

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

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AUTHORIZING THE ADMINISTRATION TO FINALIZE CHANGE ORDER NO. 6 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 SOUTH OF 14TH STREET PROJECT, BASED ON THE FOLLOWING TERMS (1) ADDITIONAL WATER QUALITY TREATMENT WELLS TO THE PROPOSED STORM WATER TREATMENT SYSTEM AS REQUIRED BY THE COUNTY'S REGULATORY AND ECONOMIC RESOURCES DEPARTMENT, IN THE AMOUNT OF \$3,592,652, (2) IMPLEMENTATION OF THE NEW 10 YEAR STORM WATER CRITERIA APPROVED BY RESOLUTION 2018-30652, IN THE AMOUNT OF \$1,012,455; (3) CONSTRUCTION COMMODITIES AND LABOR ESCALATION IN THE AMOUNT OF \$478,075; (4) REDUCTION OF PREVIOUSLY AUTHORIZED OWNER'S CONTINGENCY IN THE AMOUNT OF \$733,144 AND (5) AN EXTENSION TO THE CONTRACT TIME OF 1,588 DAYS, WITH SAID CHANGE ORDER NO. 6 FOR A TOTAL AMOUNT OF \$4,350,038, AND REVISING THE TOTAL CONTRACT AMOUNT TO \$25,938,237, WHICH CHANGE ORDER NO. 6 SHALL BE PARTIALLY FUNDED WITH PREVIOUSLY APPROPRIATED FUNDS AND SHALL ALSO BE SUBJECT TO AND CONTINGENT UPON AN APPROPRIATION OF FUNDS AT THE CITY COMMISSION'S SOLE DISCRETION, VIA FY 2021 5TH CAPITAL BUDGET AMENDMENT; AND FURTHER, IF SUCH BUDGET AMENDMENT IS APPROVED, AUTHORIZING THE CITY MANAGER TO EXECUTE CHANGE ORDER NO. 6.

**WHEREAS**, the West Avenue Improvements, Phase II project represents a comprehensive Neighborhood Improvement program, focused on resolving challenges associated with climate impacts and aged infrastructure; and

**WHEREAS**, the proposed improvements within the West Avenue neighborhood include the raising of the paved roadway, harmonization to the adjacent properties, installation of a new robust stormwater drainage collection and pumping system, replacement of the existing water distribution/transmission systems and gravity sanitary sewers, installation of new street lighting, pedestrian lighting, replacing existing and installing a new signalized intersection with mast arms, new landscaping, irrigation and construction of a new baywalk and the limits of the improvements are West Avenue between 8 Street and Lincoln Road, including side streets, and Bay Road between 14 Street and Collins Canal; and

**WHEREAS**, due to the size of the neighborhood, the project was divided into two contracts, North and South, with 14th Street being the dividing line; and

**WHEREAS**, on March 22, 2017, the Mayor and City Commission adopted Resolution No. 2017-29799, awarding design/build services ("Agreement") to Ric-Man Construction Florida, Inc ("Ric-Man"), for West Avenue Improvements Phase II South of 14th Street (the "Project") with the guaranteed maximum price of \$12,809,754, including a 10% contingency; and

**WHEREAS**, on January 11, 2018, Change Order No. 1 was executed for a 30-day non-compensatory time extension due to the impact of Hurricane Irma; and

**WHEREAS**, on March 16, 2018, Change Order No. 2 was executed in the amount of \$1,468,359 for funding of the above-ground improvements to the Project, with no additional time extension, increasing the cost of the Agreement to \$14,278,113; and

**WHEREAS**, on December 12, 2018, City Commission adopted Resolution No. 2018-30653 authorizing the City Manager to negotiate Change Order No. 3 for additional design and construction changes associated with the recommendations made by the Columbia University Resiliency Accelerator Program, the ULI and for additional scope for a total of \$6,567,000, including contingency; and

**WHEREAS**, on April 30, 2019, Change Order No. 3A was executed in the amount of \$353,094, as the first partial request from the Ric-Man for the costs incurred in support of the Columbia University Resiliency Accelerator Workshop, re-start impacts and 10-year storm drainage modeling, to allow for further design in order to be able to negotiate the price of the remaining change order scope; and

**WHEREAS**, this change order increased the cost of the Agreement to \$14,631,207; and

**WHEREAS**, on June 16, 2019, Change Order No. 3B was executed in the amount of \$6,213,895 as the second partial request from Ric-Man of the previously approved Change Order No. 3 and includes emergency generator sets, street end enhancements, additional street improvements; and

**WHEREAS**, this Change Order No. 3A increased the cost of the Agreement to \$20,845,102, including a 10% Contingency; and

**WHEREAS**, on September 17, 2019, Change Order No. 4 was executed in the amount of \$146,836 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 \$20,991,938; and

**WHEREAS**, on April 4, 2020, City Commission adopted Resolution No. 2020-31243 authorizing the City Manager to negotiate Change Order No. 5 for design services associated with additional water quality treatment, as required by Miami Dade County Regulatory and Economic Resources Department ("RER") for a total not-to-exceed of \$639,314, including contingency; and

**WHEREAS**, the City negotiated a final change order of \$596,261 increasing the cost of the agreement to \$21,588,199; and

**WHEREAS**, the purpose of the West Avenue Phase II Improvements Project was to address flooding conditions and upgrade aging infrastructure and one of the requirements to obtain a permit from RER to discharge stormwater into the Biscayne Bay (Class II permit) is the inclusion of sufficient water treatment capacity; and

**WHEREAS**, the Project team has held multiple discussions and meetings with RER to discuss the project approach and proposed water quality treatment components and RER 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; and

**WHEREAS**, this involves additional design and construction effort, beyond what was identified in the Design Criteria Package (“DCP”); and

**WHEREAS**, Ric-Man proceeded with the design efforts as described on Change Order No. 5 and has identified the construction costs related to the additional water quality system; and

**WHEREAS**, on October 18, 2017, City Commission adopted Resolution No. 2017-30039, increasing the drainage design criteria from a 5-year storm to a 10-year storm event; and

**WHEREAS**, during the review of all drainage projects in 2018, the ULI, in conjunction with the Columbia University Resilience Accelerator Program, recommended that the design of the West Avenue Projects be upgraded to a 10-year storm event and as part of the scope included in Change Order No.3, referenced above, Ric-Man and its design team performed new 10-year storm drainage modeling, resulting in a change to the drainage system, increasing pipe and structure sizes to accommodate the new water flow design levels; and

**WHEREAS**, this change results in additional cost for material, labor, equipment and time; and

**WHEREAS**, on October 28, 2020, the City Commission adopted Resolution No. 2020-31472, relocating the above ground and below ground components of the Storm Water Treatment System (SWTS), from the Lincoln Road street-end to 1671 West Avenue (City Parking Lot P24) with the discharge outfall at 17th Street and Collins Canal and this involves additional design and construction effort beyond what was identified in the DCP: and

**WHEREAS**, Ric-Man submitted a proposal and other documentation, as set forth in Exhibit “B” to the Memorandum accompanying this Resolution, for the following additional scope requested by the City for additional items:

- 1- Construction cost associated with the additional water quality treatment components in the amount of \$3,592,652. This is associated to the recommendations provided by RER for additional water quality treatment that will address the first inch and a half of run-off from the stormwater system prior to discharging to the canal; and
- 2- Construction cost associated with the revision of the storm water criteria from a 5-year to a 10-year storm event in the amount of \$1,012,455. This includes increased pipe and drainage structure sizes to accommodate the new water flow design levels as indicated in the new 10-year Storm Drainage Model, not included in the original DCP. This item also includes additional costs related to the increased difficulty associated with the installation of larger pipes and structures; and
- 3- Cost associated with construction commodities and labor escalation in the amount of \$478,075. Construction commodities have increased 3.6% from December 2019 through February 2021 according to the Producer Price Index sponsored by the U.S. Bureau of Labor Statistics. Lumber and steel are experiencing large swings upward in pricing, as much as 17% and 6%, respectively. The additional cost being requested for

commodities and labor escalation accommodates the anticipated material and labor price increases associated with anticipated market conditions throughout the project schedule to its new anticipated completion date of July 2023; and

4- Reduction to previously authorized Owner's Contingency in the amount of \$733,144. The previously authorized 10% Owner's Contingency is being reduced to approximately 5% to make funding available for Change Order No.6. Considering that this is a Design/Build agreement and the risks assumed by the Design/Builder a 5% contingency is sufficient to accommodate anticipated conditions that may be encountered during construction; and

5- This Change Order No.6 shall extend the contract time 1,588 calendar days. This extension is related to the additional scope described above, as well as delays experienced during the development of the project. Delays to the project include, but are not limited to, obtaining final direction on the siting of the SWTS and increased construction time associated with the segmented approach; and

**WHEREAS**, the total amount for Change Order No. 6 including the reduction in owner's contingency for the section south of 14 Street is \$4,350,038; and

**WHEREAS**, this Change Order will increase the existing contract with Ric-Man from \$21,588,199 to \$25,938,237, for West Avenue Phase II Improvements South of 14th Street, including an approximate 5% owner's contingency; and

**WHEREAS**, Ric-Man, the City and the City's CEI consultant reviewed, analyzed, and negotiated the additional costs proposals and these were determined to be consistent with market conditions, complex logistics of construction and reflect the scope changes, identified in Exhibit "C" to the Memorandum accompanying this Resolution; and

**WHEREAS**, on January 22, 2021, a request to provide additional funding for this change order utilizing a portion of the Resiliency Fund for City Stormwater projects was presented to the Finance and Economic Resiliency Committee ("FERC") and was favorably recommended to be presented to the City Commission for their consideration and approval; and

**WHEREAS**, on February 10, 2021 City Commission adopted Resolution No.2021-31571 accepting the recommendation of the FERC to provide additional funding from the City's Resiliency Fund for City stormwater projects in the amount of \$15 Million for the West Avenue Phase II Improvements projects; and

**WHEREAS**, this change order shall be subject to the approval of the FY21 5th Capital Budget Amendment; and

**WHEREAS**, the Administration recommends that the Mayor and City Commission adopt the Resolution approving and authorizing the Administration to finalize Change Order No. 6 based on the terms set forth in this Resolution, and authorize the City Manager to execute Change Order No. 6 with Ric-Man Construction Florida, Inc., for the West Avenue Phase II Improvements South of 14th Street in the amount of \$4,350,038 subject to the approval of the FY21 5th Capital Budget Amendment.

**NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA,** hereby approve and authorize the Administration to finalize Change Order No. 6 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 South of 14<sup>th</sup> Street Project, based on the following terms (1) additional water quality treatment wells to the proposed storm water treatment system as required by the County's Regulatory And Economic Resources Department, in the amount of \$3,592,652, (2) implementation of the new 10 year storm water criteria approved by Resolution 2018-30652, in the amount of \$1,012,455; (3) construction commodities and labor escalation in the amount of \$478,075; (4) reduction of previously authorized owner's contingency in the amount of \$733,144 and (5) an extension to the contract time of 1,588 days, with said Change Order No. 6 for a total amount of \$4,350,038, and revising the total contract amount to \$25,938,237, which Change Order No. 6 shall be partially funded with previously appropriated funds and shall also be subject to and contingent upon an appropriation of funds at the City Commission's sole discretion, via FY 2021 5th Capital budget amendment; and further, if such budget amendment is approved, authorizing the City Manager to execute Change Order No. 6.

**PASSED and ADOPTED** this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Dan Gelber, Mayor

**ATTEST:**

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Rafael E. Granado, City Clerk

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

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

 6-16-21  
Date