

# Memorandum



**Date:** April 4, 2023

**To:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

Agenda Item No. 8(O)(2)

**From:** Daniella Levine Cava  
Mayor

A handwritten signature in blue ink that reads "Daniella Levine Cava".

**Subject:** Change Order No. 1 to Contract No. S-956 with Youngquist Brothers, Inc.

## Executive Summary

This item seeks approval from the Board of County Commissioners (Board) to authorize extra work required to comply with the State-mandated Ocean Outfall Legislation (OOL). The extra work entails site clearing of approximately five and a quarter (5.25) acres of wetlands for geotechnical investigation and environmental sampling within the footprint of the compliance projects. Regulatory approvals and wetland permits for this work have been obtained from the Florida Department of Environmental Protection (FDEP) and the Miami-Dade Department of Regulatory & Economic Resources (RER). The site clearing work was originally slated to be performed by Water and Sewer Department (WASD) internal forces; however, it has been determined due to the specialized equipment needed, environmental compliance restrictions, and the limited timeframe that WASD is unable to perform. The cost of the extra work is \$923,685 and will be processed as Change Order 1 to contract S-956.

## Recommendation

This Change Order No. 1 to Contract No. S-956 between the County and Youngquist has been prepared by WASD and is recommended for approval by the Board pursuant to Section 2-8.1 of the County Code. The Change Order is attached hereto as Exhibit 1.

## Scope

The Project is located at the NDWWTP, which is within District 4 represented by Commissioner Micky Steinberg.

Change Order No. 1 is for extra work outside the original scope of the Contract and is comprised of site clearing approximately five and a quarter (5.25) acres of wetlands that are needed to perform geotechnical investigations and environmental sampling/testing.

## Delegated Authority

The attached Resolution includes authority for the County Mayor or County Mayor's designee to execute the Change Order.

## Fiscal Impact/Funding Source

The fiscal impact of Change Order No. 1 to the County is \$923,685.00, which WASD has determined is a fair and reasonable amount for the additional work described in Change Order No. 1.

Funding will be provided from Wastewater – Outfall Legislation project #962670, Budget Book Page # 85 in the FY 2022 - 23 Adopted Budget and Multi-Year Capital Plan. The funding sources are: WASD Revenue Bonds Sold, WASD Subordinate Debt Sold, WIFIA, Wastewater Connection Charges, Wastewater Renewal Fund, and Wastewater Special Construction Fund.

### **Track Record/Monitoring**

WASD Deputy Director, Planning Regulatory Compliance and Capital Infrastructure, Marisela Aranguiz-Cueto, P.E., will oversee the implementation of Change Order No. 1 to Contract S-956.

### **Background**

On May 27, 2021, Miami-Dade County awarded Contract S-956 to Youngquist for the Project. The award was ratified by the Board via Resolution No. R-819-21. The work undertaken through this Contract is for compliance with the OOL, which requires utilities in Southeast Florida to eliminate the normal use of the ocean outfalls by the end of 2025, to reduce nutrient discharges, and to implement a reuse system that is technically, environmentally, and economically feasible.

The total Contract award was \$77,763,530.00 with a contract duration of 943-calendar days for final completion and a contingency time allowance of 94-calendar days. The Notice to Proceed was issued on September 20, 2021, which established April 20, 2024 as the Contract's Final Completion Date.

To construct the new infrastructure needed to achieve compliance with the OOL, the NDWWTP needs to be expanded. Because of limited space available for expansion within the existing NDWWTP footprint, the OOL compliance projects are located at the WASD-owned parcel to the southwest of the NDWWTP. This parcel has been determined as the most feasible option available in this congested part of Miami-Dade County and will have the least environmental impacts to the region. The area proposed for the expansion contains a mixture of uplands; wetlands to be cleared, dredged, and filled; and wetlands to be preserved. The impacted wetlands in this change order are within the footprint of OOL compliance projects. Overall, 17 acres will be impacted, the majority of which are dominated by exotic vegetation.

WASD has taken steps, in coordination with USACE, FDEP, and RER, to delineate and preserve the higher quality wetlands as well as to evaluate the treatment processes to provide the design with the smallest ecological footprint. Additionally, WASD has obtained mitigation credits to offset the impacted areas necessary for OOL compliance.

The following regulatory approvals for the NDWWTP Wetland Permits have been obtained as follows:

- RER Class I (CLI-2020-0395): June 29, 2022
- FDEP Section 404 Individual Permit (13-0372409-005-SFI): December 13, 2022
- FDEP Section 404 General Permit (13-0372409-011,012-SFG): January 30, 2023
- FDEP Environmental Resource Program (ERP) Permit (13-0372409-004-EI): August 1, 2022
- Revision to FDEP ERP (13-0372409-010-EM): November 21, 2022

The first site clearing will occur in the areas where geotechnical investigations and environmental sampling/testing will be performed. These field investigations are required to complete the design for the new facilities.

Originally, the WASD intended to perform the site clearing using internal WASD resources; however, due to the specialized equipment needed, environmental compliance restrictions, and the limited timeframe to complete this work and adhere to the OOL compliance date, WASD has requested that Youngquist perform this work as extra work that will be processed through this Change Order Number 1 to Contract S-956.

**Due Diligence**

Pursuant to Resolution No. R-187-12, and in accordance with the Strategic Procurement Department's guidelines, WASD exercised due diligence to determine contractor responsibility for Youngquist. There have been no violations on record for the last three years. There are no SBD measures for the Project.

Attachments



---

Jimmy Morales  
Chief Operations Officer



<u>Title</u>	<u>Name</u>	<u>Date</u>
Approved By: <u>County Attorney</u> (for legal sufficiency)	Sandra E. [Signature]	2/11/23
Approved By: <u>County Mayor</u>	_____	_____
Attested By: <u>Clerk of the Board</u>	_____	_____

**Monetary Justification: (Continued)**

The total contract award was \$77,763,530.00 with a contract duration of 643-calendar days for final completion and a contingency time allowance of 94-calendar days. Notice to Proceed was issued on September 29, 2021, which established April 20, 2024 as the Contract's Final Completion Date. To construct the new infrastructure needed to achieve compliance with the OOL, including the injection and monitoring wells, the NDWWTP will need to be expanded. The area proposed for the expansion contains a mixture of uplands; wetlands to be cleared, dredged, and filled; and wetlands to be preserved. The first site clearing will occur in the areas where geotechnical investigations and environmental sampling/testing will be performed. These field investigations are required to complete the design for the new facilities.

Originally, the Miami-Dade Water and Sewer Department (WASD) intended the site clearing to be performed using internal WASD resources; however, due to the specialized equipment needed, environmental compliance restrictions, and the limited timeframe to complete this work and adhere to OOL compliance date, WASD has requested the Contractor to perform this work as a Change Order Number 1 to Contract S-956.

**Conclusion:**

To expedite the work required to meet the State-mandated OOL, through this Change Order Number 1, WASD will approve additional work under the Contract by the Contractor. Specifically, Change Order Number 1 adds site clearing of approximately five and a quarter (5.25) acres of wetlands to Contract S-956 for a total amount of \$923,665 and, thereby, increasing the Contract award from \$77,763,530.00 to \$78,687,195.00.

**Time Justification Declaration:**

A time extension is provided for additional work performed outside the scope of the original Contract that affects the critical path schedule of the contracted work or previously approved changes. Should additional work be required which does not affect the critical path schedule, no time extension will be granted. Should one item of additional work run concurrent with another item of additional work, only time not duplicated can be provided.



# POWER OF ATTORNEY

11078

KNOW ALL BY THESE PRESENTS, that Endurance Assurance Corporation, a Delaware corporation, Endurance American Insurance Company, a Delaware corporation, Lexon Insurance Company, a Texas corporation, and/or Bond Safeguard Insurance Company, a South Dakota corporation, each, a "Company" and collectively, "Sompo International," do hereby constitute and appoint: Brook T. Smith, Raymond M. Hundley, Jason D. Cromwell, James H. Martin, Barbara Duncan, Mark A. Guildry, Jill Kemp, Lynnette Long, Amy Smith, Deborah Neichter, Theresa Hintzman, Beth Frymire, Leigh McCarthy, Michael Dix, Susan Ritter, Ryan Britt, Kelsy Hoagland, Jacob Motto, Jennifer Edwards as true and lawful Attorney(s)-in-Fact to make, execute, seal, and deliver for, and on its behalf as surety or co-surety; bonds and undertakings given for any and all purposes, also to execute and deliver on its behalf as aforesaid renewals, extensions, agreements, waivers, consents or stipulations relating to such bonds or undertakings provided, however, that no single bond or undertaking so made, executed and delivered shall obligate the Company for any portion of the penal sum thereof in excess of the sum of ONE HUNDRED MILLION Dollars (\$100,000,000.00).

Such bonds and undertakings for said purposes, when duly executed by said attorney(s)-in-fact, shall be binding upon the Company as fully and to the same extent as if signed by the President of the Company under its corporate seal attested by its Corporate Secretary.

This appointment is made under and by authority of certain resolutions adopted by the sole shareholder of each Company by unanimous written consent effective the 15<sup>th</sup> day of June, 2019, a copy of which appears below under the heading entitled "Certificate".

This Power of Attorney is signed and sealed by facsimile under and by authority of the following resolution adopted by the sole shareholder of each Company by unanimous written consent effective the 15<sup>th</sup> day of June, 2019 and said resolution has not since been revoked, amended or repealed:

RESOLVED, that the signature of an individual named above and the seal of the Company may be affixed to any such power of attorney or any certificate relating thereto by facsimile, and any such power of attorney or certificate bearing such facsimile signature or seal shall be valid and binding upon the Company in the future with respect to any bond or undertaking to which it is attached.

IN WITNESS WHEREOF, each Company has caused this instrument to be signed by the following officers, and its corporate seal to be affixed this 15<sup>th</sup> day of June, 2019.

Endurance Assurance Corporation  
By: *Richard M Appel*  
Richard Appel; SVP & Senior Counsel



Endurance American Insurance Company  
By: *Richard M Appel*  
Richard Appel; SVP & Senior Counsel



Lexon Insurance Company  
By: *Richard M Appel*  
Richard Appel; SVP & Senior Counsel



Bond Safeguard Insurance Company  
By: *Richard M Appel*  
Richard Appel; SVP & Senior Counsel



### ACKNOWLEDGEMENT

On this 15<sup>th</sup> day of June, 2019, before me, personally came the above signatories known to me, who being duly sworn, did depose and say that he/she is an officer of each of the Companies; and that he executed said instrument on behalf of each Company by authority of his office under the by-laws of each Company.

By: *Amy Taylor*  
Amy Taylor, Notary Public - My Commission Expires 5/9/23



### CERTIFICATE

I, the undersigned Officer of each Company, DO HEREBY CERTIFY that:

1. That the original power of attorney of which the foregoing is a copy was duly executed on behalf of each Company and has not since been revoked, amended or modified; that the undersigned has compared the foregoing copy thereof with the original power of attorney, and that the same is a true and correct copy of the original power of attorney and of the whole thereof;
2. The following are resolutions which were adopted by the sole shareholder of each Company by unanimous written consent effective June 15, 2019 and said resolutions have not since been revoked, amended or modified:

\*RESOLVED, that each of the individuals named below is authorized to make, execute, seal and deliver for and on behalf of the Company any and all bonds, undertakings or obligations in surety or co-surety with others: RICHARD M. APPEL, BRIAN J. BEGGS, CHRISTOPHER DONELAN, SHARON L. SIMS, CHRISTOPHER L. SPARRO, MARIANNE L. WILBERT  
; and be it further

RESOLVED, that each of the individuals named above is authorized to appoint attorneys-in-fact for the purpose of making, executing, sealing and delivering bonds, undertakings or obligations in surety or co-surety for and on behalf of the Company.\*

3. The undersigned further certifies that the above resolutions are true and correct copies of the resolutions as so recorded and of the whole thereof.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal this 25<sup>th</sup> day of January, 2023.

By: *Daniel S. Lurie*  
Daniel S. Lurie, Secretary

### NOTICE: U. S. TREASURY DEPARTMENT'S OFFICE OF FOREIGN ASSETS CONTROL (OFAC)

No coverage is provided by this Notice nor can it be construed to replace any provisions of any surety bond or other surety coverage provided. This Notice provides information concerning possible impact on your surety coverage due to directives issued by OFAC. Please read this Notice carefully.

The Office of Foreign Assets Control (OFAC) administers and enforces sanctions policy, based on Presidential declarations of "national emergency". OFAC has identified and listed numerous foreign agents, front organizations, terrorists, terrorist organizations, and narcotics traffickers as "Specially Designated Nationals and Blocked Persons". This list can be located on the United States Treasury's website - <https://www.treasury.gov/resource-center/sanctions/SDN-List>.

In accordance with OFAC regulations, if it is determined that you or any other person or entity claiming the benefits of any coverage has violated U.S. sanctions law or is a Specially Designated National and Blocked Person, as identified by OFAC, any coverage will be considered a blocked or frozen contract and all provisions of any coverage provided are immediately subject to OFAC. When a surety bond or other form of surety coverage is considered to be such a blocked or frozen contract, no payments nor premium refunds may be made without authorization from OFAC. Other limitations on the premiums and payments may also apply.

Any reproductions are void.

Surety Claims Submission: [LexonClaimAdministration@sompo-intl.com](mailto:LexonClaimAdministration@sompo-intl.com)

Telephone: 615-553-9500 Mailing Address: Sompo International; 12890 Lebanon Road; Mount Juliet, TN 37122-2870



**MEMORANDUM**  
(Revised)

**TO:** Honorable Chairman Oliver G. Gilbert, III  
and Members, Board of County Commissioners

**DATE:** April 4, 2023

**FROM:**   
Gen Bonzon-Keenan  
County Attorney

**SUBJECT:** Agenda Item No. 8(O)(2)

Please note any items checked.

- "3-Day Rule" for committees applicable if raised
- 6 weeks required between first reading and public hearing
- 4 weeks notification to municipal officials required prior to public hearing
- Decreases revenues or increases expenditures without balancing budget
- Budget required
- Statement of fiscal impact required
- Statement of social equity required
- Ordinance creating a new board requires detailed County Mayor's report for public hearing
- No committee review
- Applicable legislation requires more than a majority vote (i.e., 2/3's present \_\_\_\_, 2/3 membership \_\_\_\_, 3/5's \_\_\_\_, unanimous \_\_\_\_, CDMP 7 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, CDMP 2/3 vote requirement per 2-116.1(3)(h) or (4)(c) \_\_\_\_, or CDMP 9 vote requirement per 2-116.1(4)(c)(2) \_\_\_\_ ) to approve
- Current information regarding funding source, index code and available balance, and available capacity (if debt is contemplated) required

Approved \_\_\_\_\_ Mayor  
Veto \_\_\_\_\_  
Override \_\_\_\_\_

Agenda Item No. 8(O)(2)  
4-4-23

RESOLUTION NO. \_\_\_\_\_

RESOLUTION APPROVING CHANGE ORDER NO. 1 TO CONSTRUCTION CONTRACT S-956, NORTH DISTRICT WASTEWATER TREATMENT PLANT (NDWWTP) MUNICIPAL INJECTION WELLS (NE-2), BETWEEN YOUNGQUIST BROTHERS, INC. AND MIAMI-DADE COUNTY IN THE AMOUNT OF \$923,685.00; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE CHANGE ORDER NO. 1 AND EXERCISE ALL PROVISIONS CONTAINED THEREIN

**WHEREAS**, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA**, that this Board approves Change Order No. 1 to Construction Contract S-956, North District Wastewater Treatment Plant (NDWWTP) Municipal Injection Wells (NE-2), between Youngquist Brothers, Inc. and Miami-Dade County in the amount of \$923,685.00, thereby increasing the Contract award from \$77,763,530.00 to \$78,687,215.00. This Board also authorizes the County Mayor or County Mayor's designee to execute Change Order No. 1 and to exercise all provisions contained therein. The solicitation documents and contract are kept on file with and are available upon request from the Procurement Division of the Miami-Dade Water and Sewer Department.

The foregoing resolution was offered by Commissioner ,  
who moved its adoption. The motion was seconded by Commissioner  
and upon being put to a vote, the vote was as follows:

Oliver G. Gilbert, III, Chairman	
Anthony Rodríguez, Vice Chairman	
Marleine Bastien	Juan Carlos Bermudez
Kevin Marino Cabrera	Sen. René García
Roberto J. Gonzalez	Keon Hardemon
Danielle Cohen Higgins	Eileen Higgins
Kionne L. McGhee	Raquel A. Regalado
Micky Steinberg	

The Chairperson thereupon declared this resolution duly passed and adopted this 4<sup>th</sup> day of April, 2023. This resolution shall become effective upon the earlier of (1) 10 days after the date of its adoption unless vetoed by the County Mayor, and if vetoed, shall become effective only upon an override by this Board, or (2) approval by the County Mayor of this resolution and the filing of this approval with the Clerk of the Board.

MIAMI-DADE COUNTY, FLORIDA  
BY ITS BOARD OF  
COUNTY COMMISSIONERS

LUIS G. MONTALDO, CLERK AD INTERIM

By: \_\_\_\_\_  
Deputy Clerk

Approved by County Attorney as  
to form and legal sufficiency.

SED

Sarah E. Davis