

RESOLUTION NO. _____

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA, APPROVING AND AUTHORIZING THE CITY MANAGER AND CITY CLERK TO EXECUTE CHANGE ORDER NO. 1 TO THE AGREEMENT BETWEEN THE CITY OF MIAMI BEACH, FLORIDA AND LUNACON ENGINEERING CORP., PURSUANT TO ITB-2022-607-ND, FOR CONSTRUCTION SERVICES AT MAURICE GIBB PARK; SAID CHANGE ORDER INCREASING THE PROJECT CONTINGENCY IN THE AMOUNT OF \$425,000 TO ADDRESS FUTURE UNFORESEEN SCOPE OF WORK, SUBJECT TO APPROVAL OF THE SIXTH CAPITAL BUDGET AMENDMENT TO THE FY2024 CAPITAL BUDGET.

WHEREAS, on August 18, 2017, a Professional Services Agreement for the renovation of the Maurice Gibb Park was executed with Coastal Systems International, Inc. (Coastal), pursuant to the Request for Qualifications (RFQ) No. 2016-138-KB for Architectural and Engineering Design Services; and

WHEREAS, on October 30, 2018, and November 16, 2022, the City approved amendments to the professional services contract with Coastal for additional services which included, but are not limited to, remediation of soil contamination identified within the park; and

WHEREAS, with years of public input and permitting, the resultant project scope of work currently includes remediating the identified soil contamination, and construction of an artistic, custom designed children's playground, a dog park, a fishing platform, a living shoreline with an overlook, shade structures and pavilions, the raising of the existing seawall, new lighting and landscaping; and

WHEREAS, on November 16, 2022, the City approved the award of a contract for construction in the amount of \$10,335,380.00 (inclusive of a 10% contingency of \$939,580) with Lunacon Engineering Group, Corp. (Lunacon); and

WHEREAS, on April 17, 2023, upon receipt of all required permits, Maurice Gibb Park was closed for construction; and

WHEREAS, during the progress of work, between June 23, 2023, and July 5, 2023, Lunacon discovered large amounts of unforeseen abandoned concrete structures, foundations and slabs, old catch basins and piping buried two (2) feet below grade, primarily along the South end of the site. Areas with petroleum contamination, not previously identified, were also discovered; and

WHEREAS, the debris removal and additional work for remediation of the contaminated areas, were necessary for execution of the project scope of work; and

WHEREAS, Lunacon requested compensation for the additional work required for the removal, hauling and disposal of the debris and contaminated fill, in the amount of \$133,139 and upon review and analysis by the Coastal and City staff, compensation for the additional work was approved in September 2023, using funds from the Owner's Contingency; and

WHEREAS, during the progress of work between July 27, 2023, and September 1, 2023, Lunacon discovered additional large expanses of asphalt paving and concrete slabs and found

evidence of multiple underground fuel storage tanks at the south and north portions of the site, and though the site was known to have petroleum contamination from previous use as a gas station, these tanks were never identified in geotechnical or environmental testing performed during the development of the project; and

WHEREAS, Lunacon worked with Coastal and the City to notify Miami Dade County Department of Environmental Resource Management (DERM) of the discovered tanks, apply for tank removal permits, develop the required procedures for the removal of the tanks and their appropriate disposal; and

WHEREAS, the debris and tanks had to be removed for the execution of the park project;

WHEREAS, Lunacon requested compensation for the additional work required for the removal of the debris and six (6) underground fuel storage tanks, the required hauling and disposal, and the additional fill material required to fill the void once the tanks are removed, in the amount of \$330,345.06, and upon review and analysis by the Coastal and City staff, compensation for the additional work was approved in November 2023, using funds from the Owner's Contingency; and

WHEREAS, the unforeseen debris, the underground fuel storage tanks and additional remediation work encompasses the majority of the site; and

WHEREAS, addressing the unforeseen debris, removal of the underground storage tanks and the required permits has delayed the park project about three (3) months; and

WHEREAS, Lunacon is working to minimize the delays, but the project completion date has shifted to March 3, 2025, from the initial date of December 8, 2024, and as of the end of March 2024, the work is approximately fiftypercent (50%) completed; and

WHEREAS, Addressing the unforeseen additional scope of work has reduced the Owner's contingency significantly; and

WHEREAS, there are also other scopes of work required for the completion of the project, additional to the agreement with Lunacon, which are being reviewed, or have been approved, further reducing the available contingency; and

WHEREAS, this additional work includes, to name a few, changes in the layout of the seawall to save existing mature mangrove trees, escalation in the price of the specified light fixtures, additional foundations required for the custom playground equipment, and removal of several trees that are in bad condition and the required mitigation, at the cost of approximately \$454,000; and

WHEREAS, the available Owner's Contingency balance is now \$21,625.04; and

WHEREAS, use of contingency funds is always subject to multilevel review and approval by the project's architectural and engineering consultants and the City's staff as to the appropriateness of the request and use of the funds; and

WHEREAS, in review of the project, staff noticed that the project has expended more than ninety-seven percent (97%) of the Owner's Contingency, whereas the project is only fifty percent

(50%) completed, and a majority of the contingency funds have been used to address conditions below the surface of the site; and

WHEREAS, City staff hereby requests a change order to the contract with Lunacon Engineering Group, Corp., to increase the project's Owner Contingency; and

WHEREAS, this will ensure that sufficient funding is available to address future unforeseen, required changes in the project scope in a timely manner; and

WHEREAS, the requested amount of \$425,000, will increase the available project contingency balance to \$446,625.04, and will result in thirty-three percent (33%) Owner's Contingency available for the remaining fifty percent (50%) of construction; and

WHEREAS, any unused contingency funds available at the end of the project, will be returned to the City via a change order; and

WHEREAS, Change Order No. 1 will revise the total contract amount for Lunacon Engineering Group, Corp to \$10,760,380, which would include a revised total Owner's Contingency of \$1,364,580; and

WHEREAS, the Administration recommends that the City Commission approve this Resolution.

NOW, THEREFORE, BE IT DULY RESOLVED BY THE MAYOR AND CITY COMMISSION OF THE CITY OF MIAMI BEACH, FLORIDA approving and authorizing the City Manager and City Clerk to execute Change Order no. 1 to the Agreement between the City of Miami Beach, Florida and Lunacon Engineering Corp., pursuant to ITB-2022-607-ND, for Construction Services at Maurice Gibb Park; said change order increasing the project contingency in the amount of \$425,000 to address future unforeseen scope of work, subject to approval of the sixth Capital Budget Amendment to the FY2024 Capital Budget.

PASSED and ADOPTED this ____ day of _____, 2024.

Steven Meiner, Mayor

ATTEST:

Rafael E. Granado, City Clerk

APPROVED AS TO
FORM & LANGUAGE
& FOR EXECUTION



City Attorney

5/17/2024

Date