

MIAMI BEACH

COMMISSION MEMORANDUM

TO: Honorable Mayor and Members of the City Commission

FROM: Eric Carpenter, City Manager

DATE: October 30, 2024

TITLE: A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE ART IN PUBLIC PLACES ("AIPP") COMMITTEE TO ALLOW 0TH STREETSCAPE, LLC (THE "PARK DEVELOPER"), AN AFFILIATE OF OCEAN TERRACE HOLDINGS, LLC, TO MOVE FORWARD WITH THE INSTALLATION OF A PROPOSED SCULPTURE ENTITLED "REFLECTION," BY PRUNE NOURRY (THE "ARTIST"), WITHIN THE OCEAN TERRACE PARK/STREETSCAPE IMPROVEMENTS; FINDING THAT THE COST TO THE PARK DEVELOPER OF COMMISSIONING AND INSTALLING THE ARTWORK EXCEEDS THE AMOUNT OF THE 2% AIPP CONTRIBUTION BASED ON THE PARK'S CONSTRUCTION COST; WAIVING, ON A 5/7THS VOTE AND PURSUANT TO SECTION 82-587(C) OF THE CITY CODE, THE REQUIRED AIPP CONTRIBUTION AND APPROPRIATION FOR THE PARK/STREETSCAPE IMPROVEMENTS, IN FAVOR OF THE PARK DEVELOPER PAYING SUCH COSTS DIRECTLY AS THEY COME DUE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY; AND APPROVING THE COMMISSION AGREEMENT BETWEEN THE PARK DEVELOPER, THE ARTIST, AND THE CITY.

RECOMMENDATION

The Administration recommends that the Mayor and City Commission (City Commission) adopt the Resolution.

BACKGROUND/HISTORY

On December 12, 2018, the City Commission unanimously adopted the Ocean Terrace Neighborhood Urban Design Plan, a concept plan for proposed public streetscape and park improvements to the Ocean Terrace area, prepared by The Corradino Group and Garcia-Pons + Associates (the "Neighborhood Design Plan"), and referred the Neighborhood Design Plan to the Finance and Citywide Projects Committee (FCWPC) for prioritization and potential funding options. The Neighborhood Design Plan had previously been endorsed by the North Beach Steering Committee on August 29, 2018.

On March 22, 2019, the FCWPC recommended proceeding with negotiations with Ocean Terrace Holdings, LLC., with regard to a development proposal which would provide for the Developer to complete a portion of the public improvements contemplated in the Neighborhood Design Plan. The proposal would require the vacation of certain City right-of-way areas, as described more fully below, subject to the Developer granting the City an irrevocable easement for the continued public use of the right-of-way areas for pedestrian and vehicular traffic, thereby pedestrianizing portions of Ocean Terrace. The proposed vacation would allow the Developer to make its private, proposed mixed-use project along Ocean Terrace between 74th and 75th Streets, financially viable, and create new public spaces (including park space). All improvements were proposed to be funded and constructed by Developer, converting Ocean Terrace from an automobile focused thoroughway to a more pedestrian centered experience.

The Developer intends to develop the private property as a mixed-use residential and commercial development in accordance with the requirements of the Ocean Terrace Overlay District ("Proposed Development"), pursuant to the development agreement between the City and the Developer (the "Development Agreement"). In conjunction with the Proposed Development, the Developer requested that the City vacate certain areas of the City Right-of-Way, and submitted its application to the City's Public Works Department with respect thereto, but with the City Right-of-Way Areas to continue to be used for pedestrian and vehicular travel.

As part of the Proposed Development, the Developer would develop, design, permit and construct, at the Developer's sole cost and expense certain park and streetscape improvements between 73rd Street and 75th Street having a value upon completion of approximately \$15 million, thereby implementing the vision of the Neighborhood Design Plan ("Park/Streetscape Improvements"). Ownership, operation and maintenance of the Park/Streetscape Improvements would rest solely with the City.

On July 31, 2019, the Development Agreement was executed with the Developer, Ocean Terrace Holdings, LLC,.

The Development Agreement includes a requirement that the Developer comply with the City's Art In Public Places program requirements of the City Code, as applicable (the "AIPP Ordinance"), and shall pay to the City's Art in Public Places fund the total of 2.0% of the "construction cost" (as such term is defined in Section 82-537 of the City Code) of the Park/Streetscape Improvements (the "Public Art Funds") no later than the date of execution of Construction Agreement with the Contractor for the Park/Streetscape improvements. The full amount of the Public Art Funds shall be dedicated to Developer's use for public art within the Park/Streetscape site. In view of the Developer's overall design responsibility for the Park/Streetscape Improvements, the Developer shall either: (a) submit the proposed artworks to be funded with the Public Art Funds to the City's Art In Public Places Committee (AIPPC) for its review, recommendation and approval; or (b) seek the City Commission's approval of the proposed artworks and waiver of any applicable AIPP Ordinance program requirements.

ANALYSIS

On October 23, 2023, the Developer commenced construction of the Park/Streetscape Improvements project.

At the February 20, 2024, meeting of the AIPPC, the Developer presented the proposed artwork, Reflection (Exhibit A), at which time the Department of Tourism and Culture was tasked with requesting additional information regarding the maintenance of the art installation, and on March 6, 2024, the Developer responded to those inquiries.

During the March 19, 2024, meeting of the AIPPC, no additional feedback was provided by Committee members, and the Developer was approved to proceed with the installation of the proposed artwork, Reflection, by artist Prune Nourry.

In accordance with the Development Agreement, the Developer has presented the artwork to the AIPPC for approval. The total cost for commissioning and installing the artwork exceeds 2% of the construction cost to be deposited into the Art in Public Places fund.

In order to proceed with the design, fabrication and installation of the artwork, the Developer must enter into a Commission Agreement with the Artist, including the City as a third-party beneficiary (Exhibit B).

FISCAL IMPACT STATEMENT

TBD

Does this Ordinance require a Business Impact Estimate?
(FOR ORDINANCES ONLY)

If applicable, the Business Impact Estimate (BIE) was published on:
See BIE at: <https://www.miamibeachfl.gov/city-hall/city-clerk/meeting-notice/>

FINANCIAL INFORMATION

N/A

CONCLUSION

The Administration recommends approving the Resolution, waiving, on a 5/7ths vote and pursuant to section 82-587(c) of the City Code, the required Art In Public Places (“AiPP”) contribution and appropriation for the Project, accepting the recommendation of the AIPP committee to move forward with the installation of a proposed sculpture entitled “Reflection,” by Prune Nourry, at Ocean Terrace Park, and approving the Commission Agreement between the Developer, the Artist, and the City as a third-party beneficiary.

Applicable Area

North Beach

Is this a “Residents Right to Know” item, pursuant to City Code Section 2-17?

Yes

Is this item related to a G.O. Bond Project?

No

Was this Agenda Item initially requested by a lobbyist which, as defined in Code Sec. 2-481, includes a principal engaged in lobbying? No

If so, specify the name of lobbyist(s) and principal(s):

Department

Capital Improvement Projects

Sponsor(s)

Co-sponsor(s)

Condensed Title

Waive AIPP Requirement, Ocean Terrace Park Construction Project. CIP 5/7