RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE MAYOR AND CITY CLERK TO EXECUTE AMENDMENT NO. 2 TO THE CONSTRUCTION MANAGER AT RISK (CMR) AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND BURKHARDT CONSTRUCTION, INC., TO ADD AND REMOVE PRE-CONSTRUCTION SERVICES FOR THE LINCOLN ROAD IMPROVEMENTS PROJECT RESULTING IN A NET INCREASE TO THE CONTRACT PRICE OF $358,145.00, TO BE PAID WITH PREVIOUSLY APPROPRIATED FUNDING.

WHEREAS, on February 10, 2016, the City Commission authorized the issuance of Request for Qualifications (RFQ) No. 2016-073-KB for Construction Manager at Risk (CMR) For Construction of Lincoln Road District Improvements; and

WHEREAS, the solicitation encompassed pre-construction services in connection with the contemplated construction of improvements and related infrastructure in the Lincoln Road district (the "Project"), with construction phase services to be added at a later time via a Guaranteed Maximum Price (GMP) amendment; and

WHEREAS, the Project encompasses the Lincoln Road pedestrian mall between Lennox Avenue and Washington Avenue, and connector streets of Drexel, Pennsylvania, and Meridian Avenues; and

WHEREAS, the original proposed design for the Project included enhancement of pedestrian walkways and café zones, modifications to the existing planters and water features, landscape and irrigation, storm and sewer drainage, lighting and signalization, performance/multipurpose area at Euclid Avenue, outdoor furniture and outdoor seating areas, crosswalk enhancements, and an artistic gateway folly at Lincoln Road and Washington Avenue with visitor's guide and wayfinding; and

WHEREAS, on June 8, 2016 the City Commission adopted Resolution No. 2016-29447 authorizing the Administration to enter into negotiations with the top ranked proposer, Burkhardt Construction, Inc. ("Burkhardt"), and on January 17, 2017, subsequent to negotiations, a Construction Manager at Risk Agreement for preconstruction services was executed in the amount of $250,190.00 (the "CMR Agreement"); and

WHEREAS, from August 2016 to March 2017 the pre-construction services were performed in coordination with the designer, James Corner Field Operations (JCFO), The Lincoln Road Business Improvement District (LRBID) and City staff, and in March 2017 Burkhardt finalized the Schematic Design Probable Construction Estimate; and

WHEREAS, on October 28, 2016, following the completion of the schematic design phase and value engineering efforts, the project team presented the design and estimated costs to the Finance and Citywide Projects Committee, which gave direction to the project team to forgo the value engineering options and design to the master plan recommendations; and

WHEREAS, in January 2018, the City Commission approved Amendment No. 1 to the CMR Agreement to include additional preconstruction phase services for the Project in the lump sum amount of $49,220, to extend the geographic area of the Project by adding the area of Lincoln

Road from Washington Avenue to Collins Avenue (200-300 Block), as contemplated in the Lincoln Road Master Plan; and

WHEREAS, construction cost estimates prepared using the 50% construction documents indicated a projected construction cost of $65M, resulting in the total project cost being approximately $27M over budget and as a result of the shortfall and extensive discussions, the Lincoln Road Business Improvement District (LRBID) made a commitment to expand the limits of the business improvement district and provide additional funding for programming; and

WHEREAS, on July 31, 2019, pursuant to the Administration's recommendation and contingent on the commitment from the LRBID, the Mayor and City Commission approved and authorized proceeding with the bidding and construction phases of the project, including a reduction in scope and appropriation of additional funding, bringing the total project budget to $67.6M; and

WHEREAS, the reduction of scope was associated with the elimination of the gateway trellis that was to be located at the Washington Avenue entrance to Lincoln Road and of the Washington Avenue to Collins Avenue (Lincoln Road 200-300 Block) scope; and

WHEREAS, in February 2020, the 90% construction documents were issued by JCFO and the CMR commenced the preparation of the GMP bid packages and finalization of the construction schedule; and

WHEREAS, on March 12, 2020, the City of Miami Beach declared a State of Emergency in response to the Coronavirus 2019 Pandemic (COVID-19) and announced various emergency measures to mitigate the spread of COVID-19, including the immediate closure of non-essential retail businesses which impacted the commercial businesses along the Lincoln Road corridor; and

WHEREAS, in light of overall market conditions and uncertainty within the construction industry, Burkhardt advised the City to delay the Guarantee Maximum Price (GMP) process, in order to ensure greater participation by potential bidders; and

WHEREAS, the project team agreed that postponing the bid process was in the best interest of the Project and during the Summer of 2020, City staff and representatives of the LRBID met numerous times to explore and discuss options; and

WHEREAS, in light of the economic impact of the pandemic on the City, the Administration advised the project team and the LRBID that the project budget would be limited to the $52.4 million in funding previously approved for the project; and

WHEREAS, on January 13, 2021, the City Commission directed the Administration to reduce the scope of work and keep the project within the originally approved total budget of approximately $52.4 million, of which approximately $34 million to $36 million would be available for construction, with $5.2 million for water/sewer and drainage infrastructure work to be funded from alternate funding sources; and

WHEREAS, the reduced scope of work includes the following:

- Infrastructure upgrades and improvements at Meridian and Drexel Avenues (water, sanitary sewer & storm drainage)

- Meridian Avenue improvements
- Pedestrianization of Drexel Avenue
- Restoration/repair of fountains and repair of associated equipment
- Restoration of the Lapidus follies
- Upgrade existing light fixtures at existing locations
- Implementation of the concept for the Euclid Avenue oval
- Refurbishing the seating areas along the Lincoln Road corridor
- Refinish the existing piano keys using a more durable traffic coating
- Restoration of aluminum grates of at existing trench drains
- Lincoln Road directional and informational signage package
- A more significant Lincoln Road gateway sign at Washington Avenue, which also serves as a component of the security barrier system
- A matching Lincoln Road gateway sign at Alton Road, which also serves as a component of the security barrier system (this location and scope falls outside the original limits of the project)
- Design and installation of a playground
- Security barrier system, including planters, bollards, furnishings, etc.

WHEREAS on December 8, 2021, the City Commission discussed the project and directed the Administration to include $5.2M of RDA funding, previously set aside, allowing the project to utilize the full, available budget of $57.6M, and to pursue an amendment to the agreement for architectural and engineering design services with JCFO (the "JCFO Agreement") to revise the design to reflect the project budget constraints; and

WHEREAS, from February 2021 to May 2022, the City Administration and City staff met numerous times with JCFO to finalize the scope and terms of the amendment to the JCFO Agreement; and

WHEREAS, on June 22, 2022, the City Commission adopted Resolution 2022-32181 approving Amendment No. 3 to the JCFO Agreement for the revision of the design for the Project; and

WHEREAS, the revised design requires that Burkhardt provide additional pre-construction services for cost estimates at various stages, project scheduling, preparation of bid packages, constructability reviews, and the preparation of a GMP; and

WHEREAS, City staff requested a proposal from Burkhardt for additional pre-construction services for the revised design for the Project, and after numerous discussions, received a proposal from Burkhardt (the "Burkhardt Proposal") reflecting a negotiated, not-to-exceed amount of $399,520.00 as the fee for the additional pre-construction services (Exhibit A); and

WHEREAS, the City staff found the proposed fee for the additional pre-construction services to be fair and reasonable; and

WHEREAS, the Burkhardt Proposal also reflects a credit in the amount of $41,375.00 associated with the removal of bidding, project phasing, scheduling, preparation of GMP tasks and the elimination of the 200-300 block from the Project; and

WHEREAS, the net increase to the contract price of the CMR Agreement as a result of the revised scope reflected in the Burkhardt Proposal that is the basis for Amendment No. 2 is

$358,145.00 (Exhibit B), and the revised total contract price for the CMR Agreement, including the net increase associated with Amendment No. 2, if approved, will be $657,555.00; and

WHEREAS, the Administration recommends that the Mayor and City Commission approve Amendment No. 2 to the CMR Agreement.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA that the Mayor and City Clerk approves Amendment No. 2 to the Construction Manager at Risk (CMR) Agreement between the City of Miami Beach, Florida and Burkhardt Construction, Inc., to add and remove pre-construction services for the Lincoln Road Improvements Project resulting in a net increase to the contract price of $358,145.00, to be paid with previously appropriated funding; and further and authorizes the City Manager and City Attorney to take the necessary and appropriate steps to finalize the first amendment; and further authorizes the Mayor and City Clerk to execute Amendment No. 2 to the CMR Agreement upon form approval by the City Attorney.

PASSED and **ADOPTED** this _____day of _____, 2022.

_____
Dan Gelber, Mayor

ATTEST:

_____
Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION

For City Attorney 9/8/2022 Date