

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

**A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE AMENDMENT NO. 3 TO THE AGREEMENT BETWEEN THE CITY AND IKE SMART CITY, LLC (IKE), PURSUANT TO REQUEST FOR PROPOSALS (RFP) NO. 2022-040-KB, TO DESIGN, MANUFACTURE, INSTALL, MAINTAIN, AND OPERATE INTERACTIVE DIGITAL MEDIA KIOSKS, IN ORDER TO MAKE THE AGREEMENT CONSISTENT WITH SECTION 2.2.4.8(e)(3) OF THE MIAMI BEACH RESILIENCY CODE IN THE EVENT ONE OR MORE APPROVALS BY THE CITY'S LAND USE BOARDS FOR THE KIOSKS ARE APPEALED, AND TO PERMIT IKE TO REQUEST A LIFTING OF THE STAY PENDING APPEAL SUBJECT TO IKE'S STRICT COMPLIANCE WITH THE REQUIREMENTS AND SAFEGUARDS IN SECTION 2.2.4.8(e)(3) OF THE RESILIENCY CODE.**

**WHEREAS**, on August 25, 2021, the Administration received an unsolicited proposal from IKE Smart City, LLC ("IKE"), pursuant to Section 255.065, Florida Statutes, to Design, Manufacture, Install, Operate and Maintain Interactive Digital Media Kiosks at certain sites throughout the City; and

**WHEREAS**, on January 20, 2022, the Mayor and City Commission approved Resolution 2022-31989, accepting the unsolicited proposal pursuant to Section 255.065, Florida Statutes and authorizing the Administration to issue Request for Proposals (RFP) No. 2022-040-KB (the "RFP"), seeking proposals from other interested parties for the same project purpose as the unsolicited proposal; and

**WHEREAS**, on December 14, 2022, via Resolution 2022-32422, the Mayor and City Commission authorized the Administration to enter into negotiations with IKE, the top-ranked proposer, and if unsuccessful, to negotiate with Smart City Media, the second-ranked proposer, with the final negotiated agreement being subject to the prior approval of the Mayor and City Commission; and

**WHEREAS**, on June 28, 2023, the City Commission, by a vote of 5/7<sup>th</sup>, adopted Resolution No. 2023-32627, approving the essential business terms for an Agreement with IKE, pursuant to the RFP, to Design, Manufacture, Install, Maintain, and Operate Interactive Digital Media Kiosks with the following amendments: (1) the installation of any additional kiosks, exceeding the original fifteen, shall be subject to approval by the City Commission; and (2) the maintenance standards for the kiosks shall include the requirement that the kiosk be maintained in "like-new condition" throughout the term of the Agreement; and

**WHEREAS**, on July 28, 2023, the City and IKE executed an Agreement pursuant to the RFP (the "Agreement"); 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 which would be placed on various FDOT rights-of-way pursuant to the Agreement; and further, authorizing the City Manager and City Clerk to execute Amendment No. 1 to the IKE Agreement, to allow IKE to assume the City's responsibilities under the MOU with FDOT, and require IKE to indemnify the City; and

**WHEREAS**, on December 13, 2023, the Mayor and City Commission adopted Resolution No. 2023-32863, authorizing the City Manager to negotiate and execute Amendment No. 2 to the Agreement between the City and IKE; said amendment (1) granting the City, for its convenience, the right to require IKE to relocate any IKE kiosk, with IKE bearing any and all relocation costs; and (2) requiring that mail notices associated with the approval of IKE kiosk locations by the Design Review Board or Historic Preservation Board be sent citywide at IKE's sole cost; and

**WHEREAS**, the Mayor and City Commission now desire to amend the Agreement, consistent with Section 2.2.4.8(e)(3) of the Miami Beach Resiliency Code, in the event one or more approvals by the City's land use boards for the kiosks are appealed, and to permit IKE to request a lifting of the stay pending appeal subject to IKE's strict compliance with the requirements and safeguards set forth in Section 2.2.4.8(e)(3) of the Resiliency Code; and

**WHEREAS**, in order to lift the stay pending appeal, Section 2.2.4.8(e)(3) requires that an applicant (i) execute a hold harmless and indemnity agreement with the City, (ii) comply with the strict conditions of the underlying land use board approval, (iii) restore the property to its previous condition in the event the land use board decision is reversed, and (iv) lastly, the Code provides that no final certificate of occupancy (CO) or certificate of completion (CC) shall be issued until the final resolution of the appeal.

**NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA**, that the Mayor and City Commission hereby authorize the City Manager to negotiate and execute Amendment No. 3 to the Agreement between the City and IKE Smart City, LLC (IKE), pursuant to Request for Proposals (RFP) No. 2022-040-KB, to Design, Manufacture, Install, Maintain, and Operate Interactive Digital Media Kiosks, in order to make the Agreement consistent with Section 2.2.4.8(e)(3) of the Miami Beach Resiliency Code in the event one or more approvals by the City's land use boards for the kiosks are appealed, and to permit IKE to request a lifting of the stay pending appeal subject to IKE's strict compliance with the requirements and safeguards in Section 2.2.4.8(e)(3) of the Resiliency Code.

**PASSED and ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

**ATTEST:**

\_\_\_\_\_  
Steven Meiner, Mayor

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

APPROVED AS TO  
FORM & LANGUAGE  
& FOR EXECUTION

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

6/18/2024  
\_\_\_\_\_  
Date

NK