

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, PURSUANT TO A PUBLIC HEARING, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE OF THE CITY, AND APPROVING, IN SUBSTANTIAL FORM, (1) A LEASE AGREEMENT BETWEEN THE CITY (LANDLORD) AND TASTE BAKERY CAFÉ, LLC (TENANT) FOR USE OF APPROXIMATELY 734 SQUARE FEET OF GROUND FLOOR RETAIL SPACE LOCATED IN UNIT 4 OF 1701 MERIDIAN BUILDING CONDOMINIUM A/K/A 773 17TH STREET (DEMISED PREMISES), FOR AN INITIAL TERM OF FIVE (5) YEARS, WITH ONE (1) ADDITIONAL RENEWAL TERM OF FOUR (4) YEARS AND THREE HUNDRED SIXTY-FOUR (364) DAYS, AT THE CITY'S OPTION, FOR THE OPERATION OF AN EMPLOYEE CAFÉ THAT ALSO SERVES THE GENERAL PUBLIC; AND 2) A CONCESSION AGREEMENT BETWEEN THE CITY AND TASTE BAKERY CAFÉ, LLC (CONCESSIONAIRE), FOR USE OF AN OUTDOOR SEATING AREA, HAVING APPROXIMATELY 507 SQUARE FEET, LOCATED ADJACENT TO THE DEMISED PREMISES, AS AN ANCILLARY USE FOR THE DEMISED PREMISES DURING THE TERM OF THE LEASE; AND FURTHER AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE AGREEMENTS.

WHEREAS, the City owns the 1701 Meridian Building Condominium (Condominium), comprised of ground floor retail spaces (Units 1-4), each having their own physical address, and a four story office building (Units 5-8, with each floor representing one unit), having a physical address of 1701 Meridian Avenue; and

WHEREAS, on May 17, 2017, the Mayor and City Commission adopted Resolution No. 2017-29866, approving a Lease Agreement (2017 Lease Agreement) between the City and Taste Bakery Café, LLC. (Tenant) for the use of the eastern 2/3rds of Unit 4 of the Condominium a/k/a 773 17th Street, having approximately 734 square feet of ground floor (Demised Premises), and a Concession Agreement (2017 Concession Agreement) allowing Tenant to use an outdoor seating area adjacent to the Demised Premises, having approximately 507 square feet (Concession Area); said Agreements having a term of three (3) years commencing on November 1, 2017, and ending on October 31, 2020, with two renewal terms of one (1) year each (collectively, the 2017 Agreements); and

WHEREAS, both renewal options have been approved by the City Manager and the 2017 Agreements are set to expire on October 31, 2022 ; and

WHEREAS, on April 29, 2022, the City issued Invitation to Negotiate (ITN) No. 2022-060-WG, seeking responses from interested parties to establish a new agreement for the operation of an employee café; However, no formal responses to the ITN were received; and

WHEREAS, on August 5, 2022, LTC# 377-2022 was issued advising the Mayor and the City Commission that the ITN had been closed, and the cone of silence had terminated; and

WHEREAS, on September 14, 2022, the Mayor and City Commission approved the extension of City-awarded contracts, which included extending the term of the 2017 Agreements, on a month to month basis, for 120 days, until February 28, 2023; and

WHEREAS, the Administration reviewed options and conducted its own search for qualified tenants, including considering Tenant, for the operation of the employee café concept under a new agreement; and

WHEREAS, at the September 14, 2022 City Commission meeting, Item C4 O was presented as a referral to the Finance and Economic Resiliency Committee (FERC) to discuss a new agreement for an employee café at 773 17th Street; and

WHEREAS, at the October 31, 2022 Finance and Economic Resiliency Committee (FERC) meeting, the Administration presented the terms and conditions agreed upon by the City and Tenant and the FERC recommended in favor of approving a new Lease Agreement and related Concession Agreement with Taste Bakery Café, LLC, based upon the terms and conditions presented at the FERC meeting, which included, among others, the following essential business terms:

Lease Term: The term of this Lease shall be for a period of five (5) Years;

Renewal Option: One (1) renewal option for four (4) years and three-sixty-four (364) days, at the City Manager's sole option;

Commencement Dates: The Lease Commencement and Rent Commencement Date shall be the earlier of: 1) March 1, 2023 or 2) the date Tenant and Landlord execute the new Lease Agreement;

Minimum Base Rent Schedule:

Initial Term		
Year(s)	Annual Rent/SF	Annual Rent
1	\$41.00	\$30,094.00, plus applicable sales tax
Rent to increase 3% per year during the Lease Term.		

Security Deposit: The amount of \$5,000.00, which is currently being held by the City from Tenant under the 2017 Lease Agreement shall be transferred to the new Lease Agreement;

Operating Expenses: Tenant shall pay its pro rata share of Real Property Taxes, Property Insurance and Common Area Maintenance expenses, which are currently estimated to be \$12.85 per square foot. Operating Expenses will be effective on the Rent Commencement Date;

Concession Area: Tenant shall be required to execute a Concession Agreement coterminous with the Lease Agreement, at no additional cost to Tenant, which are the same terms that exist under the 2017 Concession Agreement in connection with the use of the Concession Area;

Delivery Conditions:

Tenant shall accept the Premises in "As-Is" condition with no Landlord Work or tenant allowance. Tenant shall be responsible for the costs of any building permits, licenses, impact fees and any other costs associated with Tenant's use;

Permitted Use:

The Demised Premises shall be used by Tenant solely for the purpose(s) of operating a cafe, with the primary objective being to provide the City of Miami Beach employees with healthy food choices at a price which is discounted by forty percent (40%) off the approved price schedule and menu options, attached to the City Commission Memorandum accompanying this Resolution as **Exhibit B** ("Menu/Price Schedule"), while also permitted to sell to the general public;

Additional Services:

Tenant shall provide:

- A forty percent (40%) discount on the purchase price of all food and beverages from any Taste Bakery Café location, within the City of Miami Beach to City employees with an active and verified City of Miami Beach issued employee identification ("Employee ID"); whether the purchase was made onsite or ordered for delivery.
- Tenant will also provide a free coffee or tea with the purchase of any item.
- Tenant will include City employees as part of their Rewards program to be eligible for a ten (\$10) dollar credit to be used exclusively on the employee's birthday week at any Taste Bakery Café location.
- Tenant will provide healthy conscious food, fruits and quick snacks.
- The City will reimburse Tenant a maximum of Two Hundred Thousand and 00/100 Dollars (\$200,000.00) * per contract year towards the City Employee Discount at the following rates:

Annual City Employee Purchases	Maximum Annual Reimbursement	Reimbursement Rate
\$0-\$422,400	\$ 168,960.00	40%
\$422,400-\$629,333.33	\$ 31,040.00	20%
Greater than \$629,333.33	\$0.00	0%

*The Maximum reimbursement will be revisited on an annual basis in connection with the approval of the Lease option term to determine if the City Manager, at the City Manager's discretion, will approve a cost of living increase.

Once the Maximum reimbursement amount is reached, Tenant will continue to provide the City Employee Discount without reimbursement from the City;

Hours of Operation:

Mon-Fri: 7AM-5PM
Weekends: 8AM-2PM

Tenant may consider opening in the evening until 9pm or 10pm, if there is enough demand from City Employees who work in the evening that want to eat at Taste; and

Guarantor(s):

Full personal guaranty shall be required by all owners and spouses; and

WHEREAS, the City Manager recommends approving, in substantial form, a new Lease Agreement, a copy of which is attached to the City Commission Memorandum accompanying this Resolution as Exhibit "C"; and approving, in substantial form, a new Concession Agreement, a copy of which is attached to the City Commission Memorandum accompanying this Resolution as Exhibit "D"; and further authorizing the City Manager to finalize and execute the Agreements.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, that the Mayor and City Commission, pursuant to a public hearing, hereby accept the recommendation of the Finance and Economic Resiliency Committee, and approve, in substantial form, (1) a Lease Agreement between the City (Landlord) and Taste Bakery Café, LLC (Tenant) for use of approximately 734 square feet of ground floor retail space located in Unit 4 of 1701 Meridian Building Condominium a/k/a 773 17th Street (Demised Premises), for an initial term of five (5) years, with one (1) additional renewal term of four (4) years and three hundred sixty-four (364) days, at the City's option, for the operation of an employee café that also serves the general public; and 2) a Concession Agreement between the City and Taste Bakery Café, LLC (Concessionaire), for use of an outdoor seating area, having approximately 507 square feet, located adjacent to the Demised Premises, as an ancillary use for the Demised Premises during the term of the Lease Agreement; and further authorize the City Manager to finalize and execute the Agreements.

PASSED and **ADOPTED** this _____ day of _____ 2022.

ATTEST:

Rafael E. Granado, City Clerk

Dan Gelber, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

for City Attorney  Date 11/21/22