

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

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING RESOLUTION NO. 2022-32205 (WHICH AUTHORIZED THE CITY MANAGER TO ENTER INTO CONCESSIONAIRE AGREEMENTS WITH SELECTED RESTAURANTEURS TO PROVIDE OUTDOOR FOOD AND BEVERAGE SERVICE ON CITY RIGHTS-OF-WAY), TO AUTHORIZE THE CITY MANAGER, AT HER SOLE DISCRETION, TO DELETE PARAGRAPH EIGHTY-SIX (86) OF THE APPROVED TEMPLATE CONCESSION AGREEMENT ("SMOKING") FROM AGREEMENTS FOR SELECTED RESTAURANTEURS, IN ORDER TO ALLOW THE USE OF HOOKAHS AT SELECTED OUTDOOR DINING CONCESSIONS, WITHOUT FURTHER CITY COMMISSION APPROVAL.**

**WHEREAS**, the City Commission, at its June 9, 2022 meeting, passed Resolution No. 2022-32205 and created, solely in the City's proprietary capacity and not in furtherance of any regulatory function, a concession agreement program for selected restaurants with brick-and-mortar facilities and inside seating to offer food and beverage services on the rights-of-way abutting the physical establishment; and

**WHEREAS**, the Program was created to serve the valid public purpose of promoting the quality of the City's iconic brand by establishing high quality outdoor food and beverage service on City property, and positively represent the City's brand by providing a public space where residents and visitors can enjoy the City's world-renowned architecture and scenic sun-drenched vistas; and

**WHEREAS**, the concessionaires in this concession agreement program include only the best restaurants in the City, chosen at the City Manager's sole discretion, to sell food and beverages for dining at outdoor cafés on the public rights-of way abutting a restaurant's indoor establishment; and

**WHEREAS**, the City Commission, in Resolution No. 2022-32205, delegated to the City Manager, or her designee, the authority to execute, at her discretion, all concession agreements, consistent with the terms of the Resolution and the template agreement attached thereto; and

**WHEREAS**, the City Commission, in Resolution No. 2022-32205, authorized the City Manager to negotiate, at her sole discretion, concession agreements with terms materially different from the approved template, with the approval of such changes subject to approval by the City Commission; and

**WHEREAS**, paragraph eighty-six (86) of the template agreement approved in Resolution No. 2022-32205 requires the concessionaire "not to allow smoking of any vapor-generating devices, including, but not limited to hookah smoking, within the Concession area"; and

**WHEREAS**, the Mayor and City Commission recognize that patrons of outdoor dining establishments may view the opportunity to partake in hookah smoking as a desirable amenity, and recognize that select high-quality restaurateurs can, and have in the past, offered hookahs while positively representing the City's interests, without damaging the City's iconic brand; and

**WHEREAS**, based on the foregoing, the Mayor and City Commission desire to authorize the City Manager, at her sole discretion, to delete paragraph eighty-six (86) of the concession agreement, to allow the use of hookahs at selected outdoor dining concessions on City rights-of-way.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and the City Commission hereby amend Resolution No. 2022-32205 (which authorized the City Manager to enter into concessionaire agreements with selected restauranters to provide outdoor food and beverage service on city rights-of-way), to authorize the City Manager, at her sole discretion, to delete paragraph eighty-six (86) of the approved template concession agreement from agreements for selected restauranters, in order to allow the use of hookahs at selected outdoor dining concessions, without further City Commission approval.

**PASSED AND ADOPTED** this \_\_\_\_ day of November 2022.


**ATTEST:**

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

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

(Sponsored by Commissioner Kristen Rosen Gonzalez)

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

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

11-4-22  
\_\_\_\_\_  
Date

*RR*