

MEMORANDUM OF UNDERSTANDING
JOINT PROCUREMENT

THIS MEMORANDUM OF UNDERSTANDING ("MOU") is made and entered into this ____ day of ____, 2022, between the City of Sunny Isles Beach, a municipal corporation of the State of Florida (herein referred to as "SIB"), and the City of North Miami Beach, a municipal corporation of the State of Florida (herein referred to as "NMB") (SIB and NMB are sometimes referred to herein individually as a "Party" and collectively as the "Parties").

RECITALS:

WHEREAS, SIB has jurisdiction of the local roads between 174th Street and 183rd Street, and Collins Avenue to North Bay Road, which are within SIB's municipal boundaries ("SIB's Property"); and

WHEREAS, NMB provides potable water to the properties within the SIB; and

WHEREAS, the SIB and NMB each have proposed capital improvement construction projects that are within SIB's Property, that are scheduled to be constructed in the same general calendar period; and

WHEREAS, specifically, SIB is proposing to complete the Central Island Drainage Improvements project ("SIB Project") and NMB is proposing to complete the Sunny Isles Distribution System Watermain Replacements project ("NMB Project") (the SIB Project and NMB Project are sometimes referred to herein individually as a "Project" and collectively as the "Projects"); and

WHEREAS, SIB and NMB wish to construct the Projects in conjunction with each other, concurrently, utilizing the same contractor, to minimize the impacts to the residents of SIB and to realize potential cost savings by combining the Projects; and

WHEREAS, the Parties desire to enter into this Memorandum of Understanding as it relates to the responsibilities of each party.

NOW, THEREFORE, in consideration of the premises, mutual covenants and other valuable consideration contained herein, the receipt and sufficiency of which are hereby acknowledged, the Parties agree as follows:

1. SIB will prepare, in coordination with NMB, the Invitation to Bid package and will handle the procurement process for the Projects. Both parties will be identified in the Bid package and the sunshine pre-bid meeting and site-visit(s), if any, will be jointly scheduled between the Parties.
2. The general and construction terms and conditions, such as liquidated damages and bonds will be agreed upon by the Parties. The aforementioned bid package will consist of the plans and specifications packages from both SIB and NMB, as separate exhibits thereto. Each Party will be responsible for preparing their respective plans and specification packages.

3. SIB and NMB will each evaluate the bids with the intent of awarding a contract to the combined lowest responsive and responsible bidder for both of the Projects. Notwithstanding the foregoing, each Party reserves the right to forego awarding on a combined basis, and may award the bid to the lowest responsible and responsive bidder whose bid best serves the interests of and represents the best value to the Party. Additionally, the Parties agree to reserve the right to reject any bid or part of a bid that does not conform to the bidding requirements or to modify or waive all formalities and technicalities in a bid, or to reject all bids.
4. In the event that the Parties bid evaluation results in an award to the same contractor, the following terms shall control:
 - a. Each Party will award a separate contract for its portion of the Projects to the selected contractor, and shall be responsible for all cost for administering their own contract with respect to performing inspections, approving pay applications, reviewing change orders, testing, permitting, as-built review and certifications. However, both Parties will work together to ensure that there will be only one mobilization for the Projects and that the Projects will be completed simultaneously.
 - b. The awarded contractor will be required to furnish bonds and insurance to each individual Party, for their respective contracts.
 - c. In the event a protest is filed, SIB will provide a defense against said action on behalf of the Parties, and NMB agrees to pay fifty percent (50%) of all costs associated with defending against the protest, including all attorney fees, legal costs, administrative costs, and any resulting damages.
 - d. Joint construction progress meetings shall be held with the contractor to best coordinate the interest of the Projects.
5. In the event that the evaluation of the bids does not result in the Projects being awarded to the same contractor, the following terms shall control:
 - a. Each Party shall proceed with their respective Project utilizing separate and distinct contractors.
 - b. The Parties agree to utilize best efforts in coordinating the work for the Projects.
 - c. Each Party shall bear its own costs and expenses related to any protests that may be filed with their respective agency.
6. Each party agrees that it shall be solely responsible for the negligent or wrongful acts of its employees, contractors, representatives, and agents and agrees to indemnify, defend and hold harmless the other from and against all claims, damages, costs and expenses, including attorneys' fees, incurred by the indemnified party by reason of acts or omissions of the indemnifying party in the party in the performance of this MOU. Nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, Florida Statutes. Nothing herein shall be construed as consent by either party to be sued by third parties.

7. The Parties agree that all notices provided hereunder shall be in writing, sent by hand delivery, or first-class mail, with a copy sent by electronic mail to the following parties:

City of North Miami Beach

Arthur H. Sorey, III, City Manager
City of North Miami Beach
17011 NE 19th Avenue, 4th Floor
North Miami Beach, FL 33162

City of Sunny Isles Beach

Stan Morris, City Manager
City of Sunny Isles Beach
18070 Collins Avenue, Fourth Floor
Sunny Isles Beach, Florida 33160

8. The MOU shall be effective upon execution by both parties and may be modified in writing with execution by both parties. The MOU may be terminated by either party for convenience with thirty (30) days written notice.

IN WITNESS WHEREOF, the parties hereto have executed this MOU effective the day and year first above written.

CITY OF SUNNY ISLES BEACH

By: Stan Morris

Title: CM

Approved as to form
and legal sufficiency:

Edward A. Dion
Edward A. Dion, City Attorney

Attest:

Mauricio Betancur
Mauricio Betancur, City Clerk

CITY OF NORTH MIAMI BEACH

By: _____

Title: _____

Approved as to form
and legal sufficiency:

Hans Ottinot, City Attorney

Andrise Bernard, City Clerk