

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

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING, BY 5/7TH VOTE, THE FORMAL COMPETITIVE BIDDING REQUIREMENT, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE AN AGREEMENT WITH PEPSICO INC, FOR AN EXCLUSIVE NON-ALCOHOLIC BEVERAGE (EXCLUDING THE ENERGY DRINK CATEGORY) MUNICIPAL MARKETING AGREEMENT, FOR VENDING AND DISPENSING ON CERTAIN CITY-OWNED PROPERTIES, BASED UPON THE ESSENTIAL TERMS SET FORTH IN THE CITY COMMISSION MEMORANDUM ACCOMPANYING THIS RESOLUTION, FOR A TERM OF TEN (10) YEARS; AND FURTHER, AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE AGREEMENT, SUBJECT TO FORM APPROVAL BY THE CITY ATTORNEY.**

**WHEREAS**, the City of Miami Beach (the "City") entered into a sponsorship agreement, dated March 14, 2012 (the "Agreement"), with Coca-Cola North America, a division of the Coca-Cola Company, and Coca-Cola Refreshments USA, Inc. d/b/a Florida Coca-Cola Bottling Company (the "Bottler") (collectively, "Coca-Cola") for a term beginning January 1, 2012 and ending on December 31, 2021; and

**WHEREAS**, on March 1, 2017, the Mayor and City Commission adopted Resolution No. 2017-29774, approving the assignment of the Bottler's interest in the Agreement to Coca-Cola Beverages Florida, LLC, as the successor Bottler, in connection with the sale of Bottler's assets to the successor Bottler; and

**WHEREAS**, the parties executed an assignment and assumption agreement, dated March 29, 2017, assigning Bottler's interest in the Agreement to the successor Bottler; and

**WHEREAS**, on January 13, 2021, the Mayor and City Commission adopted Resolution No. 2021-31541, approving an amendment to the Agreement ("Amendment No. 1"); said Amendment removing the City's requirement to purchase a minimum of 22,500 cases of Coca-Cola product per Agreement Year for the 2020 and 2021 Agreement Years; guaranteeing that the City would receive the full Sponsorship Fee for the 2020 Agreement Year, in the amount of \$325,000; and reducing the Sponsorship Fee that Coca-Cola would have to pay the City for the 2021 Agreement Year from \$325,000 to \$195,433.33; and

**WHEREAS**, the Agreement expired on December 31, 2021; and

**WHEREAS**, in order to explore all opportunities for a non-alcoholic pouring rights partnership, while ensuring continuity of services and maintenance of existing equipment, the City and Coca-Cola agreed to extend the Agreement, on a month to month basis, commencing on January 1, 2022, for a period not to exceed six (6) months (June 30, 2022), and to remove the energy beverage category from the scope of the Agreement; and

**WHEREAS**, Spectra Partnerships initiated a selection process to identify and recommend an exclusive / official non-alcoholic beverage partner for the City, with the goal of identifying a partner that would be interested in a brand affiliation relationship with the City, while removing all plastics included in the proposals for the soda and water categories, and providing a marketing benefit to both parties, as well as revenue generation for the City; and

**WHEREAS**, Spectra Partnerships initiated a process that involved the initial identification of potential respondents; an invitation for those companies to submit proposals; and invited entities in the nonalcoholic beverage category to submit "best and final" offers; and

**WHEREAS**, On February 25, 2022, at the Finance and Economic Resilience Committee, the Administration discussed the topic and was given the direction to bring back a recommendation to the March 9, 2022 Commission Meeting for a Pouring Rights sponsor, provided that recommendation was a proposal that included 100% plastic free options for the water and soda categories, while plastics for certain categories like isotonic (sports drinks) would be acceptable as plastic-free alternatives were not yet available in the quantities needed; and

**WHEREAS**, subsequent to their submission and presentation, Spectra Partnerships recommended to the City the selection of PepsiCo as the City's exclusive non-alcoholic beverage sponsor, to exclude the energy drink category, based on their proposals attached to the City Commission Memorandum accompanying this Resolution (the "Proposals"); and advised City staff that an agreement with PepsiCo would provide a financial, marketing and in-kind benefit of an approximate amount of \$1,595,000.00 to the City over the proposed ten-year term of the partnership (cash and non - cash value).

**WHEREAS**, based upon the foregoing, the City Manager recommends waiving, by 5/7th vote, the formal competitive bidding requirement, as permitted in Section 2-367(e) of the City Code, and authorizing the City Administration to negotiate an agreement with PepsiCo for a term of ten (10) years, based upon the essential terms set forth in the City Commission Memorandum accompanying this Resolution.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby waive, by 5/7th vote, the formal competitive bidding requirement, finding such waiver to be in the best interest of the City, and authorize the City Manager to negotiate an agreement with PepsiCo for an exclusive nonalcoholic beverage municipal marketing partnership for vending and dispensing in certain city owned properties, but to exclude the energy drink category, based upon the essential terms set forth in the City Commission Memorandum accompanying this Resolution, for a term of ten (10) years; and further, authorize the City Manager to finalize and execute the agreement subject to form approval by the City Attorney.

**PASSED and ADOPTED** this 9<sup>th</sup> day of March 2022.

**ATTEST:**

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

\_\_\_\_\_  
Dan Gelber, Mayor  
APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
City Attorney *RL*

3-1-22  
Date