City is adopting and desires to use for holding such election is as follows:

All registration cards, books, records, and certificates pertaining to electors of the City and established and maintained as official by the Supervisor, in conformity with the provisions of the general laws of the State, are hereby adopted and declared to be, and shall hereafter

be recognized and accepted, as official registration cards, books, records and certificates of the City.

**Section 7.** The ballot to be used in said election shall be so prepared that the names of the qualified candidates will appear on said ballot in alphabetical order according to surname in each group; provided however, that the ballot and its preparation shall comply with the laws of the State of Florida with respect to vote-by-mail ballots, and to the use of mechanical voting machines or the Computer Election System (CES).

**Section 8.** (a) In compliance with Florida Statutes, the City Clerk is authorized<sup>1</sup> and directed to publish notice of the adoption of this 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 special election is to be held, in newspaper(s) of general circulation in the City of North Miami Beach, Florida, which notices shall be substantially as set forth in the following form:

#### NOTICE OF A SPECIAL MUNICIPAL ELECTION

#### TO ELECT A CANDIDATE TO THE OFFICE OF MAYOR SAID ELECTION TO BE HELD ON TUESDAY, OCTOBER 10, 2023, IN THE CITY OF NORTH MIAMI BEACH, FLORIDA PURSUANT TO RESOLUTION NO. 2023-

Notice is hereby given that a Special Election will be held on Tuesday, October 10, 2023, from 7 a.m. until 7 p.m., in the City of North Miami Beach, Florida, at the polling places in the several election precincts designated by the Miami-Dade County Supervisor of Elections, at which election the qualified electors participating therein will vote to elect a candidate to the Office of Mayor for the City of North Miami Beach, Florida.

(b) The Election Clerks and Inspectors to serve at said polling places on said dates shall be those designated by the Supervisor of Elections of Miami-Dade County for such purpose. The registration books and records for the registration of persons qualified to vote in said election shall be those maintained by the Supervisor.

(c) The official ballot shall be in substantially the following form, to wit:

#### OFFICIAL BALLOT SPECIAL ELECTION OCTOBER 10, 2023, CITY OF NORTH MIAMI BEACH, FLORIDA TO ELECT A CANDIDATE TO THE OFFICE OF MAYOR

City-Wide Mayor (Vote for one (1)):

\_\_\_\_\_ (Names of Candidates) \_\_\_\_\_

<sup>1</sup> This authorization is further subject to compliance with all legal requirements that may be imposed, including but not limited to, those prescribed by applicable City Charter and City Code provisions.

**Section 9.** The City Clerk of the City of North Miami Beach, Florida, or duly appointed successor is hereby designated and appointed as the official representative of the Commission of the City of North Miami Beach, Florida, in all transactions with the Supervisor in relation to matters pertaining to the use of the registration books for the holding of the special election.

**Section 10.** The City Clerk shall cause to be prepared vote-by-mail ballots for the use of vote-by-mail electors entitled to cast such ballots in said election.

**Section 11.** The City Clerk is directed to transmit a certified copy of this Resolution to the Miami-Dade County Supervisor of Elections.

**Section 12.** This Resolution shall become effective immediately upon approval.

**APPROVED AND ADOPTED** by the Mayor and City Commission of the City of North Miami Beach, Florida at this regular meeting assembled on this 18th day of **July 2023**.

ATTEST:

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ANDRISE BERNARD, MMC  
CITY CLERK

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JAY R. CHERNOFF  
ACTING MAYOR

(CITY SEAL)

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE CITY OF NORTH MIAMI BEACH ONLY:

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JOHN R. HERIN, JR.  
CITY ATTORNEY

Sponsored by: Mayor & Commission