

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING THE SETTLEMENT AGREEMENT AND MUTUAL RELEASE BETWEEN THE CITY OF MIAMI BEACH , FLORIDA (CITY) AND RIC-MAN INTERNATIONAL, INC., (RMI) IN THE AMOUNT OF \$1,650,000, TO SETTLE ALL OUTSTANDING CLAIMS PERTAINING TO THE DESIGN/BUILD SERVICES ASSOCIATED WITH THE RIGHT OF WAY INFRASTRUCTURE IMPROVEMENTS, NEIGHBORHOOD NO. 8, SUNSET ISLAND 3 & 4 PROJECT AND AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO TAKE THE NECESSARY AND APPROPRIATE STEPS FOR THE IMPLEMENTATION THEREOF; AND FURTHER AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE THE SETTLEMENT AGREEMENT, WHICH SETTLEMENT SUMS ARE AVAILABLE IN THE PROJECT BUDGET.

WHEREAS, on September 10, 2014, the Mayor and City Commission adopted Resolution No. 2014-28749, pursuant to Request for Proposals No. 2014-051-SR, authorizing the Mayor and City Clerk to execute an agreement with Ric-Man International, Inc. (RMI), for design-build services for Neighborhood No. 8: Sunset Islands 3 & 4 Right-of-Way (ROW) Infrastructure Improvements in the amount of \$7,774,967.51; and

WHEREAS, the scope of this Design-Build project consists of the design and construction, associated with the earthwork, pavement reconstruction, overhead utility undergrounding, sidewalk construction, water main improvements, water meter replacement, storm drainage infrastructure installation, sanitary sewer main and structure lining, new conduits, conductors and service point for the existing street lights and streetscape/planting improvements; and

WHEREAS, on January 5, 2015, Notice to Proceed (NTP) No. 1 was issued directing RMI to start the pre-construction work including engineering design and permitting and on June 8, 2015, the NTP No. 2 was issued directing RMI to commence construction; and

WHEREAS, on January 13, 2016, the Mayor and Commission adopted Resolution No. 2016-29275, authorizing the Mayor and City Clerk to execute Amendment No. 1 for additional services associated with the roadway design and hardscape modification and design and construction associated with the pump station and use of the park as staging area; and

WHEREAS, on May 18, 2016, the Mayor and Commission adopted Resolution No. 2016-29414, authorizing the Mayor and City Clerk to execute Amendment No. 2 for additional design, permitting, construction services, general conditions and the cost associated with the disruption to the continuity of the construction activities and re-sequencing of the work; and

WHEREAS, on November 19, 2018, portions of the project (hardscape, streetlight conduits and conductors, stormwater drainage system and water distribution system) were substantially completed; and

WHEREAS, sanitary sewer system, stormwater pump stations, underground franchise utility equipment, landscaping, pavement markings and signage are the remaining disciplines in need of substantial completion; and

WHEREAS, the Design-Build team is responsible to address all deficiencies, closeout all the permits and achieve final project completion; and

WHEREAS, the total contract to date is \$11,250,593; and

WHEREAS, on September 6, 2019, the Contractor asserted a claim for additional compensation against the City associated with pipe oversize, bridge limit restrictions, Department of Regulatory and Environmental Resources (RER DERM) design and permit requirements, pump station relocation, schedule and productivity impacts, additional as-built requests, pump stations additional line reactors and repair of sewer channels in the total amount of \$3,191,216.58 (Attachment A); and

WHEREAS, city staff and the Design Criteria Professional reviewed the claim and supporting documentation submitted by the Design-Builder and found the items related to pipe oversize, bridge limit, pump station relocation, schedule and productivity impact and pump station line reactors to have some merit for consideration; and

WHEREAS, city staff negotiated the scope and the amount sought by the Design-Builder to the best interest of the City and agreed to settle the disputed claim in the amount of \$1,650,000, subject to City Commission approval of the settlement agreement and the associated terms (Attachment B); and

WHEREAS, retainage withheld in the amount of \$277,764.92 will be released upon completion of all contractual obligations including final acceptance and close-out of all permits issued by City and all outside agencies and to the satisfaction of all terms and conditions included in the settlement agreement; and

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA approving the settlement agreement and mutual release between the City of Miami Beach, Florida (city) and Ric-Man International, Inc., (RMI) in the amount of \$1,650,000, to settle all outstanding claims pertaining to the design/build services associated with the Right-of-way Infrastructure Improvements, Neighborhood No. 8, Sunset Island 3 & 4 project and authorizing the City Manager and City Attorney to take the necessary and appropriate steps for the implementation thereof; and further authorizing the Mayor and City Clerk to execute the settlement agreement, which settlement sums are available in the project budget.

PASSED and ADOPTED this ____ day of _____, 2020.

DAN GELBER, MAYOR

ATTEST:

RAFAEL E. GRANADO, CITY CLERK