

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: February 26, 2025

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, (1) WAIVING ON A 5/7TH VOTE AND PURSUANT TO SECTION 82-587(C) OF THE CITY CODE, THE REQUIRED ART IN PUBLIC PLACES ("AIPP") CONTRIBUTION AND APPROPRIATION FOR THE CONVENTION CENTER HOTEL PROJECT (THE "PROJECT") BEING DEVELOPED PURSUANT TO THE DEVELOPMENT AND GROUND LEASE AGREEMENT WITH MB MIXED USE INVESTMENT, LLC ("THE DEVELOPER"); (2) APPROVING THE ACCEPTANCE OF A FINANCIAL GUARANTEE BOND IN LIEU OF THE ART IN PUBLIC PLACES ("AIPP") CONTRIBUTION; AND (3) GRANTING THE DEVELOPER A ONE-YEAR PERIOD FROM SITE POSSESSION TO COORDINATE WITH THE ADMINISTRATION AND THE ART IN PUBLIC PLACES COMMITTEE ON A SATISFACTORY PROPOSAL FOR PUBLIC ART INSTALLATION(S) WITHIN THE HOTEL GROUNDS WHICH INSTALLATIONS SHALL BE SUBJECT TO THE APPROVAL OF THE CITY COMMISSION.

### **RECOMMENDATION**

Adopt the Resolution.

### **BACKGROUND/HISTORY**

On July 25, 2018, the Mayor and City Commission adopted Resolution No. 2018-30425, approving the Lease between the City of Miami Beach (the "City") and MB Mixed Use Investment Holdings, LLC (the "Developer"), approving the construction and development of the Miami Beach Convention Center Hotel (the "Hotel Project") at the site (the "Site") located at the northeast corner of Convention Center Drive and 17th Street as defined in the Hotel Lease.

On November 6, 2018, more than sixty percent (60%) of the voters voting thereon in a City-wide referendum approved of the Lease as required by Section 1.03(b)(3) of the City Code.

On December 9, 2019, the City approved the Grand Hyatt Hotel brand pursuant to Section 13.3 of the Hotel lease.

On March 4, 2020, the City and the Developer entered into an early access agreement (the "Early Access Agreement") to grant access to the Developer to the Site and to certain other areas, so that the Developer could perform certain pre-construction activities (the "Early Work") that would accelerate the timeline for construction of the Hotel Project.

On March 13, 2020, the Developer notified the City they were asserting a Force Majeure event and an Economic Force Majeure event with respect to the COVID-19 pandemic.

On April 14, 2022, pursuant to the Early Access Agreement, the Hotel Developer's contractor mobilized on the Site and commenced the initial phases of the Early Work.

On May 25, 2022, the City approved a Fifth Amendment to the Management Agreement with Live Nation to provide for the closure of the Fillmore Miami Beach at the Jackie Gleason Theater during the construction of the Early Work Phase; and further approved a First Amendment to the Early Access Agreement between the City and the Developer to clarify the Developer's existing responsibility to pay for Live Nation's costs and expenses resulting from the temporary closure of the Fillmore during the Early Work Phase.

On August 31, 2023, the completed Jackie Gleason Theater was turned back over to Live Nation by the Hotel Developer, and events recommenced in early October 2023.

On November 16, 2023, the Developer notified the City that they were asserting an Economic Force Majeure event due to impaired access to financial markets for development of projects in the United States similar to the Grand Hyatt Hotel project, which delayed their ability to raise the capital necessary for the full construction of the hotel project. On November 17, 2023, LTC 515-2023 advised the Mayor and City Commission that the Developer needed additional time to secure the remaining 12% of their capital raise for the Hotel project. Notwithstanding, the Developer has expended approximately \$20 million in private funding to complete the Early Work.

During discussions among the Redevelopment Agency ("RDA") staff and the Developer, the Developer requested a \$75 million capital contribution in the form of a grant from the RDA to cover the 12% financing deficit. The Developer stated that the project could not proceed without this additional capital contribution due to increased construction and interest costs. The grant could be funded from available cashflows generated within the RDA and would be subordinate to the RDA's outstanding Series 2015A Miami Beach Redevelopment Agency Tax Increment Revenue Bonds ("Series 2015A Bonds") and any bonds issued to refund those bonds.

On April 9, 2024, the early site work Certificate of Completion was issued, making the site available for the commencement of the vertical construction upon site possession by the Hotel developer.

Following various meetings of the Miami-Dade Board of County Commissioners ("BCC"), the City Commission and the RDA Board at which the grant agreement among the RDA, the Developer and the Public Finance Authority was discussed, approved, and modified, a grant agreement providing for up to \$92,500,000 in funding to allow for the expeditious development of the Hotel Project was approved by the BCC, the City Commission and the RDA Board, with the final necessary approval occurring at the November 20, 2024 meeting of the BCC.

The Developer has successfully secured executed term sheets with the lender for the construction loan and is now finalizing the loan documents with the selected lender. The bond documents for the RDA grant are substantially complete. All debt and equity sources for the full construction cost are expected to be secured by the end of March 2025. Loan closing and site possession will follow. Test piles are scheduled to begin in March, followed by augercast pile foundation work in April. The hotel is expected to open in late 2027.

## **ANALYSIS**

Section 2.16 of the Development and Ground Lease Agreement stipulates that the Developer shall comply with the City's Art In Public Places ("AIPP") program requirements under Section 82-536 through 82-612 of the City Code, as applicable, and shall contribute to the City's AIPP fund the total of 1.5% of the "construction cost" of the Hotel Project, as such term is defined in Section 82-537 of the City Code, no later than date of execution of the Hotel Project General Contract by Lessee and the Hotel Project General Contractor, as required by the City Code.

The Developer plans to fulfill this obligation by offering specific artwork to be installed in public areas of the hotel, instead of making a monetary contribution to the AIPP fund. The total value of the art installed shall meet or exceed the required 1.5% of the construction cost, as confirmed through an appraisal.

In order to satisfy the AIPP possession condition in the Development and Ground Lease Agreement, the Developer proposes to provide a financial guarantee bond in lieu of the AIPP monetary contribution, which bond (or alternate form of guarantee acceptable to the City) shall remain in place until such time as the Developer deeds the artwork to the City or pays the amount of the required AIPP contribution (less the value of any artwork deeded to and accepted by the City). The proposed bond is presented in substantial form as Exhibit A, attached herein, and may be subject to final approval or modifications as necessary.

### **FISCAL IMPACT STATEMENT**

N/A

### **Does this Ordinance require a Business Impact Estimate?** (FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:  
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

### **FINANCIAL INFORMATION**

### **CONCLUSION**

The Administration recommends approving a financial guarantee bond in lieu of the AIPP contribution and granting the Developer a one-year period from site possession to collaborate with the Administration and the AIPP Committee to develop a satisfactory public art proposal for installation(s) within the hotel grounds. The proposed art package, as endorsed by the AIPP Committee, will then be presented to the City Commission for final approval. The financial guarantee bond (or alternate form of guarantee acceptable to the City) shall remain in place until the Developer deeds the artwork to the City or pays the amount of the required AIPP contribution (less the value of any artwork deeded to and accepted by the City).

### **Applicable Area**

Citywide

### **Is this a "Residents Right to Know" item, pursuant to City Code Section 2-17?**

No

### **Is this item related to a G.O. Bond Project?**

No

### **Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying?** No

If so, specify the name of lobbyist(s) and principal(s):

**Department**

City Manager

**Sponsor(s)**

**Co-sponsor(s)**

**Condensed Title**

Convention Center Hotel – Financial Guarantee Bond in Lieu of AIPP Monetary Contribution.  
CM

**Previous Action (For City Clerk Use Only)**