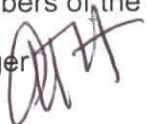


MIAMI BEACH

City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139,
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COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Alina T. Hudak, City Manager 

DATE: July 28, 2021

SUBJECT: **A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING SECOND READING/PUBLIC HEARING, PURSUANT TO SECTION 82-37(A)(2) OF THE CITY CODE, AN AMENDMENT TO THE CITY'S LONG-TERM LEASE (THE "AMENDMENT") WITH THE GREATER MIAMI JEWISH FEDERATION, INC., A FLORIDA NOT-FOR-PROFIT CORPORATION (THE "FEDERATION") FOR THE HOLOCAUST MEMORIAL SITE LOCATED AT 1933-1945 MERIDIAN AVENUE (THE "MEMORIAL"), ATTACHED AS AN EXHIBIT TO THE COMMISSION MEMORANDUM ACCOMPANYING THIS RESOLUTION, WHICH AMENDMENT: (1) EXTENDS THE TERM OF THE EXISTING LEASE FOR AN ADDITIONAL TWENTY-ONE (21) YEARS; AND (2) EXPANDS THE LEASED PREMISES TO INCLUDE THE ADJACENT MUNICIPAL PARKING LOT AT 775 19TH STREET (THE "ADDITIONAL PREMISES"), FOR THE SOLE PURPOSE OF PERMITTING THE FEDERATION, AT ITS SOLE COST AND EXPENSE, TO DEVELOP, CONSTRUCT, OPERATE, AND MAINTAIN A STATE OF THE ART HOLOCAUST MEMORIAL COMMUNITY LEARNING CENTER ON THE ADDITIONAL PREMISES, FOR THE PRESENTATION OF EXHIBITS, LECTURES AND OTHER INTERACTIVE PROGRAMMING THAT CONNECTS THE HOLOCAUST EXPERIENCE TO CONTEMPORARY CIVIC LIFE AND PROMOTES TOLERANCE, REMEMBRANCE AND GLOBAL HUMAN RIGHTS; FURTHER, WAIVING, BY 5/7TH VOTE, THE COMPETITIVE BIDDING AND APPRAISAL REQUIREMENT OF SECTION 82-39 OF THE CITY CODE, FINDING THAT THE PUBLIC INTEREST WOULD BE SERVED BY WAIVING SUCH REQUIREMENTS; FURTHER, WAIVING, BY 5/7TH VOTE, THE ART IN PUBLIC PLACES CONTRIBUTION REQUIREMENT, PURSUANT TO SECTION 82-587(C)(1) OF THE CITY CODE, FINDING THE WAIVER TO BE IN THE BEST INTEREST OF THE CITY; FURTHER, PROVIDING THAT THE AMENDMENT SHALL BE SUBJECT TO THE APPROVAL BY A VOTE OF AT LEAST SIXTY PERCENT OF THE CITY'S VOTERS VOTING IN A CITY-WIDE REFERENDUM, IN ACCORDANCE WITH SECTION 1.03(B)(3) OF THE CITY CHARTER.**

BACKGROUND

The City is the owner of the property located at 1933-1945 Meridian Avenue, the current site of the Holocaust Memorial ("Memorial").

On January 26, 2000, the City entered into a 99-year lease agreement with the Holocaust Memorial Committee, Inc. (the "Lease"), to operate and maintain the Holocaust Memorial located at 1933-1945 Meridian Avenue (the "Memorial"), which Lease was assigned to the Greater Miami Jewish Federation, Inc. ("Federation") on January 16, 2008, pursuant to Resolution No. 2008-26732. The Federation has successfully operated and maintained the Memorial since that time. Importantly, the Federation's existing Lease for the Memorial expires in approximately 78 years, on March 8, 2099.

The Memorial is dedicated to teaching and inspiring through Holocaust education, cultural programs and initiatives, visitations to the Memorial, and outreach to the community. The goal of the Memorial is to illuminate the dangers of antisemitism, racism, persecution and other hatreds through the lens of the murder of 6 million Jews and others who perished during the Holocaust in Europe from 1939-1945. The Memorial is a solemn gathering place for our community, a symbol of strength that expresses the Holocaust through art and beauty. The Memorial serves as a reminder for the future, encouraging visitors to learn about the Holocaust, remember and honor its victims and survivors, and confront issues of genocide, anti-Semitism, and unchecked, divisive movements grounded in hatred. There is no entrance fee to visit the Memorial, and all of its programming for the community is free to the general public. The Memorial is open every day, including holidays.

Over the years, the Memorial has conducted significant educational programming for students. A visit to the Memorial for students centers on the experience of our community's Holocaust survivors. After viewing the Memorial's Emmy award winning movie, students meet with a Holocaust survivor to hear of their experience, what life was like before and during the war, and how hatred of a particular group can grow into something extremely dangerous and catastrophic. Over the years, the Memorial has served as a focal point for Holocaust-related education efforts, serving thousands of schoolchildren, teachers, college students, and the City's residents and visitors.

Prior to the COVID-19 pandemic, the Memorial concluded the year with over 100,000 visitors, including more than 11,000 students from South Florida, primarily from Miami-Dade County. This does not include the Memorial's robust social media, new initiatives for teachers, and materials that are widely distributed throughout the U.S.

OVERVIEW OF THE PROPOSED HOLOCAUST PROJECT

Although the visitor experience at the Memorial is impactful, the Memorial lacks facilities that would permit the presentation of changing exhibits, lectures and other programming and related activities. As a result, many local and regional visitors to the Memorial rarely visit the Memorial more than once.

At the State of the City address on February 24, 2020, Mayor Gelber announced that he intended to sponsor a proposed transaction for a modest expansion of the Memorial, which would include the footprint for the adjacent parking lot at 775 19th Street, currently used as a surface parking lot with only 22 parking spaces (5 of which are already designated for the Memorial).

The Federation has proposed an expansion of the existing Memorial site, and a corresponding modest extension of the existing Lease, to allow the Federation to expand the Memorial and develop a community center to activate the Holocaust Memorial through interactive experiences. The Federation has proposed that the current Lease for the Memorial be amended to include a portion of the City owned surface parking lot, adjacent to the Memorial, located at 775 19th Street, Miami Beach, equal to approximately 12,000 square feet ("Additional Premises").

The proposed transaction would be structured as an amendment to the existing Lease (the "Lease Amendment"), which would extend the term of the existing Lease for an additional 21 years, for a total term of 99 years from the effective date of the Lease Amendment, and include the Additional Premises as part of the Lease, for the sole purpose of providing the Federation with the ability to design, construct, operate and maintain a community center at the Memorial, at the Federation's sole cost and expense, as further described below.

The proposed community center would consist of approximately 7,000 square feet for learning and education space, exhibition space (both temporary and permanent), performance space and outdoor landscaped areas (collectively, the "Project"). The Project is intended to activate the Memorial through interactive and other programming to reach broader audiences by educating students and the public about tolerance, human rights and the need for global understanding and community.

The proposed transaction does not contemplate any amendments to the City's Comprehensive Plan or Land Development Regulations pertaining to height, floor area, or allowable uses. In addition, the Project will not require any funding to be provided by the City, and does not contemplate changing any of the terms of the existing Lease.

On March 26, 2021, following a presentation by the Federation for the proposed Memorial expansion and Lease Amendment, the Finance and Economic Resiliency Committee, unanimously recommended that the City Commission approve a Lease Amendment consistent with the Terms Sheet. At the April 21, 2021 City Commission meeting, the Mayor and City Commission adopted Resolution # 2021-31688, accepting the recommendation of the City's Finance and Economic Resiliency Committee to approve the Term Sheet for the Lease Amendment.

THE LEASE AMENDMENT AND DEVELOPMENT OF THE PROJECT

The Lease Amendment. The Lease Amendment is attached hereto as **Exhibit "A"**. As consideration to the City for the Lease Amendment, the Federation shall develop, construct, operate, and maintain the Project, at its sole cost and expense, with no City funding whatsoever for the Project. In addition, the City and the Federation do not intend to modify the terms of the existing Lease, except as may be necessary to accommodate the Project. As the lessee under the Lease Amendment, the Federation would be responsible for the development, design and construction of the entire Project, at the Federation's sole cost and expense. Subject to and contingent upon voter referendum approval, the Lease Amendment:

- Extends the term of the existing Lease for an additional 21 years (for a total term of 99 years from the effective date of the Lease Amendment);
- Includes the Additional Premises as part of the Lease, more particularly described in the attached **Exhibit "B"**;

- Provides for the development of the Project at the Federation's sole cost and expense (with the development related terms set forth more fully below);
- Restricts the use of the Additional Premises as a community center providing educational and cultural exhibits, events and programming compatible with and complementing the Memorial, as well as ancillary uses consisting of a gift pavilion for the sale of commemorative pictures and similar personal items, and a café serving light fare and not to exceed 1,000 square feet;
- Requires that the Federation accept the Additional Premises in its as-is condition, including with respect to environmental conditions;
- Ensures the City will have the right to continue to use the Additional Premises as a surface parking lot until commencement of construction;
- Indemnifies the City for losses in connection with the Project; and
- Includes termination rights for each party, the Federation having the right to terminate the Lease Amendment for convenience prior to issuance of the building permit for the Project, and the City having the right to terminate the Lease Amendment as a result of any default by the Federation, including failure to satisfy the conditions precedent to commencement of construction and/or achieve the outside dates for commencement of construction and completion of construction.

Development of the Project. The Federation shall be solely responsible for developing, constructing, operating and maintaining the Project. The Federation's obligations with respect to development and construction of the Project, and the City Commission's approval of the Concept Plan and design for the Project are also expressly set forth in the Lease Amendment. The Concept Plan is attached to this Memorandum as **Exhibit "C"**. The Federation has selected Arquitectonica as the architect to design the Project.

The Federation's possession of the Additional Premises and commencement of construction will be subject to the satisfaction of certain conditions, including: (1) approval by the City's Design Review Board ("DRB"); (2) delivery of acceptable payment and performance bonds naming the City as a co-obligee; (3) delivery of a budget for the costs of construction; (4) City's approval of the general contractor/design builder for the Project; (5) delivery of the general construction contract with the approved general contractor/design builder; and (6) the City's receipt of satisfactory evidence that the Federation has sufficient funds to build the Project.

The Federation has agreed to establish certain Project milestones, including target dates for DRB Approval, commencement of construction and completion of construction and outside dates for commencement of construction and completion of construction.

Following any termination for default by the City after commencement of construction, the Federation will restore the Additional Premises to the condition existing prior to execution of the Lease Amendment so that the Additional Premises may be fully utilized by the City as a surface parking lot and the Federation shall reimburse the City for any losses it may suffer as a result of the Federation's failure to complete construction.

Project Milestones

Target Date for DRB Approval:	24 months after the Effective Date (plus 1 month to exhaust all appeals)
Target Date for issuance of final building permit:	21 months after DRB Approval
Target date for completion of construction and issuance of TCO:	36 months after DRB Approval
Outside date for commencement of construction:	24 months after DRB Approval
Outside date for completion of construction and issuance of the Certificate of Occupancy:	36 months after commencement of construction

Reimbursement of City Expenses. In furtherance of the Federation's commitment that the City will not be required to provide funding for the Project, the Federation has signed a reimbursement agreement with the City, and has agreed to reimburse the City for its out of pocket costs and expenses in connection with the due diligence and negotiation of the proposed Lease Amendment, including parking bond consulting fees, outside counsel, surveys, and other reviews, as may be reasonably required by the City.

APPROVALS REQUIRED FOR THE PROJECT

City Commission Approval. Pursuant to Section 82-37 of the City Code, the Lease Amendment will require two readings before the City Commission, with the second reading being a public hearing. At the City Commission Meeting on June 23, 2021, the Mayor and City Commission approved the Lease Amendment on First Reading.

The Lease Amendment will require the waiver of competitive bidding and the appraisal requirement under Section 82-39 of the City Code, by a 5/7ths vote of the City Commission. Additionally, the Project will require a waiver, by 5/7th vote of the Mayor and City Commission, of the Art in Public Places Contribution requirement pursuant to 82-587(C)(1) of the City Code.

The Administration strongly recommends the foregoing waivers, as the Federation holds the existing Lease for the next 78-years and is the only party who could develop the Project in a manner which could be integrated with the Memorial itself. In addition, such waivers would be consistent with prior waivers the City has granted to not-for-profit entities in other leases or management agreements, as the purpose of the proposed transaction is to promote charitable and educational interests, for the benefit of the general public.

Voter Referendum Requirement. Pursuant to Section 1.03(b)(3) of the City Charter, which requires voter referendum approval for the sale or lease of ten years or more of certain City-owned property located in the Civic and Convention Center District (the "CCC District"), including, specifically, all City-owned surface parking lots located in the CCC District, **the Lease Amendment will require approval by sixty (60%) of the voters voting in a Citywide referendum.**

PLANNING ANALYSIS

The Planning Department's analysis, as required pursuant to Section and 82-38 of the City Code, is attached hereto as **Exhibit "D"**.

CONCLUSION

The Administration recommends that the Mayor and City Commission waive, by 5/7th vote, the formal competitive bidding requirement and appraisal requirement of Section 82-39 of the City Code and the Art in Public Places contribution requirement of 82-587(C)(1) of the City Code, finding the public interest would be served and that such waivers would be in the best interest of the City; and approve, on Second Reading, the Lease Amendment, which shall be subject to and contingent upon the approval by a vote of at least sixty percent of the City's voters voting in a City-wide referendum, pursuant to Section 1.03(b)(3).

Attachments

Exhibit A - Lease Amendment
Exhibit B - Additional Premises
Exhibit C - Concept Plan
Exhibit D - Planning Analysis