

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

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE A TERMINATION AND RELEASE OF EASEMENT, RELATING TO A CITY UTILITY EASEMENT, RECORDED IN O.R. BOOK 3074, AT PAGE 42, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, PARTICULARLY DESCRIBED AS: THE NORTHERLY (10) FEET OF LOTS 5 AND 8, BLOCK 5, OF THE PLAT OF NORMANDY BEACH SOUTH, RECORDED IN PLAT BOOK 21, AT PAGE 54 (PLAT); AND RELEASING THE CITY'S RIGHT TO ACCESS, USE AND MAINTAIN UTILITIES WITHIN A (10) FOOT TOTAL RESERVATION (EASEMENT), AS NOTED ON SAID PLAT (NOTE: A STRIP OF LAND 5 FEET WIDE IS RESERVED IN THE REAR OF EACH LOT), PARTICULARLY DESCRIBED AS: LOTS 1 THROUGH 12, BLOCK 5, ACCORDING TO SAID PLAT; SAID RELEASES BENEFITING KGTC, LLC, OWNER OF THE BURDENED PROPERTIES, LOCATED AT 7125-7145 CARLYLE AVENUE, 7100-7144 BYRON AVENUE, AND 527 71<sup>ST</sup> STREET, IN CONNECTION WITH THE REDEVELOPMENT OF THE PROPERTIES INTO A MULTISTORY MIXED-USE PROPERTY (DEVELOPMENT); AND FURTHER AUTHORIZING THE CITY MANAGER TO ACCEPT REPLACEMENT EASEMENT RIGHTS ELSEWHERE ON THE DEVELOPMENT, IN THE FORM THAT IS ACCEPTABLE TO THE CITY ATTORNEY.

**WHEREAS**, KGTC LLC (the "Owner") is the owner of the properties located at 7125, 7135 and 7145 Carlyle Avenue; 7100, 7108, 7118, 7134 and 7144 Byron Avenue; and 527 71 Street (the "Properties"); and

**WHEREAS**, as shown on the Plat of Normandy Beach South, recorded in Plat Book 21, at Page 54, of the Public Records of Miami-Dade County (the "Plat"), there is a 10-foot easement running in the North/South direction down the center of the Properties for utilities (the "Platted Utility Easement"); and

**WHEREAS**, there is a 10-foot utility easement, in favor of the City of Miami Beach, Florida, running in the East/West direction of the northern 10 feet of Lots 5 and 8 on the Property, recorded on November 2, 1948, in Deed Book 3074, at Page 42, of the Public Records of Miami-Dade County (the "City Private Easement"); and

**WHEREAS**, the Platted Utility Easement is composed of water facilities, and the City Private Easement is composed of electrical and water facilities; and

**WHEREAS**, the Utility Platted Easement and the City Private Easement are located within an area of the Properties on which the Owner intends to construct a multistory mixed-use development (the "Development"); and

**WHEREAS**, Owner's application for the Development has been approved, subject to the terms and conditions set forth in the City's Corrected Design Review Board Order, recorded in O.R. Book 31700, at Page 465, of the Public Records of Miami-Dade County; and

**WHEREAS**, the Owner has consulted the Public Works Department to coordinate the potential relocation and/or termination of these easements, and any others that may run in favor of the City burdening the Property, as part of the development permitting process; and

**WHEREAS**, the Owner has requested that the City terminate its interest in the Utility Platted Easement, in favor of a current replacement utility easement by instrument; and

**WHEREAS**, Owner has requested that the City terminate and release the City Private Easement and to work with Owner to relocate any and all utility facilities at the Properties and accept replacement easements on the Development; and

**WHEREAS**, the Owner shall be responsible for the relocation, removal, recording in public records, and any and all associated costs relating to the termination and/or replacement of such easements; and

**WHEREAS**, the City Manager recommends authorizing the Mayor and City Clerk to execute the Termination and Release of Easement, incorporated herein by reference and attached hereto as Exhibit "1"; provided that the Owner conveys to the City any easement rights on the approved Development, which the City Manager, in his reasonable discretion, deems necessary.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Clerk hereby approve and authorize the Mayor and City Clerk to execute a Termination and Release of Easement, relating to a City utility easement, recorded in O.R. Book 3074, at Page 42, of the Public Records of Miami-Dade County, particularly described as: the northerly (10) feet of Lots 5 and 8, Block 5, of the Plat of Normandy Beach South, recorded in Plat Book 21, at Page 54 (Plat); and release the City's right to access, use and maintain utilities within a (10) foot total reservation (easement), as noted on said Plat (note: a strip of land 5 feet wide is reserved in the rear of each lot), particularly described as: lots 1 through 12, block 5, according to said Plat; said releases benefiting KGTC, LLC, owner of the burdened properties, located at 7125-7145 Carlyle Avenue, 7100-7144 Byron Avenue, and 527 71<sup>st</sup> street, in connection with the redevelopment of the properties into a multistory mixed-use property (Development); and further authorize the City Manager to accept replacement easement rights elsewhere on the Development, in the form that is acceptable to the City Attorney.

**PASSED AND ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2020.

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

**ATTEST:**

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

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

4-8-20  
\_\_\_\_\_  
Date

This instrument prepared by or under the supervision of  
(and after recording should be returned to):

Name: Ethan B. Wasserman, Esq.  
Address: Greenberg Traurig, P.A.  
333 SE 2 Avenue, 4400  
Miami, Florida 33131

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### **TERMINATION AND RELEASE OF EASEMENT**

**THIS TERMINATION AND RELEASE OF EASEMENT** is made and entered into as of the \_\_\_\_ day of \_\_\_\_\_, 2020, by and between **KGTC, LLC**, a Florida limited liability company ( the “**Owner**”), owner of the properties located at 527 71<sup>st</sup> Street; 7125, 7135 and 7145 Carlyle Avenue; and 7100, 7108, 7118, 7134 and 7144 Byron Avenue, Miami Beach, FL (collectively, the “**Property**”) as described in Exhibit “A” attached hereto, and the **CITY OF MIAMI BEACH**, a municipal corporation of the State of Florida (the “**City**”).

**WHEREAS**, there is a certain 10-foot easement running in the East/West direction of the northern 10 feet of Lots 5 and 8 located at the Property (the “**Easement**”), more specifically described in Exhibit “B”;

**WHEREAS**, that certain Easement was entered in favor of the City and recorded on November 2, 1948 in Deed Book 3074, at Page 42 of the Public Records of Miami-Dade County, attached as Exhibit “B”;

**WHEREAS**, the Easement is composed of electrical and water facilities and is located within an area of the Property;

**WHEREAS**, Owner’s application for the redevelopment of the Property into a multistory mixed-use development (“**Development**”) has been approved, subject to the terms and conditions set forth in the City’s Corrected Design Review Board Order, recorded in O.R. Book 31700, at Page 465, of the Public Records of Miami-Dade County; and

**WHEREAS**, Owner has requested that the City terminate the Easement and has agreed to convey to the City any replacement easements on the Development, which the City Manager deems necessary; and

**WHEREAS**, pursuant to Resolution No. \_\_\_\_\_, the City is authorized to terminate and release the Easement and the City Manager is authorized to accept replacement easement rights on the Development; and

**WHEREAS**, Owner shall be responsible for the relocation, removal, recording in public records, and any and all associated costs relating to the termination and/or replacement of the Easement; and

### **EXHIBIT “1”**

**NOW, THEREFORE**, in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Owner and the City agree as follows:

1. The foregoing recitals are true and correct and are incorporated herein by reference.
2. The Easement is hereby fully canceled, terminated, extinguished and released and shall have no further force or effect and shall no longer bind the property set forth therein.
3. Owner and the City of Miami hereby direct the Clerk of the Court, Miami-Dade County, Florida to cancel the same of record.

*[Signatures on Following Page]*

**Signed, witnessed, executed and acknowledged on this \_\_\_\_ day of \_\_\_\_\_, 2020.**

**WITNESSES:**

**CITY OF MIAMI BEACH:**

Signature

Signature

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Print Name

Print Name of Authorized Representative

Signature

Title/Position

Print Name \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 )  
COUNTY OF \_\_\_\_\_ )

SS:

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020 by \_\_\_\_\_ as an authorized representative of the City of Miami Beach. He/she is personally known to me or produced \_\_\_\_\_ as identification and did not take an oath.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_  
 Print Name: \_\_\_\_\_  
 NOTARY PUBLIC, STATE OF \_\_\_\_\_  
 My commission expires \_\_\_\_\_

**Approved as to form & language & for execution:**

City Attorney

Date \_\_\_\_\_

Signed, witnessed, executed and acknowledged on this \_\_\_\_ day of \_\_\_\_\_, 2020.

**WITNESSES:**

**OWNER:**

Signature

Individual Signature

Print Name \_\_\_\_\_

Matis N. Cohen

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Print Name \_\_\_\_\_

Signature

KGTC, LLC

Name of Corporate Entity

Print Name \_\_\_\_\_

Position with Corporate Entity (Pres., VP, CEO)

STATE OF \_\_\_\_\_ )

**SS:**

COUNTY OF )

The foregoing instrument was acknowledged before me by means of [ ] physical presence or [ ] online notarization, this \_\_\_\_ day of \_\_\_\_\_, 2020 by Matis N. Cohen as \_\_\_\_\_ of KGTC, LLC., a Florida limited liability company, on behalf of the company. He/she is personally known to me or produced \_\_\_\_\_ as identification and did not take an oath.

[NOTARIAL SEAL]

Notary: \_\_\_\_\_

Print Name: \_\_\_\_\_

NOTARY PUBLIC, STATE OF

My commission expires \_\_\_\_\_

**Exhibit "A"**

Legal Description of Property

Parcel 1:

Lots 4, 5, 6, 7 and 8, of Block 5 of NORMANDY BEACH SOUTH, according to the Plat thereof. as recorded in Plat Book 21, at Page 54, Public Records of Miami-Dade County, Florida.

Parcel 2:

Lots 1, 2, 9, 10, 11 and 12, of Block 5, of NORMANDY BEACH SOUTH, according to the Plat thereof, as recorded in Plat Book 21, at Page 54, Public Records of Miami-Dade County, Florida.

Parcel 3:

Lot 3 of Block 5 of NORMANDY BEACH SOUTH, according to the Plat thereof as recorded in Plat Book 21, at Page 54, of the Public Records of Miami-Dade County, Florida.

**Exhibit "B"**

Recorded Easement



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KNOW ALL MEN BY THESE PRESENTS: That we, in consideration of the sum of One (\$1.00) Dollar, receipt of which is hereby acknowledged, and of further valuable considerations, do hereby give and grant unto the CITY OF MIAMI BEACH, FLORIDA, its successors and assigns, and its grantees operating public utilities under franchises granted by said City, a perpetual easement over, under and across the following described lands situate, lying and being in Miami Beach, Dade County, Florida, to-wit:

The Northerly Ten (10) Feet of  
Lots 5 and 3 of Block 5 of BOKHARDY  
BEACH SOUTH, according to the Plat  
thereof, recorded in Plat Book 21,  
at page 91, of the Public Records  
of Dade County, Florida,

for the purpose of constructing and maintaining wire lines, pipe lines, poles, sewers, water mains, and as a means of ingress and egress for such uses, and for the removal of garbage from abutting properties.

IN WITNESS WHEREOF, we have hereunto set our hands and seals at Miami Beach, Dade County, Florida, this 20<sup>th</sup> day of October, A. D. 1943.

James A. Wasserman (Seal)  
Laetitia J. Wasserman (Seal)

Signed, sealed and delivered in the presence of:

*San Marina*  
*Stul Biancabone*