



City of Miami Beach, 1700 Convention Center Drive, Miami Beach, Florida 33139, www.miamibeachfl.gov

COMMITTEE MEMORANDUM

TO: Honorable Chair and Members of the Finance and Economic Resiliency Committee

FROM: Alina T. Hudak, City Manager

DATE: September 24, 2021

SUBJECT: **A DISCUSSION OF A PROPOSED AMENDMENT TO THE LEASE AGREEMENT BETWEEN THE MIAMI BEACH REDEVELOPMENT AGENCY, A PUBLIC BODY CORPORATE AND POLITIC (RDA), (LANDLORD) AND CUBICHE 105, LLC (TENANT), FOR LEASE DATED DECEMBER 28, 2015 FOR THE USE OF SUITE NOS. 1-3 AT THE ANCHOR SHOPS, LOCATED AT 1555 WASHINGTON AVENUE, MIAMI BEACH, FLORIDA; SAID AMENDMENT MODIFYING THE FINANCIAL TERMS FOR THE PERIOD COMMENCING JANUARY 1, 2021 AND ENDING ON MARCH 30, 2022.**

BACKGROUND

The Miami Beach Redevelopment Agency (RDA), (Landlord) and CUBICHE 105, LLC (Tenant) are parties to a lease agreement dated December 28, 2015 pursuant to Resolution No. 614-2015, for the retail spaces at the Anchor Shops, located at 1555 Washington Avenue, Suites Nos. 1-3, Miami Beach, Florida (Premises). The lease term is for nine (9) years and 364 days with two (2) five (5) year renewal options. The Tenant is a newly formed joint venture, comprised of the principles of two local restaurants, CVICHE 105 and Yuca, which offer Latin cuisine in a fine dining setting. The Tenant provides a positive impact overall on the Anchor Shops and Garage property, located on 16th Street between Collins and Washington Avenue area. The Tenant has historically had a successful track record with restaurants and possesses a high likelihood of being successful at the Premises.

Upon execution of the Lease, the Tenant began a renovation of the \$3 million project on the Premises that exceeded the expected completion date and which significantly delayed opening. Although the Premises remained closed and under construction for over two years, the Tenant met the monthly rental obligations. Consequently, the construction delays did not allow Cubiche 105 to open for operations until February 28, 2020. They were open and operating for two weeks, when shortly thereafter, in March 2020, the COVID-19 pandemic forced the Tenant to shut down operations. The restaurant remained closed until March 1, 2021.

The Tenant qualified for the additional rent abatement for FY 2021 for the period of October through December 2020, pursuant to Resolution No. 2021-31702. However, despite efforts to re-open and remain operational, the Tenant has suffered significant loss in revenue and has not been able to meet full rental obligations. During these first months of operations, the Tenant had been impacted by limited operating hours due to COVID-19 restrictions and spring break. In

addition, as with many restaurants in Miami Beach, the Tenant incurred unexpected payroll expenses as it faced challenges to retain cooks and servers due to employment shortages and higher labor costs than usual (up to double in some cases). Lastly, this Tenant is the only restaurant that was not able to secure additional café seating due to the added bike lane on Washington Avenue. Since then, they applied and were granted the opportunity to operate a parklet outside their restaurant to provide them with outdoor dining as of August 2021. These factors have all contributed to the Tenant exhausting its reserves and resources to sustain the monthly rent of over \$42,000 per month.

ANALYSIS

The Tenant continues to fully operate, and after review of the Tenant's monthly sales as of the reopening in 2021 (\$968,222; February through August 2021), the Tenant's Occupancy Cost Ratio (A comparison of a tenant's annual sales volume to its annual occupancy costs as a percentage; includes rents and operating expenses) is 30%. The industry average is 10%. The Administration recommends amending the Tenant's rental terms under the Lease by:

- 1) Abating Minimum Rent for the period of January 2021 and February 2021 ("Abatement Period") in the amount of \$74,898.76.
- 2) Abating Minimum Rent for the period of March 2021 to March 2022. ("Partial Rent Abatement Period"), in the amount of \$ \$495,830.45 and replacing it with, Percentage Rent payment equal to 10% of the monthly Gross Sales ("Partial Rent Abatement Period").

During the Abatement Period and the Partial Rent Abatement Period, tenant shall continue to pay the monthly Operating Expenses. It is projected that Tenant shall pay approximately \$133,644 in percentage rent for the full Abatement periods. This represents a net impact of -\$362,185.60.

The rental terms will return to then current rent obligations as detailed in the schedule below commencing with **year six (6) at \$69.56 per square foot**. This will allow the Tenant the ability to invest in marketing and promoting its new restaurant, retain and level-off staffing at an affordable threshold, as well as recover from their \$3 million construction investment and overall COVID-19 impact.

As contained in the Lease, the Rental rate has a three percent (3%) annual increases. The Operating Expenses are estimated at \$3.00 per square foot. The schedule of Minimum Rent and Operating Expenses due over the initial ten (10) year term are illustrated in the following chart [please note, the Tenant met full rental obligations for the first three years in spite of not being open]:

		Monthly	Annual	Monthly	Annual	Monthly	Annual	
	<u>Year</u>	<u>Rent</u>	<u>Rent</u>	<u>OPEX</u>	<u>OPEX</u>	<u>Rent & OPEX</u>	<u>Rent & OPEX</u>	<u>PSF</u>
2017	1	\$33,273.33	\$399,280.00	\$5,234.61	\$62,815.30	\$38,507.94	\$462,095.30	\$60.00
2018	2	\$34,271.53	\$411,258.40	\$5,234.61	\$62,815.30	\$39,506.14	\$474,073.70	\$61.80
2019	3	\$35,299.68	\$423,596.15	\$5,234.61	\$62,815.30	\$40,534.29	\$486,411.45	\$63.65
2020	4	\$36,358.67	\$436,304.04	\$5,234.61	\$62,815.30	\$41,593.28	\$499,119.34	\$65.56

2021	5	\$37,449.43	\$449,393.16	\$5,234.61	\$62,815.30	\$42,684.04	\$512,208.46	\$67.53
2022	6	\$38,572.91	\$462,874.95	\$5,234.61	\$62,815.30	\$43,807.52	\$525,690.25	\$69.56
2023	7	\$39,730.10	\$476,761.20	\$5,234.61	\$62,815.30	\$44,964.71	\$539,576.50	\$71.64
2024	8	\$40,922.00	\$491,064.04	\$5,234.61	\$62,815.30	\$46,156.61	\$553,879.34	\$73.79
2025	9	\$42,149.66	\$505,795.96	\$5,234.61	\$62,815.30	\$47,384.27	\$568,611.26	\$76.01
2026	10	\$43,414.15	\$520,969.84	\$5,234.61	\$62,815.30	\$48,648.76	\$583,785.14	\$78.29

CONCLUSION

Based upon the material impact the pandemic has had upon the Tenant's operations, the Tenant has requested the abatement of Minimum Rent for the period of January and February 2021 and the modification of the replacement of the Minimum Rent payment with a Percentage rent Payment in the amount of 10% of Gross Sales, effective March 2021 through March 2022, in order to provide Tenant time to ramp up its operations.