

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE LEASE PURCHASE AGREEMENT DATED JANUARY 13, 2025, BETWEEN THE CITY (PURCHASER) AND LIPT COLLINS AVENUE, LLC, A DELAWARE LIMITED LIABILITY CORPORATION (TENANT OR SELLER), FOR THE PURCHASE OF TENANT'S LEASEHOLD INTEREST IN THAT CERTAIN GROUND LEASE, DATED AS OF DECEMBER 1, 1999, BETWEEN THE CITY, AS OWNER/LANDLORD, AND TENANT, INCLUDING TENANT'S TITLE AND INTEREST IN THE IMPROVEMENTS ON THE LAND LOCATED AT 1027-1041 COLLINS AVENUE (LAND), CONSISTING OF A PARKING GARAGE CONTAINING 278 REGULAR PARKING SPACES AND 61 VALET PARKING SPACES (339 TOTAL SPACES), AND APPROXIMATELY 3,350 SQUARE FEET OF GROUND FLOOR RETAIL SPACE (COLLECTIVELY, THE PROJECT), IN THE AMOUNT OF \$15,000,000 PLUS CLOSING COSTS (COLLECTIVELY, THE TRANSACTION); AUTHORIZING THE CITY MANAGER TO PROCEED WITH THE CLOSING OF THE TRANSACTION; AUTHORIZING THE CITY TO CONVERT THE PROJECT INTO A CONDOMINIUM FORM OF OWNERSHIP, IN ORDER TO SEPARATE THE RETAIL AND GARAGE COMPONENTS AND SECURE THE MUNICIPAL TAX EXEMPTION FOR THE GARAGE UNIT; AND FURTHER, AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE ANY AND ALL DOCUMENTS AND AGREEMENTS IN CONNECTION WITH THE TRANSACTION AND THE CONDOMINIUMIZATION PROCESS.

WHEREAS, on January 5, 1998, the City issued RFP No. 20-97/98, seeking proposals for the development of public-private parking facilities (the "RFP"); and

WHEREAS, on April 6, 1998, proposals from five (5) different development teams were submitted and evaluated by an Evaluation Committee, and on July 15, 1998, the City Commission authorized negotiations with four (4) of the proposed development projects; and

WHEREAS, as a result of said negotiations, on October 20, 1999, the Mayor and City Commission adopted Resolution No. 99-23372, approving an Agreement of Lease (the "Lease" or "Ground Lease") and Development Agreement between the City and Pelican Development, LLC for development of a project containing a parking garage ("Garage") with ground floor retail space ("Retail Space") not to exceed 5,000 square feet (collectively, the "Project"), on the City owned land located at 1027 Collins Avenue and 1041 Collins Avenue ("Land"), which Lease was executed on December 1, 1999, for an initial forty (40) year term, which ends on January 31, 2040, with one additional ten (10) year option (the "Term"); and

WHEREAS, the Project received its Temporary Certificate of Occupancy on July 18, 2002 and the final Certificate of Occupancy on October 31, 2002, including a seven story Garage containing 278 regular parking spaces and 61 valet parking spaces ("Tandem Spaces") for a total of 339 parking spaces, and a Retail Space having approximately 3,350 square feet; and

WHEREAS, pursuant to the Lease, Tenant is required to provide parking spaces for members of the general public at garage parking rates established by Tenant, which rates cannot not be higher than the highest rate paid by any subtenant of the Project; cannot be lower than the parking facility rate charged by the City; and have to be comparable with parking facility rates being charged within the City; and

WHEREAS, on or about June 1, 2004, the Project was sold and transferred from Pelican Development, LLC to Ocean Blvd II, LLC, an Indiana limited liability company; and

WHEREAS, on or about May 27, 2010, the Project was sold and transferred from Ocean Blvd II, LLC to Pelican Investment Holdings, LLC, a Florida limited liability company; and

WHEREAS, on or about December 18, 2013, the Project was again sold and transferred from Pelican Investment Holdings, LLC to LIPT Collins Avenue, LLC, a Delaware limited liability company ("Tenant") for the total sum of \$22,500,000.00 in cash; and

WHEREAS, K.T.K.L. Corporation ("KTKL") was the original owner of one of the lots ("KTKL Lot"), which the City purchased to acquire the Land in connection with the development of the Project; and

WHEREAS, originally, pursuant to the purchase and sale agreement between KTKL and the City, dated as of November 18, 1993, ("KTKL Purchase Agreement"), as part of the consideration for a the sale of the KTKL Lot, KTKL wanted exclusive use of 28 spaces at the Garage ("KTKL Spaces"), and also had the right to purchase the Garage if the City did not timely complete the construction of the Garage; and

WHEREAS, the construction did not occur timely, KTKL filed a lawsuit against the City, and the parties settled the lawsuit by entering into a settlement Agreement titled "KTKL Memorandum, approved by Agreed Order of Approval, dated July 27, 1999, under which KTKL relinquished its right to purchase back the KTKL Lot, and instead leased the KTKL Spaces back to the City based upon a net revenue formula; and

WHEREAS, thereafter, KTKL sued to enforce the KTKL Memorandum, citing that the payments they were receiving in connection with the KTKL Spaces were incorrect and the parties resolved the dispute and entered into a Settlement Agreement, dated September 15, 2010 ("KTKL Settlement"), a copy of which is attached to the City Commission Memorandum accompanying this Resolution; and

WHEREAS, pursuant to the KTKL Settlement, the City pays KTKL a fixed annual payment for the balance of the thirty year period, through 2032, which amount goes up by 3% each year; and

WHEREAS, when Tenant purchased the Project, Tenant paid the City \$250,000.00 as consideration for the City agreeing not to use the 28 KTKL Spaces, as Tenant needed the use of those spaces for its operations and the City was not using those spaces; and

WHEREAS, on November 7, 2024, Tenant provided Owner with a Notice of Sale that Tenant intended to sell 100% of its leasehold interest in the Project (the "Sale"), and upon the request of the City Attorney's Office, provided the purchase and sale price as follows:

Owner of Ground Lease: City of Miami Beach;
Seller: LIPT Collins Avenue, LLC;
Proposed Purchaser: MR Pelican Garage, LLC, a Florida limited liability company;
and
Purchase Price: \$15,000,000.00; and

WHEREAS, in accordance with Section 36.2 of the Lease ("Owner's Reciprocal Right of First Refusal"), the City had the right to elect, in writing, within 45 days after Owner's receipt of the Offer Notice (i.e. Monday, December 23, 2024), whether or not to consummate the Right of First Offer Transaction, at the same price "in cash" and upon such other material terms set forth in the Offer Notice and the City timely notified Tenant of its intent to consummate the Right of First Offer Transaction; and

WHEREAS, the Retail Space is currently leased to E.D.Y., Inc., and Hedyc, LLC, related entities of the original retail subtenant, E. Levy Corporation, Inc. (collectively, "Retail Subtenant"), with the sublease expiring on August 31, 2027; and

WHEREAS, the Retail Subtenant's sublease is a gross lease; therefore, Retail Subtenant pays rent, in the total sum of \$25,000.00/month and \$300,000.00/year and is not responsible for payment of real estate taxes, insurance or operating expenses of the Project, which is consistent with the market rent in the area; and

WHEREAS, for the calendar year 2023, the Garage earned a total of \$2,285,214.00, with a net operating loss of \$30,432.00, including \$270,567.00 in bad debt and depreciation/amortization of \$621,676.00, as evidenced from the 2023 Statement of Operating Revenues and Expenses, attached to the City Commission Memorandum accompanying this Resolution; and

WHEREAS, the City of Miami Beach parking garage rates are set forth in Appendix A of the Miami Beach City Code and are below market for the benefit of its residents, visitors, and surrounding businesses, and include Miami Beach resident rates of \$1.00 per hour and \$75.00 per month; and City parking rates for the general public of \$2.00 per hour or \$128.00 per month; as opposed to the hourly rates being charged at the Garage, which include \$4.00 per hour for five hours (\$20.00) during weekdays, \$5.00 per hour for five hours (\$30.00) during the weekends and \$250.00 per month with 24 hour access; and

WHEREAS, in determining whether or not to recommend exercising the Owner's Reciprocal Right of First Offer, City staff reviewed and compared revenue figures from the City-owned and managed 7th Street Parking Garage ("7th Street Garage") to estimate potential revenue for the subject Project based upon City parking rates; and

WHEREAS, for fiscal year 2023-2024, the 7th Street Garage generated approximately \$2,344,000.00 in gross operating revenues and incurred operating expenses, in the approximate amount of \$2,100,000.00 (including approximately \$245,000.00 in repair costs), for a total net profit of approximately \$244,000.00, which, based upon 646 parking spaces, produced gross income of approximately \$3,700.00 per parking space and a net revenue of \$380.00 per parking space; and

WHEREAS, based on fiscal year 2024 net revenues per space for the 7th Street Garage, the City estimates that it will generate approximately \$106,000.00 in net revenues from the Garage (278 spaces x \$380.00 = \$105,640.00 (not including the 61 tandem valet spaces); and

WHEREAS, should the City Commission approve the operation of a valet service at the Project, the City could use the Tandem Spaces for such operation, which would generate additional revenues for the Project; and

WHEREAS, during calendar year 2023, the City received rent, in the annual amount of \$111,848.76, plus percentage rent equal to 2.5% of the Project revenue (based upon gross revenues for the year from the Project), in the total amount of \$60,259.07, for a total net revenue of approximately \$172,000.00, plus the City's portion of the ad-valorem property taxes for the Project, in the approximate amount of \$90,000.00, for a total approximate amount of \$262,000.00; and

WHEREAS, additionally, during calendar year 2023, the City paid the annual KTKL Settlement amount of \$136,133.08, which means that the City netted approximately \$126,000.00 (\$262,000 - \$136,133.08 = \$125,866.92) of revenue for the Project for calendar year 2023; however, the City would need to continue to pay the KTKL payments through 2032 regardless of whether or not the City purchased the Project; and

WHEREAS, for comparison purposes, assuming the City owned/operated the Project in 2023, the City would have received \$300,000.00 from the Retail Subtenant plus approximately \$106,000.00 in net operating revenues from the operation of the Garage, for a total annual net revenue of approximately \$406,000.00 less the KTKL Settlement payment of \$136,133.08, netting the City approximately \$268,866.92 for calendar year 2023; and

WHEREAS, the City Administration has secured an Appraisal Report dated January 23, 2025 ("Appraisal"), prepared by CBRE Valuation and Advisory Services, a copy of which is attached to the City Commission Memorandum accompanying this Resolution, which Appraisal assigns a market value to the general public for the leasehold interest subject to the Ground Lease, in the amount of \$15,000,000.00; and a separate analysis as to the market value to the City, assigning a fee simple market value of \$13,000,000 to the City's Land as if vacant and unencumbered by the Ground Lease, with an investment value "As Is" of the leased fee interest specific to the City, including both Land and improvements, in the amount of \$21,000,000, assuming termination of the Ground Lease and savings to the City from not having to pay ad-valorem real estate taxes (approximately \$300,000 for the Project) all as of January 1, 2025; and

WHEREAS, the Appraisal indicates that the Project still has an economic life expectancy of twenty-seven (27) years; however, if the City waits to receive the Project at the end of the term, the City will likely have greater capital improvement costs; and

WHEREAS, the Property Appraiser's Office has valued the City's Land at \$10,570,000.00 and the Project improvements at \$5,300,000.00 as of 2024; however, the cost to construct the Project improvements today would be significantly higher; and

WHEREAS, the Purchase Price of \$15,000,000.00 equates to a construction cost of approximately \$44,247.79/parking space, using the 339 parking space count (278 parking spaces plus 61 tandem spaces counted as single spaces), which is less than/in line with: (1) the City's CIP Department's construction cost estimate of approximately \$48,500.58/parking space; and (2) the Appraisal's construction cost estimate for the Project improvements of \$49,854.00/parking space, based upon a building cost estimate of \$17,100,000.00; however, these costs do not include the cost of purchasing the land for the development; and

WHEREAS, pursuant to the Development Agreement among the City, The Ballet Valet Parking Company, Ltd. ("Ballet Valet") and the contractor for the 7th Street Garage project, Ballet Valet has the option to purchase the 7th Street Garage approximately in April 2026; and

WHEREAS, Ballet Valet has advised the City that it intends to exercise this purchase option, in which case the City will lose control over the use for the 7th Street Garage, as it could be redeveloped, and the garage component may be reduced or removed, or garage parking rates for the existing garage or future garage component will increase to market rates, which with the impacts of supply and demand factors, would likely go up; and

WHEREAS, although the City Administration is in the process of negotiating an agreement with Ballet Valet for the possible preservation of the 7th Street Garage as a public parking facility, the parties have not reached an agreement to date; and

WHEREAS, in order to incentivize the construction of residential developments, the City is in the process of considering, and is anticipating to approve, development regulations allowing up-zoning and parking waivers for proposed developments along Washington Avenue ("The Washington Avenue Residential Program"), which developments will include incentives to use micro mobility devices; however, the demand for parking will also increase; and

WHEREAS, in addition to residents and visitors, businesses in the surrounding area of the Project will need affordable parking for its employees; and

WHEREAS, considering the possible loss of 646 parking spaces from the 7th Street Garage, removing 646 parking spaces from the City's stock of affordable public parking spaces, the purchase of the Project would serve to ensure affordable parking for the surrounding areas of the Project, at a price that is less than it would cost the City to purchase land and construct a new public parking garage, assuming land could be located near the Project site, and without having to wait several years to have an operational parking garage due to typical construction time and possible construction delays; and

WHEREAS, on December 11, 2024, the Mayor and City Commission adopted Resolution No. 2024-33447, authorizing the City Manager to (1) exercise the Right of First Offer (ROFO) and negotiate and execute a purchase agreement, in accordance with Section 36.2 and Exhibit 36.2(a) of the Ground Lease, relating to Tenant's Offer Notice to sell the Project, in the amount of \$15,000,000.00 plus closing costs; and/or (2) negotiate and execute an agreement with Tenant extending the period in which to exercise the ROFO, in order to provide the City with the required due diligence period to analyze the purchase of the Project; provided, however, that any such agreements would be presented to the City Commission for consideration and approval; and

WHEREAS, the City and Tenant have executed a Lease Purchase Agreement dated January 13, 2025 (“Purchase Agreement”), containing the following essential terms: (1) the City has a due diligence period through February 7, 2025, during which time the City has the option to terminate the Purchase Agreement for any reason; however, if the City does not terminate the Purchase Agreement, the City has to tender the deposit to Tenant, in the amount of \$750,000.00; (2) in the event that the City terminates the Purchase Agreement after February 7, 2025, the City will receive a refund of its Deposit less the Tenant’s actual costs incurred in connection with the Transaction, not to exceed \$50,000.00; however, the City will lose the ROFO for future sales transaction of the Project; and

WHEREAS, the City Administration has conducted most of its due diligence thus far and finds: (1) the sales price to be reasonable to ensure public parking rates in the Project area; (2) title to the Project acceptable; and (3) based upon routine investigations of the Project and given the age of the Project, finds the physical condition of the Project to be acceptable; and

WHEREAS, following the purchase of the Project, the City would promptly proceed to convert the Project to a condominium form of ownership in order to secure the municipal real estate tax exemption for the Garage component; and

WHEREAS, in connection with the condominiumization process, the City Administration will need to secure a survey and the City's Legal Department will prepare the condominium documents and record them in the Public Records of Miami-Dade County, Florida; and

WHEREAS, based upon the foregoing, the City Administration recommends: (1) approving the Purchase and Sale Agreement, for the purchase of the Project, in the amount of \$15,000,000.00 plus closing costs (the “Transaction”); (2) authorizing the City Manager to proceed with the closing of the Transaction; (3) authorizing the City Manager to convert the Project into a condominium form of ownership; and (4) authorizing the City Manager and City Clerk to execute any and all documents and agreements in connection with the Transaction and condominiumization 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 approve the Lease Purchase Agreement dated January 13, 2025, between the City (Purchaser) and LIPT Collins Avenue, LLC, a Delaware limited liability corporation (Tenant or Seller), for the purchase of Tenant’s leasehold interest in that certain Agreement of Lease, dated as of December 1, 1999 (Ground Lease), between the City, as owner/landlord, and Tenant, including Tenant’s title and interest in the improvements on the land located at 1027-1041 Collins Avenue (Land), consisting of a parking garage containing 278 regular parking spaces and 61 valet parking spaces (339 total spaces), and approximately 3,350 square feet of ground floor retail space (collectively, the Project), in the amount of \$15,000,000 plus closing costs (collectively, the Transaction); authorize the City Manager to proceed with the closing of the Transaction; authorize the City to convert the Project into a condominium form of ownership, in order to separate the retail and garage components and secure the municipal tax exemption for the Garage unit; and further authorize the City Manager and City Clerk to execute any and all documents and agreements in connection with the Transaction and the condominiumization process.

PASSED and **ADOPTED** this ____ day of _____, 2025.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

for Nick Callan
City Attorney *2/1/25*

1/31/25
Date