

ORDINANCE NO. 2019-063

ORDINANCE OF THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA SUBMITTING TO THE ELECTORATE AT A SPECIAL ELECTION CONDUCTED DURING THE PRIMARY ELECTION OF THE CITY OF HIALEAH OCCURRING IN THE CITY OF HIALEAH, FLORIDA ON TUESDAY, NOVEMBER 5, 2019, WHEREIN THE ELECTORS OF THE CITY OF HIALEAH, FLORIDA SHALL BE PRIVILEGED TO VOTE ON THE FOLLOWING QUESTION:

TITLE: CHARTER CHANGES TO ARTICLE I ENTITLED "CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWER"

SHALL THE CITY AMEND THE HIALEAH CHARTER TO INCLUDE JOINT USE AGREEMENTS, JOINT PARTICIPATION AGREEMENTS, INTERGOVERNMENTAL AGREEMENTS, LEASE AGREEMENTS SUPPORTED BY RENT, MANAGEMENT OR OPERATIONAL AGREEMENTS, FRANCHISE AGREEMENTS AND LICENSE AGREEMENTS INVOLVING THE SPENDING OF CITY FUNDS TO EXCEED 5 YEARS UPON APPROVAL BY A SUPER MAJORITY VOTE (5/7TH) OF THE CITY COUNCIL?

REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING PENALTIES FOR VIOLATION HEREOF; PROVIDING FOR INCLUSION IN CHARTER; PROVIDING FOR A SEVERABILITY CLAUSE AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Charter Review Committee recommended approval of the Charter Amendments provided in this ordinance; and

WHEREAS, the City Council and the Mayor present for referendum proposed changes to the Hialeah Charter, upon public comment at the public meeting before the City Council; and

WHEREAS, the reasoning and rationale of the proposed changes to Article I. Corporate Existence, Form of Government, Boundary and Power of the Hialeah Charter provides as follows:

Revision of Section 1.04

The Hialeah Charter limits contracts involving the expenditure of city funds to five years subject to renewal or extensions for additional five-year terms. The Charter allows for mortgage obligations, bond guarantees and other similar obligations to extend beyond five years subject to City Council approval by a super majority of at least five affirmative votes out of the seven votes comprising the full Council membership.

The purpose of this Charter change is to identify more types of agreements that could extend beyond five years based on Council approval by a super majority. The Charter change adds joint use agreements, joint participation agreements, intergovernmental agreements, lease agreements, management or operational agreements, franchise agreements and license agreements. The City has found that relationships involving other governmental entities, for example, provide opportunities for long-term commitments that do not need to be unduly hampered by periodic five-year renewals. Mutual aid agreements between police departments of different cities could extend beyond five years. Water, solid waste and road agreements between the City and Miami-Dade County, which involved shared or integrated use of public facilities, often extend 20 years. Franchise agreements with public utilities can cover 30 years. Such agreements, which are mutually beneficial to the contracting governmental entities or public utilities, should not be subjected to the uncertainty of successive renewals or approvals.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND THE CITY COUNCIL OF THE CITY OF HIALEAH, FLORIDA, THAT:

Section 1: The Charter of the City of Hialeah, Florida, particularly, Article I entitled “Corporate Existence, Form of Government, Boundary and Power” and specifically, §1.04, is hereby amended to read, if approved by voter referendum, as follows:

CHARTER

ARTICLE 1. CORPORATE EXISTENCE, FORM OF GOVERNMENT, BOUNDARY AND POWER

*

*

*

Section 1.04. Powers of the city.

*

*

*

(4) *Contracts involving the expenditure of city funds not exceeding 5 years.* The city council shall not approve any contracts or agreements that exceed 5 years involving the expenditure of city funds. The city council may provide options to renew contracts or agreements, providing that each renewal terms does not exceed 5 years. But if the city undertakes a bond guarantee, mortgage, joint use agreement, joint participation agreement, intergovernmental agreement, lease agreement supported by rent, management or operational agreement, franchise agreement, license agreement or similar obligation, the city council may approve a term exceeding 5 years upon an affirmative vote of at least 5 councilmembers.

*

*

*

Section 2: The Mayor and the City Council of the City of Hialeah, Florida hereby submit the following question to the electorate at a special election conducted during the primary election of the City of Hialeah occurring in the City of Hialeah, Florida on Tuesday, November 5, 2019, to which the electors of the City of Hialeah, Florida may vote "Yes" or "No":

Title: Charter Changes To Article I Entitled “Corporate Existence, Form Of Government, Boundary And Power”

Shall the City amend the Hialeah Charter to include Joint Use Agreements, Joint Participation Agreements, Intergovernmental Agreements, Lease Agreements Supported by Rent, Management or Operational Agreements, Franchise Agreements and License Agreements Involving the Spending of City Funds to exceed 5 years upon approval by a Super Majority Vote (5/7th) of the City Council?

Section 3. Conduct of Election.

The Miami-Dade County Supervisor of Elections is requested and authorized to conduct this charter amendment question in accordance with the general election laws of the State of Florida and the Charter and Code of the City of Hialeah, Florida. The City will pay all expenses associated with these elections unless some of the expenses are shared with other governmental entities. The Miami-Dade County Supervisor of Elections shall appoint an Election Board to assist the Elections Department in conducting the elections. The Elections Department is authorized to conduct the pre-count Logic and Accuracy Test for the optical scan system for this Special Election. The City of Hialeah will make the final tabulation and certification of results.

Section 4. Form of Ballot.

The ballot form to be used shall be as provided by the Miami-Dade County Supervisor of Elections.

Section 5. Opening and Validating Absentee Ballots.

The criteria and requirements for opening and validating of absentee ballots and canvassing of ballots shall be same as followed by the Miami-Dade County Supervisor of Elections. All absentee ballots shall comply with the minimum requirements of state law.

Section 6. Canvassing Board.

The City Council members, whose terms expire in November 2021, shall serve as the Canvassing Board for this election. The members in attendance will be the Canvassing Board for the Logic and Accuracy Test and the canvass of ballots on Election Day. If no member of the Canvassing Board attends the Logic and Accuracy tests and/or the canvassing of ballots on Election Day, the City Clerk shall serve as the Canvassing Board designee for the City Council.

The City of Hialeah hereby designates the Miami-Dade County Supervisor of Elections to conduct the Pre-count Logic & Accuracy Test of the Optical Scan System used for paper ballots; begin the processing and opening of absentee ballots and duplicate ballots as needed. The judges appointed to review and accept or reject absentee ballots in the primary election for the City of Hialeah shall be the same for the review and acceptance or rejection of absentee ballots regarding this Charter Amendment question.

Section 7. Certification of Results.

The Canvassing Board will make the official certification of the results of the charter amendment question at 10:00 a.m. on Friday, November 8, 2019 at a special meeting for all ballots cast in the election, including provisional ballots.

Section 8: Registration of Voters.

The Miami-Dade County Supervisor of Elections will register voters for the City of Hialeah Municipal Primary Election until 5:00 p.m., on Monday, October 7, 2019. All persons eligible to vote at these elections must be registered before the times stipulated above or have registered previously, as provided by law.

Section 9: Polling Places, Hours of Voting.

Polling places for these elections will be as designated by the Miami-Dade County Supervisor of Elections and will be open from 7:00 a.m. to 7:00 p.m. on Election Day. Early voting shall be at the same times, dates and locations of early voting as established by the Miami-Dade County Supervisor of Elections pursuant to state law.

Section 10: Notice.

Notice of these elections shall be according to state law.

Section 11. Inclusion in Charter.

The Charter Amendment provided in this ordinance shall be included and incorporated in the Charter of the City of Hialeah, Florida if the question presented is answered in the affirmative by a referendum of the electors of the City of Hialeah, Florida and the results of the election are certified. The implementation of this Charter Amendment shall be January 1, 2020.

Section 12: Repeal of Ordinances in Conflict.

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 13: Penalties.

Every person violating any provision of the Code or any ordinance, rule or regulation adopted or issued in pursuance thereof shall be assessed a civil penalty not to exceed \$500.00 within the discretion of the court or administrative tribunal having jurisdiction. Each act of violation and each day upon which any such violation shall occur shall constitute a separate offense. In addition to the penalty prescribed above, the city may pursue other remedies such as abatement of nuisance, injunctive relief, administrative adjudication and revocation of licenses or permits.

Section 14: Severability Clause.

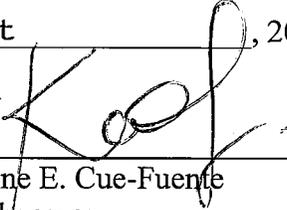
If any phrase, clause, sentence, paragraph or section of this ordinance shall be declared invalid or unconstitutional by the judgment or decree of a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any of the remaining phrases, clauses, sentences, paragraphs or sections of this ordinance.

Section 15: Effective Date.

This Ordinance shall become effective when passed by the City Council and when signed by the Mayor or at the next regularly scheduled City Council meeting, if the Mayor's signature is withheld or if the City Council overrides the Mayor's veto.

PASSED and ADOPTED this 27 day of August, 2019.

THE FOREGOING ORDINANCE
OF THE CITY OF HIALEAH WAS
PUBLISHED IN ACCORDANCE
WITH THE PROVISIONS OF
FLORIDA STATUTE 166.041
PRIOR TO FINAL READING.



Katharine E. Cue-Fuente
Councilwoman

Attest:

Approved on this 29 day of August, 2019.

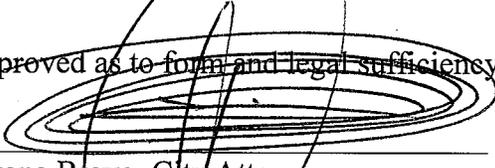


Marbelys Fatjo, City Clerk



Mayor Carlos Hernandez

Approved as to ~~form~~ and legal sufficiency:



Lorena Bravo, City Attorney

~~Strikethrough~~ indicates deletion. Underline indicates addition.

Ordinance was adopted by a 5-0-2 vote with Councilmembers, Cue-Fuente, Lozano, Caragol, Hernandez and Zogby voting "Yes" and with Councilmembers Casáls-Muñoz and Garcia-Martinez absent.