

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

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, WAIVING, BY 5/7<sup>TH</sup> VOTE, THE COMPETITIVE BIDDING REQUIREMENT OF SECTION 2-367(e) OF THE CITY CODE, FINDING SUCH WAIVER TO BE IN THE BEST INTEREST OF THE CITY, AND APPROVING, IN SUBSTANTIAL FORM, A CONCESSION AGREEMENT BETWEEN THE CITY AND FRIENDS OF THE BASS MUSEUM, INC. D/B/A THE BASS MUSEUM OF ART, FOR MANAGEMENT AND OPERATION OF A FOOD AND BEVERAGE CONCESSION IN THE OUTDOOR SPACE, HAVING APPROXIMATELY 2,000 SQUARE FEET, ADJACENT TO 2100 COLLINS AVENUE, FOR SEASONAL OPERATION, FOR AN INITIAL THREE (3) YEAR TERM, COMMENCING RETROACTIVELY ON NOVEMBER 1, 2018, WITH TWO (2) ADDITIONAL RENEWAL OPTIONS, OF ONE (1) YEAR EACH, AT THE CITY MANAGER'S SOLE DISCRETION, AND SUBJECT TO TERMINATION BY EITHER PARTY UPON 30 DAYS WRITTEN NOTICE; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE THE FINAL NEGOTIATED AGREEMENT, SUBJECT TO REVIEW AND FORM APPROVAL BY THE CITY ATTORNEY.

**WHEREAS**, on May 21, 2014, the City Commission referred to the Finance and Citywide Projects Committee ("FCWPC") a discussion of whether to pursue food and beverage concessions in certain public green spaces, including Collins Park; and

**WHEREAS**, at its June 20, 2014 meeting, the FCWPC recommended waiting for a broader master plan for activating Collins Park before pursuing a concession operation; and

**WHEREAS**, the matter was further discussed and developed throughout several FCWPC meetings between 2015 and the present; and

**WHEREAS**, pursuant to a Request for Proposals in June 2016, the Friends of the Bass, Inc. ("Bass"), the operator of the Bass Museum, identified Thierry's Inc. d/b/a Thierry Isambert Culinary and Event Design ("Thierry's") as exclusive caterer of the new indoor restaurant, The Bass Café; and

**WHEREAS**, following discussions with Thierry's to service both the indoor café and outdoor area, the Bass requested consent from the City Commission to operate the outdoor area only during the profitable seasonal months (approximately December to May) and avoid high temperatures the rest of the year; and

**WHEREAS**, on January 11, 2017, pursuant to Resolution No. 2017-29711, the City Commission approved the FCWPC's recommendation of an agreement with the Bass to use Thierry's for the outdoor concession area, without any financial consideration to the City; and

**WHEREAS**, to facilitate the opening of an outdoor component, the City allocated \$100,000 for the purchase of furniture and fixtures as part of the FY 16-17 capital budget and independent of the annual letter agreement for management of the museum; and

**WHEREAS**, following interior renovations and the reopening of the Bass in October 2017, staff began drafting a grant agreement between the City and the Bass to provide these capital funds for the purchase of outdoor café furniture; and

**WHEREAS**, earlier this year, the Bass informed the City Commission that it desired to use existing furniture for the outdoor dining space as a pilot program to test attendance and gross earnings over a full season, and following the first full season, the Bass would return to the Commission with a business plan detailing the necessary furniture acquisition and build out; and

**WHEREAS**, on March 7, 2018, the City Commission adopted Resolution No. 2018-30209, delaying the grant for the purchase of outdoor café furnishings during the pilot's first season; and

**WHEREAS**, other than omitting financial compensation to the City and proposed operation of the concession on a trial basis, the current draft of the negotiated concession agreement contains basic terms generally consistent with other City concession agreements; and

**WHEREAS**, based upon the foregoing, the City Manager recommends that the Mayor and City Commission waive the formal competitive bidding requirement, by a 5/7<sup>th</sup> vote, as permitted under Section 2-367(e) of the City Code, as being in the best interest of the City; and

**WHEREAS**, the Administration recommends the approval of the concession agreement attached to the City Commission Memorandum accompanying this Resolution.

**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 hereby waives, by 5/7<sup>th</sup> vote, the competitive bidding requirement of Section 2-367(e) of the City Code, finding such waiver to be in the best interest of the City, and approve, in substantial form, a concession agreement between the City and Friends of the Bass Museum, Inc. d/b/a the Bass Museum of Art, for management and operation of a food and beverage concession, having approximately 2,000 square feet, in the outdoor space adjacent to 2100 Collins Avenue, for seasonal operation, for an initial three (3) year term, commencing retroactively on November 1, 2018, with two (2) additional renewal options, of one (1) year each, at the City Manager's sole discretion, and subject to termination by either party upon 30 days written notice; and further authorize the City Manager and City Clerk to execute the final negotiated agreement; subject to review and form approval by the City Attorney.

**PASSED and ADOPTED THIS** \_\_\_\_ day of \_\_\_\_\_ 2018.

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

**ATTEST:**

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

Rafael E. Granado 10-5-18  
City Attorney Date