

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, ON FIRST READING OF THIS RESOLUTION, THE VACATION OF THAT PORTION OF (1) OCEAN TERRACE, BETWEEN THE CENTERLINE OF 74th STREET AND THE NORTHERN RIGHT-OF-WAY LINE OF 75th STREET, WHICH CONSISTS OF A 60-FOOT WIDE RIGHT-OF-WAY CONTAINING APPROXIMATELY 25,200 SQUARE FEET IN TOTAL LOT AREA; (2) THE NORTH HALF OF 74th STREET, BETWEEN OCEAN TERRACE AND COLLINS AVENUE, WHICH CONSISTS OF A 30-FOOT WIDE RIGHT-OF-WAY CONTAINING APPROXIMATELY 8,880 SQUARE FEET IN TOTAL LOT AREA; AND (3) A PORTION OF 75th STREET, BETWEEN OCEAN TERRACE AND COLLINS AVENUE, WHICH CONSISTS OF A 40-FOOT WIDE RIGHT-OF-WAY CONTAINING APPROXIMATELY 11,840 SQUARE FEET IN TOTAL LOT AREA (COLLECTIVELY, THE "CITY RIGHT-OF-WAY AREAS"), IN FAVOR OF THE ABUTTING PROPERTY OWNERS, 7400 OCEAN TERRACE, LLC, 7410 OCEAN TERRACE, LLC, 7420 OCEAN TERRACE INVESTMENT, LLC, 7436 OCEAN TERRACE, LLC, 7450 OCEAN TERRACE, LLC, AND 7441 COLLINS AVENUE INVESTMENT, LLC (COLLECTIVELY, THE "DEVELOPER") AND G&V REALTY, LLC, THE OWNER OF 7401 COLLINS AVENUE; CONDITIONING THE VACATION UPON THE CITY COMMISSION'S APPROVAL OF, AND DEVELOPER'S SATISFACTION OF, CERTAIN TERMS AND CONDITIONS, TO BE SET FORTH IN A DEVELOPMENT AGREEMENT BETWEEN THE CITY AND DEVELOPER, WHICH CONDITIONS SHALL, AMONG OTHER TERMS, REQUIRE THE DEVELOPER TO (1) GRANT TO THE CITY A PERPETUAL UTILITY, ROADWAY AND PEDESTRIAN ACCESS EASEMENT OVER, ACROSS AND UNDER THE CITY RIGHT-OF-WAY AREAS; AND (2) OBLIGATE THE DEVELOPER TO DEVELOP, DESIGN, AND CONSTRUCT, AT THE DEVELOPER'S SOLE COST AND EXPENSE (EXCEPT FOR PAYMENT OF CERTAIN CITY FEES), CERTAIN PUBLIC PARK AND STREETScape IMPROVEMENTS IN THE VICINITY OF OCEAN TERRACE, BETWEEN 73RD STREET AND 75TH STREET, WITH SUCH PUBLIC IMPROVEMENTS HAVING A VALUE OF APPROXIMATELY FIFTEEN MILLION DOLLARS (\$15,000,000); FURTHER, WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, PURSUANT TO SECTION 82-38 OF THE CITY CODE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY; AND SETTING THE PUBLIC HEARING, PURSUANT TO SECTION 82-39(A) OF THE CITY CODE, FOR THE SECOND AND FINAL READING OF THE VACATION RESOLUTION.

WHEREAS, the City holds a right-of-way dedication to the following right-of-way areas:

(1) a portion of Ocean Terrace, running from the centerline of 74th Street and the northern right-of-way line of 75th Street, consisting of a sixty (60) foot wide right-of-way, and containing approximately 25,200 square feet in total lot area; as shown on as shown on the Plat of the Townsite of Harding, recorded in Plat Book 34, Page 4 of the Public Records of Miami-Dade County (the "Harding Townsite Plat");

(2) the north half of 74th Street, between Ocean Terrace and Collins Avenue, which consists of a 30-foot wide right-of-way containing approximately 8,880 square feet in total lot area; and

(3) a portion of 75th Street, between Ocean Terrace and Collins Avenue, which consists of a 40-foot wide right-of-way containing approximately 11,840 square feet in total lot area (collectively, (1) through (3) above, the "City Right-of-Way Areas"), each as shown on the Harding Townsite Plat, and depicted in the sketch attached as Exhibit "A" hereto; and

WHEREAS, various entities controlled by and affiliated with the principals of Ocean Terrace Holdings, LLC, namely, 7400 Ocean Terrace, LLC, 7410 Ocean Terrace, LLC, 7420 Ocean Terrace Investment, LLC, 7436 Ocean Terrace, LLC, 7450 Ocean Terrace, LLC, and 7441 Collins Avenue Investment, LLC (collectively, the "Developer"), and G&V Realty, LLC (the owner of 7401 Collins Avenue), own the properties abutting or in the vicinity of the City Right-of-Way Areas; which parcels are known as 7401, 7409, 7421, 7433, 7435, 7437, 7439, 7441, and 7449 Collins Avenue, and 7400, 7410, 7420, 7430, 7436, and 7450 Ocean Terrace (collectively, the "Property"); and

WHEREAS, the Developer intends to develop the Property as a mixed-use residential and commercial development (collectively, the "Proposed Development") pursuant to a Florida Statute Chapter 163 development agreement entered into between the City and the Developer (the "Development agreement"), and to develop, design and construct, at the Developer's sole cost and expense, certain public park and streetscape improvements in the vicinity of Ocean Terrace, between 73rd Street and 75th Street; and

WHEREAS, the Proposed Development shall be developed as a unified development site; and

WHEREAS, in conjunction with Proposed Development, the Developer is requesting that the City vacate the City Right-of-Way Areas abutting 7401, 7441, and 7449 Collins Avenue and 7400, 7410, 7420, 7430, 7436, and 7450 Ocean Terrace, and has submitted its application to the City's Public Works Department with respect thereto, to permit Developer to utilize the F.A.R. associated with the City Right-of-Way Areas within the Developer's Project (but with the City Right-of-Way Areas to continue to be used for pedestrian and vehicular travel); and

WHEREAS, with respect to the proposed vacation of the 4,380 square feet of City right-of-way abutting 7401 Collins Avenue, the proposed vacation shall be subject to and contingent on Developer's agreement with the property owner to include the vacated right-of-way area as part of the unified development site for the Project; and

WHEREAS, the vacation of City streets, alleys, and/or rights of way, require compliance with Article II, Sections 82-36 through 82-40, of the City Code (which establish the procedures governing the sale or lease of public property);

WHEREAS, prior to approving a request for vacation, the following requirements must be satisfied: (1) the title of the Resolution approving the proposed vacation shall be heard by the City Commission on two separate meeting dates, with the second reading to be accompanied by a duly noticed public hearing; (2) the proposed vacation shall be transmitted to the Finance and Citywide Projects Committee (the "Finance Committee") for its review; (3) the City's Planning Department shall prepare a written planning analysis, to be submitted to the City Commission concurrent with its consideration of the proposed vacation; and (4) the City shall obtain an independent appraisal of the fair market value of the property proposed to be vacated; and

WHEREAS, the Finance Committee reviewed the proposed vacation at its March 22, 2019 meeting, which recommendations were accepted by the City Commission in Resolution No. 2019-30771; and

WHEREAS, the Planning Department analysis of the vacation, pursuant to Section 82-38 of the City Code, is attached as Exhibit "B" hereto; and

WHEREAS, the Public Works Department obtained an appraisal on April 2, 2019, which appraisal is attached as Exhibit "C" hereto and valued the City Right-of-Way Areas at \$11,000,000); and

WHEREAS, on December 12, 2018, the City Commission unanimously adopted the Ocean Terrace Neighborhood Urban Design Plan, a concept plan for proposed public streetscape and park improvements to the Ocean Terrace area ("Concept Plan"), prepared by The Corradino Group and Garcia-Pons + Associates; and

WHEREAS, on March 22, 2019, the Finance Committee recommended proceeding with the vacation process, subject to the following public benefits being memorialized in the Development Agreement:

1. Developer would develop, design, permit and construct, at its sole cost and expense, certain public park and streetscape improvements in the vicinity of Ocean Terrace, between 73rd Street and 75th Street, based on the Concept Plan approved by the City Commission; and

2. Developer would grant a perpetual, non-revocable utility, roadway and pedestrian access easement in favor of the City against the City Right-of-Way Areas, for public vehicular and pedestrian use and access, as modified by the public improvements, which will pedestrianize portions of Ocean Terrace; and

WHEREAS, Section 82-39(a) of the City Code provides that the lease or sale of public property also requires an advertised public bidding process, which requirement may be waived by 5/7th vote of the City Commission; and

WHEREAS, Florida law, requires, upon vacation, a right-of-way reverts to the abutting property owners and/or the holders of any interest in any reversionary rights to the vacated area; and

WHEREAS, as the only persons entitled to the vacated land is the Developer (as the abutting property owners and holder of the appropriate reversionary interests), the City Administration recommends that the Mayor and City Commission waive the competitive bidding requirement, finding that the public interest is served by waiving such condition; and

WHEREAS, pursuant to the requirements of Section 1.03(b)(4) of the City Charter, the Planning Board at its May 21, 2019 meeting, unanimously approved the proposed vacation; and

WHEREAS, Section 1.03 (b)(4) of the Charter also requires that the vacation be approved by 6/7^{ths} vote of the City Commission; and

WHEREAS, the Administration, recommends approval of the vacation at first reading, subject to the terms and conditions contained herein, and recommends scheduling second reading, public hearing for July 17, 2019.

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, on First Reading of this Resolution, the vacation of that portion of (1) Ocean Terrace, between the centerline of 74th Street and the northern right-of-way line of 75th Street, which consists of a 60-foot wide right of way containing approximately 25,200 square feet in total lot area; (2) the north half of 74th Street, between Ocean Terrace and Collins Avenue, which consists of a 30-foot wide right of way containing approximately 8,880 square feet in total lot area; and (3) a portion of 75th Street, between Ocean Terrace and Collins Avenue, which consists of a 40-foot wide right-of-way containing approximately 11,840 square feet in total lot area (collectively, the "City Right-of-Way Areas"), in favor of the abutting property owners, 7400 Ocean Terrace, LLC, 7410 Ocean Terrace, LLC, 7420 Ocean Terrace Investment, LLC, 7436 Ocean Terrace, LLC, 7450 Ocean Terrace, LLC, and 7441 Collins Avenue Investment, LLC (collectively, the "Developer") and G & V Realty, LLC, the owner of 7401 Collins Avenue; conditioning the vacation upon the City Commission's approval of, and Developer's satisfaction of, certain terms and conditions, to be set forth in a development agreement between the City and Developer, which conditions shall, among other terms, require the Developer to (1) grant to the City a perpetual utility, roadway and pedestrian access easement over, across and under the City Right-of-Way Areas; and (2) obligate the Developer to develop, design, and construct, at the Developer's sole cost and expense (except for the payment of certain City fees), certain public park and streetscape improvements in the vicinity of Ocean Terrace, between 73rd Street and 75th Street, with such public improvements having a value of approximately Fifteen Million Dollars (\$15,000,000); further, waive, by 5/7ths vote, the competitive bidding requirement, pursuant to Section 82-38 of the City Code, finding such waiver to be in the best interest of the City; and set the public hearing, pursuant to Section 82-39(a) of the City Code, for second and final reading of this Resolution.

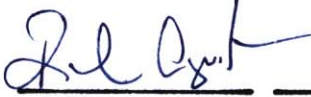
PASSED and ADOPTED this ____th day of June, 2019.

ATTEST:

Dan Gelber, Mayor

Rafael G. Granado, City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

 6/18/19

City Attorney Date
RAP