

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE SETTLEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND THE MURANO GRANDE AT PORTOFINO ASSOCIATION, INC., THE ICON CONDOMINIUM ASSOCIATION, INC., AND THE MURANO GRANDE AT PORTOFINO MASTER ASSOCIATION, INC., AND AUTHORIZING THE CITY MANGER AND CITY ATTORNEY TO TAKE THE NECESSARY AND APPROPRIATE STEPS FOR THE IMPLEMENTATION THEREOF; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE ANY DOCUMENTS AND/OR AGREEMENTS, AS REQUIRED, TO EFFECTUATE THE TERMS OF THE SETTLEMENT; AND FURTHER APPROVING AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, AS PART OF SUCH SETTLEMENT, A FIRST AMENDMENT TO THE LEASE AGREEMENT AMONG THE CITY OF MIAMI BEACH, THE MIAMI BEACH REDEVELOPMENT AGENCY, THE MURANO GRANDE AT PORTOFINO MASTER ASSOCIATION, INC., AND MURANO GRANDE AT PORTOFINO CONDOMINIUM ASSOCIATION, INC.; AND FURTHER APPROVING AND AUTHORIZING THE MAYOR AND THE CITY CLERK TO EXECUTE, AS PART OF SUCH SETTLEMENT, A FIRST AMENDMENT TO THE LEASE AGREEMENT AMONG THE CITY OF MIAMI BEACH, THE MIAMI BEACH REDEVELOPMENT AGENCY, THE MURANO GRANDE AT PORTOFINO MASTER ASSOCIATION, INC., AND THE ICON CONDOMINIUM ASSOCIATION, INC.

WHEREAS, the Murano Grande at Portofino Project was developed by Murano Two, Ltd., as evidenced in the Declaration of Covenants, Restrictions and Easements for Murano Grande at Portofino Project, recorded in Official Records Book 21134 at Page 3878 of the Public Records of Miami-Dade County, Florida ("Master Covenants"); and

WHEREAS, the Murano Grande at Portofino is a condominium located at 400 Alton Road, Miami Beach, FL 33139, developed by Murano Two, Ltd., the developer of the Murano Grande condominium as evidenced in the Declaration of Murano Grande at Portofino, a condominium, recorded in Official Records Book 21134 at Page 3930-4041 of the Public Records of Miami-Dade County, Florida ("Murano Declaration of Condominium"); and

WHEREAS, on March 31, 2003, the Murano Two, Ltd. formed the Murano Grande at Portofino Condominium Association, Inc. (the "Murano Grande") pursuant to the Murano Declaration of Condominium, and formed the Murano Grande at Portofino Master Association, Inc. (the "Master Association") pursuant to the Master Covenants; and

WHEREAS, the Master Association owns and is charged with, among other things, managing and maintaining the "Common Properties," as defined in Paragraph 1.1(i) of the Master Covenants; and

WHEREAS, on or about April 9, 2003, Murano Two, Ltd., entered into a 101-year lease agreement with Tenant (the "Murano Lease") for the leasing of parking spaces, laundry, lavatory and shower facilities, a trash room and a maintenance room, all located within the "City Unit", as set forth in the Murano Lease; and

WHEREAS, the Icon South Beach is a condominium located at 450 Alton Road, Miami Beach, FL 33139, developed by Murano Three, Ltd., as evidenced in the Declaration of Icon, a condominium recorded in Official Records Book 22824 at Page 4451 of the Public Records of Miami-Dade County, Florida ("Icon Declaration of Condominium"); and

WHEREAS, on or about April 9, 2003, Murano Three, Ltd., entered into a 101-year lease agreement with Tenant ("Icon Lease") for the leasing of parking spaces, office space and an electric room all located within the "City Unit", as set forth in the Icon Lease; and

WHEREAS, on November 16, 2004, the Murano Three, Ltd. formed the Icon Condominium Association, Inc. (the "Icon") pursuant to the Icon Declaration of Condominium; and

WHEREAS, the Murano Grande and Icon, joined by Master Association, filed separate lawsuits for damages and eviction under the Icon Lease and Murano Lease against the City, the RDA and the Marina, in consolidated Case Nos. 2015-11069 CA43 and 2014-023217 CA43, in the Eleventh Judicial Circuit in and for Miami-Dade County (collectively the "Lawsuit"); and

WHEREAS, the City and the RDA filed a third-party complaint/counterclaim in the Lawsuit seeking declaratory action pursuant to the Declaratory Judgment Act, 86.111, Fla. Stat. seeking to determine, *inter alia*, that pursuant to the Master Covenants, the Master Association is the City and RDA's "landlord" under both the Murano Lease and the Icon Lease; and

WHEREAS, on or about April 27, 2017, the Court entered an Order on The City Of Miami Beach and Miami Beach Redevelopment Agency's Amended Motion for Summary Judgment as to the Counterclaim/Third Party Complaint for Declaratory Relief, finding that "the Master Association is the sole Landlord under the [Murano Lease]" and "the Master Association is the sole Landlord under the Icon Lease."; and

WHEREAS, the Murano Grande, Icon, and Master Association appealed the Court's April 27, 2017 Order to the Third District Court of Appeals, *Murano Grande at Portofino Condominium Association, Inc., et al., v. The City of Miami Beach et. al.*, Appellate Case No: 3d17-2356 (the "Appeal"). Through the Appeal, the Associations also appealed the Court's Order on Tenant's Motion to Dismiss First Amended Complaint, rendered on October 5, 2017, as amended on October 13, 2017; the Court's Order Denying Associations' Amended Motion for Summary Judgment rendered on October 20, 2016; and Order Denying Associations' Motion for Rehearing or Alternative Motion for Entry of Corrected Order and Clarification, rendered on May 30, 2017; and

WHEREAS, on August 13, 2018, the Mayor and City Commission held an Executive Session to discuss a settlement agreement regarding pending litigation with the Murano Grande at Portofino Association, Inc., the Icon Condominium Association, Inc. and the Murano Grande at Portofino Master Association, Inc.; and

WHEREAS, the Mayor and City Commission directed the City Attorney's Office to prepare the settlement agreement and lease amendments in accordance with the direction provided at the Executive Session; and

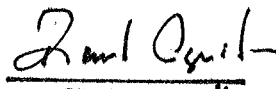
WHEREAS, the Administration recommends in favor of approving the settlement agreement and executing the lease amendments pursuant to the direction of the Mayor and City Commission.

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 the settlement between the City of Miami Beach, Florida and the Murano Grande at Portofino Association, Inc., the Icon Condominium Association, Inc. and the Murano Grande at Portofino Master Association, Inc., and authorize the City Manager and City Attorney to take the necessary and appropriate steps for the implementation thereof; and further authorize the Mayor and City Clerk to execute any documents and/or agreements, as required, to effectuate the terms of the settlement; and further approving and authorizing the Mayor and City Clerk to execute, as part of such settlement, a first amendment to the lease agreement among the City of Miami Beach, the Miami Beach Redevelopment Agency, the Murano Grande at Portofino Master Association, Inc., and the Murano Grande at Portofino Association, Inc.; and further approving and authorizing the Mayor and City Clerk to execute, as part of such settlement, a first amendment to the lease agreement among the City of Miami Beach, the Miami Beach Redevelopment Agency, the Murano Grande at Portofino Master Association, Inc., and the Icon Association, Inc.

PASSED and ADOPTED THIS ____ day of _____ 2018.

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

ATTEST:

 4/20/18

City Attorney Date

Dan Gelber, Mayor

Rafael E. Granado, City Clerk