

RESOLUTION NO. 2022-32014

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, A FIFTH AMENDMENT, BY AND AMONG THE CITY OF MIAMI BEACH (CITY), MIAMI-DADE COUNTY (COUNTY), AND THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA) TO THE NOVEMBER 16, 1993 INTERLOCAL COOPERATION AGREEMENT, AS AMENDED (THE "INTERLOCAL AGREEMENT"), RELATED TO THE CITY CENTER / HISTORIC CONVENTION CENTER VILLAGE REDEVELOPMENT AND REVITALIZATION AREA (CITY CENTER RDA); WITH SAID FIFTH AMENDMENT ATTACHED AS EXHIBIT "A" TO THE CITY COMMISSION MEMORANDUM ACCOMPANYING THIS RESOLUTION; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE FINAL FIFTH AMENDMENT, IN THE FORM APPROVED BY THE CITY ATTORNEY.

WHEREAS, the Miami-Dade County Board of County Commissioners (the "Board") adopted Resolution No. R-317-93 on March 30, 1993, approving, among other things, the City Center/Historic Convention Village Redevelopment and Revitalization Plan (the "Plan") and delegated certain powers conferred on the Board by Part III, Chapter 163, Florida Statutes (the "Act"), to implement the Plan to the Mayor and City Commission of the City of Miami Beach (the "City Commission"), all for the project area commonly called "City Center/Historic Convention Village Redevelopment and Revitalization Area" (such Area previously referred to in the Interlocal Agreement described below, as the "Project" and herein referred to as the "Redevelopment Area"); and

WHEREAS, the City Commission enacted Ordinance 93-2836 on February 24, 1993 and the Board also enacted Ordinance No. 93-28 on April 27, 1993, which among other things, established a trust fund ("Fund" or "Trust Fund") to fund improvements in the Redevelopment Area; and

WHEREAS, the County and the City also approved and entered into the Interlocal Cooperation Agreement, executed on November 16, 1993, as amended by the First Amendment (defined below), by the Second Amendment (defined below), by the Third Amendment (defined below), and by the Fourth Amendment (defined below) (collectively, the "Interlocal Agreement"), by which the County delegated to the City certain redevelopment powers granted by the Act, including but not limited to the creation of the Redevelopment Area and implementation of the Plan; and

WHEREAS, the Board, through Resolution No. R-889-03, and the City Commission, through Resolution No. 2003-2537, approved an amendment to the Plan to incorporate the development and implementation of community policing initiatives; and

WHEREAS, the Board, through Resolution No. R-889-03, and the City Commission, through Resolution No. 2003-25241, also approved an amendment to the Interlocal Agreement ("First Amendment") to delegate to the City the power to implement the community policing initiatives; and

WHEREAS, the Board, through Resolution No. R-958-05, the City Commission, through Resolution No. 2004-25560, and the Agency, through Resolution No. 470-2004, also approved a second amendment to the Interlocal Agreement ("Second Amendment") whereby:

- (i) the County, City, and Agency agreed that the Agency would remit one and one-half percent (1.5%) of the tax increment revenue paid to the Agency for said fiscal year to the County to defray administrative costs for oversight and processing Agency related items, after satisfaction each fiscal year of debt service and all other obligations related to the bonds or future indebtedness issued by the Agency and approved by the County, and
- (ii) the County approved the Agency's issuance of refunding bonds in an amount not to exceed a principal amount of \$101,090,000.00 to refinance all or a portion of the outstanding principal amount of bonds issued with respect to the Redevelopment Area; and

WHEREAS, the Board, through Resolution No. R-1110-14, the City Commission, through Resolution No. 2014-28835, and the Agency, through Resolution No. 607-2014, also approved a third amendment to the Interlocal Agreement ("Third Amendment"), which, among other terms, extended the life of the Agency to March 31, 2044, authorized the issuance of tax increment revenue bonds ("RDA Bonds") to support the Convention Center Renovation and Expansion Project (the "Convention Center Project"), and further provided for related payment terms, with the intent that all available excess Trust Fund revenues remaining on deposit in the Trust Fund be used for the prepayment or redemption of debt prior to maturity of the RDA Bonds, with such prepayment or redemption of debt commencing in FY 2023-24; and

WHEREAS, the Board, through Resolution No. R-644-18, the City Commission, through Resolution No. 2018-30288, and the Agency, through Resolution No. 629-2018, also approved a fourth amendment to the Interlocal Agreement ("Fourth Amendment"), which, among other terms, recognized that the available revenues remaining on deposit in the Trust Fund, as of the Agency's year-end for FY 2016-17, were estimated to be at approximately \$34,000,000 and:

- (i) in recognition of additional costs incurred by the City in connection with the Convention Center Project, including expenses resulting from Hurricane Irma and other unforeseen circumstances, authorized the allocation of excess Trust Fund revenues in the amount of \$6,914,221.00 to the Convention Center Project, and
- (ii) in recognition of the joinder by the City, the County, and the City of Miami to the Rockefeller Foundation's 100 Resilient Cities network as Greater Miami and the Beaches and commitment to developing a resilience strategy that, among other things, aggressively combats the risks of rising sea levels, coastal erosion, and hurricanes, provides protection from storm surges associated with hurricanes and other storm events, maintains and protects our coastal beaches, which provide direct benefits and protection to the people, property, and infrastructure developed on the barrier islands and which are a major feature of the Greater Miami and the Beaches tourism industry, attracting visitors from all over the world to our community, authorized the distribution of excess Trust Fund revenues to the County and the City beginning FY 2017-18 and continuing until FY 2022-23, with the County and City each setting aside \$1.5 million per year from the foregoing distribution of excess Trust Fund revenues to fund beach renourishment efforts, which can be used to leverage State or Federal funding for beach renourishment purposes, and
- (iii) in recognition of the continuing need to refurbish the Lincoln Road pedestrian mall from Collins Avenue to West Avenue and adjacent corridors, authorized the

distribution of an amount up to \$20,000,000 to fund the Lincoln Road Project previously authorized as part of the Third Amendment, for a total project amount of up to \$40,000,000 for the Lincoln Road Project; and

WHEREAS, after distribution of Tax Increment revenues in the order, priority, and amounts required by this Interlocal Agreement, the available revenues remaining on deposit in the Trust Fund, as of the Agency's year-end for FY 2020-21, are projected at approximately \$31,900,000.00; and

WHEREAS, the County desires to expand the use of the excess Trust Fund revenues set aside by the County for the purpose of funding beach renourishment to be used for any beaches located within Miami-Dade County, as determined in the County's sole discretion; and

WHEREAS, the County and the City recognize the importance to both the County and the City of renourishing all beaches throughout Miami-Dade County; and

WHEREAS, the Agency has served as a prominent funding mechanism for the transformative renovation and expansion of the Miami Beach Convention Center ("Convention Center Project"), which is the largest convention center in Miami-Dade County and a significant economic asset for the City and the entire County, hosting major recurring events such as Art Basel and periodic sports tourism events like the NFL Superbowl Experience; and

WHEREAS, the City was engaged in complex litigation relating to the work performed on the Convention Center Project and the City Commission, through Resolution No. 2021-31870, approved a final settlement agreement dated as of September 30, 2021 by and among the City, Clark Construction Group, LLC ("Contractor"), and Hill International Inc. (the "Final Settlement Agreement") pursuant to which the parties settled all claims among them in connection with the Convention Center Project; and

WHEREAS, pursuant to the Final Settlement Agreement, the City is responsible for generating \$33,500,000.00 payable for the remaining project costs in connection with the Convention Center Project, including payments to the Contractor, of which amount the City has already appropriated approximately \$6,400,000.00, which was part of the Convention Center Project budget contingency, and \$27,100,000.00 remains unfunded; and

WHEREAS, the Convention Center Project budget had included a contingency of \$35,000,000.00, which represents only approximately six percent (6%) of the total Convention Center Project budget; and

WHEREAS, the remaining unfunded Convention Center Project costs in the amount of \$27,100,000.00 represents approximately four percent (4%) of the total Convention Center Project budget, and when combined with the original contingency amount, effectively brings the total Convention Center Project contingency to approximately ten percent (10%) of the budget, which is well within industry standards; and

WHEREAS, completion of the Convention Center Project is essential to the success of the Redevelopment Area and implementation of the Plan, and accordingly, the City is requesting to access \$27,100,000.00 of the approximately \$31,900,000.00 in excess Trust Fund revenues for purposes of funding the balance of, and reimbursing the City for, the remaining project costs

in connection with the Convention Center Project, including payments to the Contractor pursuant to the Final Settlement Agreement; and

WHEREAS, given the importance of the Convention Center Project to their economic vitality, both the County and the City recognize the mutual benefits of resolving all claims pursuant to the Final Settlement Agreement and achieving completion of the Convention Center Project;

WHEREAS, to effectuate the foregoing purposes, the County, City, and Agency have negotiated a proposed amendment to the Interlocal Agreement ("Fifth Amendment"), attached in substantial form as Exhibit "A" to the Memorandum accompanying this Resolution, with said Fifth Amendment providing in material part:

- Until FY 2022-23, the County shall set aside \$1.5 million per year of the excess Trust Fund revenue payments received from the Agency for the purpose of funding beach renourishment for any beaches within Miami-Dade County, as opposed to only beaches within or adjacent to the City of Miami Beach, as determined in the County's sole discretion.
- of the approximately \$31,900,000.00 in excess Trust Fund revenues remaining on deposit in the Trust Fund as of the Agency's year-end for FY 2020-21, the Agency shall distribute \$27,100,000.00 to the City, for the limited purpose of funding, and reimbursing the City for, the remaining project costs in connection with the Convention Center Project, including payments to the Contractor pursuant to the Final Settlement Agreement.

WHEREAS, upon approval by the Agency and the City Commission, respectively, the Fifth Amendment will be transmitted to the County, for consideration and approval by the Board.

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, in substantial form, a Fifth Amendment, by and among the City of Miami Beach (City), Miami-Dade County (County), and the Miami Beach Redevelopment Agency (RDA) to the November 16, 1993 Interlocal Cooperation Agreement, as amended (the "Interlocal Agreement"), related to the City Center / Historic Convention Center Village Redevelopment and Revitalization Area (City Center RDA); with said Fifth Amendment attached as Exhibit "A" to the City Commission Memorandum accompanying this Resolution; and further authorizing the Mayor and City Clerk to execute the final Fifth Amendment, in the form approved by the City Attorney.

PASSED and ADOPTED THIS 20 day of January 2022.


ATTEST:


1/21/22
RAFAEL E. GRANADO, CITY CLERK


DAN GELBER, MAYOR



APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION


City Attorney PAZ 12-28-21
Date