

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

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, ON SECOND READING/PUBLIC HEARING 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 EASEMENT OVER, ACROSS AND UNDER THE CITY RIGHT-OF-WAY AREAS FOR UTILITIES AND PUBLIC VEHICULAR, PEDRESTRIAN AND RECREATIONAL USE AND ACCESS; AND (2) 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 FOURTEEN MILLION EIGHT HUNDRED THOUSAND DOLLARS (\$14,800,000); AND 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.

**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 74<sup>th</sup> Street and the northern right-of-way line of 75<sup>th</sup> 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" to the Commission Memorandum accompanying this Resolution; 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 access and 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" to the Commission Memorandum accompanying this Resolution; and

**WHEREAS**, the July 3, 2019 appraisal of the City Right-of-Way Areas, which appraisal is attached as Exhibit "C" to the Commission Memorandum accompanying this Resolution, valued the City Right-of-Way Areas at \$12,400,000; 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 5/7<sup>th</sup> 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 abutting property owners and holders of the appropriate reversionary interests are the only persons entitled to the vacation, 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 City Charter also requires that the vacation be approved by 6/7<sup>ths</sup> vote of the City Commission; and

**WHEREAS**, on June 26, 2019, the Mayor and City Commission held the first reading of this Resolution and the companion agenda items (for the proposed Development Agreement and amendments to the City's Land Development Regulations), and read the title of the vacation Resolution into the record as required by Section 82-37 of the City Code; and

**WHEREAS**, the Administration, recommends approval of the vacation at second reading, subject to the Developer's satisfaction of the terms and conditions set forth in the Development Agreement.

**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 second 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 easement over, across and under the City Right-of-Way Areas for utilities and public vehicular, pedestrian, and recreational use and access; and (2) 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 Fourteen Million Eight Hundred Thousand Dollars (\$14,800,000); and 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.

**PASSED and ADOPTED** this \_\_\_\_ day of July, 2019.

**ATTEST:**

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

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Rafael G. Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

2/24/19  
Date