

**AMENDMENT NO. 3 TO AGREEMENT  
BETWEEN  
THE CITY OF MIAMI BEACH  
AND  
IKE SMART CITY, LLC  
TO DESIGN, MANUFACTURE, INSTALL, OPERATE AND MAINTAIN INTERACTIVE  
DIGITAL MEDIA KIOSKS, PURSUANT TO REQUEST FOR PROPOSALS NO. 2022-0404-KB**

This Amendment No. 3 ("Amendment") to the Agreement, dated July 28, 2023 (Agreement), by and between the City of Miami Beach, a municipal corporation organized and existing under the laws of the State of Florida, having its principal place of business at 1700 Convention Center Drive, Miami Beach, Florida 33139 (the "City"), and IKE Smart City, LLC, a Delaware limited liability company, having its principal place of business at 250 N. Hartford Avenue, Columbus, Ohio 43222, Attention: Chief Financial ("Company"), is entered into this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

**RECITALS**

**WHEREAS**, on July 28, 2023, the City and the Company executed the Agreement pursuant to Resolution No. 2022-32422; and

**WHEREAS**, on September 13, 2023, the Mayor and City Commission of the City of Miami Beach adopted Resolution No. 2023-32759, authorizing the City to enter into a Memorandum of Understanding (MOU) with the Florida Department of Transportation (FDOT) for the installation, operation, and maintenance of IKE Kiosks (as defined in the Agreement) which would be placed on various FDOT rights-of-way pursuant to the Agreement; and

**WHEREAS**, the City and Company have also Executed Amendment No. 1 to the Agreement; said amendment requiring Company to indemnify the City in connection with the City's obligations under the MOU; and

**WHEREAS**, on December 13, 2023, the Mayor and City Commission of the City of Miami Beach adopted Resolution No. 2023-32863, approving Amendment No. 2 to the Agreement, (1) granting the City, for its convenience, the right to require Company to relocate any IKE kiosk, with Company bearing any and all Relocation Costs; and (2) requiring that mail notices associated with the approval of an IKE Kiosk Location by the Design Review Board or Historic Preservation Board be sent citywide at Company's sole cost, which Amendment No. 2 has been executed; and

**WHEREAS**, this Amendment No. 3 makes the Agreement consistent with Section 2.2.4.8(e)(3) of the Miami Beach Resiliency Code in the event that one or more approvals and/or orders of any of the City's land use boards regarding the IKE Kiosks are appealed.

**NOW THEREFORE**, in consideration of the mutual promises and conditions contained herein, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, the City and Company hereby agree to amend the Agreement as follows:

**1. ABOVE RECITALS.**

The above recitals are true and correct and are incorporated as part of this Amendment.



## 2. **MODIFICATIONS.**

The Agreement is hereby amended (deleted items ~~struck through~~ and inserted items underlined) as follows:

A. Section 5 (IKE Kiosks/Locations) of the Agreement is hereby amended to read as follows:

a. An IKE Kiosk. The City, in its proprietary capacity, hereby approves the conceptual plan/design as to the type of IKE Kiosk which is attached as **Exhibit B-1** hereto. Any modifications to **Exhibit B-1** must be approved, in writing, by the City Manager prior to such changes being implemented. Notwithstanding the foregoing, the City and Company hereby acknowledge and agree that the City's approval as to the type of IKE Kiosk is given by the City solely in its proprietary capacity and not in its regulatory capacity. Notwithstanding such proprietary City approval, Company acknowledges and agrees that the type of IKE Kiosk and its installation at one of the proposed Locations may trigger and require review and approval by one (or more) of the City's land use boards. Accordingly, in such circumstances, Company shall be required, at its sole cost and expense, to obtain any and all required ~~final, non-appealable~~ development approvals and/or orders for such IKE Kiosks, prior to implementation of said IKE Kiosks in those Locations. In addition to any notice required by the City Code in connection with Company's application to the Design Review Board or Historic Preservation Board (individually referred to herein as a "City Board" or collectively as the "City Boards") for an IKE Kiosk Location, Company agrees to mail citywide a courtesy notice of any public hearing before the City Boards at Company's sole cost ("Courtesy Notice"). The City acknowledges that the Courtesy Notice, incorporated herein by reference and attached hereto as **Composite Exhibit D** for the ~~March 12<sup>th</sup> and April 2<sup>nd</sup>~~ March 12, 2024, and April 2, 2024 City Boards, complies with the Courtesy Notice requirements, and further agrees that by Company providing a similar affidavit, a copy of the notice sent, and the postage statement related to each mailer, similar to the documentation attached hereto as **Composite Exhibit D**, shall be deemed sufficient to have complied with the Courtesy Notice requirement. Notwithstanding the foregoing upon the request of the City's Planning Department or any City Board, Company shall provide any additional back-up documentation or information in connection with the Courtesy Notice requirement. Within thirty (30) days following the Effective Date, Company shall provide the City with (i) a virtual demonstration of the content management system software for the IKE Kiosks, (ii) an on-site demonstration of an operational IKE Kiosks located within the City of Miami, and (iii) three (3) paint samples to the City Manager. The City Manager shall have fifteen (15) days following receipt of the aforementioned paint samples in which to notify Company of the paint sample it approves for the color of the IKE Kiosks, subject to Company securing the requisite regulatory approvals for the selection. Upon receipt of the City Manager paint selection, **Exhibit B-1** shall be updated to incorporate the same. If the City fails to respond to Company's attempts to coordinate the virtual demonstration or the on-site demonstration and as a result thereof the demonstrations do not occur within the aforementioned 30-day period, the same shall not be deemed to be a default of this Agreement by Company. Notwithstanding any provision of this Agreement to the contrary, in the event one or more development approvals and/or orders of any of the City Boards regarding IKE Kiosks are appealed, the Company shall be permitted, during the pendency of any such appeal(s), to pursue all permits for, and upon obtaining such permits proceed with the installation and operation of, the IKE Kiosks, provided that the Company satisfies the requirements for the lifting of a stay pending appeal set forth in Section 2.2.4.8(e)(3) of the Miami Beach Resiliency Code. Company acknowledges and agrees that the

automatic stay pending appeal of a City Board approval can only be lifted upon Company's strict compliance with the provisions of Section 2.2.4.8(e)(3) of the Resiliency Code.

**3. RATIFICATION.**

Except as amended herein, all other terms and conditions of the Agreement shall remain unchanged and in full force and effect. In the event there is a conflict between the provisions of this Amendment and the Agreement, the provisions of this Amendment shall govern.

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IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be executed by their appropriate officials, as of the date first entered above.

**FOR CITY:**

**CITY OF MIAMI BEACH**

**ATTEST:**

By:

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

\_\_\_\_\_  
Rickelle Williams  
Interim City Manager

\_\_\_\_\_  
Date

**FOR THE COMPANY:**

**IKE SMART CITY, LLC**

**ATTEST:**

By:

\_\_\_\_\_


\_\_\_\_\_

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Print Name and Title

\_\_\_\_\_  
Date

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

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

06/17/24  
\_\_\_\_\_  
Date