

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, APPROVING, FOLLOWING FIRST READING/PUBLIC HEARING, A DEVELOPMENT AGREEMENT AS AUTHORIZED UNDER SECTION 118-4 OF THE CITY CODE, AND SECTIONS 163.3220 – 163.3243, FLORIDA STATUTES, BETWEEN THE CITY AND SERVITAS, LLC (THE “DEVELOPER”), WHICH DEVELOPMENT AGREEMENT DELINEATES CONDITIONS FOR THE DEVELOPMENT OF THE CITY-OWNED PROPERTY LOCATED AT 224 23RD STREET, THE CURRENT SITE OF A SURFACE PARKING LOT (THE “PROPERTY”), FOR THE COLLINS PARK ARTIST WORKFORCE HOUSING PROJECT, A PROPOSED DEVELOPMENT CONTAINING (1) RESIDENTIAL WORKFORCE HOUSING UNITS, FOR ARTISTS, TEACHERS, AND OTHER INCOME-ELIGIBLE TENANTS; (2) DORMITORY HOUSING, INTENDED FOR USE BY MIAMI CITY BALLET, INC. (THE “BALLET”), TO SUPPORT THE BALLET’S DANCE EDUCATION AND OTHER PROGRAMS OR, IF AGREEMENT WITH THE BALLET CANNOT BE REACHED, ADDITIONAL WORKFORCE HOUSING UNITS; AND (3) GROUND FLOOR RETAIL OR CULTURAL SPACE, WITH THE BUILDING CONSTRUCTED ON THE PROPERTY TO BE LIMITED TO A MAXIMUM HEIGHT OF 75 FEET (COLLECTIVELY, THE “PROJECT”); FURTHER, MEMORIALIZING THE CONDITIONS FOR THE CITY’S LEASE OF THE PROPERTY TO COMMUNITY FINANCE CORPORATION, A NOT-FOR PROFIT CORPORATION, OR AN AFFILIATE THEREOF, FOR THE DEVELOPMENT, FINANCING, CONSTRUCTION AND OPERATION OF THE PROJECT (THE “LEASE”), WITH THE LEASE SUBJECT TO AND CONTINGENT UPON APPROVAL BY THE PLANNING BOARD AND THE CITY COMMISSION, PURSUANT TO SECTION 1.03(B)(4) OF THE CITY CHARTER; AND FURTHER, SETTING THE SECOND AND FINAL READING OF THE DEVELOPMENT AGREEMENT FOR A TIME CERTAIN.

WHEREAS, the Mayor and City Commission has identified the need for workforce and affordable housing in the City as a key objective in the City’s 2019 Strategic Plan: *Through the Lens of Resilience*; and

WHEREAS, in the City’s 2040 Comprehensive Plan, the Mayor and City Commission has prioritized workforce and affordable housing, with the express goal “to encourage redevelopment that provides workforce and affordable housing” within the City; and

WHEREAS, the City is the owner of the property located at 224 23rd Street (the “Property”), the current site of a 21-space public parking lot, and desires to redevelop the Property as a mixed use residential workforce housing development, and further desires

to prioritize housing for income-eligible artists and educators (the “Collins Park Artist Workforce Housing Project” or “Project”); and

WHEREAS, on September 14, 2016, the Mayor and City Commission adopted Resolution No. 2016-29547, selecting The Concourse Group to identify public-private partnership (P3) opportunities to alleviate the cost and other burdens on the City associated with the development of workforce/affordable housing projects on City property, including with respect to the proposed Collins Park Artist Workforce Housing Project; and

WHEREAS, on December 14, 2016, the Mayor and City Commission adopted Resolution No. 2016-29679, approving a height waiver for the Collins Park Artist Workforce Housing Project, to authorize a height of up to 75 feet, finding that the waiver was necessary in order to provide optimal development and to allow for maximum capacity for artist/workforce housing; and

WHEREAS, the Miami City Ballet, Inc. (the “Ballet”), South Florida’s premier classical ballet company, is a not-for-profit charitable cultural organization, headquartered in the vicinity of the Property, at 2200 Liberty Avenue, Miami Beach, Florida; and

WHEREAS, on January 18, 2019, the City issued a competitive solicitation (ITN 2019-099-KB) for the Project, which expressly encouraged proposers to incorporate the participation of the Ballet as part of the Project, in an effort to address the Ballet’s dormitory housing needs and program the workforce housing component of the Project with a focus on attracting artists and area educators to the City; and

WHEREAS, on July 17, 2019, the Mayor and City Commission adopted Resolution No. 2019-30908, authorizing simultaneous negotiations with both ITN proposers; following withdrawal from one of the ITN proposers, the City Commission directed negotiation with the sole remaining proposer, Servitas, LLC (“Servitas” or “Developer”); and

WHEREAS, Developer, in collaboration with Community Finance Corp., a not-for-profit corporation that exists to facilitate capital projects for governmental entities throughout the United States, has proposed a public-private partnership with the City that would advance the City’s policy objectives of developing workforce housing in the City; and

WHEREAS, the Developer intends to develop the mixed-use residential workforce housing Project pursuant to a Florida Statute Chapter 163 development agreement entered into between the City and the Developer (the “Development Agreement”); and

WHEREAS, the City also owns the adjacent property located at 227 22nd Street, Miami Beach, Florida (the “Adjacent City Parcel”), which was previously treated as a unified development site, together with the Property, for purposes of the development and construction of the Miami Beach Regional Library building located on the Adjacent City

Parcel, with the Property and Adjacent City Parcel to continue to be treated as a unified development site pursuant to the City Code and the terms of the Development Agreement; and

WHEREAS, the proposed development would consist of a 7-story building, designed by Shulman & Associates and PGAL Architects, with (1) approximately eighty (80) residential workforce housing units, for artists, teachers, and other income-eligible tenants; (2) dormitory housing, intended for use by the Ballet, to support the Ballet's dance education and other programs or, if agreement with the Ballet cannot be reached, up to sixteen (16) additional workforce housing units; and (3) ground floor retail or cultural space, with the building constructed on the Property to be limited to a maximum height of 75 feet, as approved by the City Commission; and

WHEREAS, the proposed Development Agreement is attached as an exhibit to the Commission Memorandum accompanying this Resolution; and

WHEREAS, as proposed, the City will enter into a development agreement with Servitas to govern the development of the Project, and in addition thereto, the City will enter into a long-term ground lease for the Property (the "Ground Lease") with a nonprofit 501(c)(3) organization, Community Finance Corporation, or an affiliate thereof (the "Ground Lessee"); and

WHEREAS, the Lessee would finance the design and construction of the Project through the issuance of tax-exempt project revenue bonds (which would be non-recourse to the City, with principal and interest payable solely from Project revenues); and

WHEREAS, on September 23, 2020, the Finance and Economic Resiliency Committee ("Finance Committee") reviewed the proposed transaction and unanimously recommended that the Administration proceed with the proposed Project, including the Development Agreement and Ground Lease; and

WHEREAS, on October 18, 2020, the Mayor and City Commission accepted the recommendation of the Finance Committee, and referred the proposed Project to the Planning Board for its review; and

WHEREAS, pursuant to Section 1.03(b)(4) of the City Charter governing leases of ten years or longer of City-owned property, the Ground Lease requires approval by a majority 4/7 vote of all members of the Planning Board, and a 6/7 vote of the City Commission; and

WHEREAS, on November 17, 2020, the Planning Board approved the proposed Lease pursuant to the requirements of Section 1.03(b)(4) of the City Charter, and voted to transmit the Development Agreement to the City Commission with a favorable recommendation, in accordance with the City's Land Development Regulations; and

WHEREAS, the Planning Department analysis of the Lease, pursuant to Section 82-38 of the City Code, is attached as an exhibit to the Commission Memorandum accompanying this Resolution; and

WHEREAS, the Development Agreement provides, among other provisions, the following terms and conditions:

- Developer shall complete, or cause to be completed, the design, permitting and construction of the Project, in accordance with the terms and conditions set forth in the Development Agreement and the City Code, with Project costs, including Developer's fees, payable from the Project bond proceeds, and with City's financial contribution limited to City's payment of a maximum of \$200,000 for environmental remediation costs, if any; and
- The Project financing shall be non-recourse to the City (with no pledge of City revenue or covenant to budget and appropriate from any revenue source) and with the Lease and the Project financing to be subordinate to City's fee interest in the Property; and
- Any Project costs advanced or funded by the City (i.e. for environmental remediation) will be reimbursed to the City either at Financial Closing, or from the Project's net revenues, prior to any distribution of net revenues to any other Party; and
- The Development Agreement sets forth the conditions to Financial Closing, and provides that the Lease of the Property shall be delivered at, and effective on the date of, the Financial Closing, when the financing is in place and all permits and approvals for the commencement of construction have been obtained;
- Until such time as the Financial Closing takes place, the Property will continue to be used by the City as a public parking lot; and
- Both the Development Agreement and the Lease include restrictive covenants requiring the residential units to be offered as workforce housing units in accordance with Chapter 58 of the City Code, available only to tenants who earn less than 120% of Area Median Income, and with tenants being charged a maximum of 30% of their respective AMI, which restrictions shall be in place throughout the term of the Lease; and
- Both the Development Agreement and the Lease specify that the City (and its Project beneficiary, the Ballet) shall receive 100% of the net revenues of the Project (after payment of all operating expenses, debt service and reserve requirements), throughout the Lease term; and
- The Development Agreement includes the City's approval, in its proprietary capacity as owner of the Project, of the preliminary concept plan for the Project. Notwithstanding the preceding, and in further recognition that the design for the

Project will evolve as part of the City's regulatory development process, including review and approval by the City's Historic Preservation Board, the Development Agreement also requires the City's approval, in its proprietary capacity, of Project design modifications; and

- The Development Agreement includes standard contract protections in favor of the City, including a broad indemnification of the City, payment and performance bonds for construction, City to be named as an additional insured on required policies of insurance, and other contract protections reflecting City's limited participation as lessor of the Property; and
- As the Development Agreement contemplates the City Commission's waiver of the parking requirements pursuant to the City Code, the City agrees to provide access for workforce housing tenants to purchase up to fifty-eight (58) monthly parking passes, at the then-applicable City rate; and
- Developer shall complete the Project within 48 months following the Effective Date of the Development Agreement (the date the agreement is executed by the Parties and recorded), subject to extension for force majeure events; and
- Notwithstanding the foregoing, the Development Agreement shall have a maximum duration of ten (10) years; and
- In view of the structure of the transaction, which provides that the City (and its designee, the Ballet) will receive 100% of the Project's net revenues, in the event the Project is unable to obtain zoning approvals or achieve Financial Closing, the parties have negotiated a shared allocation of risk for the payment of Project costs in the event of termination of the Development Agreement due to such closing risks, with a cap on City's financial exposure for Project costs, and with City to receive an assignment of all of the plans and other work product associated with the Project.

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, following first reading/public hearing, a Development Agreement, as authorized under Section 118-4 of the City Code, and Sections 163.3220 – 163.3243, Florida Statutes, between the City and Servitas, LLC (the "Developer"), which Development Agreement delineates conditions for the development of the City-owned property located at 224 23rd Street, the current site of a surface parking lot (the "Property"), for the Collins Park Artist Workforce Housing Project, a proposed development containing (1) residential workforce housing units, for artists, teachers, and other income-eligible tenants; (2) dormitory housing, intended for use by Miami City Ballet, Inc. (the "Ballet"), to support the Ballet's dance education and other programs or, if agreement with the Ballet cannot be reached, additional workforce housing units; and (3) ground floor retail or cultural space, with the building constructed on the Property to be limited to a maximum height of 75 feet (collectively, the "Project"); further, memorialize the conditions for the City's lease of the Property to Community Finance Corporation, a

not-for profit corporation, or an affiliate thereof, for the development, financing, construction and operation of the project (the "Lease"), with the Lease subject to and contingent upon approval by the Planning Board and the City Commission, pursuant to Section 1.03(b)(4) of the City Charter; and further, set the second and final reading of the Development Agreement for a time certain.

PASSED and ADOPTED THIS ___ day of December, 2020.

ATTEST:

RAFAEL E. GRANADO, CITY CLERK

DAN GELBER, MAYOR

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

[Handwritten Signature] 12/01/2020

City Attorney *RAP* Date