

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, ACCEPTING THE RECOMMENDATION OF THE FINANCE AND ECONOMIC RESILIENCY COMMITTEE, AT ITS JULY 26, 2024 MEETING, DIRECTING THE CITY ADMINISTRATION TO TERMINATE THE CONCESSION AGREEMENT DATED MARCH 14, 2024, BETWEEN THE CITY OF MIAMI BEACH AND POSEIDON FERRY LLC (“POSEIDON”) FOR THE OPERATION OF A WATER TAXI PILOT PROGRAM, DUE TO POSEIDON’S MATERIAL DEFAULT.

WHEREAS, on June 28, 2023, the Mayor and City Commission (“City Commission”) adopted Resolution No. 2023-32644, waiving, by 5/7th vote, the formal competitive bidding requirement and accepting the recommendation of the Finance and Economic Resiliency Committee (“FERC”), directing the City Administration (“Administration”) to: 1) negotiate a one (1) year Agreement with Poseidon Ferry LLC (“Poseidon”); 2) identify funding; 3) identify locations where the operation will be conducted; and 4) define the City contribution and fare structure; and further requiring that the final Agreement be subject to approval by the City Commission; and

WHEREAS, on September 13, 2023, the City Commission adopted Resolution No. 2023-32746, approving the term sheet reflecting the essential business terms of a one (1)-year pilot program for water taxi service and authorizing the Administration to negotiate and execute the Agreement with Poseidon; and

WHEREAS, on March 14, 2024, the Agreement between the City and Poseidon was executed. The Agreement provides for a one (1)-year pilot program at a cost to the City of \$600,000. The service operates from/to the south side of Maurice Gibb Memorial Park (18 Street and Purdy Avenue, Miami Beach) and the Venetian Marina & Yacht Club, also known as Sea Isle Marina (1635 N. Bayshore Drive, Miami); and

WHEREAS, pursuant to the Agreement, the water taxi pilot program service is scheduled to operate daily from 7:30 a.m. to 7:30 p.m., Monday through Sunday, with a one-hour service interruption daily from 2 p.m. to 3 p.m. due to personnel shift change; and

WHEREAS, the City’s \$600,000 subsidy for the one (1)-year pilot program shall be paid in twelve (12) equal installments of \$50,000. At the end of each calendar month during the Term (or on the last day of the Term if occurring prior to the end of the month), Poseidon shall submit an invoice to the City in the amount of \$50,000 (pro-rated for any partial month) along with the required reports for the period of service rendered; and

WHEREAS, the Administration and Poseidon held two (2) community meetings with the Sunset Harbour Neighborhood Association on March 27, 2024 and June 11,

2024, respectively, to provide information and obtain community feedback on the one (1)-year pilot program; and

WHEREAS, on June 17, 2024, Poseidon received a Business Tax Receipt (“BTR”) from the City for the operation of the water taxi service pursuant to the Agreement; and

WHEREAS, on June 28, 2024, Poseidon obtained approval from the Miami-Dade County Division of Environmental Resources Management (“DERM”) to operate a water taxi service between Miami Beach and Miami; and

WHEREAS, on June 30, 2024, Poseidon launched the water taxi pilot program service at 7:30 a.m. from Maurice Gibb Memorial Park; and

WHEREAS, pursuant to Section 13.4 of the Agreement, “failure of Concessionaire to operate the Program at the Concession Area for a period of time exceeding two (2) continuous days shall constitute a material default under this Agreement with no cure period”; and

WHEREAS, since the commencement of the water taxi pilot program service on June 30, 2024, there have been two (2) instances where Poseidon has not been able to operate the water taxi service for more than two (2) consecutive days as a result of mechanical failures of the vessel. The first instance occurred from July 10 through July 14, resulting in five (5) days of no service; and the second instance occurred from August 7 through August 9, resulting in three (3) days of no service; and

WHEREAS, on August 10, Poseidon was able to resume water taxi service utilizing a temporary spare vessel; and

WHEREAS, on August 20 the water taxi service was suspended until further notice as the temporary spare vessel was not available; and

WHEREAS, partial service interruptions occurred on July 4, July 6, July 15, July 16 and August 6 as a result of mechanical failures of the vessel, as well as on August 3 and August 4 due to adverse weather conditions caused by Tropical Storm Debby; and

WHEREAS, the water taxi service has experienced multiple operational issues, including persistent air conditioning breakdowns, as well as customer service complaints with the cleanliness and appearance of the vessel, among others, all of which have been brought to Poseidon’s attention by City staff on multiple occasions since the onset of the service; and

WHEREAS, at the July 24, 2024 City Commission meeting, at the request of Vice-Mayor Alex Fernandez and Commissioners David Suarez, Tanya K. Bhatt and Joseph Magazine, the City Commission referred an item (C7 AH) to the July 26, 2024 FERC meeting to discuss terminating the Agreement with Poseidon due to several concerns

with the service being provided, including a material default under the Agreement due to various days of service suspension; and

WHEREAS, during the discussion at the July 26, 2024 FERC meeting, the Committee expressed their concerns with the existing Water Taxi Pilot Program service, including service reliability, service interruptions, and cleanliness and appearance of the vessel. As a result of these concerns, the Committee passed a motion recommending that the Administration terminate the Agreement with Poseidon and return to the September 11, 2024 City Commission meeting for consideration of the Committee's recommendation.

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 Finance and Economic Resiliency Committee, at its July 26, 2024 meeting, directing the City Administration to terminate the concession agreement dated March 14, 2024, between the City Of Miami Beach and Poseidon Ferry LLC ("Poseidon") for the operation of a water taxi pilot program, due to Poseidon's material default.

PASSED AND ADOPTED this ____ day of _____ 2024.

ATTEST:

Steven Meiner, Mayor

Rafael E. Granado, City Clerk

(Sponsored by Commissioners Alex Fernandez and David Suarez
Co-sponsored by Commissioners Tanya K. Bhatt and Joseph Magazine)

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney *DA*

9/15/2024

Date