

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

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, ON SECOND AND FINAL READING OF THIS RESOLUTION AND FOLLOWING A DULY NOTICED PUBLIC HEARING, PURSUANT TO SECTION 82-37(A), OF THE CITY CODE, THE VACATION OF ATLANTIC WAY BETWEEN 76TH STREET AND 77TH STREET, CONSISTING OF A 30-FOOT WIDE RIGHT-OF-WAY, CONTAINING APPROXIMATELY 9,000 SQUARE FEET IN TOTAL AREA, ATTACHED HERETO AS EXHIBIT "A," AS SHOWN ON THE CORRECTED PLAT "ALTOS DEL MAR NO. 1," RECORDED IN PLAT BOOK 31 AT PAGE 40, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY, AND LYING IN A PORTION OF GOVERNMENT LOT 2, SECTION 2, TOWNSHIP 53 SOUTH, RANGE 42 EAST, CITY OF MIAMI BEACH, IN FAVOR OF THE CITY OF MIAMI BEACH AND THE OWNERS OF 7605 COLLINS AVENUE; AND CONDITIONING THE VACATION ON THE OWNERS OF 7605 COLLINS AVENUE'S EXECUTION OF A COVENANT RUNNING WITH THE LAND THAT THE VACATED PROPERTY IDENTIFIED IN EXHIBIT "A" NOT BE CONSTRUCTED WITH HABITABLE SPACE DUE TO THE EXISTING NON-EXCLUSIVE PERPETUAL EASEMENT ALONG THE LENGTH OF THE VACATED AREA.

**WHEREAS**, the City holds a right-of-way dedication to Atlantic Way, between 76<sup>th</sup> Street and 77<sup>th</sup> Street, consisting of a 30 foot wide right-of-way, containing approximately 9,000 square feet (as set forth in the sketch attached as Exhibit "A" hereto), which is reflected in the Corrected Plat "Altos Del Mar No. 1", recorded in Plat Book 31, at page 40, of the Public Records of Miami-Dade County, and lying in a portion of Government Lot 2, Section 2, Township 53 South, Range 42 East, City of Miami Beach, and approved by the City as a Right-of-Way (hereinafter "City Right-of-Way"); and

**WHEREAS**, other than the adjacent residential property owned by the owners of 7605 Collins Avenue, all the other land surrounding Atlantic Way is owned by the City and designated for park use; and

**WHEREAS**, the City desires to improve the Altos Del Mar Park and to vacate the City Right-of-Way; and

**WHEREAS**, the City has obtained the consent of the owners of 7605 Collins Avenue to the vacation and, by operation of law, they would obtain title to half of the City Right-of-Way fronting their property (15' feet by 50') and the remainder, fronting City property, would remain titled in the City; and

**WHEREAS**, Section 177.085, Florida Statutes, provides that, upon the abandonment of a right-of-way, all rights to the former right-of-way revert to the owners of the lots abutting such right-of-way; and

**WHEREAS**, a City may vacate roads when the vacation is in the public interest, or when the street is no longer required for public use and convenience; and

**WHEREAS**, the vacation of the City Right-of-Way serves a public purpose of improving Altos del Mar Park; and

**WHEREAS**, there is an existing non-exclusive utility easement along the City Right-of-Way which shall remain, and shall be identified on the respective deeds for the property owners of 7605 Collins Avenue and the City; and

**WHEREAS**, the property owners of 7605 Collins Avenue shall covenant not to build a habitable structure over the non-exclusive easement area; 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 procedures governing the sale or lease of public property), the following requirements must be satisfied:

- 1) The title of the Resolution approving the proposed vacation shall be heard by the City Commission on two separate meeting dates, with the second reading to be accompanied by a duly noticed public hearing, in order to obtain citizen input into the proposed vacation;
- 2) The proposed vacation shall be transmitted to the Finance and Citywide Projects Committee for its review;
- 3) In order for the City Commission and the public to be fully appraised 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; and
- 4) The City shall obtain an independent appraisal of the fair market value of the property proposed to be vacated (Note: This provision may be waived by a 5/7<sup>th</sup> vote of the City Commission, finding that the public interest is served by waiving such condition); and

**WHEREAS**, at the July 13, 2016 City Commission Meeting, the City Commission waived the competitive bidding requirements and appraisal requirements of City Code Section 82-39(a) be waived as, by operation of law, the adjacent property owners (property owners of 7605 Collins Avenue and the City) are the only entitled parties to which the vacated right-of-way can be conveyed; and

**WHEREAS**, pursuant to City Code Section 82-38, the Planning Department is required to prepare a planning analysis relating to the six (6) elements for vacating City Property and shall produce said written report prior to final City Commission action on the proposed vacation; and

**WHEREAS**, the Planning Department produced the Planning Analysis on April 13, 2016 and determined that the six (6) criteria elements have been satisfied; and

**WHEREAS**, although the City's procedures for the lease of sale or sale of public property also require an advertised public bidding process, the City Commission also, on July 13, 2016, waived this requirement, by 5/7<sup>th</sup> vote finding, in this case and due to the nature of the law pertaining to the vacation of right-of-way, that the public interest is best served by waving such conditions; and

**WHEREAS**, on July 13, 2016, the Mayor and City Commission approved the proposes vacation on first reading; and set the second reading/public hearing; waived

the 5/7<sup>th</sup> vote, the competitive bidding and appraisal requirements and referred the matter to the Finance and Citywide Projects Committee; and

**WHEREAS**, the Finance and Citywide Projects Committee heard this item at their September 30, 2016 meeting and recommended vacating the existing right-of-way.

**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 of the City of Miami Beach, Florida, approve, on second and final reading of this resolution and following a duly noticed public hearing, pursuant to section 82-37(a), of the City Code, the vacation of Atlantic Way between 76th Street and 77th Street, consisting of a 30-foot wide right-of-way, containing approximately 9,000 square feet in total area, attached hereto as exhibit "A," as shown on the corrected plat "Altos Del Mar No. 1," recorded in plat book 31 at page 40, of the public records of Miami-Dade County, and lying in a portion of Government lot 2, section 2, Township 53 South, Range 42 East, City of Miami Beach, in favor of the City of Miami Beach and the owners of 7605 Collins Avenue; and conditioning the vacation on the owners of 7605 Collins Avenue's execution of a covenant running with the land that the vacated property identified in exhibit "A" not be constructed with habitable space due to the existing non-exclusive perpetual easement along the length of the vacated area.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
PHILIP LEVINE, MAYOR

ATTEST:

\_\_\_\_\_  
RAFAEL E. GRANADO, CITY CLERK

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

*Rafel Granado*  
\_\_\_\_\_  
City Attorney

10/4/16  
\_\_\_\_\_  
Date

*JAB*