

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

**A RESOLUTION OF THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY, A PUBLIC BODY CORPORATE AND POLITIC (RDA), APPROVING AND AUTHORIZING THE EXECUTIVE DIRECTOR AND SECRETARY TO EXECUTE AMENDMENT NO. 1 TO THE LEASE DATED DECEMBER 28, 2015, BETWEEN THE RDA(LANDLORD) AND CUBICHE 105, LLC (TENANT), FOR USE OF SUITES 1-3 OF THE ANCHOR SHOPS, LOCATED AT 1555 WASHINGTON AVENUE; SAID AMENDMENT MODIFYING THE FINANCIAL TERMS OF THE LEASE, FOR THE PERIOD COMMENCING ON JANUARY 1, 2021 AND ENDING ON MARCH 30, 2022, IN ORDER TO ADDRESS THE IMPACT THAT THE COVID-19 PANDEMIC HAS HAD UPON TENANT'S OPERATIONS.**

**WHEREAS**, pursuant to Resolution No. 614-2015, the Miami Beach Redevelopment Agency (RDA) (Landlord) and CUBICHE 105, LLC (Tenant) executed a Lease dated December 28, 2015 (Lease) for the operation of a restaurant at Suite Nos. 1-3 of the Anchor Retail Shops, located at 1555 Washington Ave (Premises); and

**WHEREAS**, the Initial Lease Term is for nine (9) years and 364 days, commencing on January 15, 2015, with two (2) renewal options of five (5) years each; and

**WHEREAS**, upon execution of the Lease, the Tenant began a \$3 million renovation project on the Premises, that exceeded the expected completion date and which significantly delayed opening; and

**WHEREAS**, although the Premises remained closed and under construction for over two years, the Tenant met the monthly rental obligations; and

**WHEREAS**, the construction delays did not allow Cubiche 105 to open for operations until February 28, 2020; and

**WHEREAS**, Tenant was open and operating for two weeks, when in March 2020, the COVID-19 pandemic forced the Tenant to shut down operations, and the restaurant remained closed until March 1, 2021; and

**WHEREAS**, the Tenant qualified for the additional rent abatement for FY 2021, for the period of October, 2020 through December 2020, pursuant to Resolution No. 2021-31702; and

**WHEREAS**, the Tenant has suffered significant loss in revenue and has not been able to meet full rental obligations; and

**WHEREAS**, the Tenant had been impacted by limited operating hours due to COVID-19 restrictions and spring break; and

**WHEREAS**, 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; and

**WHEREAS**, the Tenant is the only restaurant that was not able to secure additional café seating due to the added bike lane on Washington Avenue; however, as of August 2021, Tenant was granted the opportunity to operate a parklet, extending outdoor dining outside their restaurant; and

**WHEREAS**, these foregoing factors have all contributed to the Tenant exhausting its reserves and resources to sustain the monthly Minimum Rent of over \$42,000 per month; and

**WHEREAS**, upon review of the Tenant's monthly sales, following the reopening on March 1, 2021, for the months of February-August 2021, sales reflected a total of \$968,222, reflecting Tenant's Occupancy Cost Ratio (a comparison of a tenant's annual sales volume to its annual occupancy costs as a percentage, which includes rents and operating expenses) to be 30%, while the industry average is 10%; and

**WHEREAS**, the Administration recommends amending the Tenant's rental terms under the Lease by:

- 1) abating Minimum Rent for the period of January 1, 2021 to February 28, 2021 ("Abatement Period") in the amount of \$74,898.76; and
- 2) abating Minimum Rent for the period of March 1, 2021 to March 30, 2022. ("Partial Rent Abatement Period"), in the amount of \$495,830.45, and replacing it with Percentage Rent payments equal to 10% of the monthly Gross Sales; and

**WHEREAS**, during the Abatement Period and the Partial Rent Abatement Period, tenant shall continue to be obligated to pay the monthly Operating Expenses; and

**WHEREAS**, 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; and

**WHEREAS**, 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; and

**WHEREAS**, at the September 24, 2021 Finance and Economic Resiliency Committee (FERC) meeting, the Administration presented the foregoing modifications to the Lease and FERC recommended in favor of approving an amendment to the Lease; and

**WHEREAS**, based upon the foregoing, the Executive Director hereby recommends approving Amendment No.1 to the Lease, in the form attached to the City Commission Memorandum accompanying this Resolution as Exhibit "1".

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE CHAIRPERSON AND MEMBERS OF THE MIAMI BEACH REDEVELOPMENT AGENCY (RDA)**, that the Chairperson and Members of the Redevelopment Agency (RDA) hereby approve and authorize the Executive Director and Secretary to execute Amendment No. 1 to the Lease between the RDA (Landlord) and Cubiche 105, LLC (Tenant), for use of Suites 1-3 of the Anchor Shops, located at 1555 Washington avenue; said Amendment modifying the financial terms of the Lease for the period commencing on January 1, 2021 and ending on March 30, 2022 in order to address the impact that COVID-19 pandemic has had upon Tenant's operations.

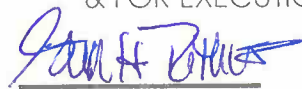

**PASSED** and **ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_ 2021.

\_\_\_\_\_  
Dan Gelber, Chairperson

**ATTEST:**

\_\_\_\_\_  
Rafael E. Granado, Secretary

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

  
\_\_\_\_\_  
for City Attorney 

09/30/21  
Date