

RESOLUTION NO. 2020-_____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING SECOND READING/PUBLIC HEARING OF THIS RESOLUTION, THE VACATION OF THE WESTERN HALF OF ALTON ROAD ADJACENT TO THE CITY-OWNED PROPERTIES LOCATED AT 300-390 ALTON ROAD, THE CURRENT UPLAND SITE OF THE MIAMI BEACH MARINA (FOLIO NOS. 02-4203-009-9210, 02-4203-000-0010, AND 02-4203-009-9250) (THE "DEVELOPMENT SITE"), WHICH AREA PROPOSED TO BE VACATED CONSISTS OF A FIFTY (50) FOOT WIDE RIGHT-OF-WAY CONTAINING 25,500 SQUARE FEET IN TOTAL LOT AREA (THE "CITY RIGHT-OF-WAY AREA"), IN FAVOR OF THE ABUTTING PROPERTY OWNER, THE CITY OF MIAMI BEACH, FLORIDA (THE "CITY"), FOR THE PURPOSE OF INCLUDING THE CITY RIGHT-OF-WAY AREA AS PART OF THE UNIFIED DEVELOPMENT SITE FOR THE PROPOSED DEVELOPMENT OF THE DEVELOPMENT SITE, WHICH PROPOSED DEVELOPMENT SHALL BE LIMITED TO A MAXIMUM FLOOR AREA OF 319,802 SQUARE FEET, AND SHALL INCLUDE RESIDENTIAL, RETAIL, OFFICE, RESTAURANT AND MARINA USES (THE "MARINA PARK PROJECT"); FURTHER, PROVIDING THAT THE PROPOSED VACATION SHALL BE CONDITIONED UPON THE CITY COMMISSION'S APPROVAL OF (1) A DEVELOPMENT AGREEMENT BY AND AMONG THE CITY, MARINA PARK RESIDENTIAL, LLC AND MARINA PARK COMMERCIAL, LLC (JOINTLY AND SEVERALLY, THE "DEVELOPER"), WHICH AGREEMENT SHALL INCLUDE THE TERMS AND CONDITIONS FOR THE DESIGN, PERMITTING AND CONSTRUCTION OF THE MARINA PARK PROJECT, AT THE DEVELOPER'S SOLE COST AND EXPENSE, INCLUDING RESILIENCY AND OTHER CAPITAL IMPROVEMENTS; (2) THE CITY'S SALE TO MARINA PARK RESIDENTIAL, LLC OF THE PORTION OF THE DEVELOPMENT SITE AND AIR PARCEL WITHIN WHICH THE APPROXIMATELY 275,000 SQUARE FOOT RESIDENTIAL PORTION OF THE MARINA PARK PROJECT IS TO BE CONSTRUCTED ("RESIDENTIAL PARCEL"); AND (3) THE CITY'S NINETY-NINE (99) YEAR LEASE TO MB MARINA PARK, LLC, AN AFFILIATE OF SUNTEX MARINA INVESTORS, LLC, OF THE DEVELOPMENT SITE (EXCLUDING THE RESIDENTIAL PARCEL) AND ASSOCIATED LEASE OF SUBMERGED LANDS FOR MARINA USE (THE "MARINA LEASE"); FURTHER, PROVIDING THAT THE PROPOSED VACATION SHALL BE SUBJECT TO AND CONTINGENT UPON APPROVAL OF THE MARINA LEASE AND THE SALE OF THE RESIDENTIAL PARCEL BY A MAJORITY OF THE VOTERS VOTING IN A CITY-WIDE REFERENDUM, PURSUANT TO SECTION 1.03(B)(1) OF THE CITY CHARTER, AMONG OTHER CONDITIONS; AND FURTHER, WAIVING, BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, PURSUANT TO SECTION 82-39 OF THE CITY CODE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY.

WHEREAS, the City Commission of the City of Miami Beach desires to maximize the performance of the property commonly referred to as the “Miami Beach Marina” (described more fully below) and upgrade its facilities, enhance the neighborhood through neighborhood-oriented commercial and retail spaces, improve resiliency with capital improvements focused on sustainability, provide a park with additional public green space in the City, and generate substantial lease and other revenues for the City; and

WHEREAS, the City holds a right-of-way dedication to the portion of Alton Road that lies south of 5th Street, as shown on the Plat of Ocean Beach, Fla. Addition No. 3 recorded in Plat Book 2, Page 81 of the Public Records of Miami-Dade County; and

WHEREAS, the City is the owner of the properties located at 300-390 Alton Road, the current location of the Miami Beach Marina, Folio Nos. # 02-4203-000-0010, 02-4203-009-9210 and 02-4203-009-9250 (the “Development Site”); and

WHEREAS, the City is the lessee of the submerged lands area leased to the City and the Miami Beach Redevelopment Agency by the Board of Trustees of the Internal Improvements Trust Fund of the State of Florida, as more fully described in BOT File No. 130765469 (“Area 2”). The Development Site and Area 2, as depicted in **Exhibit “1”** to the Commission Memorandum accompanying this Resolution, shall be collectively referred to herein as the “Miami Beach Marina”; and

WHEREAS, since 1983, the Miami Beach Marina (excluding Lots 30/31 thereof) has been leased to Miami Beach Marina Associates, Ltd. (the “Current Lessee”), for use solely as a boat port, marina and recreation facility offering dockage, mooring and other marina related services for use by the general public (the “Existing Lease”). The Existing Lease provides for an initial term expiring on January 1, 2022, and provides the Current Lessee with the right to renew three (3) times, for a period of ten (10) years for each renewal term, through January 1, 2052; and

WHEREAS, Marina Park Residential, LLC, f/k/a Alton Road Mixed Use Investments, LLC (“Marina Park Residential”) and an affiliate thereof, Marina Park Commercial, LLC (“Marina Park Commercial, LLC”) (jointly and severally, the “Developer”), along with Suntex Marina Investors, LLC, an affiliate of the Current Lessee, are proposing a public-private partnership with the City for the purpose of developing and constructing a project on the Development Site that includes:

(1) a private luxury residential tower that would include a maximum of 60 residential units and a maximum of approximately 275,000 gross square feet, with a maximum height of 385 feet; and

(2) a new Marina building and enhanced neighborhood retail uses on the site of the current Miami Beach Marina building, with a maximum of approximately 45,000 gross square feet of accessory restaurant, retail and office space, to upgrade the existing condition of the Miami Beach Marina facilities, which are dated and unattractive; and

(3) substantial green space, including a contiguous, one (1) acre ground-level public park for the benefit of the general public, as well as other improvements, including

resiliency enhancements and enhancements to the public baywalk along the Miami Beach Marina (collectively, (1) – (3) above, the “Project” or “Marina Park Project”); and

WHEREAS, the Developer intends to develop the mixed-use residential and commercial Marina Park Project 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 the Project, at the Developer’s sole cost and expense, including the proposed resiliency and other capital improvements; and

WHEREAS, the Administration and Developer have negotiated the proposed Development Agreement, a copy of which is attached hereto as **Exhibit “3”** to the Commission Memorandum accompanying this Resolution; and

WHEREAS, in addition to the Development Agreement, the Marina Park Project includes four other major components that must be approved by the City Commission in order for the Marina Park Project to proceed (the second readings for which are all the subject of companion agenda items on the July 29, 2020 City Commission Agenda), namely:

(1) The Purchase and Sale Agreement (“PSA”) for the sale to Marina Park Residential, LLC (“Purchaser”) of up to 0.3 acres of the Development Site, and an air parcel, within which the approximately 275,000 square foot residential portion of the Project would be constructed (“Residential Parcel”), with the sale of the Residential Parcel subject to approval by a majority of the voters voting in a City-wide referendum pursuant to Section 1.03(b)(1) of the City Charter (“Sale of Residential Parcel”);

(2) A new lease for the Miami Beach Marina (excluding the Residential Parcel), to MB Marina Park, LLC, an affiliate of Suntex Marina Investors, LLC, which would be effective at the Closing for the sale of of Residential Parcel, with the term to commence on January 1, 2022 (following the expiration of the existing lease), for a term of ninety-nine (99) years, with the new lease subject to approval by a majority of the voters voting in a City-wide referendum pursuant to Section 1.03(b)(1) of the City Charter (the “New Lease”);

(3) The vacation of the western half of Alton Road that lies adjacent to the City-owned properties that are part of the Development Site, consisting of a fifty (50) foot wide right-of-way, containing 25,500 square feet in total lot area, as depicted in **Exhibit “1”** to the Commission Memorandum accompanying this Resolution (the “City Right-of-Way Area”);

(4) Amendments to the City’s Comprehensive Plan and Land Development Regulations, to permit public-private marina redevelopments (including residential and other uses), increase the maximum building height, and amend other design regulations (the “Proposed LDR Amendments”);

WHEREAS, as referenced above, as part of the proposed development of the Marina Park Project, the Developer has requested that the City vacate the City Right-of-Way Area that lies adjacent to the City-owned properties that are part of the Development Site; and

WHEREAS, as the City is the owner of the abutting parcels, the vacation would vest the City with the fee interest in and to the City Right-of-Way Area; and

WHEREAS, pursuant to the Development Agreement, the Marina Park Project shall be developed as a unified development site, and the unified abutting parcels (consisting of the City Right-of-Way Area, Development Site and Residential Parcel) would be joined via a covenant in lieu of unity of title, to permit Developer to utilize the F.A.R. associated with the City Right-of-Way Area within the Marina Park Project; and

WHEREAS, following the vacation, the City Right-of-Way Area would continue to be owned by the City as a separate stand-alone parcel, and used solely for pedestrian and vehicular travel; and

WHEREAS, as referenced above, the Development Agreement for the Marina Park Project also contemplates a Purchase and Sale Agreement for the Residential Parcel; and

WHEREAS, the City engaged two independent appraisers, namely CBRE, Inc. ("CBRE") and Walter Duke + Partners, Inc. ("Walter Duke") to independently estimate the fair market value of the development rights in connection with the Sale of Residential Parcel (the square footage of which incorporated the 25,500 square feet associated with the to-be-vacated City Right-of-Way Area) and the fair market rental value for the New Lease; and

WHEREAS, Walter Duke's appraisal valued the Residential Parcel at \$70 million, and CBRE's appraisal valued the Residential Parcel at \$87 million. A copy of the updated CBRE and Walter Duke Appraisal Reports are attached as **Exhibit "7"** to the Commission Memorandum accompanying this Resolution; and

WHEREAS, the proposed PSA for the Sale of Residential Parcel is attached as **Exhibit "4"** to the Commission Memorandum accompanying this Resolution. Among other terms, the PSA provides for payment to the City for the Sale of Residential Parcel in the amount of \$55 million, payable in specified installments, with the balance evidenced by a promissory note and secured by a first mortgage on the Residential Parcel in favor of the City. In addition to the cash purchase price of \$55 million, Developer has agreed to spend a minimum of \$22.5 million toward specified capital improvements to the Development Site (including delivery of the baseline commercial building of the Project, park improvements, resiliency enhancements, Baywalk enhancements, Alton Road right-of-way enhancements, retail enhancements, and additional art in excess of the required AIPP contribution), which commitments are memorialized in the Development Agreement; and

WHEREAS, in accordance with Article II, Sections 82-36 through 82-40, of the City Code, 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 Economic Resiliency 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 Planning Department analysis of the vacation, pursuant to Section 82-38 of the City Code, is attached as **Exhibit “2”** to the Commission Memorandum accompanying this Resolution; and

WHEREAS, the Finance and Economic Resiliency Committee (“Finance Committee”) reviewed the proposed transaction at its April 17, 2020 and May 22, 2020 meeting, and favorably recommended proceeding with the Marina Park Project, including the proposed (1) Development Agreement, (2) PSA, (3) New Lease, and (4) Vacation Resolution; 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, as the City is the owner of the abutting parcels, and the Developer parties would be the only entities benefiting from the proposed 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 proposed vacation requires approval by a majority of the members of the Planning Board; and

WHEREAS, on June 23, 2020, the Planning Board unanimously approved the proposed vacation of the City Right-of-Way Area; and

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

WHEREAS, as two key elements of the Project – the Sale of Residential Parcel and the New Lease -- are each subject to approval by a majority of the voters voting in a City-wide referendum pursuant to the City Charter, the vacation of the City Right-of-Way Area shall be subject to and contingent upon (1) voter referendum approval of the Marina Lease and the Sale of Residential Parcel, in accordance with Section 1.03(b)(1) of the City Charter; (2) the Closing on the City’s Sale of Residential Parcel to Marina Park, LLC or an affiliate thereof; and (3) the execution of the New Lease, which would be effective at Closing (March 15, 2021), with the term commencing January 1, 2022, immediately following the expiration of the existing lease); and

WHEREAS, for the reasons as outlined in the Commission Memorandum accompanying this Resolution, which Commission Memorandum, and exhibits thereto, are incorporated by reference as if fully set forth herein, the Administration recommends approval of the proposed vacation of the City Right-of-Way Area on second reading.

NOW THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, that the Mayor and City Commission hereby approve, on second reading/public hearing of this Resolution, the vacation of the western half of Alton Road, adjacent to the City-owned properties located at 300-390 Alton Road, the current upland site of the Miami Beach Marina (Folio nos. 02-4203-009-9210, 02-4203-000-0010, and 02-4203-009-9250) (the “Development Site”), which area proposed to be vacated

consists of a fifty (50) foot wide right-of-way containing approximately 25,500 square feet in total lot area (the "City Right-of-Way Area"), in favor of the abutting property owner, the City of Miami Beach, Florida (the "City"), for the purpose of including the City Right-of-Way Area as part of the unified development site for the proposed development of the Development Site, which proposed development shall be limited to a maximum floor area of approximately 319,802 square feet, and shall include residential, retail, office, restaurant and marina uses (the "Marina Park Project"); further, providing that the proposed vacation shall be conditioned upon the City Commission's approval of (1) the Development Agreement by and among the City, Marina Park Residential, LLC and Marina Park Commercial, LLC (jointly and severally the "Developer"), which agreement shall include the terms and conditions for the design, permitting and construction of the Marina Park Project, at the Developer's sole cost and expense, including resiliency and other capital improvements; (2) the City's sale to Marina Park Residential, LLC of the portion of the Development Site and air parcel within which the approximately 275,000 square foot residential portion of the Marina Park Project is to be constructed ("Residential Parcel"); and (3) the City's ninety-nine (99) year lease to MB Marina Park, LLC, an affiliate of Suntex Marina Investors, LLC, of the Development Site (excluding the Residential Parcel) and associated lease of submerged lands for marina use (the "Marina Lease"); further, providing that the proposed vacation shall be subject to and contingent upon approval of the Marina Lease and the sale of the Residential Parcel by a majority of the voters voting in a City-wide referendum, pursuant to Section 1.03(b)(1) of the City Charter, among other conditions; 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.

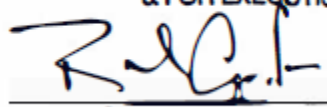
PASSED AND ADOPTED this ____ day of July, 2020.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

 7/21/20

City Attorney *RAP* Date