

R5 C AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 34 OF THE CITY CODE, ENTITLED "COMMUNITY DEVELOPMENT," BY AMENDING ARTICLE II, ENTITLED "COMMUNITY REDEVELOPMENT," BY AMENDING DIVISION 3, ENTITLED "REDEVELOPMENT TRUST FUND," BY AMENDING SECTION 34-87, ENTITLED "PROHIBITION," TO AUTHORIZE THE REVIEW AND APPROVAL OF CERTAIN REQUESTS FOR FUNDING FROM THE REDEVELOPMENT TRUST FUND OF THE CITY OF MIAMI BEACH REDEVELOPMENT AGENCY TO SUPPORT THE DEVELOPMENT OF PUBLIC AREAS OF THE CONVENTION CENTER HEADQUARTERS HOTEL CONSISTENT WITH SECTION 163.370(2)(C) (3), FLORIDA STATUTES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

# MIAMI BEACH

## COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: City Attorney Ricardo J. Dopico

DATE: June 26, 2024

10:20 a.m. Second Reading Public Hearing

TITLE: AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 34 OF THE CITY CODE, ENTITLED "COMMUNITY DEVELOPMENT," BY AMENDING ARTICLE II, ENTITLED "COMMUNITY REDEVELOPMENT," BY AMENDING DIVISION 3, ENTITLED "REDEVELOPMENT TRUST FUND," BY AMENDING SECTION 34-87, ENTITLED "PROHIBITION," TO AUTHORIZE THE REVIEW AND APPROVAL OF CERTAIN REQUESTS FOR FUNDING FROM THE REDEVELOPMENT TRUST FUND OF THE CITY OF MIAMI BEACH REDEVELOPMENT AGENCY TO SUPPORT THE DEVELOPMENT OF PUBLIC AREAS OF THE CONVENTION CENTER HEADQUARTERS HOTEL CONSISTENT WITH SECTION 163.370(2)(C)(3), FLORIDA STATUTES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.

### **ANALYSIS**

The proposed Ordinance was approved on First Reading at the May 15, 2024 City Commission meeting. No changes have been made between First and Second Reading.

The proposed Ordinance has been placed on the City Commission meeting agenda for First Reading at the request of Commissioners Alex Fernandez and Tanya K. Bhatt. The Ordinance has been drafted pursuant to the direction of the Board of the Miami Beach Redevelopment Agency ("Agency") at its meeting on March 13, 2024.

Section 163.370(2)(c)(3), Florida Statutes (the "Redevelopment Act"), authorizes the use of Agency resources to support "public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways."

The City, through Resolution 2018-30425, approved a development and ground lease agreement between the City and MB Mixed Use Investment, LLC, a Florida limited liability company (the "Hotel Developer") for the development and operation of the Convention Center Hotel contemplated by the Redevelopment Plan at the location defined in the lease agreement (the "Hotel Parcel"). The Hotel Parcel is ready for the commencement of construction of the Convention Center Hotel upon the closing of construction financing. Due to widespread market conditions, the cost to construct the Convention Center Hotel has increased by more than \$237 million since the award of the lease agreement, and current debt and equity markets cannot alone finance the construction cost of the Convention Center Hotel.

On March 13, 2024, the Board of the Agency adopted a motion directing Agency staff to negotiate a grant agreement with the Hotel Developer to provide financial support from the Agency trust fund for the support of the Convention Center Hotel (the "Motion").

Section 34-87 of the City Code currently prohibits the use of Agency funds to support a project

that is owned by or leased to a private entity. Accordingly, the amendments set forth in the attached Ordinance have been drafted to permit the consideration of a grant of Agency funds to the Hotel Developer to support the construction of the hotel, as previously authorized by the Agency Redevelopment Plan and the Redevelopment Act, and pursuant to the direction of the Agency Board on March 13, 2024.

### **FISCAL IMPACT STATEMENT**

N/A

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

The Business Impact Estimate (BIE) was published on June 7, 2024. See BIE at:  
<https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notices/>

### **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 Attorney

### **Sponsor(s)**

Commissioner Alex Fernandez  
Commissioner Tanya K. Bhatt

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING CHAPTER 34 OF THE CITY CODE, ENTITLED "COMMUNITY DEVELOPMENT," BY AMENDING ARTICLE II, ENTITLED "COMMUNITY REDEVELOPMENT," BY AMENDING DIVISION 3, ENTITLED "REDEVELOPMENT TRUST FUND," BY AMENDING SECTION 34-87, ENTITLED "PROHIBITION," TO AUTHORIZE THE REVIEW AND APPROVAL OF CERTAIN REQUESTS FOR FUNDING FROM THE REDEVELOPMENT TRUST FUND OF THE CITY OF MIAMI BEACH REDEVELOPMENT AGENCY TO SUPPORT THE DEVELOPMENT OF PUBLIC AREAS OF THE CONVENTION CENTER HEADQUARTERS HOTEL CONSISTENT WITH SECTION 163.370(2)(C)(3), FLORIDA STATUTES; PROVIDING FOR REPEALER, SEVERABILITY, CODIFICATION, AND AN EFFECTIVE DATE.**

**WHEREAS**, in 1998, the City Commission adopted Ordinance 98-3159, which prohibits the City Commission from authorizing the Miami Beach Redevelopment Agency (the "Agency") from utilizing any Agency funds to support a project that is owned by or leased to a private entity; and

**WHEREAS**, in 2014, the Agency, City, and Miami-Dade County adopted an amendment to the Agency's redevelopment plan to define the Convention Center Renovation and Expansion Project (the "Convention Center Project"), which includes the construction of a convention center headquarters hotel (the "Convention Center Hotel"), and to authorize the use of Agency trust fund revenues as a funding source for the Convention Center Project; and

**WHEREAS**, the City, through Resolution 2018-30425, approved a development and ground lease agreement between the City and MB Mixed Use Investment, LLC, a Florida limited liability company (the "Hotel Developer") for the development and operation of the Convention Center Hotel contemplated by the Redevelopment Plan at the location defined in the lease agreement (the "Hotel Parcel"); and

**WHEREAS**, the Hotel Parcel is ready for the commencement of construction of the Convention Center Hotel upon the closing of construction financing; and

**WHEREAS**, due to widespread market conditions, the cost to construct the Convention Center Hotel has increased by more than \$237 Million since the award of the lease agreement, and current debt and equity markets cannot alone finance the construction cost of the Convention Center Hotel; and

**WHEREAS**, on March 13, 2024, the Agency Board, by motion, directed Agency staff to negotiate a grant agreement with the Hotel Developer to provide financial support from the Agency trust fund for the support of the Convention Center Hotel (the "Motion"); and

**WHEREAS**, section 163.370(2)(c)(3), Florida Statutes (the "Redevelopment Act") authorizes the City to utilize Agency resources to support "public areas of major hotels that are constructed in support of convention centers, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways"; and

**WHEREAS**, the City desires to amend Section 34-87, as originally embodied in Ordinance 98-3159, to permit the consideration of a grant of Agency funds to the Hotel Developer to support the construction of the Hotel, as previously authorized by the Agency Redevelopment Plan, the Redevelopment Act, and the Motion.

**NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA:**

**SECTION 1.** That Chapter 34, "Community Development," Article II, "Community Redevelopment," Division 3, "Redevelopment Trust Fund," Section 34-87 of the Code of Ordinances of the City of Miami Beach is hereby amended as follows:

## CHAPTER 34

### COMMUNITY DEVELOPMENT

\* \* \*

### ARTICLE II. – COMMUNITY REDEVELOPMENT

\* \* \*

### DIVISION 3. – REDEVELOPMENT TRUST FUND

Notwithstanding anything to the contrary contained in F.S. Ch. 163, Pt. III, or any other provision of law, the mayor and city commission shall not pass any ordinance or resolution authorizing the Miami Beach Redevelopment Agency (the "Agency") to use any moneys deposited to or held in any redevelopment trust fund created, established and maintained by said agency pursuant to F.S. § 163.387, for any project that is owned by, or leased to, any private person or entity, other than a person or entity designated as not-for-profit under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose principal purpose is the support, enhancement, improvement or advancement of the arts, cultural activities or education. It is the intent of this section that moneys in the redevelopment trust fund shall be used solely to undertake and carry out public redevelopment projects authorized by F.S. Ch. 163, Pt. III, which projects will be owned by the city and/or the agency, or by the not-for-profit persons or entities enumerated above; provided, however, that this section shall not be construed to impair the obligation of any contract to which the city or the agency is a party as of the date of adoption of this section, or to restrict the future expenditure of moneys in the redevelopment trust fund therefor, including, but not limited to, any contract with the holders of any bonds or other obligations of the city or the agency, or to comply with any obligation the city and/or the

agency to acquire or construct parking facilities for the Miami Beach Marina; provided further that nothing herein shall prohibit the authorization of Agency funds to support the development of public areas of the Miami Beach convention center headquarters hotel on the corner of 17th Street and Convention Center Drive, including meeting rooms, banquet facilities, parking garages, lobbies, and passageways in accordance with F.S. § 163.370(2)(c)(3).

**SECTION 2. REPEALER.**

All ordinances or parts of ordinances in conflict herewith be and the same are hereby repealed.

**SECTION 3. SEVERABILITY.**

If any section, subsection, clause or provision of this Ordinance is held invalid, the remainder shall not be affected by such invalidity.

**SECTION 4. CODIFICATION.**

It is the intention of the Mayor and City Commission of the City of Miami Beach, and it is hereby ordained that the provisions of ordinance 98-3159 as amended by this ordinance shall become and be made part of the Miami Beach City Code as Section 34-87 thereof. The sections of this ordinance may be renumbered or relettered to accomplish such intention, and the word "ordinance" may be changed to "section," "article," or other appropriate word.

**SECTION 5. EFFECTIVE DATE.**

This Ordinance shall take effect on the \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**ATTEST:**

\_\_\_\_\_  
Steven Meiner, Mayor

\_\_\_\_\_  
Rafael E. Granado, City Clerk

Underline denotes additions  
~~Strikethrough~~ denotes deletions

(sponsored by Commissioners Alex J. Fernandez  
and Tanya K. Bhatt)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION



\_\_\_\_\_  
City Attorney

5/18/2024

\_\_\_\_\_  
Date