

MIAMI BEACH


PLANNING DEPARTMENT

Staff Report & Recommendation

PLANNING BOARD

TO: Chairperson and Members
Planning Board

DATE: June 21, 2022

FROM: Thomas R. Mooney, AICP 
Planning Director

SUBJECT: **PB22-0536. Sale of City Property at Commerce Street and Jefferson Avenue.**

Approval of the Planning Board, by a 4/7 Vote, pursuant to City Charter Section 1.03(B)(4), and Section 118-51(11) of the City's Land Development Regulations, approving the Sale of the Vacant City-Owned Parcel, located at the corner of Commerce Street and Jefferson Avenue, to Richard Santiago Crespo Iglesias and/or Assignees for the Total Sales Price of \$1,503,400; provided that the proceeds from the sale be applied, in equal parts, to fund Capital Projects for the Miami New Drama Cultural Facility at the Collins Park Garage and the Byron Carlyle Theater.

RECOMMENDATION

Approve the proposed sale of the Vacant City-Owned Parcel located at Commerce Street and Jefferson Avenue (Folio 02-4203-009-2140).

HISTORY

On February 19, 2021, the Finance and Economic Resiliency Committee (FERC) discussed potential revenue sources to supplement the City's capital and operating budgets, including the possible disposition of City-owned properties, in their "as-is" condition. At the June 11, 2021 FERC meeting, the Administration presented five (5) vacant parcels identified for disposition by CBRE's City Asset Inventory. Subsequently, at the July 23, 2021, FERC Budget Briefing, the Committee discussed the item and voted, by acclamation, to favorably move forward, directing the Administration to proceed with a procurement of the aforementioned sites whether it be with RFP or listing, and present these before Commission.

On April 6, 2022, the City Commission referred the proposed sale of the city owned property at Commerce Street and Jefferson Avenue (Folio 02-4203-009-2140) to the Planning Board for review (Item R9 M).

REVIEW CRITERIA

Pursuant to Section 118-51 (11) of the City Code, in reviewing a request for the sale, exchange, conveyance or lease of ten years or longer of certain city-owned property, as provided in City Charter, subsection 1.03(b)4, entitled, "Disposition of city property," which requires approval by a majority (four-sevenths) vote of all members of the planning board, the board shall consider the

following criteria when applicable:

- a. **Whether or not the proposed use is in keeping with city goals and objectives and conforms to the city comprehensive plan.**

Partially Consistent – The proposed use for the site is not defined. The site is currently designated *Limited Mixed Use Commercial Performance Standard (C-PS1)*. The designation allows “single family detached dwellings, single family attached dwellings, townhouse dwellings, apartments, apartment hotels, hotels, and commercial uses” as well as commercial and accessory uses as defined in the Land Development Regulations (LDRs). The proposed use for the site is not defined; however, any proposed use would be limited to those defined above.

- b. **If a sale, a determination as to whether or not alternatives are available for the acquisition of private property as an alternative to the proposed disposition or sale of city-owned properties, including assembly of adjacent properties, and impact of such assemblage on the adjacent neighborhood and the city in general.**

Partially Consistent – As the use of the site is not being determined as part of the sale, it cannot be determined if there are alternative locations for the use that will . There is a potential to assemble the lot with the adjacent parcel. Given the small size of the parcel, it is not expected that such an assembly would create negative impacts.

- c. **The impact on adjacent properties, including the potential positive or negative impacts such as diminution of open space, increased traffic, adequate parking, noise level, enhanced property values, improved development patterns, and provision of necessary services.**

Consistent – The proposal involves the sale of a private parcel. If it were to be sold, the site could be unified with the adjacent private parcel to create a more efficient development site. This would be of great benefit to the adjacent property owner if they were to acquire the site.

Given that there is no development proposal, it is difficult to estimate the traffic impact. Given the site’s small size, there would likely be a minimal traffic impact if it were developed to its maximum potential; however, these would be addressed as part of the land use board process for any potential development. If the site were to be developed at as a residential building at its maximum FAR, the site could contain up to 6 residential units, which pursuant to the ITE 9th Generation Trip Generation Manual could generate up to 4 peak hour trips. If it were developed with a commercial building, it could contain up to 6,000 SF of floor area, which could generate up to 17 peak hour trips. This impact would be minimal for the surrounding vicinity.

The site is currently vacant, so there would be a loss of open space if it were to be developed. However, this open space is not utilized as a park and serves a minimal public purpose.

The site's current use does not improve the aesthetics of the community. If it were to redevelop, the design review propose would ensure that anything new that is developed would improve the development patterns of the community and enhance property values.

- d. **Determination as to whether or not the proposed use is in keeping with the surrounding neighborhood, blocks views or creates other environmental intrusions, and evaluation of design and aesthetic considerations of the project.**

Consistent – The surrounding neighborhood will not be negatively affected. The size of the lot limits the potential for a development that has a major impact on the surrounding neighborhood. However, design and aesthetic considerations will be considered as part of the design review process for any new development.

- e. **A traffic circulation analysis and plan that details the impact of projected traffic on the immediate neighborhood and how this impact is to be mitigated.**

Partially Consistent – Given that there is no development proposal, it is difficult to estimate the traffic impact. Given the site's small size, there would likely be a minimal traffic impact if it were developed to its maximum potential; however, these would be addressed as part of the land use board process for any potential development. If the site were to be developed at as a residential building at its maximum FAR, the site could contain up to 6 residential units, which pursuant to the ITE 9th Generation Trip Generation Manual could generate up to 4 peak hour trips. If it were developed with a commercial building, it could contain up to 6,000 SF of floor area, which could generate up to 17 peak hour trips. This impact would be minimal for the surrounding vicinity.

- f. **Determination as to whether or not the proposed use is in keeping with a public purpose and community needs, and improving the community's overall quality of life.**

Consistent – This proposal is in keeping with a public purpose by providing significant revenue to the City, as the site is valued at \$1,503,400.

- g. **If a lease is proposed, the duration and other nonfinancial terms of the lease.**

Not Applicable – The property is proposed to be sold.

COMPLIANCE WITH SEA LEVEL RISE AND RESILIENCY REVIEW CRITERIA

Section 133-50(b) of the Land Development Regulations establishes the following review criteria when considering ordinances, adopting resolutions, or making recommendations:

- (1) **Whether the proposal affects an area that is vulnerable to the impacts of sea level rise, pursuant to adopted projections.**

Partially Consistent – The proposal does affect a site that is vulnerable to the impacts of sea level rise in the long term.

(2) Whether the proposal will increase the resiliency of the City with respect to sea level rise.

Consistent – The proposal should increase the resiliency of the City with respect to sea level rise by encouraging the construction of a new building that complies with the City's resiliency standards.

(3) Whether the proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

Consistent – The proposal is compatible with the City's sea level rise mitigation and resiliency efforts.

ANALYSIS

The proposed sale applies to a ±3,000 square foot, City-owned parcel, located on the south side of the intersection of Commerce Street and Jefferson Avenue in the South of Fifth Neighborhood. The proposal is to sell the property, which is currently vacant, in an as-is condition. See the Future Land Use/Site Map at the end of this report. The parcel is currently zoned C-PS1, Limited Mixed-Use Commercial Performance Standard District, and is at the western edge of a block that is developed with residential and commercial uses.

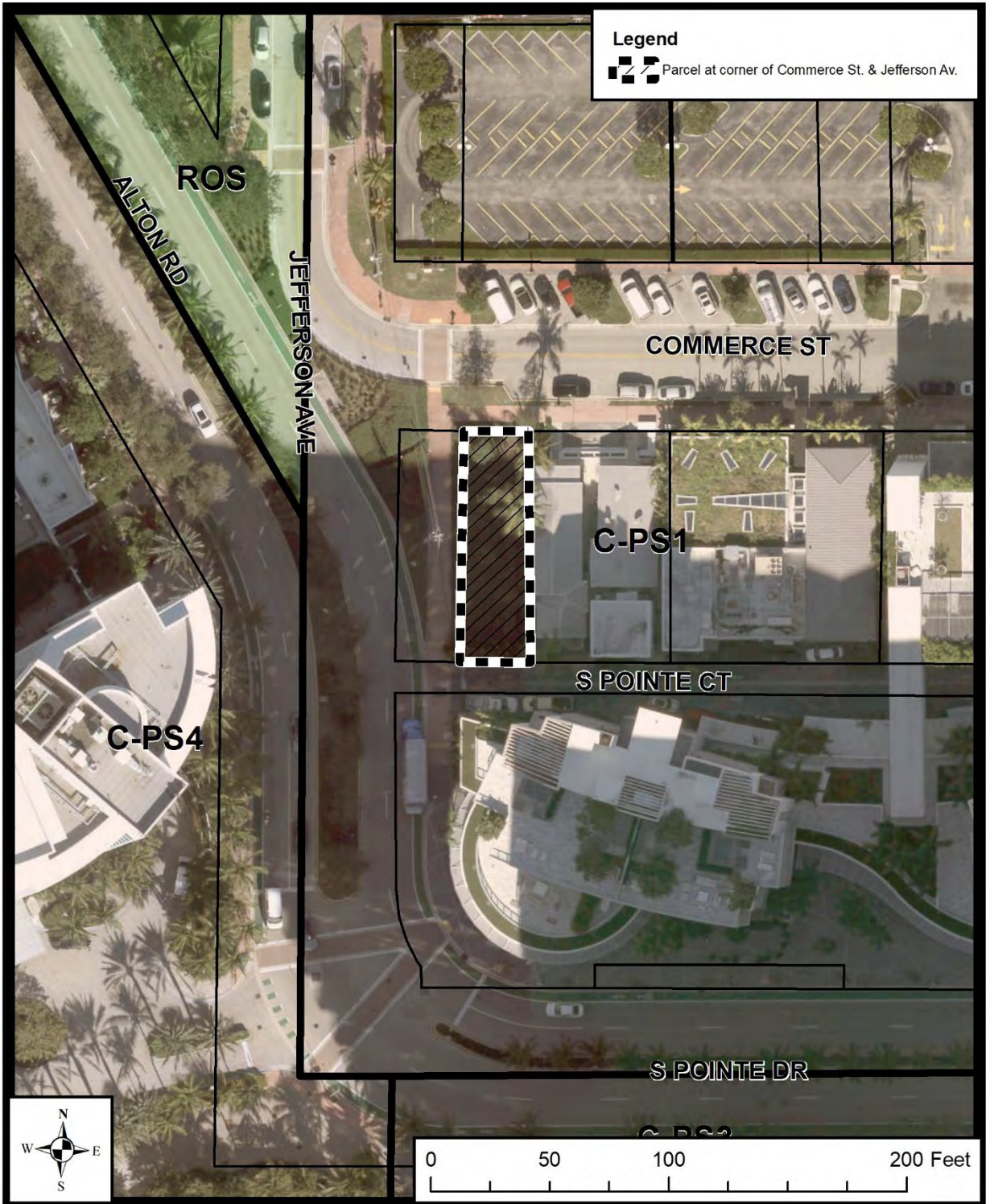
The City is currently under contract with CBRE, Inc. (CBRE) to provide a range of brokerage services to the City. On July 28, 2021, the Mayor and Commission adopted Resolution No. 2021-31826, accepting the recommendation from FERC to engage CBRE for brokerage services to list the subject property, among others, for sale. The Administration conducted an appraisal of the parcel to determine the value and engaged CBRE for brokerage services for the competitive listing of the property. CBRE secured offers from various prospective buyers at the appraised or highest value. The offer for the subject parcel is \$1,503,400.00.

The sale of this parcel would supplement the City's FY 2022 capital and operating budget. A summary of the offer and valuation are attached hereto as Exhibit A. At the March 30, 2022 Finance and Economic Resiliency Committee, the Committee favorably recommended the City consider sale of the property, provided that the proceeds of any sale be dedicated to capital projects determined by the City Commission. On May 4, 2022, the City Commission required that the funds be split 50/50 and set aside for the Black Box Theatre in the Collins Park area, as well as the Byron Carlyle redevelopment.

RECOMMENDATION

In view of the foregoing analysis, staff recommends that the Planning Board approve the proposed sale of the Vacant City-Owned Property located at Commerce Street and Jefferson Avenue (Folio 02-4203-009-2140).

FUTURE LAND USE/SITE MAP



Commercial Contract



1. **PARTIES AND PROPERTY:** RICHARD SANTIAGO CRESPO IGLESIAS ~~AND OR ASSIGNEES~~ ("Buyer")
agrees to buy and CITY of Miami Beach ("Seller")

agrees to sell the property at:

Street Address: COFNER LOT OF COMMERCE ST AND JEFFERSON ST Miami Beach FL 33139

Legal Description:

and the following Personal Property: NONE

(all collectively referred to as the "Property") on the terms and conditions set forth below.

2. PURCHASE PRICE:

(a) Deposit held in escrow by: PAUL PALMER LLC

("Escrow Agent") (checks are subject to actual and final collection)

Escrow Agent's address: 12790 South Dixie Hwy Phone: 305-378-0011

(b) Additional deposit to be made to Escrow Agent

☐ within ___ days (3 days, if left blank) after completion of Due Diligence Period or

☐ within ___ days after Effective Date

(c) Additional deposit to be made to Escrow Agent

☒ within ___ days (3 days, if left blank) after completion of Due Diligence Period or

☐ within ___ days after Effective Date

(d) Total financing (see Paragraph 5)

(e) Other

(f) All deposits will be credited to the purchase price at closing.

Balance to close, subject to adjustments and prorations, to be paid
via wire transfer.

For the purposes of this paragraph, "completion" means the end of the Due Diligence Period or upon delivery of
Buyer's written notice of acceptability.

3. TIME FOR ACCEPTANCE; EFFECTIVE DATE; COMPUTATION OF TIME: Unless this offer is signed by Seller
and Buyer and an executed copy delivered to all parties on or before July 30, 2022, this offer
will be withdrawn and the Buyer's deposit, if any, will be returned. The time for acceptance of any counter offer will be
3 days from the date the counter offer is delivered. **The "Effective Date" of this Contract is the date on which the
last one of the Seller and Buyer has signed or initialed and delivered this offer or the final counter offer or**
Calendar days will be used when computing time periods, except time periods of 5
days or less. Time periods of 5 days or less will be computed without including Saturday, Sunday, or national legal
holidays. Any time period ending on a Saturday, Sunday, or national legal holiday will extend until 5:00 p.m. of the next
business day. **Time is of the essence in this Contract.**

4. CLOSING DATE AND LOCATION:

CLOSING WITHIN 60 DAYS AFTER DUE DILIGENCE PERIOD

(a) **Closing Date:** This transaction will be closed on (Closing Date), unless
specifically extended by other provisions of this Contract. The Closing Date will prevail over all other time periods
including, but not limited to, Financing and Due Diligence periods. In the event insurance underwriting is suspended

Buyer () and Seller () () acknowledge receipt of a copy of this page, which is Page 1 of 8 Pages.

on Closing Date and **Buyer** is unable to obtain property insurance, **Buyer** may postpone closing up to 5 days after the insurance underwriting suspension is lifted.

(b) **Location:** Closing will take place in _____ County, Florida. (If left blank, closing will take place in the county where the property is located.) Closing may be conducted by mail or electronic means.

5. THIRD PARTY FINANCING:

BUYER'S OBLIGATION: On or before _____ days (5 days if left blank) after Effective Date, **Buyer** will apply for third party financing in an amount not to exceed _____% of the purchase price or \$_____, with a fixed interest rate not to exceed _____% per year with an initial variable interest rate not to exceed _____%, with points or commitment or loan fees not to exceed _____% of the principal amount, for a term of _____ years, and amortized over _____ years, with additional terms as follows:

Buyer will timely provide any and all credit, employment, financial and other information reasonably required by any lender. **Buyer** will use good faith and reasonable diligence to (i) obtain Loan Approval within _____ days (45 days if left blank) from Effective Date (Loan Approval Date), (ii) satisfy terms and conditions of the Loan Approval, and (iii) close the loan. **Buyer** will keep **Seller** and Broker fully informed about loan application status and authorizes the mortgage broker and lender to disclose all such information to **Seller** and Broker. **Buyer** will notify **Seller** immediately upon obtaining financing or being rejected by a lender. **CANCELLATION:** If **Buyer**, after using good faith and reasonable diligence, fails to obtain Loan Approval by Loan Approval Date, **Buyer** may within _____ days (3 days if left blank) deliver written notice to **Seller** stating **Buyer** either waives this financing contingency or cancels this Contract. If **Buyer** does neither, then **Seller** may cancel this Contract by delivering written notice to **Buyer** at any time thereafter. Unless this financing contingency has been waived, this Contract shall remain subject to the satisfaction, by closing, of those conditions of Loan Approval related to the Property. **DEPOSIT(S) (for purposes of Paragraph 5 only):** If **Buyer** has used good faith and reasonable diligence but does not obtain Loan Approval by Loan Approval Date and thereafter either party elects to cancel this Contract as set forth above or the lender fails or refuses to close on or before the Closing Date without fault on **Buyer's** part, the Deposit(s) shall be returned to **Buyer**, whereupon both parties will be released from all further obligations under this Contract, except for obligations stated herein as surviving the termination of this Contract. If neither party elects to terminate this Contract as set forth above or **Buyer** fails to use good faith or reasonable diligence as set forth above, **Seller** will be entitled to retain the Deposit(s) if the transaction does not close. For purposes of this Contract, "Loan Approval" means a statement by the lender setting forth the terms and conditions upon which the lender is willing to make a particular mortgage loan to a particular buyer. Neither a pre-approval letter nor a prequalification letter shall be deemed a Loan Approval for purposes of this Contract.

6. TITLE: **Seller** has the legal capacity to and will convey marketable title to the Property by ☐ statutory warranty deed ☒ special warranty deed ☐ other _____, free of liens, easements and encumbrances of record or known to **Seller**, but subject to property taxes for the year of closing; covenants, restrictions and public utility easements of record; existing zoning and governmental regulations; and (list any other matters to which title will be subject) _____

provided there exists at closing no violation of the foregoing and none of them prevents **Buyer's** intended use of the Property as _____

(a) Evidence of Title: The party who pays the premium for the title insurance policy will select the closing agent and pay for the title search and closing services. **Seller** will, at (check one) ☐ **Seller's** ☒ **Buyer's** expense and within _____ days after Effective Date or at least _____ days before Closing Date deliver to **Buyer** (check one) ☒ (i) a title insurance commitment by a Florida licensed title insurer setting forth those matters to be discharged by **Seller** at or before Closing and, upon **Buyer** recording the deed, an owner's policy in the amount of the purchase price for fee simple title subject only to exceptions stated above. If **Buyer** is paying for the evidence of title and **Seller** has an owner's policy, **Seller** will deliver a copy to **Buyer** within 15 days after Effective Date. ☐ (ii.) an abstract of title, prepared or brought current by an existing abstract firm or certified as correct by an existing firm. However, if such an abstract is not available to **Seller**, then a prior owner's title policy acceptable to the proposed insurer as a base for reissuance of coverage may be used. The prior policy will include copies of all policy exceptions and an update in a format acceptable to **Buyer** from the policy effective date and certified to **Buyer** or

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Buyer's closing agent together with copies of all documents recited in the prior policy and in the update. If such an abstract or prior policy is not available to Seller then (i.) above will be the evidence of title.

(b) **Title Examination:** Buyer will, within 15 days from receipt of the evidence of title deliver written notice to Seller of title defects. Title will be deemed acceptable to Buyer if (1) Buyer fails to deliver proper notice of defects or (2) Buyer delivers proper written notice and Seller cures the defects within 15 days from receipt of the notice ("Curative Period"). Seller shall use good faith efforts to cure the defects. If the defects are cured within the Curative Period, closing will occur on the latter of 10 days after receipt by Buyer of notice of such curing or the scheduled Closing Date. Seller may elect not to cure defects if Seller reasonably believes any defect cannot be cured within the Curative Period. If the defects are not cured within the Curative Period, Buyer will have 10 days from receipt of notice of Seller's inability to cure the defects to elect whether to terminate this Contract or accept title subject to existing defects and close the transaction without reduction in purchase price.

(c) **Survey:** (check applicable provisions below)

☐ Seller will, within _____ days from Effective Date, deliver to Buyer copies of prior surveys, plans, specifications, and engineering documents, if any, and the following documents relevant to this transaction:

prepared for Seller or in Seller's possession, which show all currently existing structures. In the event this transaction does not close, all documents provided by Seller will be returned to Seller within 10 days from the date this Contract is terminated.

☒ Buyer will, at ☐ Seller's ☒ Buyer's expense and within the time period allowed to deliver and examine title evidence, obtain a current certified survey of the Property from a registered surveyor. If the survey reveals encroachments on the Property or that the improvements encroach on the lands of another, ☒ Buyer will accept the Property with existing encroachments ☐ such encroachments will constitute a title defect to be cured within the Curative Period.

(d) **Ingress and Egress:** Seller warrants that the Property presently has ingress and egress.

7. PROPERTY CONDITION: Seller will deliver the Property to Buyer at the time agreed in its present "as is" condition, ordinary wear and tear excepted, and will maintain the landscaping and grounds in a comparable condition. Seller makes no warranties other than marketability of title. In the event that the condition of the Property has materially changed since the expiration of the Due Diligence Period, Buyer may elect to terminate the Contract and receive a refund of any and all deposits paid, plus interest, if applicable, ~~or require Seller to return the Property to the required condition existing as of the end of Due Diligence period, the cost of which is not to exceed \$_____ (1.5% of the purchase price, if left blank).~~ By accepting the Property "as is", Buyer waives all claims against Seller for any defects in the Property. (Check (a) or (b))

☐ (a) **As Is:** Buyer has inspected the Property or waives any right to inspect and accepts the Property in its "as is" condition.

☒ (b) **Due Diligence Period:** Buyer will, at Buyer's expense and within 20 DAYS days from Effective Date ("Due Diligence Period"), determine whether the Property is suitable, in Buyer's sole and absolute discretion. During the term of this Contract, Buyer may conduct any tests, analyses, surveys and investigations ("Inspections") which Buyer deems necessary to determine to Buyer's satisfaction the Property's engineering, architectural, environmental properties; zoning and zoning restrictions; flood zone designation and restrictions; subdivision regulations; soil and grade; availability of access to public roads, water, and other utilities; consistency with local, state and regional growth management and comprehensive land use plans; availability of permits, government approvals and licenses; compliance with American with Disabilities Act; absence of asbestos, soil and ground water contamination; and other inspections that Buyer deems appropriate. Buyer will deliver written notice to Seller prior to the expiration of the Due Diligence Period of Buyer's determination of whether or not the Property is acceptable. Buyer's failure to comply with this notice requirement will constitute acceptance of the Property in its present "as is" condition. Seller grants to Buyer, its agents, contractors and assigns, the right to enter the Property at any time during the term of this Contract for the purpose of conducting Inspections, upon reasonable notice, at a mutually agreed upon time; provided, however, that Buyer, its agents, contractors and assigns enter the Property and conduct Inspections at their own risk. Buyer will indemnify and hold Seller harmless from losses, damages, costs, claims and expenses of any nature, including attorneys' fees at all levels, and from liability to any person, arising from the conduct of any and all inspections or any work authorized by Buyer. Buyer will not engage in any activity that could result in a mechanic's lien being filed against the Property without Seller's prior written consent. In the event this transaction does not close, (1) Buyer will repair all damages to the

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Property resulting from the Inspections and return the Property to the condition it was in prior to conduct of the Inspections, and (2) **Buyer** will, at **Buyer's** expense release to **Seller** all reports and other work generated as a result of the Inspections. Should **Buyer** deliver timely notice that the Property is not acceptable, **Seller** agrees that **Buyer's** deposit will be immediately returned to **Buyer** and the Contract terminated.

(c) **Walk-through Inspection:** **Buyer** may, on the day prior to closing or any other time mutually agreeable to the parties, conduct a final "walk-through" inspection of the Property to determine compliance with this paragraph and to ensure that all Property is on the premises.

8. OPERATION OF PROPERTY DURING CONTRACT PERIOD: **Seller** will continue to operate the Property and any business conducted on the Property in the manner operated prior to Contract and will take no action that would adversely impact the Property after closing, as to tenants, lenders or business, if any. Any changes, such as renting vacant space, that materially affect the Property or **Buyer's** intended use of the Property will be permitted ☐ only with **Buyer's** consent ☐ without **Buyer's** consent.

9. CLOSING PROCEDURE: Unless otherwise agreed or stated herein, closing procedure shall be in accordance with the norms where the Property is located.

(a) **Possession and Occupancy:** **Seller** will deliver possession and occupancy of the Property to **Buyer** at closing. **Seller** will provide keys, remote controls, and any security/access codes necessary to operate all locks, mailboxes, and security systems.

(b) **Costs:** **Buyer** will pay **Buyer's** attorneys' fees, taxes and recording fees on notes, mortgages and financing statements and recording fees for the deed. **Seller** will pay **Seller's** attorneys' fees, taxes on the deed and recording fees for documents needed to cure title defects. If **Seller** is obligated to discharge any encumbrance at or prior to closing and fails to do so, **Buyer** may use purchase proceeds to satisfy the encumbrances.

(c) **Documents:** **Seller** will provide the deed; bill of sale; mechanic's lien affidavit; originals of those assignable service and maintenance contracts that will be assumed by **Buyer** after the Closing Date and letters to each service contractor from **Seller** advising each of them of the sale of the Property and, if applicable, the transfer of its contract, and any assignable warranties or guarantees received or held by **Seller** from any manufacturer, contractor, subcontractor, or material supplier in connection with the Property; current copies of the condominium documents, if applicable; assignments of leases, updated rent roll; tenant and lender estoppels letters (if applicable); tenant subordination, non-disturbance and attornment agreements (SNDAs) required by the **Buyer** or **Buyer's** lender; assignments of permits and licenses; corrective instruments; and letters notifying tenants of the change in ownership/rental agent. If any tenant refuses to execute an estoppels letter, **Seller**, if requested by the **Buyer** in writing, will certify that information regarding the tenant's lease is correct. If **Seller** is an entity, **Seller** will deliver a resolution of its governing authority authorizing the sale and delivery of the deed and certification by the appropriate party certifying the resolution and setting forth facts showing the conveyance conforms to the requirements of local law. **Seller** will transfer security deposits to **Buyer**. **Buyer** will provide the closing statement, mortgages and notes, security agreements, and financing statements.

(d) **Taxes and Prorations:** Real estate taxes, personal property taxes on any tangible personal property, bond payments assumed by **Buyer**, interest, rents (based on actual collected rents), association dues, insurance premiums acceptable to **Buyer**, and operating expenses will be prorated through the day before closing. If the amount of taxes for the current year cannot be ascertained, rates for the previous year will be used with due allowance being made for improvements and exemptions. Any tax proration based on an estimate will, at request of either party, be readjusted upon receipt of current year's tax bill; this provision will survive closing.

(e) **Special Assessment Liens:** Certified, confirmed, and ratified special assessment liens as of the Closing Date will be paid by **Seller**. If a certified, confirmed, and ratified special assessment is payable in installments, **Seller** will pay all installments due and payable on or before the Closing Date, with any installment for any period extending beyond the Closing Date prorated, and **Buyer** will assume all installments that become due and payable after the Closing Date. **Buyer** will be responsible for all assessments of any kind which become due and owing after Closing Date, unless an improvement is substantially completed as of Closing Date. If an improvement is substantially completed as of the Closing Date but has not resulted in a lien before closing, **Seller** will pay the amount of the last estimate of the assessment. This subsection applies to special assessment liens imposed by a public body and does not apply to condominium association special assessments.

(f) **Foreign Investment in Real Property Tax Act (FIRPTA):** If **Seller** is a "foreign person" as defined by FIRPTA, **Seller** and **Buyer** agree to comply with Section 1445 of the Internal Revenue Code. **Seller** and **Buyer** will complete, execute, and deliver as directed any instrument, affidavit, or statement reasonably necessary to comply

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with the FIRPTA requirements, including delivery of their respective federal taxpayer identification numbers or Social Security Numbers to the closing agent. If **Buyer** does not pay sufficient cash at closing to meet the withholding requirement, **Seller** will deliver to **Buyer** at closing the additional cash necessary to satisfy the requirement.

10. ESCROW AGENT: **Seller** and **Buyer** authorize Escrow Agent or Closing Agent (collectively "Agent") to receive, deposit, and hold funds and other property in escrow and, subject to collection, disburse them in accordance with the terms of this Contract. The parties agree that Agent will not be liable to any person for misdelivery of escrowed items to **Seller** or **Buyer**, unless the misdelivery is due to Agent's willful breach of this Contract or gross negligence. If Agent has doubt as to Agent's duties or obligations under this Contract, Agent may, at Agent's option, (a) hold the escrowed items until the parties mutually agree to its disbursement or until a court of competent jurisdiction or arbitrator determines the rights of the parties or (b) deposit the escrowed items with the clerk of the court having jurisdiction over the matter and file an action in interpleader. Upon notifying the parties of such action, Agent will be released from all liability except for the duty to account for items previously delivered out of escrow. If Agent is a licensed real estate broker, Agent will comply with Chapter 475, Florida Statutes. In any suit in which Agent interpleads the escrowed items or is made a party because of acting as Agent hereunder, Agent will recover reasonable attorney's fees and costs incurred, with these amounts to be paid from and out of the escrowed items and charged and awarded as court costs in favor of the prevailing party.

~~**11. CURE PERIOD:** Prior to any claim for default being made, a party will have an opportunity to cure any alleged default. If a party fails to comply with any provision of this Contract, the other party will deliver written notice to the non-complying party specifying the non-compliance. The non-complying party will have _____ days (5 days if left blank) after delivery of such notice to cure the non-compliance. Notice and cure shall not apply to failure to close.~~

12. FORCE MAJEURE: **Buyer** or **Seller** shall not be required to perform any obligation under this Contract or be liable to each other for damages so long as performance or non-performance of the obligation, or the availability of services, insurance, or required approvals essential to Closing, is disrupted, delayed, caused or prevented by Force Majeure. "Force Majeure" means: hurricanes, floods, extreme weather, earthquakes, fire, or other acts of God, unusual transportation delays, or wars, insurrections, or acts of terrorism, which, by exercise of reasonable diligent effort, the non-performing party is unable in whole or in part to prevent or overcome. All time periods, including Closing Date, will be extended a reasonable time up to 7 days after the Force Majeure no longer prevents performance under this Contract, provided, however, if such Force Majeure continues to prevent performance under this Contract more than 30 days beyond Closing Date, then either party may terminate this Contract by delivering written notice to the other and the Deposit shall be refunded to **Buyer**, thereby releasing **Buyer** and **Seller** from all further obligations under this Contract.

13. RETURN OF DEPOSIT: Unless otherwise specified in the Contract, in the event any condition of this Contract is not met and **Buyer** has timely given any required notice regarding the condition having not been met, **Buyer's** deposit will be returned in accordance with applicable Florida Laws and regulations.

14. DEFAULT:

(a) In the event the sale is not closed due to any default or failure on the part of **Seller** other than failure to make the title marketable after diligent effort, **Buyer** may elect to receive return of Buyer's deposit without thereby waiving any action for damages resulting from Seller's breach and may seek to recover such damages or seek specific performance. If Buyer elects a deposit refund, Seller may be liable to Broker for the full amount of the brokerage fee.

(b) In the event the sale is not closed due to any default or failure on the part of **Buyer**, **Seller** may either (1) retain all deposit(s) paid or agreed to be paid by **Buyer** as agreed upon liquidated damages, consideration for the execution of this Contract, and in full settlement of any claims, upon which this Contract will terminate or (2) seek specific performance. If **Buyer** fails to timely place a deposit as required by this Contract, **Seller** may either (1) terminate the Contract and seek the remedy outlined in this subparagraph or (2) proceed with the Contract without waiving any remedy for **Buyer's** default.

15. ATTORNEY'S FEES AND COSTS: In any claim or controversy arising out of or relating to this Contract, ~~the~~ *each* prevailing party, which for purposes of this provision will include **Buyer**, **Seller** and Broker, ~~will be awarded reasonable~~ *shall be responsible for the* attorneys' fees, costs, and expenses.

16. NOTICES: All notices will be in writing and may be delivered by mail, overnight courier, personal delivery, or electronic means. Parties agree to send all notices to addresses specified on the signature page(s). Any notice, document, or item given by or delivered to an attorney or real estate licensee (including a transaction broker) representing a party will be as effective as if given by or delivered to that party.


Buyer (_____) and Seller (_____) (_____) acknowledge receipt of a copy of this page, which is Page 5 of 8 Pages.

17. DISCLOSURES:

(a) **Commercial Real Estate Sales Commission Lien Act:** The Florida Commercial Real Estate Sales Commission Lien Act provides that a broker has a lien upon the owner's net proceeds from the sale of commercial real estate for any commission earned by the broker under a brokerage agreement. The lien upon the owner's net proceeds is a lien upon personal property which attaches to the owner's net proceeds and does not attach to any interest in real property. This lien right cannot be waived before the commission is earned.

(b) **Special Assessment Liens Imposed by Public Body:** The Property may be subject to unpaid special assessment lien(s) imposed by a public body. (A public body includes a Community Development District.) Such liens, if any, shall be paid as set forth in Paragraph 9(e).

(c) **Radon Gas:** Radon is a naturally occurring radioactive gas that, when it has accumulated in a building in sufficient quantities, may present health risks to persons who are exposed to it over time. Levels of radon that exceed federal and state guidelines have been found in buildings in Florida. Additional information regarding radon and radon testing may be obtained from your county public health unit.

(d) **Energy-Efficiency Rating Information:** Buyer acknowledges receipt of the information brochure required by Section 553.996, Florida Statutes.

18. RISK OF LOSS:

(a) If, after the Effective Date and before closing, the Property is damaged by fire or other casualty, Seller will bear the risk of loss and Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of purchasing the Property at the agreed upon purchase price, and Seller will credit the deductible, if any and transfer to Buyer at closing any insurance proceeds, or Seller's claim to any insurance proceeds payable for the damage. Seller will cooperate with and assist Buyer in collecting any such proceeds. Seller shall not settle any insurance claim for damage caused by casualty without the consent of the Buyer.

(b) If, after the Effective Date and before closing, any part of the Property is taken in condemnation or under the right of eminent domain, or proceedings for such taking will be pending or threatened, Buyer may cancel this Contract without liability and the deposit(s) will be returned to Buyer. Alternatively, Buyer will have the option of purchasing what is left of the Property at the agreed upon purchase price and Seller will transfer to the Buyer at closing the proceeds of any award, or Seller's claim to any award payable for the taking. Seller will cooperate with and assist Buyer in collecting any such award.

19. **ASSIGNABILITY; PERSONS BOUND:** This Contract may be assigned to a related entity, and otherwise ☐ is not assignable ☐ is assignable. If this Contract may be assigned, Buyer shall deliver a copy of the assignment agreement to the Seller at least 5 days prior to Closing. The terms "Buyer," "Seller" and "Broker" may be singular or plural. This Contract is binding upon Buyer, Seller and their heirs, personal representatives, successors and assigns (if assignment is permitted).

20. **MISCELLANEOUS:** The terms of this Contract constitute the entire agreement between Buyer and Seller. Modifications of this Contract will not be binding unless in writing, signed and delivered by the party to be bound. Signatures, initials, documents referenced in this Contract, counterparts and written modifications communicated electronically or on paper will be acceptable for all purposes, including delivery, and will be binding. Handwritten or typewritten terms inserted in or attached to this Contract prevail over preprinted terms. If any provision of this Contract is or becomes invalid or unenforceable, all remaining provisions will continue to be fully effective. This Contract will be construed under Florida law and will not be recorded in any public records.

21. **BROKERS:** Neither Seller nor Buyer has used the services of, or for any other reason owes compensation to, a licensed real estate Broker other than:

(a) **Seller's Broker:** NONE

(Company Name)

(Licensee)

(Address, Telephone, Fax, E-mail)

who ☐ is a single agent ☐ is a transaction broker ☐ has no brokerage relationship and who will be compensated by ☐ Seller ☐ Buyer ☐ both parties pursuant to ☐ a listing agreement ☐ other (specify) _____

(b) **Buyer's Broker:** NONE

(Company Name)

(Licensee)

(Address, Telephone, Fax, E-mail)

Buyer (DS) (RE) and Seller () () acknowledge receipt of a copy of this page, which is Page 6 of 8 Pages.

who ☐ is a single agent ☐ is a transaction broker ☐ has no brokerage relationship and who will be compensated by
☐ Seller's Broker ☐ Seller ☒ Buyer ☐ both parties pursuant to ☐ an MLS offer of compensation ☐ other (specify)

(collectively referred to as "Broker") in connection with any act relating to the Property, including but not limited to inquiries, introductions, consultations, and negotiations resulting in this transaction. ~~Seller and Buyer~~ agree to indemnify and hold Broker harmless from and against losses, damages, costs and expenses of any kind, including reasonable attorneys' fees at all levels, and from liability to any person, arising from (1) compensation claimed which is inconsistent with the representation in this Paragraph, (2) enforcement action to collect a brokerage fee pursuant to Paragraph 10, (3) any duty accepted by Broker at the request of ~~Seller or Buyer~~, which is beyond the scope of services regulated by Chapter 475, Florida Statutes, as amended, or (4) recommendations of or services provided and expenses incurred by any third party whom Broker refers, recommends, or retains for or on behalf of ~~Seller or Buyer~~.

22. OPTIONAL CLAUSES: (Check if any of the following clauses are applicable and are attached as an addendum to this Contract):

- | | | |
|-------------------------------------------------------------|--------------------------------------------------------------|---------------------------------------------------------|
| <input type="checkbox"/> (A) Arbitration | <input type="checkbox"/> (E) Seller Warranty | <input type="checkbox"/> (I) Existing Mortgage |
| <input type="checkbox"/> (B) Section 1031 Exchange | <input type="checkbox"/> (F) Coastal Construction Control Li | <input type="checkbox"/> (J) Buyer's Attorney Approval |
| <input type="checkbox"/> (C) Property Inspection and Repair | <input type="checkbox"/> (G) Flood Area Hazard Zone | <input type="checkbox"/> (K) Seller's Attorney Approval |
| <input type="checkbox"/> (D) Seller Representations | <input type="checkbox"/> (H) Seller Financing | <input type="checkbox"/> Other _____ |

23. ADDITIONAL TERMS:

~~PURCHASER WILL PAY 6 % PURCHASE PRICE BUYER PREMIUM TO CBRE CAPITAL MARKETS~~

THIS IS INTENDED TO BE A LEGALLY BINDING CONTRACT. IF NOT FULLY UNDERSTOOD, SEEK THE ADVICE OF AN ATTORNEY PRIOR TO SIGNING. BROKER ADVISES BUYER AND SELLER TO VERIFY ALL FACTS AND REPRESENTATIONS THAT ARE IMPORTANT TO THEM AND TO CONSULT AN APPROPRIATE PROFESSIONAL FOR LEGAL ADVICE (FOR EXAMPLE, INTERPRETING CONTRACTS, DETERMINING THE EFFECT OF LAWS ON THE PROPERTY AND TRANSACTION, STATUS OF TITLE, FOREIGN INVESTOR REPORTING REQUIREMENTS, ETC.) AND FOR TAX, PROPERTY CONDITION, ENVIRONMENTAL AND OTHER

Buyer DS RC and Seller () () acknowledge receipt of a copy of this page, which is Page 7 of 8 Pages.

348 **ADVICE. BUYER ACKNOWLEDGES THAT BROKER DOES NOT OCCUPY THE PROPERTY AND THAT ALL**
349 **REPRESENTATIONS (ORAL, WRITTEN OR OTHERWISE) BY BROKER ARE BASED ON SELLER**
350 **REPRESENTATIONS OR PUBLIC RECORDS UNLESS BROKER INDICATES PERSONAL VERIFICATION OF**
351 **THE REPRESENTATION. BUYER AGREES TO RELY SOLELY ON SELLER, PROFESSIONAL INSPECTORS AND**
352 **GOVERNMENTAL AGENCIES FOR VERIFICATION OF THE PROPERTY CONDITION, SQUARE FOOTAGE AND**
353 **FACTS THAT MATERIALLY AFFECT PROPERTY VALUE.**

354 Each person signing this Contract on behalf of a party that is a business entity represents and warrants to the other
355 party that such signatory has full power and authority to enter into and perform this Contract in accordance with its
356 terms and each person executing this Contract and other documents on behalf of such party has been duly authorized

357 TO DO30B2D9AAA6F4D6...

358 *Richard Crespo*

5/2/2022

358 ~~DocuSigned By: Richard Crespo~~
(Signature of Buyer)

Date:

RICHARD SANTIAGO CRESPO IGLESIASA

Tax ID No.:

(Typed or Printed Name of Buyer)

PURCHASER

703-338-2228

360 Title:

Telephone:

361 (Signature of Buyer)

Date:

362 (Typed or Printed Name of Buyer)

Tax ID No.:

363 Title:

Telephone:

364 Buyer's Address for purpose of notice

365 Facsimile:

Email:

366 (Signature of Seller)

Date:

367 *Alina T. Hudak*

Tax ID No.:

(Typed or Printed Name of Seller)

City Manager

368 Title:

Telephone:

369 (Signature of Seller)

Date:

370 (Typed or Printed Name of Seller)

Tax ID No.:

371 Title:

Telephone:

372 Seller's Address for purpose of notice:

373 Facsimile:

Email:

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DS

RL

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CC-5 Rev 9/17

Serial#: 091237.000155-1802852

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION
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City Attorney

Date

**ADDENDUM TO VACANT LAND CONTRACT
BETWEEN
THE CITY OF MIAMI BEACH
AND
RICHARD SANTIAGO CRESPO IGLESIAS
RELATING TO PROPERTY AT THE CORNER OF COMMERCE STREET AND JEFFERSON AVENUE**

This Addendum to Vacant Land Contract ("Contract") for the purchase/sale of the property located at the corner of Commerce Street and Jefferson Avenue, bearing Folio No. 02-4203-009-2140 (the "**Property**"), between the City of Miami Beach ("**Seller**") and Richard Santiago Crespo Iglesias ("**Buyer**"), hereby amend the Contract, as follows:

1. The City is selling the Property in its proprietary capacity and makes no warranties as to permitted uses or possible re-zoning options/uses for the Property.
2. Buyer agrees to pay for the closing costs of Seller and Buyer, including taxes on the deed, recording fees for documents needed to cure title, Seller's closing documents and the six percent (6%) Buyer's premium, which represents the Seller's Broker's commission in connection with this transaction, so that the cash to Seller at the closing will total the sales price, in the amount of \$1,503,400.00. Buyer warrants and represents that no Buyer's sales agent was involved in this transaction.
3. Buyer shall not receive any prorations at closing. The Property is currently zoned "GU" as Seller is a governmental entity and therefore no ad-valorem taxes are currently assessed against the Property. Buyer shall be responsible for any ad-valorem taxes which may be assessed against the Property related to the transfer of the Property to Buyer, or after the closing date. Buyer shall be responsible for payment of any pending or approved special assessments.

Except as amended herein, all other terms and conditions of the Contract shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Addendum and the Contract, the provisions of this Addendum shall govern.

SELLER

BUYER

Signature

Richard Santiago Crespo Iglesias

Alina T. Hudak, City Manager
Print Name

ATTEST:

Date: _____

Rafael E. Granado, City Clerk

Date: _____

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

Date

[Signature]