

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE LAND USE AND SUSTAINABILITY COMMITTEE AT ITS MAY 13, 2022 MEETING, AND APPROVING THE ESTABLISHMENT OF THE COMMERCIAL LEASE SUBSIDY PROGRAM TO PROMOTE ARTS AND CULTURE BUSINESS ACTIVITY AND MOTIVATE PROPERTY AND BUSINESS OWNERS TO CONVERT NUISANCE NON-CONFORMING ESTABLISHMENTS IN THE EXPANDED ART DECO/MIAMI MODERN COMMERCIAL CHARACTER OVERLAY DISTRICT, AND ENDORSING AN APPROPRIATION OF \$120,000 AS PART OF THE FISCAL YEAR 2023 BUDGET, SUBJECT TO ADOPTION OF THE FINAL BUDGET FOR FY2023; AND FURTHER AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE AGREEMENTS IN CONNECTION WITH THE PROGRAM.

WHEREAS, on October 19, 2016, the City Commission adopted Ordinance No. 2016-4047, which prohibited package stores and package sales of alcoholic beverages within the Mixed-use Entertainment District (the "MXE"), a high volume pedestrian and vehicular traffic area where alcohol package sales encouraged the consumption of alcohol in public; and

WHEREAS, on September 25, 2017, the City Commission adopted Ordinance No. 2017-4137, creating the Art Deco / Miami Modern Commercial Character Overlay District (the "Overlay"), to limit commercial uses that detract from the historic character of the MXE districts in South Beach and the Ocean Terrace / Harding Townsite area in North Beach, such as check cashing stores, pawn shops, pharmacies, convenience stores, occult science establishments, package stores, souvenir and t-shirt shops, tattoo studios, grocery stores, and tobacco/vape dealers; and

WHEREAS, as a result of the enactment of Ordinances No. 2016-4047 and 2017-4137, and pursuant to Chapter 118, Article IX (Nonconformances) of the Land Development Regulations, many of the aforementioned legally established uses, which existed at the time the prohibitions were enacted, are now considered legal nonconforming uses within the MXE and Overlay districts; and

WHEREAS, up until recently, the potential existed for such nuisance establishments to congregate in nearby commercial areas outside of the Overlay where such regulations did not exist, particularly along the Washington Avenue corridor and within the Collins Park neighborhood, on the periphery of the Overlay; and

WHEREAS, on December 8, 2021, the City Commission referred a proposed Code amendment to the Land Use and Sustainability Committee ("LUSC") and the Planning Board that would expand the Overlay to include properties along Washington Avenue and Collins Avenue, from 5th Street to 23rd Street; and

WHEREAS, on March 4, 2022, the LUSC recommended that the Planning Board transmit the item to the City Commission with a favorable recommendation; and

WHEREAS, on March 22, 2022, the Planning Board transmitted the proposed ordinance to the City Commission with a unanimous favorable recommendation; and

WHEREAS, on April 6, 2022, the City Commission referred a discussion to the LUSC regarding the development of a program to encourage and motivate property owners to convert nuisance uses, including package liquor stores, smoke shops, and tattoo parlors, into permitted uses; and

WHEREAS, on May 4, 2022, the City Commission unanimously approved Ordinance No. 2022-4489, expanding the boundaries of the Overlay to include Washington Avenue and portions of the Collins Park neighborhood; and

WHEREAS, in adopting Ordinance No. 2022-4489, the City Commission noted that the Overlay regulations fall short of addressing grandfathered nuisance businesses already in lawful existence, of which there are approximately 116 identified with business tax receipts (BTRs) in the Overlay, not including souvenir or t-shirt shops, as depicted in the Exhibit to the Commission Memorandum accompanying this Resolution; and

WHEREAS, the City Commission has expressed an interest in strengthening the arts and culture, tourism, and hospitality industries while diversifying the City's economy and its revenue sources, with a focus on promoting and attracting commercial activities that support the City's cultural arts legacy; and

WHEREAS, on May 13, 2022, the LUSC unanimously recommended the establishment of a Commercial Lease Subsidy Program (the "Program") to promote arts and culture business activity, and motivate property owners to convert nuisance non-conforming establishments in the newly expanded Overlay, and further, recommended that the Mayor and City Commission appropriate \$120,000 for Fiscal Year 2023 for the Program; and

WHEREAS, the Fiscal Year 2022 Operating Budget, adopted by the City Commission on September 30, 2021, included a \$40,000 enhancement requested by the Economic Development Department to pilot the Program as a means to encourage and promote arts and culture establishments within the MXE / Art Deco Cultural District (ADCD); and

WHEREAS, as envisioned, the Program closely aligns with the intent of the City Commission's referral to develop an incentive program to address nuisance non-conforming establishments, and therefore, the Administration incorporated elements in the Program to address nuisance uses, including prioritizing the eligibility of existing businesses that transition from legal nonconforming uses to permitted uses; and

WHEREAS, pursuant to the guidelines of the Program, which are more fully explained in the Commission Memorandum accompanying this Resolution, participating property owners/businesses will enter an agreement with the City, and will be eligible to receive reimbursement of eligible rent, lease, or mortgage-related expenses, in an amount up to \$20,000 per year and a waiver of the annual BTR fee over a three (3) year term; and

WHEREAS, the Fiscal Year 2023 budget enhancement request of \$120,000,

coupled with the previously-approved Fiscal Year 2022 budget enhancement of \$40,000, provides funding to support the introduction of at least eight (8) lawfully-permitted business establishments into the ADCD; and

WHEREAS, Program participants must be approved by the City Commission, and participation is contingent upon compliance with Program requirements throughout the term of the agreement and annual funding appropriation by the City Commission; and

WHEREAS, in recognition of the Program's long-term potential to elevate the character, brand, and image of the ADCD, the Administration recommends that the City Commission authorize the Program, with the requested Fiscal Year 2023 budget enhancement to be prioritized as part of the annual budget process.

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 accept the recommendation of the Land Use and Sustainability Committee at its May 13, 2022 meeting, and approve the establishment of the Commercial Lease Subsidy Program to promote arts and culture business activity, and motivate property and business owners to convert nuisance non-conforming establishments in the expanded Art Deco/Miami Modern Commercial Character Overlay District, and endorse an appropriation of \$120,000 as part of the Fiscal Year 2023 budget, subject to adoption of the final budget for FY2023; and further authorize the City Manager and City Clerk to execute agreements in connection with the Program.

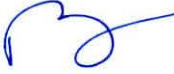
PASSED and ADOPTED THIS ___ day of _____ 2022.

ATTEST:

Rafael E. Granada, City Clerk

Dan Gelber, Mayor

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

6-10-22

Date