

LEVINE & PARTNERS, P.A.
ATTORNEYS AT LAW

3350 Mary Street
MIAMI, FLORIDA 33133

Jason

Allan S. Reiss, Esquire

TELEPHONE: (305) 372-1350 Ext. 115
FACSIMILE: (305) 423-3203
E-MAIL: asr@levinelawfirm.com

March 17, 2021

VIA EMAIL: raulaguila@miamibeachfl.gov
& VIA FEDERAL EXPRESS

Raul Aquila, Esquire
City Manager
1700 Convention Center Drive
Miami Beach, FL 33139

VIA FEDERAL EXPRESS

Tonya Daniels, City of Miami Beach Director
of Marketing and Communications
1700 Convention Center Drive
Miami Beach, FL 33139

VIA FEDERAL EXPRESS

Attention: Alex Dennis, Procurement department
1700 Convention Center Drive
Miami Beach, FL 33139

RE: Agreement dated October 24, 2017, Between the City of Miami Beach, Florida ("City") and Alchemy Miami Beach, LLC ("Alchemy"), for City Municipal Parking Garage Advertising Services pursuant to RFP 2017-081-WG (the "Agreement").

Dear Mr. Aguila:

The undersigned has been recently retained as special litigation counsel to Alchemy regarding the above-referenced matter. This will acknowledge receipt of your letter dated March 2, 2021. This firm does not try cases by correspondence. Without limiting the foregoing, Alchemy rejects the City's Notice of Default and demands retraction of same.

I note that your letter of references a March 17, 2021 City Commission Meeting regarding Alchemy's advertising contract. It is also my understanding that that meeting did not occur and the matter has been deferred. It is Alchemy's hope that this matter, under the circumstances, will be resolved at or before that meeting. In any event, in light of that discussion, Alchemy

understands that it is currently unnecessary for it to remove its hardware from the subject lots until the matter is brought up for discussion and potentially resolved. Please confirm and advise of the date and time of the meeting.

In the meantime, the course of conduct between the parties, the Agreement, the Letter Agreement negate the Notice of Default. The garages were closed by the City. The City acknowledges that under the circumstances there was no duty to pay. One of the fundamental flaws in the Notice of Default is that as of today's date of the garages continue to be closed, with little limited exception, 100% from 12:01 AM until 6:00 AM. Obviously, where by order of the City ingress and egress to the garages are 100% banned from 12:01 a.m. to 6:00 a.m. the City at the same time cannot demand performance by Alchemy. This construction is supported by the City's rightful voluntary suspension of the payment obligation; the express language of the force majeure provision (section 13) of Agreement; and the Letter Agreement dated March 24, 2020 which provides that Alchemy's payment obligations were suspended "until such time as the City's Emergency Measures prohibiting the general public's access to City owned parking garages is lifted or expired." The prohibition, in fact, has not been lifted, but persist to this day. The City's letter is, *inter alia*, an anticipatory repudiation. Alchemy demands retraction.

Again, Alchemy welcomes an amicable resolution of the current dispute but wholly rejects the City's Notice of Default. Similarly, any claim made on the bond would likewise be considered a willful violation, malicious, and conversion.

This letter is not intended as a full recitation of the law or facts upon which the City's liability may rest, the damages for which it may be responsible or Alchemy's defenses. All claims and defenses are preserved and none are waived.

I look forward to the opportunity to discuss the foregoing with you in a good faith effort to quickly restore what to this point has been a mutually beneficial business relationship.

Very truly yours,

LEVINE & PARTNERS, P.A.

By: s/Allan S. Reiss
ALLAN S. REISS, ESQ.

ASR/ma