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**CITY OF MARCO ISLAND**

**RESOLUTION NO. 21-\_\_\_\_\_**

**A RESOLUTION OF THE CITY OF MARCO ISLAND, FLORIDA, APPROVING THE VACATION OF A PORTION OF PARK AVENUE RIGHT-OF-WAY IN CONJUNCTION WITH THE DEVELOPMENT OF THE CITY OF MARCO ISLAND VETERAN'S COMMUNITY PARK; APPROVING THE RIGHT-OF-WAY VACATION; PROVIDING FOR FAILURE TO OBTAIN OTHER DEVELOPMENT PERMITS; PROVIDING FOR FAILURE TO COMPLY WITH APPROVAL; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, Section 30-581(aa) of the of the City of Marco Island Code of Ordinances provides a procedure for the vacation of platted right-of-way; and

**WHEREAS**, the Owner/Developer has submitted a petition to vacate a portion Park Avenue as identified in Exhibit A; and

**WHEREAS**, the vacation of a portion Park Ave. is needed to allow for the development of the City's Veteran's Community Park; and

**WHEREAS**, the Planning Board held a public hearing on July 2, 2021, to consider the petition, and is required by Section 30-581(aa)(4) of the Land Development Code to submit its recommendation in writing to the City Council, with a copy of the minutes of the hearing, as soon as practicable thereafter; and

**WHEREAS**, the Planning Board recommended approval to vacate a portion Park Avenue subject to conditions of approval; and

**WHEREAS**, the City Council finds the vacation of a portion of Park Avenue, subject to conditions of approval to be in the interests of the City of Marco Island,

**NOW, THEREFORE, BE IT RESOLVED BY THE PLANNING BOARD OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:**

**SECTION 1. Findings; Approval.** As provided in Section 30-581(aa), of the City's Code of Ordinances, the City Council finds that there is no present necessity or reasonably foreseeable necessity for the retention of a portion of the Park Avenue right-of-way. The adjacent property owners will not be affected by the vacation of a portion of the Park Avenue right-of-way. The vacation of a portion of the Park Avenue right-of-way is hereby approved, except as provided in Section 2.(a) of this Resolution.

**SECTION 2. Conditions of Approval.** This Resolution relating to petition of approval of the Drainage and Utility Easement on the Subject Property for the Owner/Developer is hereby approved, subject to the following condition:

(a) The Owner/Developer is solely responsible for any and all costs associated with this Drainage and Utility Easement vacation, including but not limited to the following:

- (1) Property surveys;
- (2) Professional design fees;

- 50 (3) Permit costs;  
51 (4) Preparation and recording of new deeds and this resolution,  
52 including and attorney fees;  
53 (5) Removal, replacing or relocation of any utilities (if applicable);  
54 (6) Removal of existing ground cover;  
55 (7) Fill, loam and seed; and  
56 (8) Disposal of any and all construction debris including any and all  
57 infrastructure which may exist within the utility easement.  
58

59 **SECTION 3. Failure to Obtain Other Permits.** That issuance of this approval by the City does not  
60 in any way create any right on the part of the Owner/Developer to obtain a permit from a state or federal  
61 agency and does not create any liability on the part of the City for issuance of the approval if the  
62 Owner/Developer fails to obtain the requisite approvals or fulfill the obligations imposed by a state or  
63 federal agency or undertakes actions that result in the violation of state or federal law. All applicable  
64 state and federal permits must be obtained before commencement of the Development on the Subject  
65 Property. This condition is included pursuant to Section 166.033, Florida Statutes, as amended.  
66

67 **SECTION 4. Failure to Adhere to Resolution.** That failure to adhere to the approval terms and  
68 conditions contained in this Resolution shall be considered a violation of this Resolution and the City  
69 Code, and persons found violating this Resolution shall be subject to the penalties prescribed by the City  
70 Code, including but not limited to the revocation of any of the approval(s) granted in this Resolution and  
71 any other approvals conditioned on this approval. The Owner/Developer understands and acknowledges  
72 that it must comply with all other applicable requirements of the City Code before it may commence  
73 construction or operation, and that the foregoing approval in this Resolution may be revoked by the City  
74 at any time upon a determination that the Owner/Developer is in non-compliance with the City Code.  
75

76 **SECTION 5. Effective Date.** That this Resolution shall take effect immediately upon adoption  
77 and recording in the Public Records of Collier County, Florida.  
78

79 ADOPTED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, this \_\_\_\_ day of  
80 \_\_\_\_\_, 2021.  
81

82 CITY OF MARCO ISLAND, FLORIDA  
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84 By: \_\_\_\_\_  
85 Jared Grifoni, Chair  
86

87 ATTEST:  
88

89 By: \_\_\_\_\_  
90 Laura M. Litzan, City Clerk  
91

92 Reviewed for legal sufficiency:  
93

94  
95 By: \_\_\_\_\_  
96 Alan L Gabriel, City Attorney