RESOLUTION NO.______________

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, FOLLOWING A DULY ADVERTISED PUBLIC HEARING, APPROVING AND AUTHORIZING THE ADMINISTRATION TO FINALIZE, CONSISTENT WITH THE TERMS CONTEMPLATED IN THIS RESOLUTION, PROPOSED REVISIONS TO THE GROUND LEASE AGREEMENT BETWEEN THE CITY OF MIAMI BEACH AND CFC-MB I, LLC, AN ARIZONA LIMITED LIABILITY COMPANY, FOR THE COLLINS PARK ARTIST WORKFORCE HOUSING PROJECT (THE "PROJECT") TO REFLECT THE CITY'S ADDITIONAL MONETARY CONTRIBUTIONS FOR THE PROJECT, WITH FUNDING APPROPRIATED AS PART OF THE FY 2023 ANNUAL BUDGET AND ADDITIONAL FUNDING, IF APPROVED BY VOTERS, FROM A PORTION OF THE ARTS AND CULTURE G.O. BOND PROCEEDS; AND FURTHER, AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FINAL NEGOTIATED AGREEMENT, SUBJECT TO FORM APPROVAL BY THE CITY ATTORNEY.

WHEREAS, the City is the owner of the property located at 224 23rd Street, within the Collins Park Cultural District (the "Property"), the current site of a 21-space surface parking lot adjacent to the Miami Beach Regional Library and the Collins Park Garage (G12); and

WHEREAS, pursuant to a competitive solicitation process, the City resolved to redevelop the Property as a mixed-use residential workforce housing development that prioritizes income-eligible artists, educators, City employees, veterans, and other members of the Miami Beach workforce as tenants (the "Collins Park Artist Workforce Housing Project" or "Project"); and

WHEREAS, on September 14, 2016, the Mayor and City Commission adopted Resolution 2016-29547, selecting The Concourse Group to identify public-private partnership ("P3") opportunities to alleviate the cost, and other burdens, on the City associated with the development of workforce housing projects on City-owned property; and

WHEREAS, on January 18, 2019, the City issued Invitation to Negotiate (ITN) 2019-099-KB, with a workforce housing development requirement, focused on attracting artists and area educators to the City and encouraging proposers to incorporate dormitory space for the Miami City Ballet, Inc. (the "Ballet"), South Florida's premier classical ballet company and a not-for-profit cultural organization, headquartered in close vicinity of the Property, at 2200 Liberty Avenue; and

WHEREAS, on July 17, 2019, the Mayor and City Commission adopted Resolution 2019-30908, authorizing simultaneous negotiations with both ITN proposers, Atlantic Pacific Communities, LLC and Servitas, LLC ("Servitas" or "Developer"), and following the withdrawal from negotiations of Atlantic Pacific Communities, LLC, the City Commission directed negotiation with Servitas, the sole remaining proposer; and

WHEREAS, on September 23, 2020, the Finance and Economic Resilience Committee (the "FERC") reviewed the proposed terms negotiated between the Developer and the City Administration, and unanimously recommended that the City proceed with the Project; and

WHEREAS, on October 18, 2020, the Mayor and City Commission adopted Resolution 2020-31435, accepting the FERC's recommendation, approving the Project term sheet, directing negotiation of a Development Agreement and Ground Lease, and referring the Project for review by the Planning Board; and

WHEREAS, on November 17, 2020, the Planning Board unanimously passed Resolution PB20-0407, transmitting the proposed Development Agreement and Ground Lease to the City Commission with a favorable recommendation, in accordance with the requirements of Section 1.03(b)(4) of the City Charter and the City's Land Development Regulations; and

WHEREAS, on January 13, 2021, the Mayor and City Commission adopted Resolution 2021-31553, authorizing the Development Agreement with the Developer; Resolution 2021-31554, authorizing the Ground Lease for the Project; and Resolution 2021-31555, authorizing a waiver of the minimum and average unit size requirements for up to ten (10) studio units in the Project and of the City Code's parking requirements with respect to the Project, although, ultimately, no units were designed below the minimum and average unit size requirement; and

WHEREAS, on June 6, 2021, the Historic Preservation Board ("HPB") unanimously approved a Certificate of Appropriateness for the Project's design and Servitas submitted its building permit application to the City's Building Department in September 2021; and

WHEREAS, on February 23, 2022, the Mayor and City Commission adopted Resolution 2022-32053, authorizing (i) an amendment (revision) of the Ground Lease, (ii) the First Floor Sublease with the City as subtenant, and (iii) a cash subsidy of up to $532,451 to cover a shortfall in permitting costs attributed to the then-applicable Sustainability Fee, and, in exchange, Servitas agreed to cap its developer fee to $1 million, at a cost to the Developer of approximately $600,000; and

WHEREAS, this modification was intended to increase projected rental revenues generated by the Project to address a financing gap attributed to economic conditions, including inflation and rising construction costs and achieve the appropriate debt service coverage ratio; and

WHEREAS, in April 2022, the City completed regulatory review of the Project's construction plans, with payment of County and City development fees remaining as the sole condition precedent before issuance of the building permit; and

WHEREAS, without the tax-exempt and taxable bond funding on hand to obtain a building permit and to enter into a binding Guaranteed Maximum Price (GMP) agreement with the general contractor, the Project has been unable to achieve financial closing—a critical juncture in development when the Parties execute the Ground Lease and First Floor Sublease and the Developer takes possession of the Property to commence construction; and

WHEREAS, during the nearly nine months following the City Commission's February 2022 authorization to adjust the Project's unit mix of income-eligible tenants, economic conditions, including escalating interest rates, have impacted the Project's financial viability; and

WHEREAS, global economic conditions have yielded significant increases in overall construction costs, ranging from historic escalation in the price of materials, supply chain disruption, delayed delivery and logistical concerns, and an increase in labor costs due to a shortage of skilled workers, all of which have directly impacted the Project; and

WHEREAS, as demonstrated in the Project Proforma dated October 31, 2022, attached as an exhibit to the Commission Memorandum accompanying this Resolution, recent pricing estimates of materials and hard costs for the Project prepared by the general contractor, are approximately 74% higher than when the Ground Lease was approved in January 2021 and $3.9 million higher than when the City Commission previously discussed the Project on February 23, 2022; and

WHEREAS, rising inflation and the increased costs associated with construction materials and interest rates have resulted in a development budget higher than anticipated at the time of the City Commission's original approval of the Ground Lease and Development Agreement on January 13, 2021; and

WHEREAS, on March 9, 2022, the City Commission referred discussion to the FERC regarding the elimination of additional development-related fees for affordable and workforce housing projects; and

WHEREAS, on March 15, 2022, the Affordable Housing Advisory Committee passed a motion in support of exempting affordable and workforce housing from the Sustainability Fee; and

WHEREAS, on April 6, 2022, the City Commission referred to the Land Use and Sustainability Committee ("LUSC") a discussion about amending the Land Development

Regulations to exempt workforce projects from payment of the City's Mobility Fee; and

WHEREAS, on June 6, 2022, the City Commission accepted the May 27, 2022 recommendation of the FERC and the June 6, 2022 recommendation of the LUSC, and referred legislation to the Planning Board to reduce development-related fees with the goal of increasing the city's affordable and workforce housing stock; and

WHEREAS, on July 22, 2022, at the FERC budget briefing, the Committee discussed how rising interest rates and escalating construction costs had led to an additional Project financing gap of approximately $2.85 million and the FERC recommended that the City Commission consider a one-time cash infusion to bridge this gap; and

WHEREAS, on July 26, 2022, the Planning Board discussed the Project and provided a favorable recommendation of an ordinance to reduce development-related City fees for affordable and workforce housing (the "Fee Exemption Ordinance"); and

WHEREAS, on September 28, 2022, the City Commission approved Resolution 2022-32337, adopting the FY 2023 Capital Budget, including $2.85 million in gap financing for the Project, as recommended on July 22, 2022 at the FERC Budget Briefing; and Ordinance 2022-4513, authorizing the Fee Exemption Ordinance; and

WHEREAS, to date, the Administration has incurred approximately $31,000 in upfront pre-development expenses related to Project negotiation and approvals, and upon financial closing and release of funds associated with the issuance of bond financing, the Project will reimburse to the City approximately $31,000 in City upfront pre-development expenses incurred up to this point; and

WHEREAS, the Administration and Servitas have explored several sources of supplementary project funding, including:

- Miami-Dade County Impact Fee Exemption Ordinance: adopted on July 7, 2022 by the Miami-Dade County Board of County Commissioners (BCC) to benefit affordable and workforce housing development, which, along with a credit for existing development on the Property, led to a 78% reduction in the County's impact fee assessment for the Project reflecting $329,399 in savings; and
- City of Miami Beach Fee Exemption Ordinance: on September 28, 2022, the Mayor and City Commission adopted Ordinance 2022-4513, waiving certain development-related fees for affordable and workforce housing projects, which reduced development-related fees for the Project in the amount of $1.26 million; and
- City Contribution: as recommended by the FERC and approved by the City Commission via Resolution 2022-32337, the FY 2023 Capital Budget includes a one-time financial contribution of up to $2.85 million, which $2.85 million is an advance that will be reimbursed to the City from Project net revenues over approximately fourteen (14) years on an annual basis through 2037; and

- Arts and Culture G.O. Bond Contribution – Miami City Ballet: on July 25, 2022, the City Commission adopted Resolution 2022-32261, authorizing the November 8, 2022 ballot question for the issuance of $159 million in general obligation bonds, largely to improve facilities programmed and/or operated by arts and cultural institutions throughout the city, with $16 million for the Miami City Ballet to be used for multiple capital projects, including $4 million to be contributed toward the cost of the buildout of the Ballet's second-floor dormitory at the Project, if approved by the voters; and
- Miami-Dade County Documentary Stamp Surtax Loan: on August 26, 2022, the Developer applied for Miami-Dade County Documentary Stamp Surtax Funding, which could provide funding of up to $2 million, if recommended for approval by County administrative staff and approved by the BCC; and

WHEREAS, the City Commission considered a revised Ground Lease that incorporates two capital contributions by the City as funding sources for Project development and financing: (1) Lessor Direct Capital Cost Contribution and (2) Lessor Arts and Culture G.O. Bond Cost Contribution; and

WHEREAS, the Lessor Direct Capital Cost Contribution will be advanced to the Project and paid to the Lessee (Developer) by the Lessor (City) in two installments, with the first installment of $850,000 paid at financial closing, and the second installment of up to $2 million no later than 45 days after the Project achieves 50% completion, as evidenced by applications for payment received by the Developer from its general contractor; and

WHEREAS, the first installment of the Lessor Direct Capital Cost Contribution may be used for any Project expenses and the second installment may be used solely to pay for Construction Costs associated with the improvements made by the Developer for the benefit of the Lessee; and

WHEREAS, the Revised Lease also contemplates that if the Arts and Culture G.O. Bond is approved, the City would contribute the Lessor Arts and Culture G.O. Bond Cost Contribution with a transfer of $4 million to the Lessee either (i) 45 days after issuance of the G.O. Bond or (ii) 45 days after the Project achieves 50% completion, whichever occurs sooner; and

WHEREAS, to the extent that the Lessor transfers any portion of the Lessor Arts and Culture G.O. Bond Cost Contribution to the Lessee prior to the issuance of the first tranche of the Arts and Culture G.O. Bond, the Lessor intends to reimburse itself for the Lessor Arts and Culture G.O. Bond Cost Contribution from the proceeds of the Arts and Culture G.O. Bond; and

WHEREAS, the Lessee must pay to the Lessor from amounts available from Project Net Available Cash Flow, all amounts from time to time, as needed to fully reimburse the City for the Lessor Direct Capital Cost Contribution, whereas the Lessor Arts and Culture G.O. Bond Cost Contribution will not be reimbursed to the City; and

WHEREAS, to help fill the gap in Project financing and to ensure the realization of a significant City project that aims to address the rental housing crisis, the Administration recommended that the Mayor and City Commission approve this Resolution authorizing the Revised Lease for the Collins Park Artist Workforce Housing Project.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, following a duly advertised public hearing, hereby approves and authorizes the Administration to finalize, consistent with the terms contemplated in this Resolution, the proposed revisions to the Ground Lease Agreement between the City of Miami Beach and CFC-MB I, LLC, an Arizona limited liability company, for the Collins Park Artist Workforce Housing Project (the "Project") to reflect the City's additional monetary contributions for the Project, with funding appropriated as part of the FY 2023 Annual Budget and additional funding, if approved by voters, from a portion of the Arts and Culture G.O. Bond proceeds; and further, authorizes the Mayor and City Clerk to execute the final negotiated agreement, subject to form approval by the City Attorney.

PASSED and ADOPTED THIS ___ day of ____________ 2022.

ATTEST:

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RAFAEL E. GRANADO, CITY CLERK **DAN GELBER, MAYOR**

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

11-4-22

City Attorney Date