

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO EXECUTE AMENDMENT NO. 1 TO THE LEASE AGREEMENT DATED AUGUST 9, 2017 BETWEEN THE CITY (LANDLORD) AND SOBE TOSCANA, LLC, (TENANT) FOR THE USE OF APPROXIMATELY 2,216 SQUARE FEET OF CITY OWNED UNIMPROVED LAND, LOCATED AT 22 WASHINGTON AVENUE, MIAMI BEACH, FLORIDA, CURRENTLY USED AS AN OUTDOOR SEATING AREA FOR THE ADJACENT EXISTING RESTAURANT LOCATED AT 816 COMMERCE STREET; SAID AMENDMENT APPROVING THE FIRST AND FINAL RENEWAL TERM OF FOUR YEARS AND NINE MONTHS, AT THE CITY'S SOLE DISCRETION AND FURTHER MODIFYING THE TERMINATION FOR CONVENIENCE PROVISION.

WHEREAS, the City and Sobe Toscana LLC (Tenant) are parties to a Lease Agreement, dated August 9, 2017 (Lease), involving the use of approximately 2,216 square feet of City owned land, located at 22 Washington Avenue, Miami Beach, Florida (Demised Premises); and

WHEREAS, the Demised Premises is adjacent to an existing restaurant leased by the Tenant with a private landlord, located at 816 Commerce Street (Restaurant at 816 Commerce Street) which is used as an outdoor seating area for Sobe Toscana, LLC.; and

WHEREAS, the use of the Demised Premises is ancillary to the Tenant's use of the Restaurant at 816 Commerce Street; and

WHEREAS, the Restaurant at 816 Commerce Street accommodates approximately 125 people and the Demised Premises accommodates outdoor seating for an additional 85 people; and

WHEREAS, in 2020, the Tenant amended their lease for the Restaurant at 816 Commerce Street to incorporate and expand their interior seating to the second floor of the Restaurant at 816 Commerce Street, and to extend their lease through 2040; and

WHEREAS, the Lease between with the Tenant and the City is set to expire on July 31, 2022; and

WHEREAS, the Tenant has expressed its desire to currently exercise the first renewal option, commencing on August 1, 2022 and ending on May 31, 2027 (Renewal Term); and

WHEREAS, the Renewal Term would require amending the Lease as it exceeds the maximum "Notice to Landlord" of 180 days stipulated in the Lease; and

WHEREAS, the Tenant has expressed concerns regarding the Termination for Convenience clause, based upon the extensive improvements that Tenant has made and is making to the Restaurant at 816 Commerce Street, and has requested for the removal or modification of this provision; and

WHEREAS, in order to address these concerns, the Administration is amenable to adding a clause requiring the Mayor and City Commission to approve any termination for convenience under the Lease; and

WHEREAS, pursuant to the Lease, the Renewal Rent may be based upon a percentage of gross receipts or may continue to be assessed as a fixed annual rent, based upon the fair market rent at the time, and subject to annual escalations by three percent (3%); However, at no time will the Base Rent during the Renewal Term be less than the rent for the previous Lease year plus the three percent (3%) escalation; and

WHEREAS, the City conducted an appraisal for the Demised Premises on September 18, 2021 and the appraiser determined the market rent to be at \$26.50 per square foot (PSF).

The proposed Base Rent schedule for the Renewal Term is illustrated in the following chart:

Months of Term	PSF	Monthly Base Rent	Base Rent Priod
August 1, 2022 -July 31, 2023	\$ 26.50	\$ 4,893.67	\$ 58,724.00
August 1, 2023 -July 31, 2024	\$ 27.30	\$ 5,040.48	\$ 60,485.72
August 1, 2024 -July 31, 2025	\$ 28.11	\$ 5,191.69	\$ 62,300.29
August 1, 2025 -July 31, 2026	\$ 28.96	\$ 5,347.44	\$ 64,169.30
August 1, 2026 -May 31, 2027	\$ 29.83	\$ 5,507.86	\$ 66,094.38

WHEREAS, due to location, limited size and shape, the Demised Premise is best suited as a complimentary seating area for the Restaurant at 816 Commerce Street; and

WHEREAS, based upon the foregoing, the Administration recommends that the Mayor and City Commission approve and authorize the City Manager and City Clerk to execute Amendment No. 1 to the Agreement incorporated herein by reference and attached to the City Commission Memorandum accompanying this Resolution as Exhibit "A";

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 approve and authorize the City Manager and City Clerk to execute Amendment No. 1 to the Lease dated August 9, 2017 between the City (Landlord) and Sobe Toscana, LLC, (Tenant) for the use of approximately 2,216 square feet of City owned unimproved land, located at 22 Washington avenue, Miami Beach, Florida, currently used as an outdoor seating area for adjacent existing restaurant located at 816 Commerce Street; said Amendment approving the first and final renewal term of four years and nine months, at the City's sole discretion, and further modifying the termination for convenience provision.

PASSED and ADOPTED this ____ day of _____ 2021.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney *[Signature]* 10-5-21
Date