

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER TO NEGOTIATE CHANGE ORDER NO. 5 TO THE DESIGN/BUILD AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND RIC-MAN CONSTRUCTION FLORIDA, INC., FOR THE WEST AVENUE PHASE II IMPROVEMENTS NORTH OF 14TH STREET PROJECT, FOR ADDITIONAL DESIGN SERVICES ASSOCIATED WITH ADDITIONAL WATER QUALITY TREATMENT AS REQUIRED BY THE MIAMI-DADE COUNTY REGULATORY AND ECONOMIC RESOURCES DEPARTMENT (RER), IN THE NOT-TO-EXCEED AMOUNT OF \$1,042,761, PLUS 10% OWNER'S CONTINGENCY IN THE AMOUNT OF \$104,276, FOR A TOTAL CONTRACT VALUE OF \$52,165,369.67; SUBJECT TO AND CONTINGENT UPON AN APPROPRIATION OF FUNDS, AT THE CITY COMMISSION'S SOLE DISCRETION, VIA THE THIRD CAPITAL BUDGET AMENDMENT FOR FY 19/20 CAPITAL BUDGET, TO BE CONSIDERED AT THE APRIL 22, 2020, CITY COMMISSION MEETING, AND FURTHER, IF SUCH BUDGET AMENDMENT IS APPROVED, AUTHORIZING THE CITY MANAGER TO EXECUTE THE FINAL NEGOTIATED CHANGE ORDER NO. 5.

WHEREAS, on March 22, 2017, the Mayor and City Commission adopted Resolution No. 2017-29800, awarding design/build services to Ric-Man Construction Florida, Inc. ("Ric-Man" or "Design/Builder"), for West Avenue North of 14th Street Improvements Phase II - North of 14th Street (the "Project"), with the Guaranteed Maximum Price of \$29,669,344, including a 10% Owner's Contingency (the "Agreement"); and

WHEREAS, on December 13, 2017, the City Commission referred all planned and in-progress resiliency projects to the Sustainability and Resiliency Committee for further evaluation of stormwater criteria and design; and

WHEREAS, at that time, Ric-Man had completed approximately 60% of the Project design, but stopped further development of this Project, including its design, due to the action by the City Commission; and

WHEREAS, on January 11, 2018, Change Order No. 1 was executed for a 30 day non-compensatory extension of time to the total Contract Time set forth in the Agreement, due to the impact of Hurricane Irma; and

WHEREAS, on March 16, 2018, Change Order No. 2 was executed in the amount of \$3,270,932, for funding of certain above-ground improvements to the Project, with no additional time extension, increasing the cost of the Agreement to \$32,940,276; and

WHEREAS, during the months of January through March 2018, the Sustainability and Resiliency Committee reviewed and evaluated the City's design criteria for stormwater management, and also sought independent outside review by the Urban Land Institute (ULI); and

WHEREAS, the ULI is also a partner of a professional network that provides resiliency-building tools, called the 100 Resilient Cities Network; and

WHEREAS, on April 2018, the City entered into a successful partnership with the Urban Land Institute in order to review the citywide Stormwater Resiliency Program; and

WHEREAS, the ULI's preliminary findings were not only a validation of the City's initial efforts, but also a call to raise standards to ensure a livable and sustainable community; and

WHEREAS, on May 31, 2018, the West Avenue project was selected to participate in the Resilience Accelerator; and

WHEREAS, the Resilience Accelerator Program is a partnership between 100 Resilient Cities and the Center for Resilient Cities and Landscapes at Columbia University; and

WHEREAS, the Rockefeller Foundation has funded this program with a \$3.7 million grant to connect the diverse challenges of a global network of cities to the expertise of the world's top schools of planning and design; and

WHEREAS, in June 2018, 100 Resilient Cities and Columbia University held meetings with City staff and members of the community to present information and obtain feedback on the West Avenue Project; and

WHEREAS, on August 6 - 8, 2018 a Resilience Accelerator workshop was held, and Columbia University and the City's Chief Resiliency Officer brought together multi-disciplinary expertise to provide guidance on urban design, innovative engineering solutions, and stakeholder engagement; and

WHEREAS, the City's team consisted of the design build team headed by Ric-Man, staff from City Manager's Office, Office of Capital Improvement Projects (CIP), Environment & Sustainability, Fire, Parking, Planning, Public Works, and Transportation Departments, and subject matter experts in engineering, architecture and urban design; and

WHEREAS, over the course of the three-day workshop, the team identified appropriate enhancements based on the Project's lifecycle, existing and future site challenges, and feedback from the local community; and

WHEREAS, on September 4, 2018, a meeting was held with the West Avenue Neighborhood Association (WAVNA) and on September 21, 2018, a meeting was held with the North of Fifth Neighborhood Association (NOFNA), to present the findings of the Resilience Accelerator Workshop; and

WHEREAS, on September 26, 2018, Staff presented the findings of the Resilience Accelerator Workshop to the Sustainability and Resiliency Committee; and

WHEREAS, on October 17, 2018, the City Commission accepted the recommendations of the Resiliency Accelerator and the final ULI Report for implementation; and

WHEREAS, the City Commission directed staff to look into alternate road systems, replacing the typical limerock road base with an alternate asphalt blacktop base; and

WHEREAS, an alternate road system would substitute the typical road construction that consists of a 2 inch layer of asphalt over 8 inches of limerock base over 12 inches of stabilized sub-grade with 7 inches of asphalt over the 12 inches of stabilized sub-grade and could cost approximately \$1,015,000; and

WHEREAS, during the Resilience Accelerator workshop, the team worked through concerns identified by the community, as well as other issues raised during the workshop, including road elevation; road harmonization with private properties; turning lanes vs. roadway medians; pedestrian and bicycle prioritization; enhanced walkability; enhanced tree canopy; stormwater quality; baywalk connectivity and construction phasing; and

WHEREAS, based on the Accelerator Program Recommendations, the Project elements to remain in the project include 3.7' NAVD Minimum Road Elevation and three continuous vehicular travel lanes; and

WHEREAS, the City has reached a consensus with the community as it relates to street cross-sections, road elevations, traffic lanes and stormwater criteria, therefore, the Project will continue to be developed based on this consensus including the Resilience Accelerator and Design Criteria Professional recommendations; and

WHEREAS, opportunities to fine tune the design (without material changes) would take place during the completion of the 60% and 90% design documents; and

WHEREAS, the roadway elevation in the design criteria for the West Avenue Project requires minimum road crown elevation of 3.7' NAVD; and

WHEREAS, the design/build team will meet individually with each property in the corridor to discuss harmonization before construction begins; and

WHEREAS, the Resilience Accelerator participants recommend for the pedestrian space to be maximized, with the new proposed criteria to require that 40 feet of ROW be dedicated to bicycles, pedestrians and greenspace, and only 30 feet be dedicated to vehicles; and

WHEREAS, based on safety needs along the corridor, location of required turn lanes, location of building entrances and exits, and maintenance of traffic flow it was not recommended to add center medians, therefore the center lane will be used as a turning and access lane; and

WHEREAS, the preferred approach is to focus on enhancing the pedestrian and bicycle experience where possible along West Avenue, and at the bay front and Collins Canal street ends, with more pedestrian friendly spaces, such as small plazas, public art, and other aesthetic improvements; and

WHEREAS, the West Avenue typical section North of 14th Street will reflect the following, two 5.5' wide protected bike lanes, one on either side of the road; two 10' wide lanes, one northbound and one southbound vehicular travel lane and one 10' foot two-way center lane; and

WHEREAS, maintaining high water quality standards are an integral component to the success of this Project, therefore, the design will address the quality of the water being discharged from the pump station into Biscayne Bay through pollution control devices; and

WHEREAS, based on the City's internal review, ULI Report and recommendations from the Resilience Accelerator, the following items should be included in the Project:

1. Relocating the water main and sanitary sewer service connections from the rear to the front of lots;

2. Updating the design criteria for storm protection from a 5-year to a 10-year storm event;
3. Installing five (5) permanent stormwater auxiliary power generators at four locations; two (2) at 14th Street, one (1) at 17th Street, one (1) at Bay Road and one (1) at Lincoln Road. Permanent generators will provide redundancy during power outages. The location of the generators will be coordinated with the Planning and the Environment & Sustainability Departments to ensure an enhanced street end design, and one of the two generators at 14th Street will service an existing FDOT pump station;
4. Installing 560' of 18" PVC pipe as sanitary sewer, with 30 laterals and associated manholes at Alton Court.
5. Increasing resident participation, to include public interface, presentations, required workshops, exhibits and meetings, related to private property harmonization.
6. Updating and enhancing all street ends, including 14th Street, 16th Street, Lincoln Terrace, Lincoln Road, Lincoln Court and Bay Road (From Lincoln Road to the canal), to accommodate more tree canopy, wider sidewalks where possible, and pavers to provide an enhanced pedestrian experience and connectivity to the baywalk.
7. Protecting all specimen trees defined by the City Code throughout construction. The landscape designer and the contractor will work with the Urban Forester to ensure specimen trees are protected during construction to minimize the impacts to mature tree canopy; and
8. Interfacing with the residents, create additional exhibits, attend monthly meetings, visits and presentations; and

WHEREAS, based on Ric-Man's inability to move forward with the Project during the evaluation of the stormwater criteria and design, listed below are the associated costs:

1. Salary and Labor cost escalation due to work stoppage for approximately one year;
2. Material and commodity escalation; increased costs of materials, asphalt, pump equipment, electrical equipment, concrete and fuel costs, due to work stoppage for approximately one year;
3. Re-start impact; loss of efficiency, loss of employees, overhead costs, re-hire fees; and

WHEREAS, the Design/Builder submitted a proposal in the amount of \$12,800,000, for the recommendations listed above; and

WHEREAS, based on the Design Criteria Professional's recommendations, the following items should be considered:

1. An analysis of pre and post storm measurements and conditions, depicting the results of the improvements, and would consist of an analysis modeling the existing storm drainage system and comparing it to an analysis that models the storm drainage of the same area but with the implementation of the 10 year storm design proposed, which includes additional pump stations, the increased pipe sizing and all other new, added components to determine the different volumes of stormwater evacuated by the improvements, for a cost of \$30,000;
2. An additional two (2), 20,000 GPM pumps and associated structures to be added to the proposed Lincoln Road Pump Station, including the associated increases in valve sizes, piping, electrical upgrades, generator upsizing, increased platform and all other associated improvements, for a cost of \$3,319,000; and

WHEREAS, the Design/Builder submitted a proposal for additional scope in the amount of \$3,349,000; and

WHEREAS, the proposed Change Order No. 3, for the West Avenue Phase II Improvements North of 14th Street Project, included additional design and construction services associated with the recommendations by the Resiliency Accelerator Program, other elements added by the Design Criteria Professional and Design/Builder costs in the not-to-exceed amount of \$12,800,000, plus 10% owner's contingency in the amount of \$1,280,000 for a total of \$14,080,000; and

WHEREAS, on December 12, 2018, the City Commission adopted Resolution No. 2018-30652, authorizing the City Manager to negotiate Change Order No. 3 for additional design and construction changes associated with the recommendations by the Resiliency Accelerator Program, the ULI report and recommended additional scope for a total of \$17,763,900, including contingency; and

WHEREAS, on April 30, 2019, Change Order No. 3A was executed in the amount of \$579,752.47 as the first partial request from the Design/Builder of the approved Change Order No. 3 for the costs incurred in support of the Urban Land Institute's Resiliency Effort Accelerator Workshop, Re-start Impacts after a 1 year delay and 10 year Storm Drainage Modeling to allow for further design and negotiate the price of the remaining change order scope, increasing the cost agreement to \$33,520,028.47; and

WHEREAS, on June 16, 2019, Change Order No. 3B was executed in the amount of \$17,171,211.00 as the second partial request from the Design/Builder of the approved Change Order No. 3 for the costs of design and construction of the recommendations by the Urban Land Institute's Resiliency Effort Accelerator and Design Criteria Enhancements, such as emergency generator sets, street end enhancements, additional pumps, additional street improvements, increasing the cost agreement to \$50,691,239.47, including a 10% Contingency; and

WHEREAS, on September 17, 2019, Change Order No. 4 was executed in the amount of \$327,093.00 to account for the 10% contingency for the above-ground improvements, which were previously added to the Agreement as Change Order No. 2, increasing the cost of the agreement to \$51,018,332.67; and

WHEREAS, the purpose of the West Avenue Project is to address flooding conditions and upgrade aging infrastructure, and the purpose of the Resilience Accelerator was to test and evaluate elements of the West Avenue Project to come to a compromise with modifications that enhance the project's resiliency and builds community consensus, while remaining fiscally responsible; and

WHEREAS, one of the requirements to obtain a permit from the Miami-Dade County Regulatory and Economic Resources Department (DRER), to discharge stormwater into the bay (Class II permit), is the inclusion of sufficient water treatment capacity, and the project team has held multiple discussions and meetings with DRER to discuss project approach and proposed water quality treatment components; and

WHEREAS, DRER has emphasized that although Projects were previously permitted using mechanical treatment, future projects would not be permitted without retaining the first inch

and a half of rainfall runoff; Therefore, involving additional design and construction effort, beyond what was identified in the Design Criteria Package (DCP); and

WHEREAS, the Design/Builder submitted a proposal (Attachment A) for the design of additional quality treatment in the amount of \$1,042,761 for the north section, and once the design is completed and approved by DRER, the Design/Builder will determine the additional construction costs and time impacts associated with the additional water quality components; and

WHEREAS, this Change Order No. 5 will include additional design services associated with the recommendations by the DRER for additional water quality treatment that will address the first inch and a half of run-off from the stormwater system prior to entering Biscayne Bay; and

WHEREAS, the proposed additional not-to-exceed costs for the section north of 14 Street shall be \$1,042,761, plus 10% owner's contingency in the amount of \$104,276 for a not- to-exceed total of \$1,147,037; and

WHEREAS, this Change Order will increase the existing contract with Ric-Man Construction from \$51,018,332.67 to \$52,165,369.67, for West Avenue North of 14th Street Improvements Phase II, including contingency; and

WHEREAS, the Administration recommends that the Mayor and City Commission adopt the resolution approving and authorizing the City Manager to negotiate Change Order No. 5 with Ric-man Construction Florida, Inc., for the West Avenue phase II Improvements North of 14th street for a not-to-exceed amount of \$1,042,761, plus 10% owner's contingency in the amount of \$104,276, for a not- to-exceed total of \$1,147,037; , which shall ultimately be contingent upon the City Commission's appropriation of funds during the third Capital Budget Amendment for FY 19/20; and

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 approve and authorize the City Manager to negotiate Change Order No. 5 to the Design/Build Agreement between the City of Miami Beach, Florida and Ric-Man Construction Florida, Inc., for the West Avenue Phase II Improvements North of 14th Street Project, for additional design services associated with additional water quality treatment as required by the Miami-Dade County Regulatory and Economic Resources Department (RER) in the not-to-exceed amount of \$1,042,761, plus 10% owner's contingency in the amount of \$104,276, for a total contract value of \$52,165,369.67; subject to and contingent upon an appropriation of funds at the City Commission's sole discretion, via the third Capital Budget Amendment for FY 19/20 Capital Budget, to be considered at the April 22, 2020, City Commission meeting, and further, if any such budget amendment is approved, authorizing the City Manager to execute the final negotiated Change Order No. 5.

PASSED and ADOPTED this _____ day of _____, 2020.

Dan Gelber, Mayor

ATTEST:

Rafael E. Granado, City Clerk

**APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION**

Rafael Granado 4-15-20

City Attorney Date