

## **RESOLUTION NO.**

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, TO CONSIDER APPROVAL, FOLLOWING FIRST READING/PUBLIC HEARING, OF 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 SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, 1220 SIXTH, LLC, AND KGM EQUITIES, LLC (COLLECTIVELY, THE "DEVELOPER"), WHICH DEVELOPMENT AGREEMENT: (1) DELINEATES THE CONDITIONS FOR THE DEVELOPMENT OF THE PROPERTIES LOCATED AT 500 ALTON ROAD, 630 ALTON ROAD, 650 ALTON ROAD, 1220 6<sup>TH</sup> STREET, 659 WEST AVENUE, 701 WEST AVENUE, 703 WEST AVENUE, 711 WEST AVENUE, 721 WEST AVENUE, 723 WEST AVENUE, 727 WEST AVENUE, AND 737 WEST AVENUE (COLLECTIVELY, THE "DEVELOPMENT SITE"), WITH SUCH DEVELOPMENT SITE LIMITED TO A MAXIMUM FLOOR AREA OF 571,000 SQUARE FEET (OF WHICH THERE SHALL BE A MAXIMUM OF 15,000 SQUARE FEET OF RETAIL), WITH ANY TOWER CONSTRUCTED THEREON TO BE LOCATED WITHIN THE NORTHEAST QUADRANT OF THE 500 BLOCK OF ALTON ROAD, LIMITED TO UP TO 484 FEET IN HEIGHT (OR GREATER HEIGHT, SUBJECT TO CITY COMMISSION APPROVAL), AND WITH UP TO 410 UNITS; (2) MEMORIALIZES THE CONDITIONS FOR VACATING THE CITY'S RIGHT OF WAY AT 6<sup>TH</sup> STREET, BETWEEN ALTON ROAD AND WEST AVENUE ("CITY PARCEL" OR "CITY RIGHT-OF-WAY"); (3) GRANTS TO THE CITY A PERPETUAL ROADWAY EASEMENT ACROSS THE VACATED CITY PARCEL FOR UTILITIES AND PUBLIC VEHICULAR AND PEDESTRIAN USE AND ACCESS; (4) PROVIDES FOR THE DEVELOPER'S DESIGN, PERMITTING, CONSTRUCTION AND CONVEYANCE TO THE CITY OF A WORLD CLASS PUBLIC CITY PARK OF AT LEAST 3.0 ACRES WITHIN THE DEVELOPMENT SITE, WITH SUCH CITY PARK TO BE OWNED AND MAINTAINED BY THE CITY FOR PUBLIC PURPOSES; (5) PROVIDES FOR OTHER TERMS, INCLUDING, WITHOUT LIMITATION, DEVELOPER'S CONVEYANCE TO THE CITY OF A PERPETUAL ROADWAY EASEMENT OF AN UP TO 10 FOOT-WIDE STRIP OF LAND WITHIN THE DEVELOPMENT SITE FOR AN ADDITIONAL LANE ON 5<sup>TH</sup> STREET, BETWEEN ALTON ROAD AND WEST AVENUE, FOR UTILITIES AND PUBLIC VEHICULAR AND PEDESTRIAN USE; AND (5) WITH THE FOREGOING SUBJECT TO AND CONTINGENT UPON DEVELOPER'S SATISFACTION OF THE CONDITIONS SET FORTH IN THE DEVELOPMENT AGREEMENT, THE CITY COMMISSION'S VACATION OF 6<sup>TH</sup> STREET, AND ENACTMENT OF CERTAIN AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS, ALL AT THE CITY COMMISSION'S SOLE DISCRETION; AND FURTHER, SETTING THE SECOND AND FINAL READING OF THE DEVELOPMENT AGREEMENT FOR A TIME CERTAIN (PROVIDED THAT, PURSUANT TO RESOLUTION NO. 2018-30555, THE SECOND AND FINAL READING OF THE DEVELOPMENT AGREEMENT SHALL BE HEARD TOGETHER WITH THE SECOND AND FINAL READING OF, RESPECTIVELY, THE 6<sup>TH</sup> STREET VACATION RESOLUTION AND THE PROPOSED AMENDMENTS TO THE CITY'S COMPREHENSIVE PLAN AND LAND DEVELOPMENT REGULATIONS).**

**WHEREAS,** the City holds a right of way dedication to a fifty (50) foot wide right-of-way, known as 6<sup>th</sup> Street, running from West Avenue to Alton Road, as set forth in Exhibit "A" to the Commission Memorandum accompanying this Resolution, consisting of approximately 12, 719.3 square feet in total lot area, as shown on (a) the Amended Plat of the Fleetwood Subdivision, recorded in Plat Book 28, page 34 of the Public Records of Miami-Dade County (the "Fleetwood Plat") and (b) the Amended Plat of Aquarium Site, recorded in Plat Book 21, Page 83 of the Public



Records of Miami-Dade County, and approved by the City (the "City Right-of-Way" or "City Parcel"); and

**WHEREAS**, South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, the "Developer") owns the property to the south of, north of, and abutting, the City Right-of-Way; which parcels are known as 500 Alton Road, 630 Alton Road, 650 Alton Road, 1220 6<sup>th</sup> Street, 659 West Avenue, 701 West Avenue, 703 West Avenue, 711 West Avenue, 721 West Avenue, 723 West Avenue, 727 West Avenue and 737 West Avenue (the "Development Site");

**WHEREAS**, Developer wishes to develop the Development Site as a mixed-use residential and commercial development (collectively, the "Project") pursuant to a Florida Statute Chapter 163 development agreement between the City and the Developers (the "Development Agreement"), which, among other terms, shall require the Developer to construct and convey to the City a completed, world-class park, consisting of a minimum of 3.0 acres; and

**WHEREAS**, the Developer wishes to obtain ownership of the City Right-of-Way, to provide a unified development site with respect to the proposed Project on the Development Site; and

**WHEREAS**, two of the Developer entities (500 Alton Road Ventures, LLC and 1220 Sixth, LLC) are the owners of the property abutting the south side of 6<sup>th</sup> Street; and a third of the Developers, South Beach Heights I, LLC, is the owner of the property abutting the north side of 6<sup>th</sup> Street (collectively these three entities shall be the "Applicants"); and

**WHEREAS**, in conjunction with the proposed Project, the Applicants have requested that the City vacate the City Right-of-Way, and have submitted their application to the City's Public Works Department with respect thereto; and

**WHEREAS**, on July 27, 2018, the Finance and Citywide Projects Committee reviewed the proposed vacation, and recommended a term sheet, which term sheet has served as the basis for the negotiation of the Development Agreement; and

**WHEREAS**, the term sheet outlined three major components that must be implemented in order for the Project to proceed, including (1) the vacation of the City Right-of-Way; (2) the Development Agreement, specifying with the terms and conditions for the development of the Project; and (3) amendments to the City's Comprehensive Plan and Land Development Regulations<sup>1</sup>;

**WHEREAS**, pursuant to the requirements of Section 1.03(b)(4) of the City Charter, the Planning Board, at its October 23, 2018 meeting, approved the proposed vacation by a 7-0 vote; and

**WHEREAS**, on November 14, 2018, the Mayor and City Commission considered, on first reading, the companion agenda item with respect to the proposed vacation of the City Right-of-Way; and

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<sup>1</sup> On October 17, 2018, the Mayor and City Commission adopted Resolution No. 2018-30555, sponsored by Commissioner Mark Samuelian, to specify that the foregoing major components for the Project would "travel" together and be considered by the City Commission on the same date(s).

**WHEREAS**, in addition to the vacation of the City Right-of-Way, and as a condition thereto, the proposed Development Agreement contemplates that the City Commission will approve certain amendments to the City's Comprehensive Plan and Land Development Regulations; and

**WHEREAS**, on November 14, 2018, the Mayor and City Commission considered, on first reading, companion agenda items, with the proposed amendments to the City's Comprehensive Plan and Land Development Regulations, to: (a) amend the Comprehensive Plan to change the designation of those portions of the Development Site designated within the CPS-2 District and RM-2 District to the CD-2 District designation; (b) amend the City's Land Development Regulations to rezone those portions of the Development Site in the CPS-2 District and RM-2 District to the CD-2 District; and (c) amend the City's Land Development Regulations to authorize up to 484 feet in height for a tower within the CD-2 District (or such greater height as may be approved by the City Commission), and (d) regulate uses, among other terms (collectively, the "LDR Amendments"); and

**WHEREAS**, Sections 163.3220 – 163.3243, Florida Statutes, and Section 118-4 of the City's Code require two public hearings for a Development Agreement; and

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

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

- Developer shall convey to the City that portion of the Development Site consisting of a minimum of 3.0 acres, in fee simple, by special warranty deed (the "Park Site"), on which the Developer shall design, permit and construct, at its sole cost and expense, a public City park (the "Park") based upon the Park Concept Plan approved by the City Commission and incorporated as an exhibit to the Development Agreement, and which Park, once completed, will be owned, maintained, and programmed by the City for public purposes; and
- Developer shall develop the Project in accordance with the City's Land Development Regulations and the limitations set forth in the Development Agreement with respect to the Project, including, without limitation, the following conditions:
  - any tower built on the Development Site would be located within the northeast quadrant of the 500 Block of Alton Road, and with a height not-to-exceed 484 feet to the top of the roof (or such greater height as may be approved by the City Commission) and 44 stories (excluding the parking pedestal), and with a floor plate of any residential floor within the tower not-to-exceed 13,800 square feet of floor area ratio; and
  - the tower will contain up to 410 units (including multi-family residential units, single-family detached units, townhomes, condominiums, and apartments), with up to a total of sixty (60) or twenty percent (20%) of such units, whichever is less, consisting of hotel, apartment hotel, or suite hotel units if approved by the City Commission;



- the Project may include up to 15,000 square feet of retail uses; and
  - no parking, whether surface or underground, will be constructed on any part of the Park Site.
- In order to permit the Project to proceed as a unified development site, the City shall convey to the Developer by quit claim deed, the City Right-of-Way pursuant to and subject to the terms of the Vacation Resolution to 500 Alton Road Ventures, 1220 Sixth, LLC, and South Beach Heights I, LLC, as the abutting property owners to 6<sup>th</sup> Street; and
- Simultaneous with the City's conveyance to the Developer of the City Right-of-Way, the Developer shall grant to the City a perpetual, non-revocable utility, roadway and pedestrian access easement against the City Right-of-Way, to provide a through street on 6<sup>th</sup> Street for public vehicular and pedestrian use and access (Future 6<sup>th</sup> Street Easement"), which easement will provide that the City will be responsible for the maintenance, repair, safety and security of the Future 6<sup>th</sup> Street and all improvements thereon, and which shall reserve to the Developer the right to construct a pathway and related improvements not less than 20 feet above the surface of Future 6<sup>th</sup> Street as part of the Project; and
- Developer shall design and construct, at the Developer's cost and expense, an elevated terminus/platform (approximately 14-15 feet above grade) to accommodate the City's development of the Future Baywalk (the launching site for a public pedestrian path connecting the baywalk south of 5<sup>th</sup> Street across 5<sup>th</sup> Street onto the Development Site). Developer shall grant to the City access easements related thereto, including an easement for a pedestrian path leading to the Future Baywalk Platform, and a separate easement for pedestrian and bicycle use along West Avenue, between 5<sup>th</sup> Street and 6<sup>th</sup> Street; and
- Developer shall grant to the City a perpetual, non-revocable roadway easement against an up to 10 foot wide strip of land located within the Development Site, to provide an additional lane on 5<sup>th</sup> Street from Interstate 395 (the "Future 5<sup>th</sup> Street Easement") for public vehicular and pedestrian use and access, which easement will provide that the City will be responsible for the design, construction, maintenance, repair, safety and security of the Future 5<sup>th</sup> Street and all improvements thereon; and
- Developer shall complete, or cause to be completed, the construction of the unfinished baywalks along 1000 West Avenue (Mirador 1000 Condo), 1100 West Avenue (Mondrian Hotel), and 1200 West Avenue (Mirador 1200 Condo) (collectively, the "Baywalks") subject to City's obtaining the permits and any necessary consents for the Baywalks, and City's payment to the Developer for construction work completed on the Baywalks, in the amount not-to-exceed \$762,682.58; and
- City will not issue a building permit for the Project until the Developer conveys the Park Site to the City, and all easements and other documents required by the Development Agreement have been delivered to the City; and



- City will not issue a temporary certificate of occupancy or certificate of occupancy for the Project until Developer has completed the Park construction and satisfied its obligations to the City under the Development Agreement; and
- Developer will demolish the existing South Shore Hospital building within six (6) months following the Project Zoning Approval and Park Zoning Approval, and the applicable appeal periods thereof or, in the event an appeal is filed, the resolution of any such appeal; and
- Developer shall complete the construction of the Park no later than eight (8) years following the issuance of the initial building permit for the Project; and
- Developer shall pay all zoning application fees, concurrency mitigation fees and impact fees that may be applicable to the Project; provided, however, that if the City Commission amends the City's Land Development Regulations to permit a waiver or refund of such fees, Developer shall be entitled to such waiver or refund in accordance with the City's Land Development Regulations, as amended; and
- As security for Developer's obligations to deliver to the City a completed and constructed Park, Developer shall deliver to the City, either (1) an agreement with the Developer's lender to fund the then remaining Park construction amount directly to the City in the event the Developer defaults on its obligations; or (2) a letter of credit in favor of the City, in an amount equal to the Park construction amount (based on the guaranteed maximum price contract for the construction of the Park), which would permit City to draw on the funds, and complete the construction of the Park, in the event the Developer fails to do so; and

**WHEREAS**, for the reasons as outlined in the Commission Memorandum accompanying this Resolution, the Administration recommends approval of the Development Agreement.

**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, of 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 South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, the "Developer"), which Development Agreement: (1) delineates the conditions for the development of the properties located at 500 Alton Road, 630 Alton Road, 650 Alton Road, 1220 6<sup>th</sup> Street, 659 West Avenue, 701 West Avenue, 703 West Avenue, 711 West Avenue, 721 West Avenue, 723 West Avenue, 727 West Avenue, and 737 West Avenue (collectively, the "Development Site"), with such Development Site limited to a maximum floor area of 571,000 square feet (of which there shall be a maximum of 15,000 square feet of retail), with any tower constructed thereon to be located within the northeast quadrant of the 500 Block of Alton Road, limited to up to 484 feet in height (or greater height, subject to City Commission approval), and with up to 410 units; (2) memorializes the conditions for vacating the City's Right-of-Way at 6<sup>th</sup> Street, between Alton Road and West Avenue ("City Parcel"); (3) grants to the City a perpetual roadway easement across the vacated City Parcel for utilities and public vehicular and pedestrian use and access; (4) provides for the Developer's design, permitting, construction and conveyance to the city of a world class public City park of at least 3.0 acres within the Development Site, with such City Park to be owned and maintained by the City for public purposes; (5) provides for other terms, including, without limitation, Developer's conveyance to the City of a perpetual roadway easement of an up to 10

foot-wide strip of land within the Development Site for an additional lane on 5<sup>th</sup> Street, between Alton Road and West Avenue, for utilities and public vehicular and pedestrian use; and (5) with the foregoing subject to and contingent upon Developer's satisfaction of the conditions set forth in the Development Agreement, the City Commission's vacation of 6<sup>th</sup> Street, and enactment of certain amendments to the City's Comprehensive Plan and Land Development Regulations, all at the City Commission's sole discretion; and further, setting the second and final reading of the Development Agreement for a time certain (provided that, pursuant to Resolution No. 2018-30555, the second and final reading of the Development Agreement shall be heard together with the second and final reading of, respectively, the 6<sup>th</sup> Street Vacation Resolution and the proposed amendments to the City's Comprehensive plan and Land Development Regulations).

**PASSED and ADOPTED** this 14<sup>th</sup> day of November, 2018.

**ATTEST:**

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Dan Gelber, Mayor

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Rafael G. Granado, City Clerk

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney *RAY*      11-5-18  
Date