

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

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE A TERMINATION AND RELEASE AGREEMENT RELATING TO A 10-FOOT CITY UTILITY EASEMENT RUNNING EAST/WEST, ALONG THE SOUTHERLY 10 FEET OF LOTS 3 AND 16, OF BLOCK 12, OF THE PLAT OF NORMANDY BEACH SOUTH, AS RECORDED IN PLAT BOOK 21, AT PAGE 54 (PLAT); SAID 10 FOOT EASEMENT RECORDED IN O.R. BOOK 6386, AT PAGES 438, 440 AND 443, OF THE PUBLIC RECORDS OF MIAMI-DADE COUNTY; AND RELEASING THE CITY'S RIGHT TO ACCESS, OPERATE AND MAINTAIN UTILITIES WITHIN A 5 FOOT RESERVATION EASEMENT, AS NOTED ON SAID PLAT (NOTE: A STRIP OF LAND 5-FEET WIDE IS RESERVED IN THE REAR OF EACH LOT), LYING WITHIN LOTS 1-5 AND LOTS 16-18, OF BLOCK 12; AND LOTS 3-5 AND LOTS 7-10, OF BLOCK 13, ACCORDING TO SAID PLAT; SAID RELEASES BENEFITING NORTH BEACH TOWN CENTER DEVELOPMENT, LLC, OWNER OF THE BURDENED PROPERTIES, LOCATED AT 300 71ST STREET, 326 71ST STREET, 6985, 6961, 6948, 6956, 6964, 6972, 6988 ABBOTT AVENUE, AND 6972 HARDING AVENUE ("DEVELOPER'S PROPERTIES"), IN CONNECTION WITH THE DEVELOPMENT OF THE DEVELOPER'S PROPERTIES INTO A MULTISTORY MIXED-USE PROJECT, INCLUDING RESIDENTIAL, PARKING GARAGE AND RETAIL USES (THE "DEVELOPMENT"), SUBJECT TO THE CITY APPROVING THE RELOCATION SITE AND THE TYPE OF NEW UTILITY FACILITY INFRASTRUCTURE, AND PROVIDED THAT DEVELOPER WILL NOT COMMENCE DEVELOPMENT-RELATED CONSTRUCTION UNTIL THE DEVELOPER COMPLETES THE UTILITY RELOCATION WORK REQUIRED BY THE CITY FOR THE DEVELOPER'S PROPERTIES AND OTHER ADJOINING IMPACTED PROPERTIES; AND FURTHER AUTHORIZING THE CITY MANAGER TO EXECUTE THE REPLACEMENT EASEMENT AGREEMENTS, IN THE FORM ACCEPTABLE TO THE CITY ATTORNEY.

**WHEREAS** North Beach Town Center Development, LLC, as successor in interest to Oliveira Plaza Associates, LLC ("Developer"), is the owner of the properties located at 300 71st Street, 326 71st Street, 6985, 6961, 6948, 6956, 6964, 6972, 6988 Abbott Avenue, and 6972 Harding Avenue (the "Developer's Properties"); and

**WHEREAS**, the Developer intends to construct a multistory mixed-use project, including residential, parking garage and retail uses (the "Development") on the Developer's Properties; and

**WHEREAS**, the Developer's application for the Development has been approved by the Design Review Board (DRB), via DRB File No. 19-0424; and

**WHEREAS**, in connection with the work related to the Development, the Developer has requested that the City release a 10-foot easement running East/West, along the southerly 10 feet of lots 3 and 16, of Block 12, of the Plat of Normandy Beach South, recorded in Plat Book 21, at

Page 54 (the "Plat"), relating to a City utility easement, recorded in O.R. Book 6386, at Pages 438, 440, and 443 of the Public Records of Miami-Dade County ("City's Private Easement"); and

**WHEREAS**, furthermore, the Developer has requested that the City release its right to access, operate and maintain utilities within a 5 foot reservation easement, as noted on said Plat (note: a strip of land 5-feet wide is reserved in the rear of each lot), particularly described as: Lots 1-5 and Lots 16-18, of Block 12; and Lots 3-5 and Lots 7-10, of Block 13, according to said Plat ("Platted Easement"); and

**WHEREAS**, the City's Private Easement contains electrical and water facilities and the Platted Easement contains water facilities; and

**WHEREAS**, the Developer has requested that the City execute a Termination and Release Agreement of the City's Private Easement and that the City release its interest in the Platted Easement, lying within the property limits of the Developer's Properties (collectively, the "Impacted Easement Areas"), in that, the proposed Development will encompass the Impacted Easement Areas (the "Developer's Request"); and

**WHEREAS**, Developer has secured letters of "no objection" from utility and telecommunication companies that service the Developer's Properties and adjoining impacted properties ("Adjoining Impacted Properties"), including Teco Peoples Gas, Atlantic Broadband, FPL, AT&T, Crown Castle Fiber; and

**WHEREAS**, the Adjoining Impacted Properties shall refer to the remaining property owners of Blocks 12 and 13 of the Plat; to wit: Lots 6, 13, 14, and 15 of Block 12, and Lots 1, 2, 6, and the west 50 feet of Lots 1 and 12, of Block 13; and

**WHEREAS**, in connection with the Developer's Request, Developer, at its sole cost and expense, shall be responsible for the removal, relocation, and replacement of the utility facilities located within the Developer's Properties and Adjoining Impacted Properties, subject to approval, by the City, of the new locations and the type of new utility facilities to be installed (the "Utility Facilities Relocation Project"); and

**WHEREAS**, since the Impacted Easement Areas also serves the Adjoining Impacted Properties, Developer has agreed to: (1) construct new utility facilities, as may be requested by the City, which in the City's discretion, will provide the required functionality and capacity for the Developer Properties and Adjoining Impacted Properties; (2) secure all required consents or other legal rights to conduct work on the Adjoining Impacted Properties in connection with the Utility Facilities Relocation Project, which will include the relocation of some utility facility components lying within the Adjoining Impacted Properties including, without limitation, water and/or irrigation facilities and meters; and (3) not commence the foundation or clearing work on the Developer's Properties until such time as the Developer has completed the Utility Facilities Relocation Project; and

**WHEREAS**, Developer shall also be responsible for payment of any costs associated with the City's approval of the new utility easements including, without limitation, recording fees, title search fees, and professional services related to the preparation of surveys, opinions of title and any other additional costs related to the Development approval process.

**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 authorize the City Manager to execute a Termination and Release Agreement, relating to a 10-foot City utility easement running east/west, along the southerly 10 feet of Lots 3 and 16, of Block 12, of the Plat of Normandy Beach South, as recorded in Plat Book 21, at Page 54 (Plat); said 10 foot easement recorded in O.R. Book 6386, at Pages 438, 440 and 443, of the Public Records of Miami-Dade County; and releasing the City's right to access, operate and maintain utilities within a 5 foot reservation easement, as noted on said Plat (note: a strip of land 5-feet wide is reserved in the rear of each lot), lying within Lots 1-5 and Lots 16-18, of Block 12; and lots 3-5 and lots 7-10, of Block 13, according to said Plat; said releases benefiting North Beach Town Center Development, LLC, owner of the burdened properties, located at 300 71st Street, 326 71st Street, 6985, 6961, 6948, 6956, 6964, 6972, 6988 Abbott Avenue, and 6972 Harding Avenue ("Developer's Properties"), in connection with the development of the Developer's Properties into a multistory mixed-use project, including residential, parking garage and retail uses (the "Development"), subject to the City approving the relocation site and the type of new utility facility infrastructure, and provided that Developer will not commence development-related construction until the Developer completes the utility relocation work required by the City for the Developer's Properties and other Adjoining Impacted Properties; and further authorize the City Manager to execute the replacement easement agreements, in the form acceptable to the City Attorney.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021

**ATTEST:**

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

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney *AMT*

10-5-21  
Date