

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

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PROVIDING COVID-19 RELIEF TO ALCHEMY MIAMI BEACH, LLC, PURSUANT TO THE AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND ALCHEMY MIAMI BEACH, LLC, FOR THE IMPLEMENTATION, MANAGEMENT AND OPERATION OF CITY MUNICIPAL PARKING GARAGE ADVERTISING SERVICES PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2017-081-WG, BY APPROVING A WAIVER OF THE MINIMUM GUARANTEE, AS SET FORTH IN SECTION 5.1 OF THE AGREEMENT, FOR THE PERIOD FROM OCTOBER 2020 THROUGH FEBRUARY 2021, IN THE AMOUNT OF \$104,165.00; AND FURTHER, DIRECTING THE CITY MANAGER TO RETRACT, IN WRITING, THE NOTICE(S) OF DEFAULT ISSUED TO ALCHEMY MIAMI BEACH, LLC DATED MARCH 2, 2021 AND APRIL 2, 2021, AND TO PROVIDE ALCHEMY MIAMI BEACH, LLC WITH THIRTY (30) DAYS, BEGINNING ON JUNE 1, 2021, TO REMOVE ALL OF ITS ADVERTISING PANELS, HARDWARE AND EQUIPMENT FROM THE CITY-OWNED PARKING GARAGES.**

**WHEREAS**, on October 24, 2017, pursuant to Request for Proposals (RFP) No. 2017-081-WG, the City entered into an Agreement with Alchemy Miami Beach, LLC ("Alchemy") for the Implementation, Management and Operation of City Municipal Parking Garage Advertising Services with an initial term of three (3) years; and

**WHEREAS**, the initial term of three (3) years expired on March 6, 2021; and

**WHEREAS**, prior to the onset of the COVID-19 pandemic, Alchemy was in full compliance with the Agreement and made timely payments of the Minimum Guarantee ("MG") to the City; and

**WHEREAS**, due to the onset of the COVID-19 pandemic, effective March 21, 2020, the City closed all City-owned parking garages ("Parking Garages") to the general public which triggered Section 13.1(b) ("Force Majeure") of the Agreement; and

**WHEREAS**, in accordance with the City's contractual obligations under Section 13.1(b) of the Agreement, the City suspended Alchemy's MG payment obligation until "such time that the City's Emergency Measures prohibiting the general public's access to the City-owned parking garages is lifted or expired", which agreement is memorialized in a letter agreement dated March 24, 2020; and

**WHEREAS**, on October 30, 2020, the City transmitted a letter to Alchemy dated October 26, 2020, informing Alchemy that the Parking Garages had been reopened at full capacity, and that the MG payment obligation was being reinstated retroactively to October 1, 2020; and

**WHEREAS**, due to the City's COVID-19 related curfew, and notwithstanding the City reopening the Parking Garages on October 1, 2020, the general public's ingress and egress to the Parking Garages remained impeded during the hours of 12:00 AM through 6:00 AM, until April 12, 2021 when the curfew was lifted; and

**WHEREAS**, due to the impacts of COVID-19, Alchemy suffered a material reduction in advertising revenues and is not able to comply with the MG for the period from October 2020 through February 2021; and

**WHEREAS**, on March 2, 2021, the City transmitted a Notice of Default to Alchemy for failure to pay the MG for the period from October 2020 through February 2021; and

**WHEREAS**, on March 17, 2021, Alchemy transmitted correspondence to the City rejecting the City's Notice of Default dated March 2, 2021, based upon the claim that the Parking Garages were not reopened at full capacity due to the COVID-19 related curfew, which continued to impede the general public's ingress and egress to the Parking Garages during the hours of 12:00 AM through 6:00 AM due; and

**WHEREAS**, on April 1, 2021, the City transmitted correspondence to Alchemy stating, in part, that the default for failure to pay the MG for the period from October 2020 through February 2021, in the amount of \$104,165.00, remained uncured; and

**WHEREAS**, the COVID-19 relief being afforded to Alchemy herein is consistent with the COVID-19 relief afforded to the City's tenants, operators and concessionaire's pursuant to Resolutions No. 2020-31332, 2020-31460, and 2021-31543; and

**WHEREAS**, the COVID-19 relief being afforded to Alchemy herein is consistent with the COVID-19 relief to be considered by the Mayor and City Commission on May 12, 2021 for the City's tenants, operators and vendors pursuant to agenda items C7 G and C7 H; and

**WHEREAS**, based upon the established performance record of Alchemy prior to the onset of the COVID-19 pandemic, and the material adverse impact that the COVID-19 pandemic had on Alchemy's advertising revenues, it is fair and equitable that the Mayor and City Commission approve the waiver of the MG owed by Alchemy to the City for the period from October 2020 through February 2021, in the total amount of \$104,165.00, and provide Alchemy with thirty (30) days beginning on June 1, 2021, to remove all of its advertising panels, hardware and equipment from the Parking Garages, and further, based upon the waiver of the MG as set forth herein, direct the City Manager to retract, in writing, the Notice(s) of Default issued to Alchemy dated March 2, 2021 and April 1, 2021.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, the Mayor and City Commission hereby approve providing COVID-19 relief to Alchemy Miami Beach, LLC by waiving the Minimum Guarantee owed by Alchemy Miami Beach, LLC to the City for the period from October 2020 through February 2021, in the amount of \$104,165.00; and further, based upon the waiver of the MG as set forth herein, directing the City Manager to retract, in writing, the Notice(s) of Default issued to Alchemy Miami Beach, LLC dated March 2, 2021 and April 1, 2021, and to provide Alchemy Miami Beach LLC with thirty (30) days, beginning on June 1, 2021, to remove all of its advertising panels, hardware and equipment from the City-owned parking garages.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

**ATTEST:**

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

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Date

5-10-21