

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE, AT ITS MAY 24, 2024 MEETING, AND AUTHORIZING THE ADMINISTRATION TO PRIORITIZE FUNDING DURING THE 2025 BUDGET PROCESS FOR A FEASIBILITY STUDY, ESTIMATED TO COST APPROXIMATELY \$100,000.00, TO DETERMINE THE DESIGN AND CONSTRUCTION COSTS ASSOCIATED WITH A NEW CAPITAL PROJECT TO DEVELOP A WALKWAY OVER WATER FOR THOSE SEGMENTS OF THE INDIAN CREEK PEDESTRIAN PATHWAY WHICH ARE CURRENTLY NOT CONNECTED TO THE CONTINUOUS PATH (UNCONNECTED PATH), SO THAT FUNDING FOR THE DESIGN AND CONSTRUCTION MAY BE DETERMINED FOR THOSE SEGMENTS OF THE UNCONNECTED PATH FOR WHICH THE CITY, ON ITS OWN OR BY SECURING THE REQUISITE CONSENTS OR OTHER PROPERTY RIGHTS, MAY PROCEED TO COMPLETE THE INDIAN CREEK PEDESTRIAN PATHWAY.

WHEREAS, on September 27, 2016, the City Commission adopted Resolution No. 2016-29584, which authorized the City Manager to accept the transfer to the City, via quit claim deeds of approximately 4,000 linear feet of seawall along Indian Creek Drive from private property owners adjacent to Indian Creek Drive, so that the City and the Florida Department of Transportation (FDOT) may undertake the construction of a 5.7 NAVD elevation seawall barrier wall to improve street drainage and raise the road elevation for Indian Creek Drive between 26th Street and 41st Street; and

WHEREAS, on February 8, 2017, the Mayor and City Commission adopted Resolution No. 2017-29749, which authorized the City Manager to accept quit claim deeds with an easement agreement, providing the upland property owners the ability to build a dock, or similar structure, in the future, on the water-ward side of the seawalls; and

WHEREAS, on September 25, 2017, the Mayor and City Commission adopted Resolution No. 2017-29982, memorializing action taken by the City commission on May 17, 2017, which modified Resolutions No. 2016-29584 and 2017-29749, so that the City Manager can accept the transfer to the City via quit claim deed, easement agreement, or cross-easement agreement, and extending the original authorization to include the area between 23rd Street and 26th Streets so that the City and FDOT may extend the construction of the seawall barrier wall from 23rd Street through 41st Street (Project Site); and

WHEREAS, the City approached property owners of the outlots located along Indian Creek Drive/Lake Pancoast within the Project Site during the design phase of the seawall installation project, requesting that the property owners either provide an easement through their outlot parcel or transfer the property to the City via quit claim deed, permitting the City to install a new seawall at no cost to the property owners and permitting the City to construct a connecting walkway and other public facilities at the outlot properties; providing, however, that in the case of a deed transfer of the outlot parcel to the City, the property owner would retain an easement through the outlot for access and construction a dock in the future, subject to the property owner securing the requisite regulatory approvals; and

WHEREAS, at its March 13, 2024 meeting, the City Commission approved a dual referral (Item C4 I) to the Finance and Economic Resiliency Committee (FERC) and the Land Use and Sustainability Committee (LUSC) to consider the creation of a new capital project to install floating walkways and/or the acquisition of the outlot parcel directly west of Indian Creek Drive and owned

by the property located at 2811 Indian Creek Drive ("2811 Outlot Parcel") to complete the Indian Creek pedestrian pathway; and

WHEREAS, The item was anticipated to be heard at the May 1, 2024 LUSC meeting, but it was not heard; and was also scheduled to be heard at the May 24, 2024 FERC meeting; and

WHEREAS, the referral references a March 18, 2020 City Commission Resolution (Resolution No. 2020-31210), approving one (1) of two (2) concept plans prepared by landscape architect Craven Thompson & Associates, Inc. ("Craven Thompson"), based on community feedback, to restore landscape removed during the construction of the seawall that extends from 24th Street to 41st Street on the east side of the Indian Creek Canal/Waterway (i.e., on the west side of Indian Creek Drive); and

WHEREAS, the approved concept plan provided connectivity for pedestrians between three (3) anchor points: (1) 41st Street; (2) the pedestrian bridge at 28th Street; and (3) the south end overlooking Lake Pancoast; and

WHEREAS, the plan proposed varied layers of landscaping between the anchor points and the connectivity, to buffer the barrier wall, to screen and open some views, and plant large shade trees at the road intersections with Indian Creek Drive ("ICD") to limit traffic related light pollution into the residential neighborhoods; and

WHEREAS, as part of Resolution No. 2020-31210, the Mayor and City Commission directed the Administration to work with Craven Thompson to increase the pathway and landscaping in as many areas as possible; and

WHEREAS, for these three segments, Craven Thompson created pedestrian starts/stops at certain pinch points where the pathway would otherwise end; there are crosswalks at these pinch points to enable pedestrians who wish to walk along the west side of ICD to cross over to the east side temporarily, until the next crosswalk that can connect them back to the pathway; and this is less than ideal as pedestrians are forced to cross ICD and cross back several times to get from 26th Street to 41st Street; and

WHEREAS, construction of the pathway in its current iteration is reflected in the Indian Creek Greenway plan prepared by Craven Thompson, dated September 1, 2023 (Greenway Plan), a copy of which is attached to the City Commission Memorandum accompanying this Resolution; and

WHEREAS, as highlighted in red in the Greenway Plan, the following areas currently do not permit continuous passage over the Greenway ("Unconnected Pedestrian Pathway") for a number of reasons, to wit:

- 28th Street near the pedestrian bridge (the City has not secured property rights to the 2811 Outlot Parcel);
- 31st through 35th Street (the City owns or has property rights to this segment of the Unconnected Pedestrian Pathway; however, there may be a City structure blocking use of the Pedestrian Pathway; the City may need consent to develop the Pedestrian Pathway on water/land from a property owner under its agreement and/or secure governmental approvals; or there is not sufficient space to develop the Pedestrian Pathway; and
- Approximately from 37th Street to 39th Street (the City owns or has property rights to this segment of the Unconnected Pedestrian Pathway; however, the City may need consent to develop the Pedestrian Pathway on water from a property owner and/or secure governmental approvals.

WHEREAS, the Mid Beach Neighborhood Association (MBNA) has requested that the City consider the installation of walkways over water connecting the pinch points along ICD to allow for a continuous pathway from 26th Street to 41st Street; and

WHEREAS, the installation of the Pedestrian Walkway over water, where it could not otherwise be constructed on land, would not only provide a practical solution for pedestrians traveling north or south along ICD in Mid Beach but would also allow residents and visitors the ability to experience the City's natural beauty in a more intimate way; and

WHEREAS, the 2811 Outlot Parcel is the only segment of the Unconnected Pedestrian Walkway in which the City does not have a property interest to develop the Pedestrian Walkway and, in its current design, a pedestrian who crosses the 28th Street pedestrian bridge over Indian Creek must walk north to the crosswalk at 29th Street, then use the sidewalk on the east side of Indian Creek Drive to head south; and

WHEREAS, as noted in the referral item, sponsoring Commissioner Alex Fernández also wished to discuss the possibility of negotiating an access easement through the 2811 Outlot Parcel by negotiation with the owner or, if necessary, by eminent domain, in order to develop a floating walkway and provide a more safe and efficient south bound passage at the 2811 Outlot Parcel location; and

WHEREAS, at is May 24, 2024 FERC meeting, Committee members discussed the item at length and made a favorable motion to proceed to the City Commission, directing the Administration to work with the City Attorney to negotiate an access easement at 2811 Indian Creek Drive and/or commence an eminent domain proceeding; and prioritize funding during the 2025 budget process for a new capital project to install a walkway over water as part of the Indian Creek pedestrian pathway; and

WHEREAS, the FERC recommendation relating to the 2811 Outlot Parcel is the subject of a separate Resolution; and

WHEREAS, for the segments of the Unconnected Pedestrian Pathways in which the City has a property interest in the land along the Pedestrian Pathway pursuant to an easement or Quit Claim Deed with cross easement rights flowing to the property owner, the City Attorney's Office would have to review the City's property rights, depending upon whether the path would be developed on the land or on water, and determine whether or not a consent would be required from the property owners; and

WHEREAS, additionally, the development of a walkway over water by extending the seawall cap will require work to be performed in, on, over or upon the water and will require a Class 1 Permit and possibly other permits, depending upon the location, nature, type, and size of the project, with the permitting process taking a minimum of 6 to 12 months; and

WHEREAS, once the Administration determines what portions of the Outstanding Pedestrian Pathway segments can be developed by the City in its own right or through securing the requisite consents or other property rights, the City will need to retain the services of a consultant to prepare a feasibility study, which could cost approximately \$100,000.00; and once the feasibility study is completed, the design work could cost approximately \$400,000.00, depending upon the size and scope of the project; once the scope of the project is determined, the construction costs could be determined; and following construction, the City would need to budget the annual costs associated with the maintenance of the walkway over water, with all of the foregoing currently subject to funding appropriation and approval by the 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 accept the recommendation of the Finance and Economic Resiliency Committee, at its May 24, 2024 meeting, and authorize the Administration to prioritize funding during the 2025 budget process for a feasibility study, estimated to cost approximately \$100,000.00, to determine the design and construction costs associated with a new capital project to develop a walkway over water for those segments of the Indian Creek pedestrian pathway which are currently not connected to the continuous path (Unconnected Path), so that funding for the design and construction may be determined for those segments of the Unconnected Path for which the City, on its own or by securing the requisite consents or other property rights, may proceed to complete the Indian Creek pedestrian pathway.

PASSED AND ADOPTED this _____ day of _____ 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, Secretary

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney

6/20/24

Date