

RESOLUTION:_____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, ON FIRST READING, AN AIR RIGHTS EASEMENT AGREEMENT PURSUANT TO SECTION 82-37(A)(2) OF THE CITY CODE, BETWEEN THE CITY AND ESSEX HOUSE COLLINS, LP (THE "APPLICANT"), FOR THE APPLICANT'S CONSTRUCTION, OPERATION AND USE OF A PEDESTRIAN BRIDGE CONNECTING THE CLEVELANDER SOUTH BEACH HOTEL (1020 OCEAN DRIVE) AND THE ESSEX HOUSE HOTEL (1001 and 1021 COLLINS AVENUE) OVER A PORTION OF THE CITY'S OCEAN COURT RIGHT OF WAY; WITH SAID EASEMENT AREA CONSISTING OF APPROXIMATELY SIX (6) FEET IN WIDTH, TWENTY (20) FEET IN LENGTH, FOURTEEN (14) FEET IN HEIGHT (FOR A TOTAL OF APPROXIMATELY 1,680 CUBIC FEET OF AIR SPACE), AND LOCATED A MINIMUM OF THIRTY-SIX (36) FEET ABOVE THE GRADE SURFACE OF THE OCEAN COURT RIGHT OF WAY; FURTHER, WAIVING, BY 5/7TH VOTE, THE COMPETITIVE BIDDING REQUIREMENTS OF SECTION 82-39(B) OF THE CITY CODE, FINDING THAT THE PUBLIC INTEREST WOULD BE SERVED BY WAIVING SUCH CONDITION; AND FURTHER SETTING THE PUBLIC HEARING, FOR THE SECOND AND FINAL READING OF THE RESOLUTION, ON OCTOBER 30, 2019.

WHEREAS, Clevelander Holdings, LP, a Delaware limited partnership, and Essex House Collins, LP, a Delaware limited partnership, entities controlled by the Jesta Group, are the respective owners of the Clevelander South Beach Hotel (the "Clevelander"), located at 1020 Ocean Drive, and the Essex House Hotel ("Essex House"), located at 1001 and 1021 Collins Avenue; and

WHEREAS, the Clevelander and Essex House are separated by a City right of way known as Ocean Court, an alley that runs south to north, between Ocean Drive and Collins Avenue (the "Ocean Court Right of Way"). The Ocean Court Right of Way was dedicated by plat to the City as a public right of way; this dedication also includes the associated air rights over the Ocean Court Right of Way; and

WHEREAS, Essex House Collins, LP, a Delaware limited partnership (the "Applicant") has submitted its application to the Historic Preservation Board (HPB), which application is scheduled to be heard on October 8, 2019, for a project involving the renovation of the Essex House and construction of an addition, including a proposed pedestrian bridge that would span over a portion of the Ocean Court Right of Way, to connect the Clevelander and the Essex House at approximately the fourth story level, and which pedestrian bridge, and the corresponding easement parcel area, is approximately six (6) feet in width, twenty (20) feet in length, fourteen (14) feet in height (for a total of approximately 1,680 cubic feet of air space), and located a minimum of thirty-six (36) feet above the grade surface of a portion of the Ocean Court Right of Way (the "Pedestrian Bridge"); and

WHEREAS, pursuant to Section 82-37(a) of the City Code, the Applicant is seeking an aerial easement over a portion of the Ocean Court Right of Way, for the construction, operation and use of the Pedestrian Bridge, at the Applicant's sole cost and expense, following the same general framework as other pedestrian bridge connector projects previously approved by the City Commission, such as the connectors for the Tides and the Betsy Hotel; and

WHEREAS, as the Pedestrian Bridge would be located at approximately the fourth story level, at least 36 feet above the surface of the Ocean Court Right of Way, the location of the Pedestrian Bridge at such height would ensure no disruption to vehicular ingress or egress through the Ocean Court Right of Way; and

WHEREAS, under the proposed easement agreement, a draft of which is attached as an exhibit to the Commission Memorandum accompanying this Resolution, the Applicant shall bear any and all costs of installation, maintenance, repairs, taxes, insurance and any and all other costs and expenses relating to the construction or operation of the Pedestrian Bridge, including any necessary relocation or undergrounding of existing utilities in conflict with the proposed Pedestrian Bridge; and

WHEREAS, pursuant to Section 82-38 of the City Code, the Planning Department is to prepare a written planning analysis, which will be submitted to the City Commission concurrent with its final consideration of the proposed conveyance; and

WHEREAS, the City has obtained an independent appraisal of the market value associated with the air rights easement, a copy of which is attached as an exhibit to the Commission Memorandum accompanying this Resolution, estimating a market value, as of July 23, 2019, in the amount of \$135,000; and

WHEREAS, pursuant to Sections 82-37 of the City Code, the proposed air rights easement was reviewed by the Finance and Citywide Projects Committee ("FCWPC") at its September 20, 2019 meeting, which favorably recommended approval of the easement, provided that the Administration and the applicant finalize details as to an additional public benefit; and

WHEREAS, in addition to payment to the City for the appraised value of the easement area, the Applicant has offered additional public benefits to the City, as outlined more fully in the Commission Memorandum accompanying this Resolution; and

WHEREAS, in view of the nature and location of the proposed easement (which only benefits the Applicant, as the owner of the two hotels), the Administration recommends the waiver of the competitive bidding requirement, pursuant to Section 82-39(b) of the City Code, as being in the public interest.

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, an Air Rights Easement Agreement pursuant to Section 82-37(a)(2) of the City Code, between the City and Essex House Collins, LP (Applicant), for the Applicant's construction, operation and use of a pedestrian bridge connecting the Clevelander South Beach Hotel (1020 Ocean Drive) and the Essex House Hotel (1001 and 1021 Collins Avenue) over a portion of the City's Ocean Court Right Of Way; with said easement area consisting of approximately six (6) feet in width, twenty (20) feet in length, fourteen (14) feet in height (for a total of approximately 1,680 cubic feet of air space), and located a minimum of thirty-six (36) feet above the grade surface of the Ocean Court Right Of Way; further, waiving, by 5/7th vote, the competitive bidding requirement of Section 82-39(b) of the City Code, finding that the public interest would be served by such waiver; and further setting the public hearing, for the second and final reading of the Resolution, on October 30, 2019.

PASSED and ADOPTED this 16th day of October, 2019.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

Rafael E. Granado 10-2-19

City Attorney *RAP* Date