

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING, IN SUBSTANTIAL FORM, THE THIRD AMENDED FUNDING AGREEMENT BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION (“FDOT”) AND THE CITY FOR ROADWAY AND DRAINAGE IMPROVEMENTS BEING DESIGNED, DEVELOPED AND CONSTRUCTED BY THE CITY ALONG INDIAN CREEK DRIVE, FROM 41ST STREET TO 26TH STREET (THE “PROJECT”); SAID AGREEMENT INCORPORATING THE RELOCATION OF AN EMERGENCY PUMP STATION GENERATOR WITHIN THE SCOPE OF THE AGREEMENT, AT A COST OF \$1,101,389.00, INCREASING THE TOTAL PROJECT BUDGET TO \$38,601,389.00; AND ESTABLISHING EACH PARTY’S SHARE OF THE COSTS, BY INCREASING FDOT’S PARTICIPATION BY \$367,130.00, FROM \$28,250,000.00 TO THE MAXIMUM PARTICIPATION OF \$28,617,130.00; AND INCREASING THE CITY’S PARTICIPATION BY \$734,259.00, FROM \$9,250,000.00 TO A MAXIMUM PARTICIPATION OF \$9,984,259.00; AND FURTHER AUTHORIZING THE CITY MANAGER TO FINALIZE AND EXECUTE THE AGREEMENT.

WHEREAS, Indian Creek Drive is considered one of the City’s main corridors, forming a southbound artery between North/Mid Beach and South Beach. It provides emergency services and serves as a hurricane evacuation route; and

WHEREAS, during extreme high tide events during spring and fall, Indian Creek Drive would consistently flood between 26th and 34th Streets; and

WHEREAS, since Indian Creek falls within the Florida Department of Transportation (FDOT) jurisdiction, on March 9, 2016, the City Commission approved entering into an agreement between the City and FDOT for the cost sharing of a construction project along Indian Creek Drive, between 26th and 41st Streets, for the construction of a seawall barrier wall, improving street drainage and raising the roadway elevation (the “Project”); and

WHEREAS, on September 30, 2016, the City and FDOT entered into a Department Funded Agreement (DFA) for Financial Project 439228-2-58-01, for roadway and drainage improvements on S.R. A1A/Indian Creek Drive from 41st Street to 26th Street (M.P. 1.034 to M.P. 0.232) for a total Project cost of \$25.5 million; and

WHEREAS, since the City owns approximately 30% of land along Indian Creek Drive and 20% of the roadway drainage area, the City agreed to accept part of the Project cost, with the City contributing a maximum participation cost of \$5.5 million and FDOT contributing a maximum participation cost of \$20 million; and

WHEREAS, the original DFA stipulated that the Project would be implemented in two (2) construction phases: (1) the Interim Phase would include the underground drainage construction component, which included the 72-inch pipe trunkline, the pump station structure and the roadway drainage system construction to be executed by the National Joint Powers Alliance (NJPA); and (2) the Ultimate Phase would include the roadway reconstruction component, including raising the roadway to final grade, which was to be competitively procured; and

WHEREAS, in addition to the two construction phases, FDOT requested that the City include a Push Button Project, consisting of drainage improvements as part of the Interim Phase, after the DFA contract was executed by both parties, which change increased the original cost estimate of the Project by \$546,385.00; and

WHEREAS, on October 17, 2018, the Mayor and City Commission adopted Resolution No. 2018-30574, approving the Amended DFA, increasing FDOT's participation by \$5,991,507.00, from the original maximum amount of \$20,008,493.00 to the amended maximum amount of \$26,000,000.00; and increasing the City's participation by \$1,600,000.00, from an original maximum amount of \$5,400,000.00 to a maximum participation of \$7,000,000.00; and

WHEREAS, the Amended DFA was required to reflect the changes in the procurement process and price escalation due to field conditions, increase in scope of work and permitting requirements; and

WHEREAS, with Phase I and II substantially complete, the City sought to solicit bids for the Ultimate Phase (Phase III) of the Project, pursuant to Invitation to Bid (ITB) 2018-054-ZD, which included roadway reconstruction and drainage improvements north of 32nd Street, and was issued on September 21, 2018; and

WHEREAS, three (3) bids were received, however the lowest bid was deemed non-responsive and the next low bid significantly exceeded the City's available budget; therefore, the Mayor and City Commission approved the rejection of bids received pursuant to Invitation to Bid (ITB) 2018-054-ZD, for Phase III Improvements from 25th to 41st Street; and

WHEREAS, subsequent to the rejection of bids pursuant to ITB 2018-054-ZD, staff worked with the engineer of record and FDOT to value engineer the Project; and

WHEREAS, ITB No. 2019-231-KB, was issued on May 24, 2019, with a bid opening date of July 2, 2019; and

WHEREAS, Ric-Man Construction Florida was deemed the lowest responsive and responsible bidder meeting all terms, conditions, and specifications of the ITB; and

WHEREAS, on July 31, 2019, the City Commission adopted Resolution 2019-30915 approving the award of a contract to Ric-Man Construction Florida, Inc., the lowest responsive, responsible bidder to the ITB, in an amount not to exceed \$13,636,984.00; and authorized a ten percent (10%) owner's contingency for the Project, in the amount of \$1,363,698.40; and further authorized the City Manager to negotiate with FDOT a second amendment to the DFA; and, authorizing the Mayor and City Clerk to execute the agreement with Ric-Man Construction Florida, contingent upon City's receipt of a written commitment from FDOT with respect to the cost share for the second amendment; and

WHEREAS, on October 3, 2019, the parties executed the Second Amended DFA, increasing FDOT's participation by \$2,250,000.00 from the amended maximum amount of \$26,000,000.00 to the amended maximum amount of \$28,250,000.00; and increasing the City's participation by \$2,250,000.00 from amended maximum amount of \$7,000,000.00 to a maximum participation of \$9,250,000.00, for a total Project cost of \$37,500,000.00; and

WHEREAS, the parties recognize and acknowledge that due to relocation efforts of the pump station generator during phase III, at a cost of \$1,101,389.00, the total Project cost has increased to \$38,601,389.00; and

WHEREAS, FDOT has agreed to cover one third (1/3) of this extra cost and the City has agreed to cover the remaining two thirds (2/3), thereby increasing FDOT's participation by \$367,130.00, from \$28,250,000.00 to the maximum participation of \$28,617,129.67 and increasing the City's participation by \$734,259.33, from \$9,250,000.00 to a maximum participation of \$9,984,259.33; and

WHEREAS, the City Manager recommends that the Mayor and City Commission approve, in substantial form, the Third Amended DFA, a copy of which is attached to the City Commission Memorandum accompanying this Resolution.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND THE CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, hereby approve, in substantial form, the Third Amended Funding Agreement between the Florida Department of Transportation ("FDOT") and the City for roadway and drainage improvements being designed, developed and constructed by the City along Indian Creek Drive, from 41st Street to 26th Street (the "Project"); said Agreement incorporating the relocation of an emergency pump station generator within the scope of the Agreement, at a cost of \$1,101,389.00, increasing the total Project cost to \$38,601,389.00; and establishing each party's share of the costs, by increasing FDOT's participation by \$367,130.00, from \$28,250,000.00 to the maximum participation of \$28,617,130.00, and increasing the City's participation by \$734,259.00, from \$9,250,000.00 to a maximum participation of \$9,984,259.00; and further authorize the City Manager to finalize and execute the Agreement.

PASSED and ADOPTED this 13th day of December, 2023.

ATTEST:

Dan Gelber, Mayor

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

11-16-23
Date