RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, AMENDING RESOLUTION NO. 2020-31333, THAT APPROVED THE MATERIAL TERMS FOR AN AGREEMENT WITH DATA FLOW SYSTEMS, INC, PURSUANT TO REQUEST FOR PROPOSALS ("RFP") 2018-233-KB, FOR DESIGN, BUILD, OPERATE AND MAINTAIN WATER, WASTEWATER AND STORMWATER SUPERVISORY CONTROL AND DATA ACQUISITION (SCADA) & PROGRAMMABLE LOGIC CONTROLLER ("PLC") (THE "PROJECT"), IN AN AMOUNT NOT TO EXCEED $3,756,169.00, INCLUDING A TEN PERCENT (10%) OWNER'S CONTINGENCY; SAID AMENDMENT TO THE RESOLUTION MODIFYING SOME OF THE APPROVED MATERIAL TERMS, AS MORE PARTICULARLY REFLECTED IN THIS RESOLUTION, TO INCLUDE AN INCREASE IN THE CONTRACT PRICE TO $4,503,682.00, INCLUDING A TEN PERCENT (10%) OWNER'S CONTINGENCY IN THE AMOUNT OF $450,368.20, FOR A TOTAL NOT TO EXCEED AMOUNT OF $4,954,050.20, IN ORDER TO ADDRESS THE CHALLENGES OF INFLATION AND SUPPLY CHAIN CONSTRAINTS; AND FURTHER AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE AGREEMENT.

WHEREAS, on June 6, 2018, the City Commission approved the issuance of Request for Proposals (RFP) 2018-233-KB, for design-build, operate, and maintain water, wastewater, and stormwater Supervisory Control and Data Acquisition (SCADA) & Programmable Logic Controller (PLC) (the "RFP"); and

WHEREAS, the RFP was issued and proposals were received on August 15, 2019; and

WHEREAS, the Phase I proposals were evaluated on September 13, 2018, by an Evaluation Committee appointed by the City Manager pursuant to LTC# 456-2018; and

WHEREAS, on October 17, 2018, via Resolution No. 2018-30541, the Mayor and the City Commission approved the short-listing of the three top-ranked proposers, namely (1) SICE, Inc., (2) Data Flow Systems, Inc., and (3) Revere Control Systems, Inc., to be further considered in Phase II of the evaluation process; and

WHEREAS, once the City's consultant, Hazen and Sawyer Engineering, completed the Design Criteria Requirements (DCR), the RFP was reinitiated on June 21, 2019; and

WHEREAS, following the release of the DCR, Phase II proposals were received from the short-listed firms on October 18, 2019; and

WHEREAS, Prior to the due date for Phase II proposals, Revere Control Systems, Inc. notified the City that it had elected not to participate in Phase II; and

WHEREAS, the Evaluation Committee convened on January 13, 2020, to consider proposals received under Phase II; and

WHEREAS, the evaluation process resulted in the scoring of the proposal received as follows:

1st Sice, Inc.; and
2nd Data Flow Systems, Inc.; and

WHEREAS, on February 12, 2020, the Mayor and City Commission adopted Resolution No. 2020-31162, authorizing the Administration to enter into simultaneous negotiations with (1) Sice, Inc. ("SICE"), the top-ranked proposer, and (2) Data Flow Systems, Inc. ("DFS"), the second-ranked proposer; and further providing that the final selection of the recommended proposer, project costs and approval of material terms for the Project shall be subject to the prior approval of the Mayor and City Commission; and

WHEREAS, as directed by City Commission, the City Administration proceeded with simultaneous negotiations, requested a Best and Final Offer (BAFO) from both firms, and negotiated the following essential contract terms:

1. Programmable Logic Controls (PLC's): Replacement of all existing PLCs and input/output (I/O) racks at all wastewater, water, and stormwater stations;
2. Obsolescence: If any of the hardware or software provided for this Project becomes obsolete within ten (10) years of final acceptance, the firm shall replace or modify as needed at no additional cost to the City;
3. System Maintenance, Warranty, and Spare Parts: The firm shall provide complete system maintenance, including all parts, materials, equipment, and labor necessary to provide a fully functional and satisfactory system, which is included in the Annual Maintenance Cost.

   Annual Maintenance Costs for years 6-10 shall be provided at today's cost and will be escalated based on the Consumer Price Index with a cap of 3% to the year of service. Renewal of the annual maintenance contract at the end of year five will be at the City's sole discretion.

   If future pump stations are added, the future annual maintenance cost provided on a per pump station basis in Future Groups 1-3, escalated accordingly, will be added to the annual maintenance costs in Group 7 or Future Group 4.
   All repairs shall be completed within 72 hours. The firm shall maintain a sufficient inventory of spare parts to ensure that repairs are completed within 72 hours. The City will not store spare parts;
4. Training: The firm shall provide four (4) 8-hour days of training for 30 individuals. At the firm's discretion, training may be provided for all 30 individuals at once or in separate sessions. Nonetheless, 30 individuals must each receive four (4) 8-hour days of training;
5. Permitting: The firm shall be responsible for all work and fees associated with permitting the wastewater, water, and stormwater stations listed in the cost proposal form. Work and fees associated with permitting future stations will be the responsibility of others;
6. Schedule: Duration from Notice to Proceed (NTP) to substantial completion shall not exceed fifteen (15) months. This duration assumes all sites are substantially complete and ready to receive SCADA system components at the time installation is scheduled to begin;
7. Future Stations: The firm must provide a unit capital cost and annual maintenance cost for future wastewater, water, and stormwater station integration into the SCADA system by type, as indicated on the Best and Final Cost Proposal Form. Prices shall be provided at today's cost and will be escalated accordingly based on the Consumer Price Index to the year of installation with a 3% cap. Cost shall be for a SCADA system and associated

equipment that is similar in scope and performance to what has been proposed by the firm; and

8. Control Room: Engineering, design, hardware, software, programming, and integration, including all necessary work for a fully functioning SCADA System. Bidder shall provide four (4) new workstations with enough processing power, memory, and all other ancillary components required to operate the SCADA System in a fully functional and satisfactory manner. Control Room configuration to be finalized and agreed upon by the selected Bidder and the City through the submittal process; and

WHEREAS, on July 29, 2020, the Mayor and City Commission adopted Resolution No. 2020-31333, accepting the recommendation of the City Manager to approve the aforementioned negotiated material terms, and further authorizing the Mayor and City Clerk to execute an agreement with Data Flow Systems, Inc.; and

WHEREAS, upon Commission approval, City staff began working with the City's consultant, Hazen and Sawyer, to finalize a draft agreement to implement the Project; however, the Project's success depended on the City's ability to install the proper communications equipment (antennas) in a suitable location that would provide the best possible signal for the communications equipment; and

WHEREAS, once the Administration secured a suitable location for the communications equipment and finalized its agreement for the use of the site, the contract negotiations with DFS commenced; and

WHEREAS, during negotiations, the City established that it would be the party operating the SCADA system and PLC, instead of DFS; and

WHEREAS, during the final stages of negotiations, DFS advised the Administration that over the last two years, there had been a significant increase in labor and material costs, specifically, vendor-supplied stainless-steel enclosures and semiconductors; and

WHEREAS, the Administration and City's Consultant found that the current inflation, Consumer Price Index (CPI) and Producer Price Index (PPI) have significantly increased since DFS submitted its initial proposal in June 2020; therefore, DFS needed to increase its proposal by approximately 19.27% for the initial Project and include additional safeguards to address possible maintenance cost increases and large spikes in construction/parts costs for the installation and maintenance of future stations, as follows:

(1) The Contract Price would be increased from $3,756,169.00 to $4,503,682.00, as more particularly described in the Cost Proposal From, dated June 10, 2022, attached to the City Commission Memorandum accompanying this Resolution, and including a ten percent (10%) Owner's Contingency in the amount of $450,368.20;

(2) The agreement will have an initial term, commencing upon execution, including a construction period of approximately 24 months, and continuing through the initial five (5) year period from the date the City accepts the entire system; thereafter, the City, at the discretion of the City Commission, may renew the maintenance service pursuant to two (2) additional five-year renewal terms;

(3) Maintenance cost for first five (5) years will be included in the Contract Price, for the initial SCADA stations with PLC; thereafter, effective the commencement date for the first Renewal Term (years 6 through 10), the annual maintenance cost may be adjusted annually based upon contract year five's costs and may be escalated based upon any change in the PPI Index since the prior year, whether up or down, with a 3% cap as to any increase, unless an extraordinary PPI escalation event occurs where annualized PPI index exceeds six percent (6%) for the year prior to the year of adjustment. In this instance, the increase above 6% will be shared equally by DFS and the City and added to the 3% cap. After year ten, a new baseline will be established through good faith negotiation using the above method to develop the basis for the pricing; and

(4) The unit capital cost for future wastewater, water, and stormwater station integration into the SCADA system with PLC will be based upon today's cost and will be escalated accordingly, based upon the PPI index to the year of installation, whether up or down, with a 3% cap, unless an extraordinary PPI escalation event occurs where annualized PPI exceeds six percent (6%) for the year prior to installation. In this instance, the increase above 6% will be shared equally by DFS and the City and added to the 3% Cap. After year ten, a new baseline will be established through good faith negotiation using the above method to develop the basis for the pricing; and

WHEREAS, the revised cost for the Project remains below the cost provided by the other proposer, SICE, during its negotiations with the City in 2020, which totaled $5,302,010.00; and

WHEREAS, the Administration finds the cost increase is justified due to the current overall labor and market conditions; the Consumer Price Index (CPI) change since DFS submitted its proposal in June 2020 is approximately 15%; and

WHEREAS, based upon the challenges of inflation and supply chain constraints, the City Manager recommends approving the updated financial terms for the Agreement with DFS pursuant to the RFP, as more particularly set forth in this Resolution.

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 hereby amend Resolution No. 2020-31333, that approved the material terms for an agreement with Data Flow Systems, Inc., pursuant to Request For Proposals ("RFP") 2018-233-KB, for Design, Build, Operate and Maintain Water, Wastewater and Stormwater Supervisory Control and Data Acquisition (SCADA) & Programmable Logic Controller ("PLC") (the "Project"), in an amount not to exceed $3,756,169.00, including a ten percent (10%) Owner's Contingency; said amendment to the Resolution modifying some of the approved material terms, as more particularly reflected in this Resolution, to include an increase in the Contract Price to $4,503,682.00, including a ten percent (10%) owner's contingency, in the amount of $450,368.20, for a total not to exceed amount of $4,954,050.20, in order to address the challenges of inflation and supply chain constraints; and further authorize the City Manager to finalize and execute the agreement.

PASSED and **ADOPTED** this _____ day of _____2022.

ATTEST:

RAFAEL E. GRANADO, CITY CLERK

DAN GELBER, MAYOR

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

City Attorney 8-30-22 Date