

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, FOLLOWING SECOND READING OF THE TITLE OF THIS RESOLUTION AND A DULY NOTICED PUBLIC HEARING, THE VACATION OF 6TH STREET, WEST OF ALTON ROAD AND EAST OF WEST AVENUE, IN FAVOR OF THE ABUTTING PROPERTY OWNERS, SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, AND 1220 SIXTH, LLC (COLLECTIVELY, THE "APPLICANTS"); CONDITIONING AND MAKING THE AFORESTATED VACATION SUBJECT TO SATISFACTION OF CERTAIN CONDITIONS, AS MORE SPECIFICALLY STATED IN THAT CERTAIN DEVELOPMENT AGREEMENT BETWEEN THE CITY AND SOUTH BEACH HEIGHTS I, LLC, 500 ALTON ROAD VENTURES, LLC, 1220 SIXTH, LLC, AND KGM EQUITIES, LLC (COLLECTIVELY, THE "DEVELOPER"), AND AS APPROVED BY THE CITY PURSUANT TO RESOLUTION NO. \_\_\_\_\_; WHICH CONDITIONS, AMONG OTHER THINGS, SHALL REQUIRE THE DEVELOPER TO: (1) GRANT TO THE CITY A 50 FOOT WIDE PERPETUAL NON-REVOCABLE UTILITY, ROADWAY AND PEDESTRIAN ACCESS EASEMENT ACROSS THE VACATED 6TH STREET RIGHT-OF-WAY; (2) CONVEY TO THE CITY, IN FEE SIMPLE, A MINIMUM OF 3.0 ACRES, WITHIN THE 5TH - 7TH STREET BLOCKS, BETWEEN WEST AVENUE AND ALTON ROAD, FOR A WORLD CLASS PUBLIC MUNICIPAL PARK, TO BE DESIGNED AND CONSTRUCTED AT THE DEVELOPER'S EXPENSE; AND (3) COMPLETE PHASE 1 OF THE AFORESTATED PARK PROJECT; FURTHER WAIVING BY 5/7THS VOTE, THE COMPETITIVE BIDDING REQUIREMENT, PURSUANT TO SECTION 82-39(a) OF THE CITY CODE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY.

**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 the sketch attached as Exhibit "A" hereto, 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 aforestated property is hereinafter referred to as the "City Right-of-Way" or "City ROW"); and

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

**WHEREAS**, the Developer intends to develop the property as a mixed-use residential and commercial development (collectively, the "Proposed Development") pursuant to a Florida Statute Chapter 163 development agreement entered into between the City and the four entities identified above (the "Development Agreement"), and to convey to the City a dedicated, constructed, world-class park, consisting of no less than 3.0 acres; and

**WHEREAS**, the Proposed Development shall be developed as a unified development site; and

**WHEREAS**, two of the Developers (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, 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, as the abutting property owners, are requesting the vacation and are also referred to herein as the "Applicants"); and

**WHEREAS**, in conjunction with Proposed Development on the Property, Applicants are requesting 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**, pursuant to the City's existing administrative policies and procedures to consider the vacation of the City streets, alleys, and/or rights of way, which also require compliance with Article II, Sections 82-36 through 82-40, of the City Code (which establish the procedures governing the sale or lease of public property), in addition to the above referenced application, prior to considering a request for vacation, the following requirements must be satisfied:

(A) The title of the Resolution regarding the proposed vacation shall be read by the City Commission on two separate meeting dates, with the second reading to be accompanied by a duly noticed public hearing. (Note: First reading of the Resolution title occurred at the City Commission meeting of November 14, 2018);

(B) The proposed vacation shall be transmitted to the Finance and Citywide Projects Committee ("FCWPC") for its review (Note: The FCWPC reviewed the proposed vacation at its July 27<sup>th</sup>, 2018 meeting, and recommended a term sheet of conditions, which served as the basis for the City and Developer's negotiation of the resulting Development Agreement, which is scheduled to be heard at the same Commission meeting as Agenda Item R7A.);

(C) In order for the City Commission and the public to be fully apprised of all conditions relating to the proposed vacation, 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 (Note: The Planning Department analysis and as required pursuant to Section 82-38 of the City Code, is attached as Exhibit "B" hereto),

(D) The City shall obtain an independent appraisal of the fair market value of the property proposed to be vacated, which shall include a definition of the property based on proposed and possible issues including, without limitation, the highest and best use (Note: An appraisal was obtained by the City's Public Works Department on June 24, 2018, and the 6<sup>th</sup> Street right of way was valued at \$7,600,000); 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 5/7<sup>th</sup> vote of the City Commission; and

**WHEREAS**, Florida law, requires, upon vacation, that the right-of-way is divided equally between the abutting property owners; and

**WHEREAS**, as the only persons entitled to the vacated land are the Applicants (as the abutting property owners), the City Manager 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**, as required by Section 82-37(a)(2) of the City Code, first reading of the title of the this Resolution occurred at the City Commission meeting of November 14, 2018; and

**WHEREAS**, in addition to the requirements set forth in Section 82-36 through 82-40 of the City Code, Section 1.03(b)(4) of the City Charter also requires that the vacation be approved by 4/7<sup>ths</sup> vote of the Planning Board, and 6/7<sup>ths</sup> vote of the City Commission; and

**WHEREAS**, at its meeting on September 25, 2018, the Planning Board approved the proposed vacation (subject to and contingent upon Developer's satisfaction of the conditions regarding vacation of 6<sup>th</sup> Street in the Development Agreement) by a 7-0 vote; and

**WHEREAS**, the Administration, recommends approval of the vacation, following second reading of the title of the Vacation Resolution and the public hearing, with such vacation being subject to and contingent upon satisfaction of the the terms contained in this Resolution and, more specifically, as expressly set forth in 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, on second reading of the title of this Resolution, and duly noticed public hearing, the vacation of 6th Street, west of Alton Road and east of West Avenue, in favor of the abutting property owners, South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, and 1220 Sixth, LLC (collectively, the "Applicants"); conditioning and making the aforesated vacation subject to satisfaction of certain conditions, as more specifically stated in that certain Development Agreement between the City and South Beach Heights I, LLC, 500 Alton Road Ventures, LLC, 1220 Sixth, LLC, and KGM Equities, LLC (collectively, the "Developer"), and as approved by the City pursuant to Resolution No. \_\_\_\_\_; which conditions, among other things, shall require the Developer to: (1) grant to the City a 50 foot wide perpetual non-revocable utility, roadway and pedestrian access easement across the vacated 6th Street right-of-way; (2) convey to the City, in fee simple, a minimum of 3.0 acres, within the 5th - 7th Street blocks, between West Avenue and Alton Road, for a world class public municipal park, to be designed and constructed at the Developer's expense; and (3) complete Phase 1 of the aforesated Park Project; further waiving by 5/7ths vote, the competitive bidding requirement, pursuant to Section 82-39(a) of the City Code, finding such waiver to be in the best interest of the City.

**PASSED and ADOPTED** this 12<sup>th</sup> day of December, 2018.

**ATTEST:**

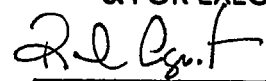
\_\_\_\_\_  
Dan Gelber, Mayor

\_\_\_\_\_  
Rafael G. Granado, City Clerk

(Sponsor: Mayor Dan Gelber)

[Vacation Requires 6/7 vote of City Commission]

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney

12-5-18  
\_\_\_\_\_  
Date