

**RESOLUTION NO. \_\_\_\_\_**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING FIRST READING/PUBLIC HEARING, A DEVELOPMENT AND GROUND LEASE AGREEMENT AS AUTHORIZED, RESPECTIVELY, UNDER SECTION 118-4 OF THE CITY CODE, SECTIONS 163.3220 - 163.3243, FLORIDA STATUTES, AND SECTION 82-37 OF THE CITY CODE, BETWEEN THE CITY AND MB MIXED USE INVESTMENT, LLC ("MIAMI BEACH CONNECT"), FOR THE DEVELOPMENT OF A CONVENTION HOTEL WITH UP TO 800 ROOMS AND RELATED FACILITIES, INCLUDING UP TO 60,000 SQUARE FEET OF CONFERENCE AND BALLROOM FACILITIES, AND UP TO 52,000 SQUARE FEET OF ACCESSORY RETAIL AND RESTAURANT FACILITIES TO SERVICE HOTEL GUESTS AND THE PUBLIC (THE "HOTEL"), ON AN APPROXIMATELY 2.6 ACRE SITE ON THE NORTHEAST CORNER OF 17<sup>TH</sup> STREET AND CONVENTION CENTER DRIVE, BOUNDED ROUGHLY BY THE MIAMI BEACH CONVENTION CENTER TO THE NORTH, 17TH STREET TO THE SOUTH, THE FILLMORE MIAMI BEACH AT THE JACKIE GLEASON THEATER TO THE EAST, AND CONVENTION CENTER DRIVE TO THE WEST (THE "LEASED PROPERTY"); DELINEATING THE CONDITIONS FOR THE DESIGN, CONSTRUCTION, EQUIPPING AND OPERATION OF THE HOTEL ON THE LEASED PROPERTY WITH NO CITY FUNDING THEREFOR; PROVIDING FOR A 99-YEAR TERM OF THE LEASED PROPERTY ONCE CERTAIN CONDITIONS ARE SATISFIED; PROHIBITING GAMBLING ESTABLISHMENTS ON THE LEASED PROPERTY; AND PROVIDING FOR ANNUAL BASE RENT TO THE CITY, AFTER THE HOTEL OPENS, OF THE GREATER OF MINIMUM FIXED RENT OR A FIXED PERCENTAGE OF THE GROSS REVENUES OF THE HOTEL, AMONG OTHER RENT; AND FURTHER SETTING THE SECOND PUBLIC HEARING AND FINAL READING OF THE DEVELOPMENT AND GROUND LEASE AGREEMENT FOR A TIME CERTAIN.**

**WHEREAS**, the Mayor and City Commission desire to promote economic development within the City of Miami Beach by attracting a more robust mix of conferences and conventions to the Miami Beach Convention Center ("MBCC" or "Convention Center"), including "fly-in" conferences and conventions drawing national and international attendance that would reduce the MBCC's reliance on "drive-in" events that primarily attract local/commuter attendance; and

**WHEREAS**, in support of the foregoing and in an effort to maintain the competitiveness of the Convention Center as a local and regional asset that supports the South Florida tourism economy, the City is in the process of completing the Miami Beach Convention Center Renovation and Expansion Project (the "MBCC Renovation Project"), a public construction project that includes a complete renovation of the MBCC, expansion of ballroom and auxiliary spaces, parking above portions of the MBCC, exterior landscaping and creation of a 6 acre public park; and

**WHEREAS**, in addition to, and separate from, the MBCC Renovation Project, the City desires to attract more "fly-in" conferences and conventions to the MBCC through the development of a convention headquarter hotel that is (i) entirely privately-funded; (ii) sufficiently close to the Convention Center to serve as an "on-site" hotel option for conference attendees, and (iii) large enough to provide the group room blocks necessary to support and secure national and international conferences and conventions at the Convention Center; and

**WHEREAS**, on November 19, 2014, the Mayor and City Commission adopted Resolution No. 2014-28836, approving an Amended and Restated Interlocal Cooperation Agreement between the City and Miami-Dade County ("County"), whereby, in recognition that a convention hotel in the proximity of the Convention Center will generate additional Convention Development Tax ("CDT") and resort tax revenues, the County has agreed to provide the City with up to \$1,500,000 per year in an additional allocation of CDT revenues once a convention hotel opens, with such additional payments to the City continuing annually until 2048; and

**WHEREAS**, on April 13, 2016, the Mayor and City Commission established the Mayor's Ad Hoc Blue Ribbon Steering Committee on the Convention Center Hotel (the "Committee"), chaired by Commissioner Ricky Arriola and Vice-chaired by Commissioner Kristen Rosen-Gonzalez; and

**WHEREAS**, on February 14, 2018, the Mayor and City Commission considered the Committee's report regarding potential options for a Convention Center Hotel development, including options with respect to a proposed Hotel's location, size, height, and related issues such as traffic mitigation, and the like, and directed the Administration to prepare a Request for Proposals ("RFP"); and

**WHEREAS**, on May 16, 2018, the Mayor and City Commission approved Resolution No. 2018-30310, authorizing the issuance of an RFP for the Convention Center Hotel for a lease of the approximately 2.6 acre site located adjacent to the Convention Center; and

**WHEREAS**, on May 17, 2018, the City issued Request for Proposals No. 2018-238-KB (the RFP) for the Development of a Convention Headquarter Hotel Adjacent to the Miami Beach Convention Center. A voluntary pre-proposal meeting was held on May 24, 2018; and

**WHEREAS**, the RFP solicited proposals for the development of a convention hotel with up to 800 rooms and related facilities (the "Hotel") on approximately 2.6 acres on the northeast corner of 17<sup>th</sup> Street and Convention Center Drive, bounded roughly by the Miami Beach Convention Center to the North, 17th Street to the South, the Fillmore Miami Beach at the Jackie Gleason Theater to the East, and Convention Center Drive to the West, as approximately depicted in Appendix 2 attached to the Commission Memorandum accompanying this Resolution (the "Leased Property"); and

**WHEREAS**, on June 7, 2018 the City Manager, via Letter to Commission (LTC) No. 323-2018, appointed an Evaluation Committee (the "Committee"), and on June 14, 2018 the City received a responsive proposal from MB Mixed Use Investment, LLC, a joint venture between Turnberry and Terra ("Miami Beach Connect"); and

**WHEREAS**, on June 21, 2018, the Evaluation Committee convened to consider the responsive proposal and conduct oral presentations, and favorably recommended moving forward with the proposal; and

**WHEREAS**, on July 2, 2018, the Mayor and City Commission approved Resolution No. 2018-30378, authorizing the Administration to negotiate a Development and Ground Lease Agreement, including a Room Block Agreement (collectively, the "Lease") with Miami Beach Connect, with said Lease subject to prior approval by the Mayor and City Commission before the final execution thereof; and

**WHEREAS**, if approved by the City Commission, the Lease is also subject to approval by vote of at least 60% of the voters voting thereon in a City-wide referendum pursuant to Section 1.03(b)(3) of the City Charter; and

**WHEREAS**, on July 13, 2018, the Finance and City-Wide Projects Committee reviewed the terms of the proposed Lease, as required pursuant to Section 82-37(a)(1) of the City Code; and

**WHEREAS**, the Planning Department has completed a planning analysis using the criteria set forth in Section 82-38 of the City Code and an appraisal will be completed and presented to the City Commission prior to second reading, in accordance with Section 82-39 of the City Code; and

**WHEREAS**, as part of the Lease, Miami Beach Connect will also be seeking to enter into a development agreement with the City pursuant to Sections 163.3220 – 163.3243, Florida Statutes, to memorialize, among other provisions, the terms and conditions for the development of the Hotel Project (as hereinafter defined);

**WHEREAS**, Sections 163.3220 – 163.3243, Florida Statutes, and Section 118-4 of the City's Code require two public hearings for a development agreement, and Section 82-37(a)(2) of the City Code also requires two readings of the proposed Lease, with the second reading to be accompanied by a public hearing; and

**WHEREAS**, the Administration and Miami Beach Connect have negotiated the Lease, in substantial form, a copy of which is attached hereto as Appendix "1" to the Commission Memorandum accompanying this Resolution, including the Room Block Agreement on the terms the City outlined in the RFP, which is incorporated as Exhibit "L" to the Lease; and

**WHEREAS**, the Lease provides, among other provisions, the following terms and conditions:

- a. The Hotel will include up to, and not to exceed, 800 rooms, with up to 60,000 square feet of conference and ballroom facilities, up to 52,000 square feet of accessory retail and restaurant facilities to service Hotel guests and the public, 320 parking spaces (.4 parking spaces per room, as required by the City's Land Development Regulations), the installation of all furniture, fixtures and equipment required for the Hotel, an overhead pedestrian walkway connecting the Hotel with the MBCC ("Skybridge"), and all supporting amenities and related facilities (collectively, the "Hotel Project") with a maximum height for the Hotel Project of up to 185 feet; and
- b. Miami Beach Connect will be solely responsible for all costs and expenses to develop, design, construct, finance, equip and operate the Hotel Project, with no City funding or financing for the Hotel Project; and

- c. The Lease includes the City's approval, in its proprietary capacity as owner of the Leased Property, of the preliminary concept design for the Hotel Project, attached as Exhibit "E" to the Lease. Notwithstanding the preceding, and in further recognition that the design for the Hotel Project will evolve as part of the City's regulatory development process, including review and approval by the City's Design Review Board, the Lease also requires the City's approval of substantial design changes to the Hotel Project, including any change that materially affects the exterior façade or other exterior elements of the Hotel Project; and
- d. The Lease has a Term of 99 years, commencing once Miami Beach Connect meets certain key milestones with respect to the development and financing of the Hotel Project (referred to in the Lease as "Possession Conditions"); and
- e. The Leased Property cannot be used as a Gaming Establishment (i.e. casinos or other gambling or wagering activities), and Miami Beach Connect and/or subsequent owners of the Hotel Project cannot own, manage or operate a Gambling Establishment in Miami-Dade County, as prescribed in the Lease; and
- f. The hotel brand or "flag" of the Hotel must be an "Approved Brand," which may include (i) Marriott (i.e., the Marriott, Marriott Marquis, Renaissance, Gaylord, Westin, Sheraton or JW Marriott brands), Omni, Hyatt Regency, La Meridien, Hilton and Intercontinental, or any other hotel brand approved by the City. From and after the twentieth anniversary of the Opening Date, the Hotel may be operated by an "Upper Upscale" brand as then rated by Smith Travel Research and generally recognized in the hospitality industry as an experienced convention center hotel brand, or the Hotel may be operated as a "non-branded" Hotel, provided that the Hotel Operator must comply with the Hotel Standards set forth in the Lease; and
- g. The Leased Property must be continuously operated as a Hotel pursuant to the Approved Brand's standards; from and after the twentieth year of the Opening Date, if the Hotel is operated by other than an Approved Brand, the Hotel must meet the level of service and quality (i) comparable to other convention hotels in the "Upper Upscale" category as determined by Smith Travel Research, or (ii) with respect to a "non-branded" hotel, so as to maintain a 3.5-diamond rating from the American Automobile Association ("AAA") (the "Hotel Standards") as provided in the Lease; and
- h. The Hotel Operator must either be an Approved Brand or a management company with a franchise agreement with an Approved Brand. The Hotel Operator must operate the Hotel in accordance with the Hotel Standards, and must comply with the Room Block Agreement, as set forth in Exhibit L of the Lease; and
- i. As of the Rent Commencement Date (defined in the Lease as the Hotel's Opening Date), the City will receive, as annual Base Rent:
  - a. The greater of:
    - 1. Minimum Fixed Rent (pursuant to the annual schedule of minimum fixed rent specified in the Lease), or
    - 2. The sum of (i) 2.5% of the Gross Operating Revenues of the Hotel Project (defined to include revenues and income from gross room sales, resort fees,



internet services charges, in-room video charges, parking, valet service receipts, among other revenues related to the use or operation of the Hotel, including rental income received by Lessee from ground floor retail subtenants); plus (ii) 1% of the Gross Operating F&B Revenues (defined to include gross food and beverage sales, room service, banquets and catering receipts, among other food and beverage-related receipts) but only if the food & beverage operations at the Hotel are unionized; and provided, further, that if the food & beverage operations are not unionized, City shall receive 2.5% of the Gross Operating F&B Revenues; and

- j. Miami Beach Connect (or any subsequent lessee) must pay all ad valorem taxes and other public charges, with no City tax abatements or subsidies for public charges of any kind; and
- k. City will also receive Transaction Rent in the amount of the lesser of \$2 million or .25% of the gross sales price of the first three Transfers of the Hotel Project that effect a sale of the entire Hotel Project or a transfer of a Controlling interest (more than 50% interest) in the Lessee; provided that City will only receive Transaction Rent if the gross sales price exceeds 120% of the Improvement Costs (the costs to develop and construct the Hotel) (or pro rata portion if the first Transfer is of a controlling interest in Lessee); and
- l. With respect to all Transfers in excess of 25% of the direct or indirect ownership interest in the Lessee, and in particular, Transfers effecting a sale of the Hotel Project or a controlling interest in Lessee, the City shall have the right to approve Transfers in accordance with the Acceptable Owner criteria and process outlined in Exhibit "A" of the Lease, including limitations with respect to Transfers to Foreign Instrumentalities; and
- m. City's rights and interest in the Lease, including with respect to Rent payments, will not be subordinate to any debt, mortgage, lien or encumbrance placed on Miami Beach Connect's (or any subsequent lessee's) interest in the Lease.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA,** that the Mayor and City Commission hereby approve, following first reading/public hearing, a Development and Ground Lease Agreement, as authorized, respectively, under Section 118-4 of the City Code, Sections 163.3220 - 163.3243, Florida Statutes, and Section 82-37 of the City Code, between the City and MB Mixed Use Investment, LLC, for the development of a convention hotel with up to 800 rooms and related facilities, including up to 60,000 square feet of conference and ballroom facilities, and up to 52,000 square feet of accessory retail and restaurant facilities to service Hotel guests and the public (the "Hotel"), on an approximately 2.6 acre site on the northeast corner of 17<sup>th</sup> Street and Convention Center Drive and bounded roughly by the Miami Beach Convention Center to the North, 17th Street to the South, the Fillmore Miami Beach at the Jackie Gleason Theater to the East, and Convention Center Drive to the West (the "Leased Property"); delineating the conditions for the design, construction, equipping and operation of the Hotel on the Leased Property, with no City funding therefor; providing for a 99-year term of the Leased Property once certain conditions are satisfied; prohibiting gambling establishments on the Leased Property; and providing for base rent to the City once the Hotel opens, including, after the Hotel's opening, the greater of Minimum Fixed Rent or a fixed percentage of the gross revenues of the Hotel; and further setting the second public hearing and final reading of the Development and Ground Lease Agreement for a time certain.

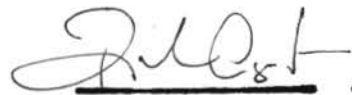
PASSED AND ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_ 2018.

ATTEST:

\_\_\_\_\_  
Dan Gelber, Mayor

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney *RNP* 07-10-18  
Date