

**IN THE COUNTY COURT OF THE 11<sup>TH</sup>  
JUDICIAL CIRCUIT OF FLORIDA, IN AND  
FOR MIAMI-DADE COUNTY, FLORIDA**

**CIVIL DIVISION CASE NO.:** \_\_\_\_\_

**JAY R. CHERNOFF**, an individual and in  
his capacity as City Commissioner

**Plaintiff,**

vs.

**CITY OF NORTH MIAMI BEACH, and  
COMMISSIONER MICHAEL JOSEPH**

**Defendants.**

\_\_\_\_\_/

**VERIFIED COMPLAINT FOR DECLARATORY JUDGMENT  
AND INJUNCTIVE RELIEF REQUIRING THE REMOVAL  
OF MICHAEL JOSEPH AS NORTH MIAMI BEACH COMMISSIONER**

Plaintiff COMMISSIONER JAY R. CHERNOFF (“Commissioner Chernoff”), in his official capacity as Commissioner, North Miami Beach, Florida, files this Verified Emergency Complaint for Declaratory Judgment and Injunctive Relief against defendant CITY OF NORTH MIAMI BEACH (“City”) and Commissioner Michael Joseph (“Commissioner Joseph”) seeking to compel the mandatory removal of Michael Joseph as Commissioner in accordance with the Charter of the City of North Miami Beach (“Charter”).

**JURISDICTION AND VENUE**

1. This is an action for declaratory judgment filed pursuant to Section 86.011, Florida Statutes, and for injunctive relief in accordance with Florida law authorizing the issuance of injunctive writs.
2. This action is brought by Jay R. Chernoff in his capacity as North Miami Beach Commissioner to require the removal of Michael Joseph as Commissioner per the Charter.
3. This action is brought to declare the rights of the Mayor and Commission and the citizens and electors of North Miami Beach pursuant to the North Miami Beach Charter (“Charter”) for the removal

of an elected official who has ***“failed to attend a meeting of the City Commission for a period of one hundred and twenty (120) days.”***

4. Plaintiff is a Commissioner of the City of North Miami Beach, in which capacity he is entrusted to legislate in accordance with the City’s Charter.

5. Defendant Michael Joseph is a Commissioner in the City of North Miami Beach.

6. All at all times material to this action, the City is and has been a municipal corporation authorized pursuant to the laws of the State of Florida, located in Miami-Dade County, Florida.

### **FACTS COMMON TO ALL COUNTS**

#### **A. The Charter.**

7. The City is required by law to operate in accordance with its Charter.

8. Section 2.5 of the Charter, titled “Quorum and Attendance of the City Commission” states:

Sec. 2.5 - Quorum and Attendance of the City Commission.

A quorum of the City Commission at any regular or special meeting shall consist of five members. Except as otherwise provided herein, the affirmative vote of a majority of the quorum present shall be required upon any matter submitted for consideration of the Commission. **If any Commissioner has failed to attend a meeting of the City Commission for a period of one hundred and twenty (120) days, the seat of such Commissioner shall automatically become vacant.**

Charter of the City of North Miami Beach §2.5. The Charter is attached hereto as Exhibit “A.”

9. Commissioner Michael Joseph has failed to attend a meeting of the City Commission since October 18, 2022.

10. As of February 15, 2023, it has been exactly 120 days since Commissioner Joseph has attended a meeting of the City Commission.

11. The City Commission held Regular Meetings Scheduled December 20, 2022 and January 17, 2023. Commissioner Michael Joseph failed to attend either.

### **COUNT I – DECLARATORY JUDGMENT**

12. Plaintiff incorporates and re-alleges paragraphs 1 to 11.

13. This is an action to declare the rights of the parties under the Charter.

14. The City Charter indisputably states that any Commissioner who does not attend a meeting of the City Commission for a period of one hundred twenty (120) days that the seat of such Commissioner shall automatically become vacant.

15. There exists a *bona fide* actual, present, and practical need for the declaration of the Mayor and Commission's rights and duties attendant to the Charter. The City is entitled to have all doubts as to the rights and obligations under the Charter resolved in its favor, requiring the removal of Michael Joseph from his seat for his failure to attend a meeting of the City Commission for one hundred and twenty (120) days, and so that a Special Election may be held to fill the vacancy.

16. The rights and obligations of the City under the Charter are dependent upon the facts and the law applicable to the City pursuant to the Charter in these circumstances.

WHEREFORE, for these reasons, Commissioner Jay R. Chernoff requests that the Court adjudicate the rights, responsibilities, and liabilities of the parties under the Charter, and that the Court enter an Order declaring that Commissioner Michael Joseph has vacated his seat on the City Commission as prescribed in the Charter of the City of North Miami Beach, together with any and all other supplemental relief under Section 86.061, Florida Statutes.

### **COUNT II – INJUNCTIVE RELIEF**

17. Petitioner incorporates and re-alleges paragraphs 1 through 16.

18. Pursuant to the Charter, Commissioner Michael Joseph has refused to fulfill his duties as required under the Charter and has vacated his seat.

19. As a result, the City is facing irreparable harm, as the City cannot conduct official business for the benefit of the citizens, residents, and businesses within the City, thereby disenfranchising and depriving its citizens of a seat on the City government that should and must be filled by a special election of a Commissioner who will fulfill his duties under the City Charter.

20. The City has a right and an obligation to conduct official business as granted by its Charter, the Miami-Dade County Home Rule Charter, and the Constitution and laws of the State of Florida.

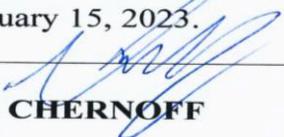
21. If relief is denied, the City will be without any adequate remedy at law.

22. Consideration of the public interest favors the relief sought herein as the citizens of North Miami Beach are entitled to a functioning government, including elected officials who will fulfill their duties as prescribed by the Charter of the City of North Miami Beach.

**WHEREFORE**, for these reasons, Commissioner Jay R. Chernoff requests that the Court adjudicate the rights, responsibilities, and liabilities of the parties under the Charter, and that the Court enter an Order declaring that Commissioner Michael Joseph has vacated his seat on the City Commission as

FILE DATE: February 16, 2023

VERIFICATION  
I make this declaration according to 28 U.S.C § 1746. I make this declaration in Miami-Dade County, State of Florida, United States of America. I declare under penalty of perjury that the foregoing, including all facts, are true and correct. Executed at Miami-Dade County, Florida, February 15, 2023.

  
\_\_\_\_\_  
**JAY R. CHERNOFF**

[SIGNATURES FOLLOW]

Respectfully submitted,

*S/ Benedict P. Kuehne*

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By: */s/ Michael A. Pizzi, Jr.*

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## CHARTER

## CITY OF NORTH MIAMI BEACH

**EXHIBIT A****Preamble.**

We, the people of the City of North Miami Beach, in order to secure for ourselves the benefits and responsibilities of home rule and in order to provide for a municipal government to serve our present and future needs, do hereby adopt this charter and as part thereof adopt the following Citizens' Bill of Rights.

**Citizens' Bill of Rights.**

- A) This government has been created to protect the governed, not the governing. In order to provide the public with full and accurate information, to promote efficient administrative management, to make government more accountable, and to insure to all persons fair and equitable treatment, the following rights are guaranteed:
1. Convenient access. Every person has the right to transact business with the City with a minimum of personal inconvenience. It shall be the duty of the City Manager and the City Commission to provide, within the City's budget limitations, reasonable convenient times and places for required inspections, and for transacting business with the City.
  2. Truth in government. No municipal official or employee shall knowingly furnish false information on any public matter, nor knowingly omit significant facts when giving requested information to members of the public.
  3. Public records. All audits, reports, minutes, documents and other public records of the City and its boards, agencies, departments and authorities shall be open for inspection at reasonable time and places convenient to the public.
  4. Minutes and ordinance register. The City Clerk shall maintain and make available for public inspection an ordinance register separate from the minutes showing the votes of each member on all ordinances (Ordinance means an official legislative action of the North Miami Beach Commission, which action is a regulation of a general and permanent nature and enforceable as a local law), and resolutions (Resolution means an expression of the North Miami Beach Commission concerning matters of administration, an expression of a temporary character, or a provision for the disposition of a particular item of the administrative business of the North Miami Beach Commission) listed by descriptive title. Written minutes of all meetings and the ordinance register shall be available for public inspection not later than thirty (30) days after the conclusion of the meeting,
  5. Right to be heard. So far as the orderly conduct of public business permits, any interested person has the right to appear before the City Commission or any City agency, board or department for the presentation, adjustment or determination of an issue, request or

controversy within the jurisdiction of the City. Matters shall be scheduled for the convenience of the public, and the agenda shall be divided into approximate time periods so that the public may know approximately when a matter will be heard. Nothing herein shall prohibit the City or any agency thereof from imposing reasonable time limits for the presentation of a matter.

6. Right to Notice. Persons entitled to notice of a City hearing shall be timely informed as to the time, place and nature of the hearing and the legal authority pursuant to which the hearing is to be held. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing. Copies of proposed ordinances or resolutions shall be made available at a reasonable time prior to the hearing, unless the matter involves an emergency ordinance or resolution.
7. No unreasonable postponements. No matter once having been placed on a formal agenda by the City shall be postponed to another day except for good cause shown in the opinion of the City Commission, or agency conducting such meeting, and then only on condition that any person so requesting is mailed adequate notice of the new date of any postponed meeting. Failure by an individual to receive such notice shall not constitute mandatory grounds for canceling the hearing or rendering invalid any determination made at such hearing.
8. Right to public hearing. Upon a timely request of any interested party a public hearing shall be held by any City agency, board, department or authority upon any significant policy decision to be issued by it, which is not subject to subsequent administrative or legislative review and hearing. This provision shall not apply to the law department of the City or to anybody whose duties and responsibilities are solely advisory. At any zoning or other hearing in which review is exclusively by certiorari, a party or his counsel shall be entitled to present his case or defense by oral or documentary evidence, to submit rebuttal evidence, and to conduct such cross-examination as may be required for a full and true disclosure of the facts. The decision of any such agency, board, department or authority must be based upon the facts in the record. Procedural rules establishing reasonable time and other limitations may be promulgated and amended from time to time.
9. Notice of action and reasons. Prompt notice shall be given of the denial in whole or in part of a request of an interested person made in connection with any municipal administrative decision or proceeding when the decision is reserved at the conclusion of the hearing. The notice shall be accompanied by a statement of the grounds for denial.
10. Manager's and Attorneys' reports. The City Manager and City Attorney shall periodically make a public status report on all major matters pending or concluded within their respective jurisdictions.
- 11.

Budgeting. In addition to any budget required by state statute, the City Manager shall prepare a budget showing the cost of each department for each budget year. Prior to the City Commission's first public hearing on the proposed budget required by state law, the City Manager shall make public a budget summary setting forth the proposed cost of each individual department and reflecting the personnel for each department, the purposes therefor, the estimated millage cost of each department and the amount of any contingency and carryover funds for each department.

12. Quarterly budget comparisons. The City Manager shall make public a quarterly report showing the actual expenditures during the quarter just ended against one-quarter of the proposed annual expenditures set forth in the budget. Such report shall also reflect the same cumulative information for whatever portion of the fiscal year that has elapsed.
  13. Adequate audits. An annual audit of the City shall be made by an independent certified public accounting firm in accordance with generally accepted auditing standards. The independent City Auditor shall be appointed by the City Commission; both appointment and removal of the independent City Auditor shall be made by the City Commission. A summary of the results of the independent City Auditor's annual audit, including any deficiencies found, shall be made public. In making such audit, proprietary functions shall be audited separately and adequate depreciation on proprietary facilities shall be accrued so the public may determine the amount of any direct or indirect subsidy. Duties, method of selection, and method of compensation of the independent City Auditor shall be established by ordinance.
  14. Representation of public. The City Commission shall endeavor to provide representation at all proceedings significantly affecting the City and its residents before state and federal regulatory bodies.
  15. Natural resources and scenic beauty. It shall be the policy of the City of North Miami Beach to conserve and protect its natural resources and scenic beauty.
- B) The foregoing enumeration of citizens' rights vests large and pervasive powers in the citizenry of the City of North Miami Beach. Such power necessarily carries with it responsibility of equal magnitude for the successful operation of government in the City. The orderly, efficient and fair operation of government requires the knowledgeable participation of individual citizens exercising their rights with dignity and restraint so as to avoid any sweeping acceleration in the cost of government because of the exercise of individual prerogatives, and for individual citizens to grant respect for the dignity of public office.
- C) Remedies for violations. In any suit by a citizen alleging a violation of this Bill of Rights filed in the Miami-Dade County circuit court pursuant to its general equity jurisdiction, the plaintiff, if successful, shall be entitled to recover costs as fixed by the court. Any public official or employee who is found by the court to have willfully violated this article shall forthwith forfeit his office or employment.

D) Construction. All provisions of this article shall be construed to be supplementary to and not in conflict with the general laws of Florida. If any part of this article shall be declared invalid, it shall not affect the validity of the remaining provisions.

*Footnotes:*

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**Editor's note**— A special election held November 8, 2016, repealed former Charter §§ 1—36, 42—99, 101—104, 106—114, 116—118, 121, 122, adopted by voters Jan. 7, 1958, which was later amended by Res. No. 591, §§ 1—4, adopted Feb. 17, 1959; Ord. No. 64-16, §§ 2—11, 14—20, adopted Feb. 13, 1964; Res. No. 65-27, §§ 2, 3, adopted Feb. 23, 1965; Ord. No. 77-42, § 2, adopted April 5, 1977; Res. No. 78-6, § 2, adopted Jan. 16, 1978; Ord. No. 78-10, § 2, adopted June 20, 1978; Ord. No. 79-31, §§ 2—6, 14—25, adopted Nov. 20, 1979; Res. No. R80-1, § 2, adopted Jan. 2, 1980; Res. R80-81, §§ 2(a), 3(a), adopted Aug. 19, 1980; Res. No. R81-19, §§ 3, 4, adopted Feb. 17, 1981; Res. No. R88-9, §§ 2—7, 9—11, adopted Jan. 19, 1988; Ord. No. 91-1, adopted Jan. 15, 1991; Res. No. R2009-12, § 2, approved May 5, 2009; Ord. No. 2016-7, § 2, adopted Aug. 2, 2016; and enacted a new Charter as codified in Part I of this volume. Amendments are indicated by parenthetical history notes following amended provisions. The absence of a history note indicates the provision remains unchanged from the November 8, 2016 Charter. Obvious misspellings and punctuation errors have been corrected without notation. Additions made for clarity are indicated by brackets.

## Article I. - Creation, Form of Government, Incorporation and Boundaries, Powers, and Oath of Office

### Sec. 1.1 - Creation.

There is hereby created a municipality to be known as the City of North Miami Beach, the inhabitants of which shall be and constitute a body corporate and politic, with perpetual existence as a City under the laws of the State of Florida, the territorial limits of which shall be as set forth in section 1.3 hereof, as the same may be amended from time to time under the provisions of the Constitution and Laws of the State of Florida.

### Sec. 1.2 - Form of government.

The form of government of the City of North Miami Beach shall be that of commission-manager, the powers of which City shall be exercised by a City Commission and a City Manager, and other officers, as hereinafter set forth.

### Sec. 1.3 - Boundaries.

Begin at the southwest corner of Section 21, Township 52 South, Range 42 East, thence run northerly along the west line of said Section 21 to the easterly right-of-way line of the Florida East Coast Railroad; thence meander along the said easterly right-of-way line to its intersection with the south line of Section 16, Township 52 South, Range 42E; thence run westerly along the south line of said Sections<sup>[2]</sup> 16 to the southeast corner of Section 17, Township 52 South, Range 42 East; thence westerly along the south line of said Section 17 to the southwest corner of said Section 17; said corner also being the southeast corner of

Section 18, Township 52 South, Range 42 East; thence run northerly along the east line of said Section 18-52-42 to the southeast corner of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 18-52-42; thence run westerly to the southwest corner of the said N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 18-52-42; thence run northerly to the southeast corner of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 18-52-42; thence run westerly to the southwest corner of the said SE  $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Sections\* 18-52-42; thence run northerly to the northwest corner of the said SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 18-52-42; to the southwest corner of the N $\frac{1}{2}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 18-52-42; thence run northerly to the northwest corner of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 18-52-42: thence northerly along the east line of the W $\frac{1}{2}$  of the NE $\frac{1}{4}$  of said Section 18-52-42 to the northeast corner of the said W $\frac{1}{2}$  of the NE $\frac{1}{4}$  of said Section 18-52-42; this point also being the southeast corner of the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East; thence run westerly along the south line of said Section 7-52-42, to the southwest corner of said Sections 7-52-42, this point also being the southeast corner of Section 12, Township 52 South, Range 41 East; thence continue westerly along the south line of said Section 12-52-41 to the southwest corner of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 12-52-41; thence run northerly crossing the right-of-way of the Seaboard Airline Railroad to the northwest corner of the said SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 12-52-41; thence run easterly along the north line of the said SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  to the northeast corner thereof; thence continue easterly along the south line of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said section 12-52-41 to the southeast corner of the said NW $\frac{1}{4}$  of the SE $\frac{1}{4}$ ; thence run northerly to the northeast corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 52-41; thence run westerly along the north line of the said SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 12-52-41 to its intersection with the southeasterly right-of-way line of State Road No. 9; thence run northeasterly along the said southeasterly right-of-way line to a point at its intersection with the southwesterly line of lot 4 of block 1 of Pineapple Plantation Subdivision (59-61) projected; then run southeasterly along the southwesterly side of said lot 4 of block 1 of Pineapple Plantation (59-61) to the southerly corner thereof; thence run northeasterly along the southeasterly end of said lot 4 of block 1 to the easterly corner thereof; thence northwesterly along the northeasterly line of said lot 4, block 1 of Pineapple Plantation (59-61) and its projection to its intersection with the said southeasterly right-of-way line of State Road No. 9; thence continue in a northeasterly direction along the said southeasterly right-of-way line of said State Road No. 9 to its intersection with the south right-of-way line of Miami Gardens Drive; the same being NE 181st Street and lying, and being in the NW $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East; thence run easterly along the said south right-of-way line of said Miami Gardens Drive, the same being 35 feet south of the center line thereof, to the west right-of-way line of NE 6th Avenue, the same being 35 feet west of the center line thereof; thence run southerly along the said west right-of-way line of said NE 6th Avenue to the east and west center line of Section 7; Township 52 South, Range 42 East; thence run easterly on the said east and west center line a distance of 35 feet to a point, said point being the center of said Section 7, Township 52 South, Range 42 East; thence run southerly along the north and south center line of said Section 7 to the southwest corner of the NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7, Township 52 South, Range 42 East; thence run easterly along

the south line of the said NW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  to a point 325 feet west of southeast corner of the N $\frac{1}{2}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42, said point being the southeast corner of Ritz Highlands No. 2 according to a plat thereof, recorded in Plat Book 64 at page 89, public records of Dade County, Florida; thence run northerly along the west line of Ritz Highlands No. 2, Subdivision (64-89) a distance of 167.25 feet more or less to a point; thence run westerly following the westerly boundary line of said subdivision a distance of 5 feet more or less; thence run northerly continuing on the said westerly line of the said Ritz Highlands No. 2, Subdivision (64-89) to the northwest corner of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42; thence run easterly to the northeast corner of the said SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42; thence run southerly to the southeast corner of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42; thence run easterly along the north line of the S $\frac{1}{2}$  of the SE $\frac{1}{4}$  of said Section 7-52-42 to the northwest corner of the E $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42; thence run southerly to the northwest corner of the S $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42; thence run easterly to the northeast corner of the said S $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42; thence run southerly a distance of 318.08 feet more or less to a point, said point being on the center line of NE 10th Avenue; thence run westerly a distance of 25 feet to the west right-of-way line of NE 10th Avenue; thence run southerly along the west right-of-way line of NE 10th Avenue a distance of 82.0 feet more or less; thence run westerly 82.00 feet more or less south of and parallel to the north line of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42 a distance of 150 feet to a point; thence run southerly 150 feet west of and parallel to the east line of the said SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42 a distance of 75 feet to a point; thence run easterly 157 feet south of and parallel to the said north line of the said SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 7-52-42, a distance of 150 feet to the west right-of-way line of NE 10th Avenue; thence run southerly to a point on the south line of Section 7-52-42, said point being 25 feet west of the southeast corner of said Section 7, Township 52 South, Range 42 East; thence run easterly along the south lines of Sections 7 and 8 of Township 52 South, Range 42 East to the southeast corner of the W $\frac{1}{2}$  of the SW $\frac{1}{4}$  of said Section 8-52-42; thence run northerly to the northeast corner of the said W $\frac{1}{2}$  of the SW $\frac{1}{4}$  of said Section 8-52-42; thence run westerly along the east and west center line of said Section 8-52-42 to the Southeast corner of the NE $\frac{1}{4}$  Section 7, Township 52 South, Range 42 East; thence run northerly along the east line of the NE $\frac{1}{4}$  of said Section 7-52-42 to a point 140 feet more or less south of the northeast corner of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 7-52-42; thence run westerly to a point 140 feet more or less south of the northwest corner of the said SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 7-52-42; thence run northerly a distance of 140 feet more or less to the said northwest corner of the said SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 7-52-42; thence run easterly a distance of 153.34 feet more or less to a point on the north line of the said SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 7-52-42; thence run northerly parallel to the east line of said Section 7-52-42 and 485 feet more or less westerly therefrom to a point on the south line of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 7-52-42; thence run westerly to the southwest corner of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 7-52-42; thence run northerly along the north and south center line of said Section 7-52-42 to the northwest corner

of the NE¼ of said Section 7-52-42; thence run easterly along the north section of lines of Sections 7, 8, and 9 to the southeast corner of the SW¼ of the SW¼ of the SW¼ of Section 4, Township 52 South, Range 42 East; thence run northerly to the southeast corner of the NW¼ of the SW¼ of the SW¼ of said Section 4-52-42; thence run westerly to the southwest corner of the said NW¼ of the SW¼ of the SW¼ of said Section 4-52-42; thence run N. 0° 51' 24" W. along the west line of the SW¼ of said Section 4 for a distance of 685.84 feet to a point which is 25.00 feet north of the NW corner of the NW¼ of the SW¼ of the SW¼ of said Section 4; thence run S. 89° 48' 32" E., 25.00 feet north of and parallel to the north line of the NW¼ of the SW¼ of the SW¼ of said Section 4, for a distance of 637.24 feet to the point of curvature of a circular Curve to the left having for its elements a radius of 25.00 feet and a central angle of 90° 50' 01"; thence run along the arc of said circular curve for a distance of 39.63 feet to the point of tangency; thence run N. 0° 38' 33" W., 25.00 feet west of and parallel to the east line of the SW¼ of the NW¼ of the SW¼ of said Section 1, for a distance of 282.81 feet to the point of curvature of a circular curve to the right having for its elements a radius of 75.00 feet and a central angle of 90° 50' 06"; thence run along the arc of said circular curve for a distance of 118.90 feet to the point of tangency; thence run S. 89° 48' 27" E. for a distance of 689.84 feet to the point of curvature of a circular curve to the left having for its elements a radius of 25.00 feet and a central angle of 90° 24' 24"; thence run along the arc of said circular curve for a distance of 39.45 feet to the point of tangency; thence run N. 0° 12' 51" W. for a distance of 1079.49 feet to the point of curvature of a circular curve to the left having for its elements a radius of 25.00 feet and a central angle of 78° 34' 10"; thence run along the arc of said circular curve for a distance of 34.28 feet to the point of tangency; thence run N. 78° 47' 01" W. for a distance of 181.63 feet to the point of curvature of a circular curve to the right having for its elements a radius of 75.00 feet and a central angle of 78° 34' 10"; thence run along the arc of said circular curve for a distance of 102.85 feet to the point of tangency; thence run N. 0° 12' 51" West for a distance of 25.62 feet to the point of curvature of a circular curve to the left having for its elements a radius of 273.96 feet and a central angle of 18° 35' 09"; thence run along the arc of said circular curve for a distance of 38.87 feet to the point of tangency; then run N. 18° 48' 00" W. for a distance of 270.64 feet to the point of curvature of a circular curve to the right having for its elements a radius of 75.00 feet and a central angle of 23° 06' 36"; thence run along the arc of said circular curve for a distance of 30.25 feet to the point of tangency; thence run N. 4° 18' 36" E. for a distance of 1105.96 feet to a point; thence run N. 20° 23' 09" E. for a distance of 62.94 feet to an intersection with a circular curve to the left of which the last described line is a radial, having for its elements a radius of 376.17 feet and a central angle of 19° 58' 26", said curve being a portion of the southerly boundary of tract "A", block 15, Manana Highlands, according to the plat thereof, recorded in Plat Book 57 at page 52 of the public records of Dade County, Florida; thence run southeasterly along the arc of said circular curve for a distance of 131.14 feet to the point of tangency, thence run S. 89° 35' 17" E. along the south line of said tract "A" for a distance of 455.45 feet to the southeast corner of said tract "A"; thence run N. 0° 24' 43" E. along the east line of said tract "A" for a distance of 125.00 feet to the northeast corner of said tract "A"; thence run S. 89° 35' 17" E. for a distance of 480.00 feet to a point; thence run S. 0° 12' 56" E. for a distance of 514.22 feet to a point; thence run S. 46° 36' 03" E. for a distance of

685.38 feet to an intersection with the east line of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 4, Township 52 South, Range 42 East; thence run south, along the east line of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$ , of said Section 4, for a distance of 999.96 feet to the center of said Section 4; thence run N. 89° 48' 44" W. for a distance of 692.47 feet to the NW corner of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 4; thence run S. 0° 12' 51" E., along the east line of the West  $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 4-52-42 to a point 185 feet north of the northwest corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$ , of the SW $\frac{1}{4}$  of said Section 4-52-42 thence run easterly a distance of 688.22 feet to a point on the north and south center line of said Section 4-52-42, 185 feet north of the northeast corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of said Section 4-52-42; thence run southerly on the said north and south center line of said Section 4-52-42 to a point of 105 feet north of the southeast corner of the N $\frac{1}{2}$  of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 5-52-42; thence run westerly a distance of 687.31 feet more or less to a point 105 feet north of the southwest corner of the N $\frac{1}{2}$  of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 4-52-42; thence run southerly to the southwest corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 4-52-42; thence run easterly to the southeast corner of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SW  $\frac{1}{4}$  of said Section 4-52-42; thence run southerly to the southeast corner of the SW  $\frac{1}{4}$  of said Section 4, Township 52 South, Range 42 East; then continue southerly along the north and south center line of Section 9, Township 52 South, Range 42 East to the northwest corner of the SE $\frac{1}{4}$  of said Section 9-52-42; thence run easterly along the north line of the said SE $\frac{1}{4}$  of said Section 9-52-42 to the northwest corner of the SW $\frac{1}{4}$  of Section 10-52-42; thence run southerly on the west line of the said SW $\frac{1}{4}$  of said Section 10-52-42 to a point 400 feet more or less north of the southwest corner of the said SW  $\frac{1}{4}$  of said Section 10-52-42; thence run in a northeasterly direction to a point on the north line of the said SW $\frac{1}{4}$  and being 200 feet more or less westerly of the northeast corner of the said SW $\frac{1}{4}$  of said Section 10-52-12; then run easterly along the north line of the said SW $\frac{1}{4}$  and continue easterly along the north line of the SE $\frac{1}{4}$  of said Section 10-52-42 to its intersection with the west right-of-way line of the Intercoastal Waterway; thence run southerly along the meander line of the said west right-of-way line of the said Intercoastal Waterway through Sections 10, 11 and 14 to its intersection with the northerly right-of-way line of State Road No. 826; thence run westerly, southwesterly and again westerly along the meander line of the north right-of-way line of the said State Road No. 826 through Sections 14 and 15 of Township 52 South, Range 42 East to its intersection with the west line of the NW $\frac{1}{4}$  of said Section 15-52-42 at a point 1384.49 feet south of the northwest corner of said Section 15-52-42; thence continue westerly along the said north right-of-way line of State Road No. 826 to its intersection in the NE $\frac{1}{4}$ , of Section 16, Township 52 South, Range 42 East, with the easterly right-of-way line of Federal Highway U. S. No. 1; thence run southwesterly along the east right-of-way line of Federal Highway No. 1, a distance of 150.45 feet more or less to a point; thence run southeasterly at an angle of 73 03' 19" to the left with the previous course a distance of 185.73 feet more or less to a point on a line 40 feet north of and parallel to the south line of the N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of Section 16-52-42; thence easterly and parallel to said south line a distance of 106.84 feet more or less; thence run southerly a distance of 201.29 feet more or less; thence run westerly parallel to and 160 feet south of the said N $\frac{1}{2}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 16-52-42 a distance of 375.3 feet to the east right-of-way line of

Federal Highway No. 1; thence run southwesterly along said right-of-way line a distance of 540.12 feet more or less to the north line of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of said Section 16-52-42; thence run easterly a distance of 206 feet more or less to the east line of the W $\frac{1}{2}$  of the W $\frac{1}{2}$  of the E $\frac{1}{2}$  of said Section 16-52-42; thence run southerly along the said east line to the southeast corner of the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 16-52-42; thence westerly along the south line of the said NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 16-52-42 to the southwest corner of the said NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 16-52-42; thence northerly along the north and south center line of said Section 16-52-42 to its intersection with the east right-of-way line of the Florida East Coast Railroad; thence southwesterly along said east right-of-way line to its intersection with the projection of the north line of lot 5 of block 1 of Biscayne Boulevard Subdivision One, according to the plat thereof recorded in Plat Book 40, at page 4 of the public records of Dade County, Florida; thence run easterly along said projection, also along the north line of said lot 5, block 1 of the aforesaid subdivision to the west right-of-way line of Federal Highway U. S. No. 1; thence run southwesterly along the said right-of-way line to the southeasterly corner of lot 4 of block 1, of the aforesaid subdivision, thence run westerly along the south line of said lot 4, block 1 and its projection to the intersection thereof with the east right-of-way line of the Florida East Coast Railroad; thence run southwesterly along said East right-of-way line to its intersection with the projection of the north line of lot 1 of block 1 of the aforesaid subdivision; thence run easterly along said projection, also along the north line of said lot 1 to the west right-of-way line of Federal U. S. Highway No. 1; thence run southwesterly along the said west right-of-way line to the southeasterly corner of lot 1 of block 2, of the aforesaid subdivision; thence run westerly along the south line of said lot 1 of block 2 to the southwesterly corner thereof; thence run southwesterly along the west lines of lots 2 and 3 of block 2 to the southwesterly corner of lot 3 of block 2, of the aforesaid subdivision; thence run easterly along the south line of said lot 3 to the west right-of-way line of Federal Highway U. S. No. 1; thence run southwesterly along said right-of-way line to the southeasterly corner of lot 5 of block 2, aforesaid subdivision; thence run westerly along the south line of said lot 5 of block 2 to the southwesterly corner thereof; thence run southwesterly along the westerly end of lot 6 of block 2, of the aforesaid subdivision to the southwesterly corner of said lot 6, the same being a point on the south line of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 21, Township 52 South, Range 42 East; thence run easterly along the south line of lot 6 of block 2 of the aforesaid subdivision the same being on the south line of the said NW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of said Section 21-52-42 thence continue easterly along the south line of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of the north and south center line of said Section 21-52-42; thence run southerly along said center line, the center of said Section 21-52-42; thence run westerly along the east and west center line of said Section 21-52-42 to its intersection with the east right-of-way line of Federal Highway U. S. No. 1; thence run southwesterly along said east right-of-way line a distance of 206.66 feet to a point, said point being 482.26 feet measured northeasterly along lot 12 of Amended Plat of R. E. McDonald Subdivision, according to the plat thereof recorded in Plat Book 2 at page 22 of the public records of Dade County, Florida; thence run easterly parallel to the south line of the NW $\frac{1}{4}$  of said Section 21-52-42 for a distance of 891.20 feet to a point; thence run southwesterly parallel to the east right-of-way line

of Federal Highway U. S. No. 1, a distance of 482.26 feet to a point on the south line of the NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 21-52-42; thence run westerly on said south line a distance of 25.27 feet to the east line of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 21-52-42; thence southerly along said east line to the south line of the south line of the NW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 21-52-42; thence westerly along the said south line to the east line of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of said Section 21-52-42, said east line being also the east line of lot 21, Amended Plat of R.E.

McDonald Subdivision according to the plat thereof recorded in Plat Book 2 at page 22 of the public records of Dade County, Florida; thence run southerly along the said east line of lot 21 to the north line of lot 28 of the aforesaid subdivision, thence run southwesterly along the said east line of said lot 28 of the aforesaid subdivision a distance of 687.46 feet to the south line of said lot 28 of the aforesaid subdivision, also being the north line of the S $\frac{1}{2}$  of the S $\frac{1}{2}$  of said Section 21-52-42; thence run easterly along the said north line of the S $\frac{1}{2}$  of the S $\frac{1}{2}$  of said Section 21-52-42 to the east line of the S $\frac{1}{2}$  of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 21-52-42; thence run southerly to the southeast corner of the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of said Section 21-52-42; then run westerly along the south line of said Section 21-52-42 to the southwest corner of Section 21, Township 52 South, Range 42 East, which is the place of beginning.

*Except:* The NE $\frac{1}{4}$  of the NE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 12, Township 52 South, Range 41 East. Except: The S $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SW $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East; and the SW $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the NW $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East. Except: The N $\frac{1}{3}$  of the W $\frac{1}{2}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of the SE $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH:

Beginning at a point on the south line of the NW $\frac{1}{4}$  of Section 15, Township 52 South, Range 42 East, 400 feet west of the center of said Section 15-52-42; thence run northerly parallel to the east line of the NW $\frac{1}{4}$  of said Section 15-52-42 to the south right-of-way line of State Road No. 826; thence run easterly along said right-of-way line a distance of 100 feet; thence run southerly parallel to the said east line of the NW $\frac{1}{4}$  of said Section 15-52-42 to a point 600 feet north of the south line of the NW $\frac{1}{4}$  of said Section 15-52-42; thence run easterly parallel to the south line of the NW $\frac{1}{4}$  and continue easterly parallel to the south line of the NE $\frac{1}{4}$  of said Section 15-52-42 to the westerly bank of the Oleta River; thence run in a southwesterly direction meandering with the westerly bank of the said Oleta River to a point 400 feet westerly at a right angle from the east line of the SW $\frac{1}{4}$  of said Section 15-52-42; thence run northerly parallel the said east line of the said SW $\frac{1}{4}$  to a point on the south line of the NW $\frac{1}{4}$  and 400 feet west of the center of Section 15, Township 52 South, Range 42 East, which is the place of beginning.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH (ORDINANCE NO. 61-43, OCTOBER 3, 1961):

That portion of the SW  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 6, Township 52 South, Range 42 East, lying Easterly of State Road No. 9, Dade County, Florida, consisting of approximately 10 acres.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH (RESOLUTION NO. 64-116, 11-17-64; ORDINANCE NO. 65-14, 3-16-65):

The South 75' of the East 175' of the North 157' of the East  $\frac{1}{2}$  of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  of the Southeast  $\frac{1}{4}$  less the East 25' Section 7, Township 52 South, Range 42 East; known and designated as 16750 N.E. 10th Avenue, Miami, Florida, said property lying and being in Dade County, Florida.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH (RESOLUTION NO. R69-24, RESOLUTION NO. R69-25 (2-18-69); ORDINANCE NO. 69-45 (7-23-69)):

The North 120 feet of the South 290 feet of the West 110 feet of the West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East, lying and being in Dade County, Florida,

AND

The North  $\frac{1}{3}$  of the West  $\frac{1}{2}$  of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of the SE  $\frac{1}{4}$  of Section 7, Township 52 South, Range 42 East, Dade County, Florida;

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH (RESOLUTION NO. R70-3, (1-6-70); ORDINANCE NO. 70-81, (10-27-70)):

Commence at the SE corner of the NE  $\frac{1}{4}$  of Section 9, Township 52 South, Range 42 East, Dade County, Florida; thence run Westerly along the South line of the NE  $\frac{1}{4}$  of said Section 9 for a distance of 284.98 feet to a point of intersection thereof with the Southwesterly right-of-way line of the Oleta River, said point being the point of beginning of the parcel of land herein described; thence continue in a Westerly direction along the South line of the NE  $\frac{1}{4}$  of said Section 9 for a distance of 231.91 feet to a point on the most easterly right-of-way line of U.S. Highway No. 1, the same being State Road No. 5, formerly known as State Road No. 4, as the same is recorded in Plat Book 34 at Pages 49 through 54 of the Public Records of Dade County, Florida; thence run Northeasterly along the most Easterly right-of-way line of said U.S. Highway No. 1, the same being State Road No. 5 for a distance of 161.80 feet to a point of intersection thereof with the Southwesterly right-of-way line of the Oleta River; thence run Southeasterly along the Southwesterly right-of-way line of the Oleta River for a distance of 234.01 feet to the point of beginning.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH (RESOLUTION NO. R85-45, (6-18-85); ORDINANCE NO. 85-92, (10-15-85)):

A portion of the southwest quarter of Section 5, Township 52 South, Range 42 East, together with a portion of the southeast quarter of Section 6, Township 52 South, Range 42 East, Dade County, Florida, more particularly described as follows: Begin at the northwest corner of the southwest quarter of the southwest quarter of the southwest quarter of said Section 5, also being the northeast corner of the southeast quarter of the southeast quarter of the southeast quarter of said Section 6; thence run westerly along the north line of the southeast quarter of the southeast quarter of the southeast quarter of said Section 6, to the inter-section with the southwesterly right-of-way line of Snake Creek Canal (C-9); thence run

northwesterly along the southwesterly right-of-way line of Snake Creek Canal (C-9) to its intersection with the southeasterly right-of-way line of State Road 9; thence southwesterly along the southeasterly right-of-way line of State Road 9 to the intersection with the west line of the east half of the southeast quarter of said Section 6; thence run southerly along the west line of the east half of the southeast quarter of said Section 6, to the intersection with the south line of said Section 6; thence easterly along the south line of said Section 6, to the intersection of the base line of Miami Gardens Drive, as recorded in plat book 80 at page 94 of the public records of Dade County, Florida; said point also known as the south-west corner of said Section 5; thence easterly along the south line of said Section 5, to the intersection with the southwesterly right-of-way line of Snake Creek Canal (C-9); thence run northwesterly along the southwesterly right-of-way line of Snake Creek Canal (C-9) to the intersection with said base line of Miami Gardens Drive; thence run north-easterly along said baseline of Miami Gardens Drive to the intersection of the north line of the south half of the southwest quarter of the southwest quarter of said Section 5; thence run westerly along the north line of the south half of the southwest quarter of the southwest quarter of said Section 5 to the northeast corner of the south-west quarter of the southwest quarter of the south-west quarter of said Section 5; thence run south 87 degrees 39 minutes 37 seconds west, along the north line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 5, for 116 feet; thence run south 67 degrees 53 minutes 49 seconds west for 98.98 feet; thence run south 83 degrees 38 minutes 24 seconds west for 120.6 feet; thence run northerly along the west line of the east half of the southwest quarter of the southwest quarter of the southwest quarter of said Section 5, to the intersection with the north line of the southwest quarter of the southwest of the southwest quarter of said Section 5; thence run westerly along the north line of the southwest quarter of the southwest quarter of the southwest quarter of said Section 5 to the point of beginning.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH (RESOLUTION NO. R90-15, (3-6-90); MIAMI-DADE COUNTY ORDINANCE NO. 90-112 (9-25-90));

A portion of the NW¼ of the SE¼ of Section 12, Township 52 South, Range 41 East, Dade County, Florida more particularly described as follows;

Commence at the SE Corner of NW¼ of the SE¼ of Section 12, Township 52 South, Range 41 East, said point being at the intersection of the centerline of North Miami Avenue and the centerline of NW 171st Street as shown on the Plat of PARKWAY ESTATES as recorded in Plat Book 64 at Page 37 of the Public Records of Dade County, Florida; thence run S 89° 39'42" W along the centerline of said NW 171st Street a distance of 511.00 feet, more or less, to a point of intersection with the southerly extension of the east line of Lot 12 in Block 2 of said plat of PARKWAY ESTATES said point being the Point of Beginning of the herein described tract of land; thence N 00° 23'08" W along the southerly extension of the east line of said Lot 12 and along the east line of said Lot 12 a distance of 125.00 feet more or less to the NE corner of said Lot 12; thence N 89° 39'42"E along the south line of Lot 6 of said Block 2 a distance of 75.00 feet more or less to the SE corner of said Lot 6; thence N 00° 23'08" W along the east line of said Lot 6 and its northerly extension, a

distance of 125.00 feet more or less to its intersection with the centerline of NW 171st Terrace, as shown on said plat of PARKWAY ESTATES; thence S 89° 39'42"W along the centerline of said NW 171st Terrace a distance of 163.39 feet more or less to a point of curvature of a circular curve to the right, having as its elements a Radius of 50 feet and a central angle of 49°43'40"; thence westerly and northwesterly along the arc of said curve a distance of 43.40 feet to a point of tangency; thence run N 40° 35'38"W a distance of 75.00 feet more or less, along the centerline of said NW 171st Terrace and its north-westerly extension, to a point of the easterly right-of-way line of State Road #9 as shown on said plat; thence run S 49° 23'22"W along said easterly right-of-way line a distance of 194.77 feet more or less to a point; thence run S 42° 47'35 "W along said easterly right-of-way line a distance of 271.40 feet to a point of intersection with the centerline of said NW 171st Street; thence run N 89° 39'42" E along the centerline of NW 171st Street a distance of 510.49 feet more or less to the Point of Beginning.

Includes Subdivision PB 64-37, Block 2, Lots 1-6 and 12-14 and intervening right-of-way, of NW 171st Street.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH, APPROXIMATELY 1.22 ACRE PROPERTY [RS91-22, R91-22, (6/18/91) AND MIAMI-DADE COUNTY ORDINANCE NO. 91-135 (11-5-91)]:

Lots 2 and 3 of Block 2 of Biscayne Boulevard Subdivision One Sunny Isles according to the plat thereof recorded in Plat Book 40 at Page 4 of the Public Records of Dade County, Florida.

The territorial limits of the City of North Miami Beach is reduced by the de-annexation of the following property comprising of approximately 6.26 acres [RS91-22, R91-22 (6-18-91) and Miami-Dade County Ordinance No. 91-135 (11-5-91)]:

Begin at the Southeast corner of the Northwest  $\frac{1}{4}$  of said Section 21, Township 52 South, Range 42 East, also known as the center of said Section 21, thence run S 87°, 38' 52" W, along the South line of said northwest  $\frac{1}{4}$ , 983.86 feet (983.96' deed) to the point of intersection with the easterly right-of-way line of Biscayne Boulevard (SR5-US1), as shown on right-of-way map recorded in Plat Book 34 at page 50 of the Public Records of Dade County, Florida, thence run N 15°, 22' 28" E, along said easterly right-of-way line, for 300.02 feet (299.37' deed), to the southwest corner of a tract of land platted as "L G Smith Tract", according to the plat thereof recorded in Plat Book 67 at page 1 of the Public Records of Dade County, Florida, thence run N 86°, 52' 53" E, along the southerly boundary of the last described plat and easterly extension thereof for 891.64 feet to the point of intersection with east line of the northwest  $\frac{1}{4}$ , of said Section 21, thence run S 2°, 32' 03" E, along said East line of the northwest  $\frac{1}{4}$ , for 297.70 feet to the southeast corner of said Northwest  $\frac{1}{4}$ , being the point of beginning.

ALSO INCLUDED WITHIN THE TERRITORIAL LIMITS OF THE CITY OF NORTH MIAMI BEACH APPROXIMATELY .15 ACRE PROPERTY [RS91-22, R91-22 (6-18-91) AND MIAMI-DADE COUNTY ORDINANCE NO. 91-135 (11-5-91)]:

That portion of a 30-foot right-of-way known as EARL LANE as shown on the plat of BISCAYNE BOULEVARD SUBDIVISION ONE SUNNY ISLES according to the plat thereof recorded in Plat Book 40 at Page 4 of the Public Records of Dade County, Florida, lying south of the westerly prolongation of the South line of Lot 3 in Block 2 and lying north of the westerly prolongation of the south line of Lot 6 in Block 2 and lying easterly of the easterly right-of-way line of Florida East Coast Railway.

#### Sec. 1.4 - Powers.

The City of North Miami Beach shall have all available governmental, corporate and proprietary powers and may exercise them except when prohibited by law. Through the adoption of this Charter, it is the intent of the electors of the City to grant to the municipal government established by this Charter, the broadest exercise of home rule powers permitted under the Constitution and the Laws of the State of Florida.

#### [Sec.] 1.5 - Construction.

This Charter and the powers of the city shall be construed liberally in favor of the city.

#### [Sec.] 1.6 - Oath of office.

Members of the City Commission, members of appointive boards, the City Manager, the City Clerk, heads of departments, and the City Attorney of the City of North Miami Beach, before entering upon their duties, shall take and subscribe to the following oath of office:

"I do solemnly swear (or affirm) that I will support, protect and defend the Constitution and Government of the United States and of the State of Florida, and the Charter of the City of North Miami Beach; that I am duly qualified to hold office under the Constitution of the State and the Charter of the City of North Miami Beach and that I will, well and faithfully perform the duties of \_\_\_\_\_(name of office) upon which I am now about to enter. So help me God."

### Article II. - Mayor, Vice-Mayor, City Commission

#### Sec. 2.1 - Mayor and Vice-Mayor.

The Mayor shall preside over meetings of the Commission and shall cast his/her vote on any motion, resolution or ordinance submitted for consideration of the Commission. He/She shall be the titular head of the government of the City of North Miami Beach and shall represent the City in any function requiring that the City be represented. He/She shall perform such other duties as may be provided in this Charter. The Commission shall elect from its membership a Vice-Mayor who shall act in the absence or disability of the Mayor and who shall exercise the powers of the Mayor when so acting.

## Sec. 2.2 - City Commission.

The City Commission shall be composed of seven members, elected as herein provided, one of whom shall be the Mayor. The Commission shall be the legislative body of the City of North Miami Beach and shall have power to investigate any phase, function or operation of the City Government in such manner and at such time as to it shall be deemed necessary to the determination by the Commission of the public policy of the City. It shall have such other powers as are hereinafter expressly or impliedly set forth, or inherent in the legislative department of government. Any Commission-appointed officer of the City of North Miami Beach may be removed by a majority vote of the City Commission.

## Sec. 2.3 - Compensation.

Members of the City Commission shall receive such compensation as shall be fixed by the Commission. The compensation of members of the City Commission may be increased by the affirmative vote of five members of the Commission. The compensation shall be payable as other expenses of the City are paid. In addition to the compensation as provided herein, the Mayor shall annually be provided with an expense fund of twelve hundred dollars (\$1,200.00) to meet extraordinary expenses of his office as Mayor, payable at the rate of one hundred dollars (\$100.00) per month. No accounting shall be required of expenditures by the Mayor from such fund.

Insurance benefits provided to members of City Commission shall only be paid for by the City during their actual term of service. After their term of service, Commissioners may be offered the opportunity to remain in the City's insurance plan(s) at their own expense. This provision shall not affect continuing City Commission benefits previously established and available to active or former members of City Commission elected for at least one (1) term of office prior to the election of May 2009. The salaries of elected officers shall not be reduced during the terms for which they were elected.

## Sec. 2.4 - Meetings.

The City Commission shall hold at least 11 regular monthly meetings in each calendar year, at such times and places as the City Commission may prescribe by a Resolution adopted by November 1, of each year establishing the schedule and number of Council meetings for the following calendar year. If any such meeting date falls upon a legal holiday recognized by the City of North Miami Beach, the regular meeting shall be held on the next day following the legal holiday. The legal holidays recognized by the City of North Miami Beach will be those enumerated in the employee contracts with the City or as subsequently provided by ordinance.

Special meetings shall be called by the Mayor for the consideration of emergency matters upon the written request of the City Manager or upon the request of five members of the Commission other than the Mayor. Notice of such special meetings shall be delivered to members of the Commission and shall be

posted on the front door of the City hall at least twenty-four hours prior to the holding of same. No business shall be transacted at any special meeting other than that for which the meeting was called.

#### Sec. 2.5 - Quorum and Attendance of the City Commission.

A quorum of the City Commission at any regular or special meeting shall consist of five members. Except as otherwise provided herein, the affirmative vote of a majority of the quorum present shall be required upon any matter submitted for consideration of the Commission. If any Commissioner has failed to attend a meeting of the City Commission for a period of one hundred and twenty (120) days, the seat of such Commissioner shall automatically become vacant.

#### Sec. 2.6 - Powers of the City Commission.

The City Commission shall have the power to adopt ordinances, resolutions, rules for the conduct of meetings and to take such other action as may be necessary to the full and complete exercise of powers herein vested in the City Manager and other officers provided for herein. The exercise of any power enforceable by the imposition of punishment by fine or imprisonment, the appropriation of any money, or the levy of any tax, shall be by ordinance only. Except as otherwise provided herein, any other power may be exercised by ordinance or resolution in the discretion of the Commission. The Commission shall exercise such other powers as are herein authorized. References in this Charter to the City Commission and/or Commissioners shall include the Mayor unless the context dictates otherwise.

#### Sec. 2.7 - Ordinances.

- A. Method of adoption. An ordinance, prior to becoming effective, shall be submitted for consideration of the Commission in such manner as the rules of the Commission shall provide, in accordance with the Florida Statutes, and shall be read by title only. Further consideration, except as hereinafter provided for emergency passage of any ordinance, shall be deferred to a subsequent meeting of the City Commission. Prior to consideration on second reading, other than emergency passage, the ordinance shall have been posted on the bulletin board of the City Hall, and copies made available for examination in the office of the City Clerk. The second reading of any ordinance shall be by title only, except that no ordinance shall be revised or amended by reference to its title only and any ordinances to revise or amend shall set out in full the revised or amended act or section or subsection or paragraph of a section or subsection. The ordinance may be amended before or after such second reading, and shall be placed upon final passage by roll call vote recorded in the minutes of the Commission. Before becoming a law it shall be posted for twenty-four hours on the bulletin board of the City Hall.
- B. Title and enacting clause. Each ordinance shall contain a title which shall be a short statement of the subject matter of the ordinance, sufficient to place the public on notice of the nature of the contents thereof. The enacting clause of each ordinance shall be: "Be it ordained by the City

Commission of the City of North Miami Beach."

#### Sec. 2.8 - Emergency ordinances.

The City Commission may, by  $\frac{2}{3}$  vote of the members of the City Commission adopt an emergency ordinance at the meeting at which it is introduced and may make it effective immediately, except that no emergency ordinance shall be enacted which establishes or amends the actual zoning map designation of a parcel or parcels of land or that changes the actual list of permitted, conditional or prohibited uses within a zoning category.

#### Sec. 2.9 - Prohibitions of the City Commission.

- A. Appointment and Removals. Neither the City Commission nor any of its members shall suggest or recommend any person for appointment or removal by the City Manager for any position under the exclusive control of the City Manager.
- B. Any suggestion or recommendation by the Mayor or any City Commissioner shall constitute misfeasance in office and grounds for removal from office by recall, as herein provided.

### Article III. - Administrative Personnel and Boards, Agencies and Committees

#### Sec. 3.1 - City Manager; Appointment, Removal.

The City Commission shall appoint a City Manager as the chief administrative officer of the City, in the manner and at the time provided in this Charter. The City Manager shall be responsible to the City Commission for the administration of all City affairs and for carrying out policies adopted by the City Commission. The City Commission shall appoint the City Manager to serve at the pleasure of the City Commission. The City Manager shall be removed by a majority vote of the City Commission. The term, conditions, and compensation of the City Manager shall be established by the City Commission.

#### Sec. 3.1.1 - Powers and Duties of the City Manager.

The City Manager shall:

- A. Be responsible for the appointing, hiring, promoting, supervising, disciplining and removing of all City employees, except the City Attorney, the City Clerk, and all employees of the Office of the City Attorney.
- B. Direct and supervise the administration of all departments and offices but not City boards or committees, unless so directed by the City Commission.
- C. Prepare such other reports as the City Commission may require concerning the operations of

City departments, offices, boards and committees.

- D. Ensure that all laws, provisions of this Charter and directives of the City Commission, subject to enforcement and/or administration by him/her or by employees subject to his/her direction and supervision, are faithfully executed.
- E. Prepare and submit to the City Commission a proposed annual budget and capital improvement program.
- F. Submit to the City Commission and make available to the public an annual report on the finances and administrative activities of the City as of the end of each fiscal year.
- G. Attend all meetings of the City Commission and of its committees, with the right to take part in discussion, but without a vote.
- H. Keep the City Commission advised as to the financial condition and needs of the City and make such recommendations concerning the affairs of the City as she/he deems to be in the best interests of the City.
- I. Execute contracts and other documents on behalf of the City as authorized by the City Commission.
- J. Perform such other duties as are specified in this Charter or as required by the City Commission.

#### Sec. 3.1.2 - Absence or Disability of City Manager.

To perform his/her duties during his/her temporary absence or disability, the City Manager may designate by letter filed with the City Clerk, a qualified administrative officer of the City. In the event of failure of the City Manager to make such designation, the City Commission may by resolution appoint an officer of the City to perform the duties of the City Manager until she/he shall return or his/her disability shall cease.

#### Sec. 3.2 - City Clerk.

The City Commission shall appoint the City Clerk to serve at the pleasure of the City Commission. The City Clerk shall be removed by a majority vote of the City Commission. The term, conditions, and compensation of the City Clerk shall be established by the City Commission.

#### Sec. 3.2.1 - Powers and Duties of the City Clerk.

The City Clerk shall give notice of all City Commission meetings to its members and the public, and shall keep minutes of the City Commission's proceedings. The City Clerk shall perform such other duties as the City Commission may prescribe. The City Clerk shall maintain the seal of the City and attest the Mayor's or City Manager's signature on all documents, if needed.

### Sec. 3.3 - City Attorney.

There shall be a City Attorney or law firm who shall be the head of the Office of City Attorney. The City Attorney or law firm shall be a member of the Florida Bar with at least five years' experience in the practice of law in Florida, and with limited applicability to the City Attorney (not the law firm) shall not, during his/her tenure of office, engage in any private practice of law. The City Commission shall appoint the City Attorney or law firm to serve at the pleasure of the City Commission. The City Attorney or law firm shall be removed by a majority vote of the City Commission. The term, conditions, and compensation of the City Attorney or law firm shall be established by the City Commission.

#### Sec. 3.3.1 - Powers and Duties of the City Attorney.

The City Attorney shall:

- A. Act as the legal advisor for the City and all of its officers in all matters relating to their official powers and duties.
- B. Prepare or review all ordinances, resolutions, contracts, bonds and other documents in which the City is concerned, and shall endorse on each his/her approval of the form, language, and execution.
- C. Prosecute or defend, for and in behalf of the City, all complaints, suits and controversies in which the City is a party, before any court, or other legally constituted tribunal.
- D. Attend all meetings of the City Commission.
- E. Recommend to the City Commission for adoption, such measures as he/she may deem necessary or expedient.
- F. Render opinions and/or reports on legal matters affecting the City.
- G. Perform such other professional duties as may be required by ordinance or resolution of the City Commission or by this Charter.
- H. Appoint and remove all unclassified personnel in the Legal Department.

#### Sec. 3.3.2 - Retention of Outside Counsel.

The City Commission may, at the request of the City Attorney, retain other counsel in any matter in which the City of North Miami Beach has an interest, and pay the compensation of such counsel.

### Sec. 3.4 - City Boards, Agencies and Committees.

The City Commission shall establish or abolish such boards, agencies and committees as it may deem desirable. Such boards, agencies and committees shall report to the City Commission.

### Sec. 3.5 - Planning and Zoning Authority of City.

The City of North Miami Beach shall have the power to designate and establish restricted residence districts within the City, and to otherwise control the development of the City, by the enactment of reasonable rules and regulations relating to construction, reconstruction, alteration, repair, use and occupancy of buildings and other structures in the City of North Miami Beach, and the use of vacant lands in said City. The City Commission may declare any violation of such regulations a nuisance and proceed to abate the same.

#### Sec. 3.5.1 - Type of Construction.

The City of North Miami Beach shall have the power to regulate and determine the manner and type of construction, the height and bulk and the location and use of buildings, walls, fences, signboards and structures of all kinds hereafter erected, altered or reconstructed, whether permanently located or movable, and to regulate and determine the location and area of yards, courts and other open spaces, the subdividing and platting of land into lots, and the location and laying out of streets, alleys, parks and playgrounds in said City; the City may be divided into districts of such shape and area as may be deemed best suited to carry out the purposes of this section; the regulation shall be uniform for each class of buildings, walls, fences, signboards, structures of any kind, yards, courts and other open spaces, throughout each district, but the regulations in one or more districts may differ from those in other districts; such regulations shall be designed to secure safety from fire and other dangers and to promote the public health and general welfare, including provisions for adequate lights, air and convenience of access. In the making of regulations the City shall have reasonable regard for the character of buildings and other structures in each district, and the use for which the land is suitable, to the end that the economic and industrial prosperity and the enhancement of the health, comfort and convenience of the people generally may be promoted.

#### Sec. 3.5.2 - Location and Use.

The City shall also have the power to restrict the location of such buildings and structures of all kinds designed for specific uses, as well as the location of trades and industries, and may divide the City into districts of such proper shape and area as may be deemed to be the best suited to carry out the purposes of this section. For each such district, regulations may be imposed designating the uses for which such building and structures of all kinds may be erected, altered or reconstructed, and designating the trades and industries that may be excluded or subjected to special regulations and designating the purposes for which they may be used. Such regulations may be designed to promote the public health, safety and general welfare. The City shall give reasonable consideration, among other things, to the character of the districts, their peculiar suitability for particular uses, the conservation of property values and the direction of building development.

### Sec. 3.5.3 - Variances.

Variances from compliance with any of the provisions of the codes relating to building, planning or zoning may be allowed by the affirmative vote of two-thirds ( $\frac{2}{3}$ ) of the Planning and Zoning Board quorum present, only for the purpose of preventing hardship or inequities not self-imposed, or for the purpose of preserving the constitutional rights of the applicant, which variance is subject to the approval of the City Commission. Application for variance shall first be submitted to the Planning and Zoning Board in the manner prescribed by ordinance, upon payment of such reasonable fee as may be established by ordinance. The City Commission may by ordinance provide for public hearing and procedure connected therewith, including notice and determination of persons entitled to notice. The decision of the Planning and Zoning Board shall be submitted to the City Commission at a regular or special meeting occurring more than five days after the meeting of the Planning and Zoning Board at which the decision was made. Recommendation for approval of variance requests by the Planning and Zoning Board must receive a majority vote of the quorum of the City Commission present in order to be sustained and granted. Recommendation for denial of variance requests by the Planning and Zoning Board must receive a two-thirds ( $\frac{2}{3}$ ) affirmative vote of the quorum of the City Commission present in order to overrule the recommendation of denial by the Planning and Zoning Board and grant the variance request. The City Commission may impose conditions upon the variance approval.

### Sec. 3.5.4 - Planning and Zoning Board.

The powers herein granted shall be exercised by the adoption by ordinance of a building code and a zoning plan delineating the various zoning districts into which the City is divided and prescribing the use regulations in each such district. There shall be a Planning and Zoning Board composed of seven members appointed by the City Commission for staggered terms of two years, (such appointments to be made as the terms of members currently serving expire). Any changes in the zoning code or zoning plan of the City of North Miami Beach shall be made only by the City Commission acting in its legislative capacity. The City Commission may provide by ordinance that changes be initiated by application to the Planning and Zoning Board for advisory action by it in recommending the adoption or rejection of the proposal.

## Article IV. - Election of City Commission Members

### Sec. 4.1 - General/Runoff Elections.

Commencing in 2018, general elections in the City of North Miami Beach shall be held every even-numbered year on the first Tuesday following the first Monday in November. Candidates to office under this charter shall be elected by a majority of the votes cast in the election. If no candidate receives a majority of the votes cast for the office to be filled, then the two (2) candidates receiving the highest number of votes

for such office shall be voted upon in a runoff election to be held two weeks from the date of the general election and the candidate receiving a majority of the votes in such runoff election shall be declared elected. In the event of a tie vote in any run-off election, the outcome shall be determined by lot. In order to accomplish the election date revision made pursuant to this Charter section, the four-year term length of office that is provided for in Charter section 4.2 shall be extended on the following limited basis: the term of office of the Mayor and of Commissioner groups 3, 5, and 7, which would otherwise expire in May 2019 shall instead expire in November 2020, and the terms of office of Commissioner groups 2, 4, and 6, which would otherwise expire in May 2017 shall instead expire in November 2018.

#### Sec. 4.2 - Election and Term of Commission Members.

- A. The members of the City Commission shall be elected from groups numbered One through Seven. The groups shall be elected Citywide by the qualified electors of the City of North Miami Beach. The member in Group One shall be the Mayor. At the City's general election on the first Tuesday after the first Monday in November 2018 and at each general election every four years thereafter, the members of City Commission running from groups 2, 4, and 6 shall be elected for four (4) year terms. At the City's general election on the first Tuesday after the first Monday in November 2020 and at each general election every four years thereafter, the members of City Commission running from groups 1, 3, 5, and 7 shall be elected for four (4) year terms.
- B. Commencing with the 2011 general elections for groups 1, 3, 5, and 7 and with the 2013 general elections for groups 2, 4, and 6, no person may serve as Commissioner or Mayor or any combination thereof for more than two consecutive four-year terms, not including time served as a member of the Commission as a result of having filled a vacancy in the Commission pursuant to Section 4.5 of the North Miami Beach City Charter so long as such time served in filling a vacancy does not exceed 50% of that subject term. Service by a Commission member in excess of 50% of any term of office (including those terms provided for in Charter Section 4.1) shall be considered a full term for purposes of the term limit provisions in this section. After being out-of-office for two (2) years, he/she may run again. Members of the Commission shall serve until their successors are elected and qualified.
- C. Notwithstanding the above, if a person is elected to 2 consecutive terms and has not met the term limit under the 50% provision in subsection B, he/she may only be elected to one additional term (regardless of that person's length of service in that additional term) for completion of that particular term limit, after which time or unless he/she is out of office for 2 years in which case he/she may run again for the term limit.

#### Sec. 4.3 - Qualification of Commission Members.

Candidates for the office of Mayor and Commissioner of the City of North Miami Beach shall qualify with the Clerk of the City not prior to the seventy-eighth day preceding the election provided for in Section 4.1 hereof nor later than 12:00 noon on the seventy-third (73) day preceding the election. A candidate shall qualify by taking and subscribing to an oath that she/he is qualified under the charter of the City of North Miami Beach to hold the office of Commissioner and Mayor and by paying to said Clerk a qualifying fee in the amount of four (4%) percent of the annual salary of the office, which fee shall be deposited in the general fund of the City. Candidates for the office of City Commission member shall designate the group from which they desire to be elected. Each candidate, at the time of qualifying with the Clerk, shall designate a campaign treasurer and a depository of campaign funds. Each candidate, at the time of qualifying with the Clerk, must have continuously resided in the City of North Miami Beach for at least one (1) full year, shall at the time of qualifying and at the time of election be a qualified elector of the City of North Miami Beach, and shall not, within five years next preceding the date of his/her qualification, have been convicted in this or any other state of any offense involving moral turpitude.

#### Sec. 4.4 - Conduct of Elections; Canvass of Returns, and Commencement of Terms.

- A. The City Commission shall provide by ordinance for the conduct of elections, the establishment of City Hall as a polling place and for the establishment of the City's Canvassing Board.
- B. On the second business day immediately following the County Elections Supervisor's issuance of final election results from the general election, the City Commission shall meet for the purpose of accepting the returns of such election and ascertaining the results thereof. New officers shall be declared elected subsequent to the City Commission's acceptance of such final Election returns at which time the new officers shall be installed and shall enter upon the discharge of their duties. If however a Run-Off Election is necessary, all new officers shall be declared elected subsequent to the City Commission's acceptance of final Run-Off Election returns on the second business day immediately following the County Elections Supervisor's issuance of such final election results, at which time the new officers shall be installed and shall enter upon the discharge of their duties, and at which Commission meeting the Commission shall conduct no other or further business at such meeting unless by unanimous consent of the quorum present at such meeting.

#### Sec. 4.5 - Vacancies.

Vacancies in elective offices of the City of North Miami Beach shall be filled by the City Commission pending the next general election, at which time an election to fill the vacancy shall be held for any remainder of the unexpired term. Provided, however, that should any vacancy occur more than one year prior to the next general election, the Commission shall have no power to fill the same; it shall be filled by a special election to fill the vacancy for the unexpired term, to be held not less than 35 days nor more than 90 days after such vacancy has occurred, except that if the vacancy is due to a resignation and a City or County-

wide election is scheduled to be held during the intervening period from the resignation's filing date with the City Clerk up to and including the resignation's effective date, the special election to fill the vacancy for the unexpired term as of the resignation's effective date may occur (subject to consent of the County Elections Department and City's ability to comply with laws concerning time periods for calling elections) at either such City or County-wide election. Any person who has been appointed or elected to fill a vacancy due to resignation filed pursuant to Florida Statute section 99.012 shall be installed and take office following the date the resigning official would take office, if elected; any person who has been appointed or elected to fill a vacancy due to resignation not filed pursuant to Florida Statute section 99.012 shall be installed and take office following the effective date set forth in said resignation. Provisions related to a Special Election called pursuant to this section, including the qualifying period, shall be established in the City Resolution calling the Special Election.

## Article V. - Initiative and Referendum

### Sec. 5.1 - Initiated Ordinances.

- A. The duly qualified electors of the City of North Miami Beach shall have the power to propose any ordinance, except an ordinance appropriating money or levying a tax, in the manner herein provided.
- B. The power of initiative shall be exercised by petition signed by not less than two per cent (2%) of the qualified electors executed in such form and in the manner as shall be provided by ordinance of the City of North Miami Beach, which ordinance shall provide that each petition circulated shall contain the full text of the proposed ordinance.
- C. Upon certification by the Clerk within ten (10) days of the filing of the petition, executed in the manner provided, the City Commission shall at its next regular meeting proceed to consider the proposed ordinance. The City Commission shall within twenty (20) days from the certification by the Clerk adopt such ordinance in the manner provided for the adoption of ordinances generally, with the right to amend in a manner germane to the proposed ordinance. If amended, or upon adoption without amendment in the discretion of the City Commission, the ordinance before becoming effective shall be submitted for approval of the qualified electors in any general election held within sixty (60) days of the passage of such ordinance. If amended, the ordinance as amended and the ordinance as initiated shall be submitted on the same ballot. The ordinance receiving the highest number of affirmative votes, if such number shall constitute a majority of the votes cast, shall be deemed adopted. If no general election shall be held within sixty (60) days of the passage of the ordinance, then such ordinance or ordinances shall be submitted for

approval of the qualified electors of the City of North Miami Beach at a special election called for that purpose not less than thirty (30) or more than sixty (60) days from the date of final passage by the City Commission.

#### Sec. 5.2 - Referendum.

The qualified electors of the City of North Miami Beach may by petition of not less than ten per cent (10%) of their number call for a referendum on the repeal of any ordinance, other than an ordinance not subject to the initiative, adopted by the City Commission, to be circulated, executed and submitted as the City Commission shall by ordinance provide. Upon certification by the Clerk of the proper execution of the required petition, the City Commission shall refer such proposed repeal for the approval of the qualified electors at an election as provided for initiated ordinances. If a majority of the votes cast in the election shall favor such repeal, then the ordinance shall stand repealed and may not be reenacted by the City Commission, except subject to a referendum as herein provided. The City Commission may, on its own motion, submit any ordinance, or the repeal of any ordinance, to a referendum as herein provided, except such ordinances as are not subject to the initiative proceedings.

### Article VI. - Budget and Finance

#### Sec. 6.1 - Budget and Finance.

- A. General Power. The City of North Miami Beach shall have the power to borrow money, contract loans, and issue bonds, notes, and other obligations or evidences of indebtedness in accordance with Florida law.
- B. Budget. In accordance with Florida law, the City Commission shall adopt an annual budget.
- C. Fiscal year. The fiscal year for the City of North Miami Beach shall commence on October 1st of each calendar year and end September 30th of the succeeding year.

#### Sec. 6.2 - Taxation.

- A. Ad valorem taxes. The Director of the Department of Finance shall, except as otherwise provided herein, be the assessor and collector of taxes for the City of North Miami Beach. The assessment rolls of Miami-Dade County, as equalized in the manner provided by law, shall be the assessment rolls of the City of North Miami Beach for all purposes of taxation and as to all property subject to taxation within the limits of the City of North Miami Beach. The City Manager shall, by and with the consent of the proper authorities of Miami-Dade County, enter into such contracts as may be necessary to provide for the assessment of property for the purpose of levying ad valorem taxes of the City of North Miami Beach by Miami-Dade County, and the collection of such taxes by

Miami-Dade County for use and benefit of the City of North Miami Beach. Taxes of the City of North Miami Beach shall be assessed and collected as provided by the Charter of Miami-Dade County and ordinances adopted pursuant thereto.

- B. Levy of taxes. The City Commission shall by ordinance levy taxes on all real and personal property subject to taxation in the City of North Miami Beach. Upon its adoption, the ordinance shall be certified to the proper authorities of Miami-Dade County for the purpose of preparing and mailing tax bills.
- C. Delinquent taxes. Taxes shall be enforceable in the manner provided by law for the enforcement of county taxes.
- D. Other taxes. The Director of the Department of Finance shall collect other taxes, levies, excises, imposts, special assessments and exactions as may be provided by ordinance, and shall issue his/her receipt therefor. The collection of such items shall be enforced in the manner provided by ordinance.

## Article VII. - Personnel

### Sec. 7.1 - Civil Service.

The civil service of the City of North Miami Beach shall be divided into the classified and the unclassified service. The unclassified service shall consist of the city manager and one secretary of his/her choosing, heads of departments herein provided, or as hereafter created by the City Commission, the city attorney, the city auditor appointed by the City Commission, all elected officials, members of appointive boards, and employees of the legal department; provided, however, that employees of the legal department, other than the city attorney, may be included in the classified service by and with the consent of the City Commission. All other employees of the City shall be members of the classified service. Department heads, other than those persons to be selected by the City Commission as herein authorized, shall be appointed by the city manager. For the first six (6) months any such appointment shall be provisional only and thereafter department heads shall be appointed for one year and may be reappointed for successive periods of one year each during which time they shall be removable only for cause. Provided, however, a department head who has served the City of North Miami Beach as such for a period of five (5) or more years at the time of any reappointment hereunder shall be reappointed for a term of two (2) years during which time he may be removed only for cause.

### Sec. 7.2 - Classified Service.

The classified service shall be divided into a competitive class, a noncompetitive class and a labor class. The competitive class shall include all positions and employment for which it is practicable to determine the relative fitness of applicants by competitive examination. The noncompetitive class shall consist of all positions requiring peculiar and exceptional qualifications of a scientific, managerial, professional, or educational nature as determined by the rules of the civil service board. The labor class shall consist of ordinary unskilled labor. Any person promoted from classified service to the position of department head shall maintain all of his rights under civil service and retain the highest rating achieved by him prior to such promotion, and shall be entitled to reemployment at such rating upon ceasing to be a department head, unless removed for cause authorizing removal under civil service.

#### Sec. 7.3 - Civil Service Board—Created.

There shall be a civil service board composed of seven (7) members selected as herein provided. The board shall make and adopt reasonable rules and regulations governing the administration of civil service of the City of North Miami Beach, including but not limited to, provision for appointments to the classified service, suspension, removal, leave, merit rating, promotion, demotion, appeals and other such matters as the board may deem necessary to the operation of the civil service. The board shall provide for the giving of examinations and for promotions based on records or merit, ability, efficiency, character, conduct and seniority. Rules and regulations adopted by the board shall be submitted for approval by the city council. If approved, the rules and regulations shall become effective immediately or as otherwise provided therein. Should the city council object to any rule or regulation, such objection shall be stated in writing and the rule or regulation shall be returned to the board together with the objections of the city commission for further consideration of the board. The board shall revise such rules or regulations and resubmit same for approval of the city commission. Should the city commission again refuse to approve same, it shall not become effective. All rules and regulations must receive final approval by the city commission before becoming effective. The board shall provide a method of selection of personnel to the noncompetitive classified service based on qualifications relating to education, experience, character and such other factors as the board may by regulation determine.

#### Sec. 7.4 - Composition of Board.

- (a) Five (5) members of the civil service board shall be appointed by the city commission, and shall be qualified electors of the City of North Miami Beach. They shall not, during the term for which they are appointed, be employed in any manner by the City of North Miami Beach. Two (2) employees of the classified service in the City of North Miami Beach shall be elected in the manner provided by regulations of the board to serve as members of the board. A quorum of the board for any purpose shall consist of four (4) members, at least three (3) of whom shall be members appointed

by the city commission. Members shall be appointed for staggered terms of two (2) years each. Appointments to fill vacancies shall be for the unexpired term only. Members shall serve until their successors are appointed and qualified.

- (b) The employee members shall each be elected from different departments under the government of the city and shall serve for terms of two (2) years, and until their successors are elected and qualified. Any vacancy in employee membership shall be filled by special election in the manner provided by regulations of the board, if such vacancy shall occur more than three (3) months prior to the end of the term. Terms of appointed and elected members shall commence on June 1st of the year in which appointed or elected and end May 31st of the year in which such terms are scheduled to expire. The personnel aide to the director of personnel or employee serving in that capacity or function, shall also be the secretary for the civil service commission or board and may act as examiner or chief examiner but only upon the recorded request of the commission.
- (c) The chief examiner shall be chosen by the members of the civil service board from among the members of the board, excluding the employee representatives. The term of the chief examiner shall be one year commencing on May 1 of each year. Should a vacancy occur in the chief examiner's position prior to the expiration of a term, the board shall make an appointment for the balance of that term. Should an appointment be made for a period of less than nine months, the chief examiner shall be eligible for reappointment for the succeeding one-year term. If the chief examiner serves for a period of nine months or more, he or she shall not be eligible for reappointment as chief examiner for a succeeding term.

#### Sec. 7.5 - Appeals.

Pursuant to regulations of the board, the city manager may suspend, demote or otherwise discipline any employee in the classified service, except employees in the legal department, who may be disciplined by the city attorney. Such action shall be for cause only as specified in writing and delivered to the employee. Within thirty (30) days of such action, the employee may appeal the action of the city manager or the city attorney to the civil service board and a hearing shall be afforded by the board within fifteen (15) days from the taking of the appeal, unless further time be requested by the employee and allowed by the board. The board shall review the causes for such action and if the charges, in the opinion of the board, be sustained as sufficient and established, action shall be affirmed. If the charges shall be deemed insufficient or unfounded, the employee shall be reinstated with no loss of pay or other rights. The board shall have the power to issue subpoenas to witnesses, require the production of books and other records and administer oaths to persons testifying in any proceedings hereunder. The provisions of this section shall apply to matters of demotion, salary decrease or any other matter concerning which an employee may feel himself aggrieved. The board shall have the power to modify any decision of the city manager or city attorney and

impose such punishment for violation of its rules as may be in such ruler provided. The board shall have the power to punish for contempt committed in its presence, which power may be enforced in the county court as for a violation of a city ordinance.

#### Sec. 7.6 - Political activity.

No person in the classified service, or seeking admission thereto, shall be appointed, promoted, demoted, removed, or in any way favored or discriminated against because of political opinion or affiliation.

#### Sec. 7.7 - Pensions.

The City Commission shall by ordinance provide for a pension and retirement system for employees of the city in the classified service. The fund established for such purpose may receive gifts, devises, bequests or other donations for the benefit of the fund. The City Commission may provide for the administration of the fund and the rate of contribution thereto by employees, and may make such contribution from public money of the city as it may deem necessary or appropriate. The City Commission shall have the power to make contracts of insurance with any insurance company, authorized to do business in the State of Florida, insuring the employees of the city, or any class or classes thereof, under a policy or policies of group insurance covering life, health, accident, and annuity insurance, or any of them. Premiums on any such contract shall be deemed paid for a municipal purpose.

### Article VIII. - Police Department

#### Sec. 8.1 - Police Department.

The City Commission shall provide for a police department to be headed by a Chief of Police appointed by the City Manager.

##### Sec. 8.1.1 - Personnel.

There shall be as many officers, patrolmen, and other personnel as the City Commission shall approve, pursuant to recommendation of the Chief of Police and the City Manager.

##### Sec. 8.1.2 - Functions.

The Chief of Police shall be responsible to the City Manager for the proper performance of his/her duties and for the administration of the affairs and duties of the Police Department. It shall be the duty of the department to enforce the ordinances of the City of North Miami Beach and to maintain and preserve order therein.

### Sec. 8.1.3 - Powers.

Members of the Police Department shall enjoy and possess such powers as may be authorized by the general laws of the State of Florida, this charter, and ordinances of the City of North Miami Beach, not inconsistent therewith.

## Article IX. - Effective Date, Preservation of Rights and Obligations, Etc.

### Sec. 9.1 - Effective Date.

Upon approval by the City's electorate, this Charter shall become effective on the date of the City Commission's acceptance of final election returns, pursuant to the City's Special Election held on the 8th day of November, 2016.

### Sec. 9.2 - Ordinances Preserved.

All ordinances and zoning regulations of the City in effect upon the adoption of this Charter, to the extent not inconsistent herewith, shall remain in full force and effect until amended or repealed.

### Sec. 9.3 - Officers, Employees and Agents.

The adoption of this Charter, except as otherwise specifically provided, shall not affect or impair the rights, privileges or immunities of persons who are City officers, employees or agents at the time of adoption of this Charter. All elected officers holding office on the effective date of this Charter shall continue in office for the terms to which elected.

### Sec. 9.4 - Repeal of Former Charter Provisions.

Subject to Sections 9.5 and 9.6 below, all Charter provisions in effect prior to the effective date of this Charter, are expressly repealed.

### Sec. 9.5 - Debts, Contracts and Assessments Preserved.

No debt or obligation of contract of, or assessment by the City shall be impaired as a result of the adoption of this Charter, but all such debts, obligations and assessments shall pass to and be binding upon the City and other parties thereto in accordance with their terms and, to the extent applicable, the Charter of the City as in existence at the time of their incurrence or imposition, as applicable. All obligations and rights arising in connection with projects financed pursuant to the former City Charter shall be unaffected and shall remain in full force and effect as if said Article had survived the adoption of this Charter.

Sec. 9.6 - Existing Rights, Obligations, Duties and Relationships.

All rights, obligations, duties and relationships now existing by law or agreement between the City of North Miami Beach and other parties (including but not limited to other governmental units) shall be unaffected and shall remain in full force and effect.

Sec. 9.7 - Severability.

If any section, sentence, clause or phrase of this Charter is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Charter.

Sec. 9.8 - Charter Review.

The City Commission shall appoint a Charter Review Committee composed of residents of the City of North Miami Beach to review this Charter and make recommendations to the City Commission regarding necessary or desired amendments no less than once every ten (10) years.

CHARTER COMPARATIVE TABLE

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Charter Amendment	Adoption Date	Date of Referendum	Section	Disposition
Res. No. 591	2-17-59	4-21-59	1—4	78(a), (b)
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Res. No. 77-42	4-5-77	6-7-77	2 Rpld	34(12), (13)
Res. No. 78-6	1-16-78	3-7-78	2	76(note), 78
Ord. No. 78-10	6-20-78	3-7-78	2	78, 111(c)
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