

Date: March 7, 2023

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

From: Daniela Levine Cava
Mayor



Agenda Item No. 14(A)(1)

Resolution No. R-238-23

Subject: Change Order No. 2 to Contract No. W-943 with Magnum Construction Management, LLC

EXECUTIVE SUMMARY

This item seeks approval from the Board of County Commissioners (the “Board”) to authorize Change Order No. 2 for the installation of a 36-inch ductile iron (DI) water main (the “Project”). After starting construction, the contractor discovered ammonia contamination along the pipe’s corridor, which was not indicated on any reports used during the design and permitting of this project and materially changed the Contractor’s means and methods for installation. Change Order No. 2 is for the additional effort due to unforeseen conditions, including the cost associated with installing the water main in the contaminated conditions, installing the water main at a lower elevation, additional sheeting and shoring for protection, relocation of fittings, and replenishment of the Contingency allowance. The Change Order amount is \$4,695,432.73 and a time extension of seven days.

RECOMMENDATION

It is recommended that the Board approve Change Order No. 2 to Contract No. W-943. The Change Order increases the Contract duration by seven days and the Contract amount by \$4,695,432.73. Approval of this Change Order will: (1) extend the Final Completion date from March 5, 2023 to March 12, 2023, and (2) increase the total Contract amount from \$8,758,800.07 to \$13,454,233.43.

DELEGATED AUTHORITY

Upon approval of this item, the County Mayor or County Mayor’s designee shall have the authority to execute Change Order No. 2.

CAPITAL IMPROVEMENT PROJECT

Item 1 – Change Order No. 2 to Contract No. W-943 is for a seven-day time extension and an increase in the Contract award of \$4,695,432.73.

SCOPE

The Project is located in District 12, which is represented by Commissioner Juan Carlos Bermudez.

FISCAL IMPACT/FUNDING SOURCE

The fiscal impact of Change Order No. 2 to the County is \$4,695,432.73, which WASD has determined is a fair and reasonable amount for the additional work described in Change Order No. 2.

Funding will be provided from Project Water – Pipes and Infrastructure, OMB #: 967190, page 87 of the FY 2021 - 22 Adopted Budget and Multi-Year Capital Plan. The funding sources are Water Renewal and Replacement Fund, Revenue Bond Sold and Future WASD Revenue Bonds.

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. 2 to Contract W-943.

BACKGROUND

On September 3, 2014, the Board approved Ordinance No. 14-77 authorizing the County Mayor or County Mayor's designee to award and amend contracts and negotiate and issue change orders for funded capital projects and to accelerate the approval of WASD's: 1) Consent Decree projects, and 2) projects identified in WASD Multi-Year Capital Plan's Capital Improvements Program, subject to ratification by the Board.

Contract W-943 was awarded to MCM on May 17, 2021. The award was ratified by the Board via Resolution No. R-820-21. The total Contract award was \$8,058,491.70 with a Contract duration of 420-calendar days for Final Completion and a Contingency Time Allowance of 42 days. The date of the Notice to Proceed was September 20, 2021, which established November 14, 2022, as the Contract's original final completion date.

After MCM was issued the Notice to Proceed and began construction, contamination, including a large amount of ammonia, was encountered unexpectedly along segments of the Project corridor. The contamination was not indicated in any reports, including a review by DERM, used during the planning and design phases of the Project. In addition to the design documents, these reports are utilized by contractors as a basis for developing their bids. Because no risk of contamination had been identified in the reports, the original bids included traditional means and methods for dewatering and contemplated the use of open cut to install the new 36-inch DI water main.

Upon detection, MCM worked to determine the extent of the contamination and incurred costs related to groundwater sampling operations and additional installation activities. MCM attempted to lessen the concentration of ammonia but was unable to do so within the acceptable target levels prior to dewatering and as a result the Class V Dewatering Permit was denied by the County's Department of Regulatory & Economic Resources (DERM).

Due to the levels of contamination found, MCM was unable to install the new 36-inch water main via open cut trench method with dewatering activities, as originally bid. This unforeseen condition was determined to be present along 8,400 LF of the Project corridor, which represents approximately 75% of the total length for the Project.

After exhausting all dewatering options, the only method available to continue with the installation of the new water main was installation by a licensed commercial dive team. The dive team is to be equipped with specialized protective suits that allow the workers to safely navigate through contaminated groundwater. MCM submitted a cost proposal of \$2,609,882.56 for the installation of 8,400 LF of DI pipe by a dive team. WASD's Construction Management Division reviewed MCM's proposal and found the amount proposed for these diving-related costs to be reasonable and necessary to minimize Project delays.

To expeditiously continue construction without delays or additional costs due to MCM's forced demobilization and remobilization, Change Order No. 1 was approved for \$700,309.00 pursuant to Section 2-8.2.12 of the Code, WASD's Acceleration Ordinance. Change Order No. 1 ensured the uninterrupted continuation of the Project's construction, lessening the impact on the residents and businesses affected by the ongoing construction. Change Order No. 1 also extended the Contract's duration by 111 days, thereby moving the Final Completion Date from November 14, 2022, to March 5, 2023. It was ratified by the Board on January 17, 2023, via Resolution No. 28-23.

CHANGE ORDER NO. 2

Change Order No. 2 awards the remaining balance of \$1,909,573.56 needed for the completion of the installation of the 8,400 LF of 36-inch DI water main by the dive team. Because of the complexity involved in performing this work with a five-man dive team, the time component associated with this Change Order No. 2 cannot be ascertained at the present time; therefore, another Change Order may be presented to the Board for additional time in the future. In addition, the Contractor has reserved its rights to seek additional costs in the future that arose from the contamination issue and other unforeseen impacts.

Due to the contamination, the Contractor cannot flush water from the construction site into the adjacent canal or ground and, therefore, the Contractor is required to utilize an alternate method for disposal of dewatering that utilizes a night box combination system. This method allows the Contractor to continue with the installation process while being able to isolate, clean, and remove contaminated material without compromising portions of pipe that have been successfully cleaned. The cost associated with this alternate method of disposal for 8,400 LF of 36-inch diameter pipe is \$1,647,351.17. This method also includes a night box installation along with a 36-inch by 36-inch tee and risers, which are needed to retrieve the plug and perform final pipe clean up. Failure to properly clean the new pipe will prevent WASD from complying with Department of Health Standards for potable water as well as standards required by the American National Standards Institute (ANSI) and American Water Works (AWWA).

Unforeseen Circumstances

In addition to the contamination-related expenses identified above, three other unforeseen situations impacted the Project.

1. 30-inch Drainage Pipe at Station 171+60

During excavation activities, the Contractor found a 30-inch drainage pipe crossing the trench at Station 171+60 that had not been identified in the plans. This unforeseen condition forced the Contractor to install the new 36-inch water main at a lower elevation, which was below the groundwater table. The installation at a lower depth required additional shoring to protect the trench on both sides and avoid caving. The cost for the additional shoring was \$182,427.00 and is to be paid through this Change Order No. 2.

2. Sheet piling and shoring for Horizontal Clearance due excavation depth

WASD's General Standard (GS) requires a minimum clearance of 6-feet between a potable water main and a force main (GS 1.1, Note 2). During installation of pipe fittings at Station 103+33 to Station 103+97, the Contractor discovered insufficient clearance between an existing 24-inch force main and the proposed alignment for the new 36-inch water main. In addition to the horizontal clearance complication, the vertical alignment of the new 36-inch water main included going underneath an existing large drainage culvert that was approximately nine (9) feet deep. The Contractor installed an additional shoring system to protect the 24-inch force main so that the existing pipe would not be compromised during construction. The new 36-inch water main was placed at a depth of approximately twelve (12) feet in order to clear the existing drainage culvert. The cost of the additional sheet piling and shoring required by the horizontal and vertical clearance issues was \$69,366.93 and will be paid through this Change Order No. 2.

3. Relocation of 11.25-degree fittings due to surveying error

Because the new 36-inch water main is being installed along a short, curved section of NW 116th Way, the plans called for an 11.25-degree fitting to follow the road's curvature. After excavations started at

Station 110+47 to Station 111+40, the Contractor discovered that it had to remove a previously installed pipe from Station 109+35 because it was impossible to install the deflected pipe as per the design drawings. The proposed 11.25-degree fitting was based on a surveying error that impacted the design. The cost of the Contractor rework related to the design error is \$10,834.00 and will be paid through this Change Order.

Because this has been a complicated project and construction remains ongoing, additional unforeseen conditions are likely to arise prior to completion. Therefore, this Change Order also approves the addition of \$875,880.07 in order to replenish the contingency account for this Project.

The date of the Notice to Proceed was September 20, 2021, which established November 14, 2022 as the Contract's original Final Completion Date. The Contract was extended by 111 days through Change Order No. 1, which moved the Final Completion Date from November 14, 2022 to March 5, 2023.

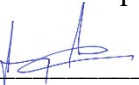
The installation of the additional sheeting and shoring for the horizontal clearance issue required an additional seven (7) days. Through this Change Order No. 2, the Contract duration will be extended by seven (7) days, thereby moving the Final Completion Date from March 5, 2023 to March 12, 2023.

Change Order No. 2 to the Contract: (1) increases the Contract amount by \$4,695,432.73 from \$8,758,800.70 to \$13,454,233.43, including replenishment of the contingency account, and (2) extends the Final Completion Date from March 5, 2023 to March 12, 2023.

SMALL BUSINESS ENTERPRISE MEASURES

On December 14, 2022, prior to the issuance of Change Order No. 2, the Internal Services Department's Small Business Development (SBD) Division reviewed Contract W-943 for compliance with a 15.65 percent Construction (SBE-Con) goal; 4.00 percent Small Business Enterprise - Goods and Services (SBE-Goods) goal; Responsible Wages and Benefits program; the Resident's First Training and Employment requirement; the Employ Miami-Dade requirement; and Resolution R-1001-15. SBD determined that MCM is in compliance with Resolution R-1001-15 as it relates to the 4% SBE-Goods goal but has been unable to achieve the 85% of the SBE-Con goal applicable to the work performed to date. MCM reported, and WASD project staff confirmed, that the unforeseen contamination along the Project corridor triggered a major change in the means and methods originally projected to complete the work. As a result, two of the SBE-Con firms scheduled to perform the pipe installation work withdrew from the Project. As required by the Miami-Dade County Code, MCM contacted all SBE-Con firms certified to perform the pipe installation work to substitute for the two firms that withdrew but was unable to identify an available replacement. As such, MCM was excused from the goal applicable to the pipe installation work committed to the two SBE-Con firms that withdrew. MCM is in compliance with the Responsible Wages and Benefits programs. MCM is also in compliance with the Residents First Training and Employment requirements and the Employ Miami-Dade requirements. See the SBD memorandum attached hereto as Exhibit A.

Exhibit B is Change Order No. 2, which is identified in this memorandum. A copy of the original Contract is available upon request from WASD's Procurement Division.



Jimmy Morales
Chief Operations Officer

Memorandum



Date: December 14, 2022

To: Roy Coley, Director
Miami-Dade Water and Sewer Department

From: Gary T. Hartfield, Director
Small Business Development Division
Internal Services Department

Subject: Project No. TW943, Furnish and Install 36-Inch D.I. Water Main along NW 106 St, from NW 107 Ave to NW South River Drive

Change Order No. 2 to Project No. TW943 was reviewed for application of Small Business Enterprise (SBE) measures. The change order increases the contract value and extends the time. The awarded SBE goals will apply to this change order.

The project was reviewed for compliance with the 15.65% SBE – Construction Services (SBE-Con) goal, the 4% SBE – Goods goal, the Responsible Wages and Benefits program, the Residents First Training and Employment requirement, the Employ Miami-Dade requirement, and Resolution R-1001-15.

Resolution R-1001-15 requires 85% of the SBE goal applicable to the portion of the contract work performed to date be met before the Board of County Commissioners (BCC) considers a change order/amendment. Items with small business measures which fail to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered by the Board for approval.

The prime contractor, Magnum Construction Management (MCM), has performed/requisitioned \$5,790,784 requiring the SBE-Con firms to have performed \$906,258 and SBE-Goods firms to have performed \$231,631 for the requirements of Resolution R-1001-15 to have been met. To date, the SBE-Con firms on the project have performed \$136,916 and the SBE-Goods firm has performed \$695,022. As such, the prime is in compliance with Resolution R-1001-15 as it relates to the 4% SBE-Goods goal but has been unable to achieve the 85% of the SBE-Con goal applicable to the work performed to date.

MCM reported, and Water and Sewer Department (WASD) project staff confirmed that unforeseen contamination along the project corridor triggered a major change in the means and methods originally projected to complete the work. As a result, two of the SBE-Con firms scheduled to perform the pipe installation work withdrew from the project. Specifically, A.D.A. Engineering, Inc. was scheduled to meet 3.83% of the goal through the performance of pipe installation and pipe fittings work and Pabon Engineering, Inc. (Pabon) was scheduled to meet 9.90% of the goal through the performance of pipe installation, pipe fittings installation, road work, milling and resurfacing work, withdrew from the project. As required by the Code, MCM contacted all SBE-Con firms certified to perform the pipe installation work to substitute the two firms that withdrew but was unable to identify an available replacement. As such, MCM was excused from the goal applicable to the pipe installation work committed to the two SBE-Con firms that withdrew. MCM is currently seeking a substitute SBE-Con firm for the road work, milling and resurfacing work originally committed to Pabon.

Attached hereto is correspondence from MCM dated December 8, 2022 addressing items (i) through (iii) above. MCM has committed to work with staff at Small Business Development (SBD), a Division of the

Internal Services Department and WASD to identify available opportunities for additional SBE firms to increase their SBE-Con participation.

MCM is in compliance with the Responsible Wages and Benefits programs. A Notice of Violation has been issued to one subcontractor on August 5, 2022 for underpayment of wages to employees. The subcontractor is working with SBD to satisfy the underpayment. MCM is in compliance with the Residents First Training and Employment requirements, and the Employ Miami-Dade requirements. For additional information, please contact Alice Hidalgo-Gato, SBD Section Chief, at 305-375-3153.

Attachments: Magnum Construction Management, Inc. correspondence dated December 8, 2022

c: Marisela Aranguiz, Deputy Director, WASD
Juan Curiel, Chief, Pipeline and Pump Station Construction, WASD
Laura Verdager, Legislative and Municipal Affairs Special Assistant, WASD
Margaret Moss, Chief, Small Business Initiatives, WASD
Edith Brown, Chief, Contract Compliance Division, WASD
Donna Palmer, SPA 1, WASD
Miguel Pichardo, Project Manager, WASD
Jose Alvarez, Project Manager, WASD
SBD Section Chiefs, ISD

Hidalgo-Gato, Alice (ISD)

From: Alejandro L. Munilla, P.E. <amunilla@mcm-us.com>
Sent: Thursday, December 8, 2022 3:41 PM
To: Bravo-Soriano, Yanira (ISD)
Cc: Hidalgo-Gato, Alice (ISD); Perez, Dayron (ISD); Tanner, John (ISD); Curiel, Juan A. (WASD); Daniel F. Munilla; Pedro R. Munilla; Brown, Edith D. (WASD)
Subject: RE: Contract No. TW943, Furnish and Install 36" DIWM NW 106 Street

EMAIL RECEIVED FROM EXTERNAL SOURCE

Good Afternoon Yanira,

Thank you for your e-mail. MCM is proud surpassing the SBE-Con goal(s) in the supermajority of its projects. Unfortunately, as we advised both SBD and MDWASD from the start of the unforeseen contamination (over 9 months ago) and the change/directive to the contract, our originally earmarked SBE-Cons could/would not perform the changed scope under the existing circumstances, and we were unable to find SBE-Con for those scopes which are the majority of the Work under the Contract. Since then, we have made efforts, which we continue today, and are having some success in increasing SBE-Con participation on the balance of the scopes of work on the Project; but, the SBE-Con participation in those smaller scopes of work will be insufficient to meet the original SBE-Con goals on the Project; thus, we again respectfully request the SBE-Con Goals be amended/reduced to 4% as a result of the unforeseen circumstances. It is impossible to meet the current goal.

Below we provide our responses in support of the reduction of the SBE-Con goal(s) on this Project.

A: The circumstances as to why the goal(s) was not achieved

Due to the particulars of the Project and the unforeseen contamination found along the project corridor, the pipe installation was required to be performed utilizing a 5 man dive team (Dive Teams). The risks of pipe leaks that might result with using Dive Teams are significant, which can best be avoided utilizing specialized professionals. Previous to the change of methodology, MCM intended to use ADA and Pabon Engineering for pipe installation. Combined, they comprised of 13.62% of the required 15.65% of our SBE Construction. Notably, Pabon Engineering had other scopes of work they were contracted for; unfortunately, Pabon became unwilling or unable to perform that other work, without performing the pipe installation. Both Pabon and ADA have provided Letters of Unavailability confirming they can no longer perform the work due to the unforeseen contamination.

B: What steps have been taken by the prime contractor(s) and the contracting department to meet the goal(s):

MCM has reached out to other subcontractors with the required experience (Maestre & Jormak Equip) to see if they would be willing to perform the installation of the 36" WM. We have been unable to find an SBE pipe installer willing to perform this work. Moreover, MCM reached out to all SBE-Con firms for Water and Sewer line installation and no firms responded with willingness to perform the work under the unique conditions encountered on the project.

C: How the small business goal(s) will be achieved in the change order or contract amendment

The original 15.65% goal for the project is no longer attainable due to the aforementioned unforeseen circumstances. The main scope of work on this project is the installation of the 36" WM where the original subs, ADA & Pabon as well as all the other SBE-Con firms we reached out to, are unable or unwilling to perform the work. MCM has also reached out to all SBE-Con firms for the commodities of Asphalt & Milling, Guardrail, 5 man dive team, and have so far been unable to increase participation in those commodities; MCM has been able to increase SBE-CON participation in Vac Truck Services & Sod Installation (but these scopes are of much smaller amounts than the pipe installation scope). This Change Order includes the use of Vac Truck Services and Misc. Steel Fabrication. MCM has contracted the SBE-Con Flo Tech and expects its contract to end up being approximately \$150,000 & SBE-S M&M Steel Corp whose final contract should be \$23,200 for this work.

MCM will continue its efforts to pursue every avenue towards increasing the SBE participation on this contract. We do not agree that we should be sanctioned/penalized due to conditions outside of MCM's control, which resulted from an Owner Change. We have been transparent and kept SBD abreast of this issue since it arose, inclusive of telling SBD and MDWASD that our small business subcontractors could/would not perform the changed scope, that we didn't think it would be possible to find small businesses for these scopes, and that our goals would need to be amended.

Please let me know if you need anything else.

ALEJANDRO L. MUNILLA, P.E.

PH: 305-541-0000 | M: 786-295-9391

amunilla@mcm-us.com

From: Bravo-Soriano, Yanira (ISD) <Yanira.Bravo-Soriano@miamidade.gov>

Sent: Thursday, December 8, 2022 10:27 AM

To: Daniel F. Munilla <dmunilla@mcm-us.com>

Cc: Alejandro L. Munilla, P.E. <amunilla@mcm-us.com>; Hidalgo-Gato, Alice (ISD) <Alice.Hidalgo-Gato@miamidade.gov>; dayron.perez <dayron.perez@miamidade.gov>; Tanner, John (ISD) <John.Tanner@miamidade.gov>

Subject: RE: Contract No. TW943, Furnish and Install 36" DIWM NW 106 Street

CAUTION: This email originated from outside your organization. Exercise caution when opening attachments or clicking links, especially from unknown senders.

Good morning Daniel,

SBD is reviewing for Change Order No. 2, the Small Business Enterprise – Construction (SBE-Con) Code requires that SBD review for compliance with the SBE-Con goal. Resolution R-1001-15 requires County contracts with small business measures to meet at least 85 percent of the small business goals applicable to the portion(s) of the contract work performed to date before a change order or contract amendment is considered for the Board approval.

Items with small business measures which failed to meet this minimum threshold or equivalent percentage must clearly explain (i) the circumstances as to why the goal(s) was not achieved, (ii) steps taken by the prime contractor(s) and the contracting department to meet the goal(s), and (iii) how the small business goal(s) will be achieved in the change order or contract amendment, or the proposed change order or contract amendment cannot be considered by the Board for approval.

Because the SBE-Con goal is below the required threshold, please provide a response to the three (3) items identified above. A response is due in order to process the Change Order. Thank you

Regards,

Yanira Bravo, SBD Section Manager
Miami-Dade County Internal Services Department
Small Business Development Division
111 N.W. 1st Street, 19th Floor
Miami, Florida 33128
☎ (305) 375-3108; 📠 (305) 375-3160

"Delivering Excellence Every Day"

"The meaning of life is to find your gift. To find your gift is happiness." – Terry Pratchett

Exhibit B

MIAMI-DADE COUNTY, FLORIDA WATER AND SEWER CHANGE ORDER TO ORIGINAL CONTRACT



CHANGE ORDER NO: 2 CONTRACT NO: W-943 DATE: 12/6/2022
PROJECT TITLE: Furnish and Install 36-Inch D.I. Water Main along NW 106 St., from NW 107 Ave. to NW South River Dr.
TO CONTRACTOR: Magnum Construction Management, LLC dba MCM 6201 SW 70 ST, 1st Floor Miami, FL 33143

YOU ARE HEREBY REQUESTED TO MAKE THE FOLLOWING CHANGES IN THE PLANS AND SPECIFICATIONS FOR THIS PROJECT AND TO PERFORM THE WORK ACCORDINGLY, SUBJECT TO ALL CONTRACT STIPULATIONS AND COVENANTS.

Description of work authorized: (1) Increases the Contract amount by \$4,695,432.73 from \$8,758,800.70 to \$13,454,233.43, including replenishment of the contingency account, and (2) Extends the Final Completion Date from March 5, 2023 to March 12, 2023.

Monetary Justification: Contract W-943 was awarded to Magnum Construction Management, LLC dba MCM ("Contractor") on May 17, 2021. The award was ratified by the Board via Resolution No. R-820-21. The total Contract award was \$8,058,491.70 with a Contract duration of 420-calendar days for Final Completion and a Contingency Time Allowance of 42 days.

Contamination Issues

Dive Team

After MCM was issued the Notice to Proceed and began construction, contamination, including a large amount of ammonia, was encountered unexpectedly along segments of the Project corridor. (Continued below)

Time Justification: The date of the Notice to Proceed was September 20, 2021, which established November 14, 2022 as the Contract's original Final Completion Date. The Contract was extended by 111 days through Change Order No. 1, which extended the Final Completion Date from November 14, 2022 to March 5, 2023.

The installation of the additional sheeting and shoring for the horizontal clearance issue (Continued below)

This change order includes not only all direct costs of contractor such as labor, material, job overhead, and profit markup; but also includes any costs for modifications or changes in sequence of work to be performed, delays, rescheduling, disruption, extended direct overhead or general overhead, acceleration, material or other escalation which include wages and other impact costs.

Contractor hereby waives, fully releases, discharges and acquits Miami-Dade County of any and all liability for claims, additional costs, and any requests for additional time arising out of the fulfillment of the contract and this change order from the date of the contract award to and including execution of this change order.

SUMMARY OF CONTRACT AMOUNT / TIME

ORIGINAL CONTRACT AMOUNT-----	\$8,058,491.70
COST OF CHANGES PREVIOUSLY ORDERED-----	\$700,309.00
ADJUSTED CONTRACT AMOUNT PRIOR TO THIS CHANGE-----	\$8,758,800.70
COST OF CHANGES WITH THIS DOCUMENT-----	\$4,695,432.73
ADJUSTED CONTRACT AMOUNT INCLUDING THIS CHANGE-----	\$13,454,233.43
PERCENT INCREASE WITH THIS CHANGE-----	54%
TOTAL PERCENT INCREASE TO DATE-----	60%
TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE-----	420 / 111 / 7
CONTINGENCY TIME: ORIGINAL CONTRACT / PREVIOUS CHANGES / THIS CHANGE-----	42 / 0 / 0
ADJUSTED DURATION INCLUDING THIS CHANGE-----	580

CERTIFYING STATEMENT: The Contractor certifies that the changes and supporting cost data included is in its considered opinion necessary and accurate and that the prices quoted are fair and reasonable.

Organization	Name	Accepted By:	Title	Date
Magnum Construction Management, LLC dba MCM		*	Contractor	1/12/23
United States Fire Insurance Company			Surety	1/10/2023
	William Griffin, Attorney In Fact			

Title	Name	Date
Approved By: County Attorney.. (for legal sufficiency)	Samuel E. Garcia, D.M.S.	1/26/23
Approved By: County Mayor		
Attested By: Clerk of the Board		

* Subject to attached Reservation of Rights

MDC009

Time Justification: (Continued)

as described under the Monetary Justification required an additional seven (7) days. Through this Change Order No. 2, the Contract duration will be extended by seven (7) days, thereby moving the Final Completion Date from March 5, 2023 to March 12, 2023.

Monetary Justification: (Continued)

The contamination was not indicated in any reports (including a review by DERM) used during the planning and design phases of the Project. In addition to the design documents, these reports are utilized by Contractors as a basis for developing their bids. Because no risk of contamination had been identified in the reports, the original bids included traditional means and methods for dewatering and contemplated the use of open cut to install the new 36 inch DI watermain.

Upon detection, MCM worked to determine the extent of the contamination and incurred costs related to groundwater sampling operations and additional installation activities. MCM attempted to lessen the concentration of ammonia but was unable to do so within the acceptable target levels prior to dewatering.

After exhausting all dewatering options, the only method available to continue with the installation of the new water main was installation by a licensed commercial dive team. The dive team is to be equipped with specialized protective suits that allow the workers to safely navigate through contaminated groundwater. MCM submitted a cost proposal of \$2,609,882.56 for the installation of 8,400 LF of DI pipe by a dive team. WASD's Construction Management Division reviewed MCM's proposal and found the Change Order for these diving-related costs to be reasonable and necessary to minimize Project delays.

Pursuant to Section 2-0.2.12 of the Code, WASD's Acceleration Ordinance, the County Mayor or County Mayor's designee has the authority to approve change orders in an amount not to exceed 10% of the base contract amount and to seek ratification by the Board afterwards. Therefore, to continue with construction, to lessen the impact of the Project on the residents and businesses affected by the ongoing construction, and to avoid the costs the County would incur if MCM were forced to demobilize and subsequently remobilize while waiting for a change order, the County Mayor's designee approved Change Order No. 1 for \$700,309.00, which amount is within 10% of the Contract's total amount. Change Order No. 1 also extended the Contract's duration by 111 days, thereby moving the Final Completion Date from November 14, 2022 to March 5, 2023. Change Order No. 2 awards the remaining balance of \$1,909,573.56 needed for the completion of the installation of the 8,400 LF of 36-inch DI water main by the dive team. Because of the complexity involved in performing this work with a five-man dive team, the time component associated with this Change Order No. 2 cannot be established at the present time; therefore, another Change Order may be presented for additional time when the work is completed.

Disposal of Contaminated Water

Due to the contamination, the Contractor cannot flush water from the construction site into the adjacent canal or ground and, therefore, the Contractor is required to utilize an alternate method for disposal of dewatering that utilizes a night box combination system. This method allows the Contractor to continue with the installation process while being able to isolate, clean, and remove contaminated material without compromising portions of pipe that have been successfully cleaned. The cost associated with this alternate method of disposal for 8,400 LF of 36-inch diameter pipe is \$1,647,351.17. This method also includes a night box installation along with a 36-inch x 36-inch tee and risers, which are needed to retrieve the plug and perform final pipe clean up. Failure to properly clean the new pipe will prevent WASD from complying with Department of Health Standards for potable water as well as standards required by the American National Standards Institute (ANSI) and American Water Works (AWWA).

Unforeseen Circumstances

In addition to the contamination-related expenses identified above, three other unforeseen situations impacted the Project.

1. 30-inch Drainage Pipe at Station 171+60

During excavation activities, the Contractor found a 30-inch drainage pipe crossing the trench at Station 171+60 that had not been identified in the plans. This unforeseen condition forced the Contractor to install the new 36-inch water main at a lower elevation, which was below the groundwater table. The installation at a lower depth required additional shoring to protect the trench on both sides and avoid caving. The cost for the additional shoring was \$182,427.00 and is to be paid through this Change Order.

2. Sheet piling and shoring for Horizontal Clearance due excavation depth

WASD's General Standard (GS) requires a minimum clearance of 6-feet between a potable water main and a force main (GS 1.1, Note 2). During installation of pipe fittings at Station 103+33 to Station 103+97, the Contractor discovered insufficient clearance between an existing 24-inch force main and the proposed alignment for the new 36-inch water main. In addition to the horizontal clearance complication, the vertical alignment of the new 36-inch water main included going underneath an existing large drainage culvert that was approximately nine (9) feet deep. The Contractor installed an additional shoring system to protect the 24-inch force main so that the existing pipe would not be compromised during construction. The new 36-inch water main was placed at a depth of approximately twelve (12) feet in order to clear the existing drainage culvert. The cost of the additional sheet piling and shoring required by the horizontal and vertical clearance issues was \$89,366.93 and will be paid through this Change Order.

3. Relocation of 11.25-degree fittings due to surveying error

Because the new 36-inch water main is being installed along a short, curved section of NW 116th Way, the plans called for an 11.25-degree fitting to follow the road's curvature. After excavations started at Station 110+47 to Station 111+40, the Contractor discovered that it had to remove a previously installed pipe from Station 109+35 because it was impossible to install the deflected pipe as per the design drawings. The proposed 11.25-degree fitting was based on a surveying error that impacted the design. The cost of the Contractor rework related to the design error is \$10,634.00 and will be paid through this Change Order.

Replenishment of Contingency Account

Because this has been a complicated project and construction remains ongoing, additional unforeseen conditions are likely to arise prior to completion. Therefore, this Change Order also approves the addition of \$875,880.07 in order to replenish the contingency account for this Project.

Conclusion:

Change Order No. 2 to the Contract: (1) increases the Contract amount by \$4,695,432.73 from \$6,758,800.70 to \$11,454,233.43, including replenishment of the contingency account, and (2) extends the Final Completion Date from March 5, 2023 to March 12, 2023.

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.



Reservation Of Rights

The release language in this Change Order does not apply. The Parties recognize the ongoing work associated with unforeseen contamination and other unforeseen impacts, together with the requisite costs for additional time, have not been included as part of this change order and are thus not released. A final change order covering those costs will be presented to the County for approval upon the completion of the work.

A **STRONGCORE** COMPANY

6201 SW 70th Street, 1st Floor, Miami, FL 33143

Phone 305.541.0000 Fax 305.541.9771

MDC011

**POWER OF ATTORNEY
UNITED STATES FIRE INSURANCE COMPANY
PRINCIPAL OFFICE - MORRISTOWN, NEW JERSEY**

01134

KNOW ALL MEN BY THESE PRESENTS: That United States Fire Insurance Company, a corporation duly organized and existing under the laws of the state of Delaware, has made, constituted and appointed, and does hereby make, constitute and appoint:

William Griffin, Michael Marino, Ricardo Davila, Vivian Santiago

each, its true and lawful Attorney(s)-In-Fact, with full power and authority hereby conferred in its name, place and stead, to execute, acknowledge and deliver: Any and all bonds and undertakings of surety and other documents that the ordinary course of surety business may require, and to bind United States Fire Insurance Company thereby as fully and to the same extent as if such bonds or undertakings had been duly executed and acknowledged by the regularly elected officers of United States Fire Insurance Company at its principal office, in amounts or penalties: **Fifty Million Dollars (\$50,000,000).**

This Power of Attorney limits the act of those named therein to the bonds and undertakings specifically named therein, and they have no authority to bind United States Fire Insurance Company except in the manner and to the extent therein stated.

This Power of Attorney is granted pursuant to Article IV of the By-Laws of United States Fire Insurance Company as now in full force and effect, and consistent with Article III thereof, which Articles provide, in pertinent part:

Article IV, Execution of Instruments - Except as the Board of Directors may authorize by resolution, the Chairman of the Board, President, any Vice-President, any Assistant Vice President, the Secretary, or any Assistant Secretary shall have power on behalf of the Corporation:

- (a) to execute, affix the corporate seal manually or by facsimile to, acknowledge, verify and deliver any contracts, obligations, instruments and documents whatsoever in connection with its business including, without limiting the foregoing, any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney, stipulations, policies of insurance, deeds, leases, mortgages, releases, satisfactions and agency agreements;
- (b) to appoint, in writing, one or more persons for any or all of the purposes mentioned in the preceding paragraph (a), including affixing the seal of the Corporation.

Article III, Officers, Section 3.11, Facsimile Signatures. The signature of any officer authorized by the Corporation to sign any bonds, guarantees, undertakings, recognizances, powers of attorney or revocations of any powers of attorney and policies of insurance issued by the Corporation may be printed, facsimile, lithographed or otherwise produced. In addition, if and as authorized by the Board of Directors, dividend warrants or checks, or other numerous instruments similar to one another in form, may be signed by the facsimile signature or signatures, lithographed or otherwise produced, of such officer or officers of the Corporation as from time to time may be authorized to sign such instruments on behalf of the Corporation. The Corporation may continue to use for the purposes herein stated the facsimile signature of any person or persons who shall have been such officer or officers of the Corporation, notwithstanding the fact that he may have ceased to be such at the time when such instruments shall be issued.

IN WITNESS WHEREOF, United States Fire Insurance Company has caused these presents to be signed and attested by its appropriate officer and its corporate seal hereunto affixed this 28th day of September, 2021.

UNITED STATES FIRE INSURANCE COMPANY



State of New Jersey }
County of Morris }

Matthew E. Lubin, President

On this 28th day of September, 2021, before me, a Notary public of the State of New Jersey, came the above named officer of United States Fire Insurance Company, to me personally known to be the individual and officer described herein, and acknowledged that he executed the foregoing instrument and affixed the seal of United States Fire Insurance Company thereto by the authority of his office.



Melissa H. D'Alessio (Notary Public)

I, the undersigned officer of United States Fire Insurance Company, a Delaware corporation, do hereby certify that the original Power of Attorney of which the foregoing is a full, true and correct copy is still in force and effect and has not been revoked.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of United States Fire Insurance Company on the 10th day of January 20 23

UNITED STATES FIRE INSURANCE COMPANY



Michael C. Fay, Senior Vice President



MEMORANDUM

(Revised)

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

DATE: March 7, 2023

FROM: 
Gen Bonzon-Keenan
County Attorney

SUBJECT: Agenda Item No. 14(A)(1)

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. 14(A)(1)
3-7-23

RESOLUTION NO. R-238-23

RESOLUTION APPROVING CHANGE ORDER NO. TWO TO CONTRACT NO. W-943, INSTALLATION OF 36-INCH DUCTILE IRON WATER MAIN ALONG N.W. 107 AVENUE TO N.W SOUTH RIVER DRIVE, BETWEEN MAGNUM CONSTRUCTION MANAGEMENT, LCC D/B/A MCM AND MIAMI-DADE COUNTY WHICH CHANGE ORDER NO. TWO: (1) INCREASES THE TOTAL CONTRACT AMOUNT BY \$4,695,432.73, THEREBY BRINGING THE TOTAL AWARD UP FROM \$8,758,800.07 TO \$13,454,233.43, AND (2) INCREASES THE CONTRACT DURATION BY SEVEN DAYS; AND AUTHORIZING THE COUNTY MAYOR OR COUNTY MAYOR'S DESIGNEE TO EXECUTE SAME AND EXERCISE THE PROVISIONS CONTAINED THEREIN

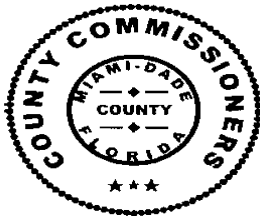
WHEREAS, this Board desires to accomplish the purposes outlined in the accompanying memorandum, a copy of which is incorporated herein by reference,

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MIAMI-DADE COUNTY, FLORIDA, that this Board approves Change Order No. Two to Contract W-943, Installation of 36-Inch Ductile Iron Water Main Along N.W. 107 Avenue to N.W. South River Drive, between Magnum Construction Management, LLC d/b/a MCM and Miami-Dade County. Change Order No. Two, attached to the accompanying memorandum as Exhibit B: (1) increases the total Contract amount by \$4,695,432.73, thereby bringing the total contract award up from \$8,758,800.07 to \$13,454,233.43, and (2) increases the Contract's duration by seven days thereby extending the Final Completion Date from March 5, 2023 to March 12, 2023. The original contract documents are 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 **Oliver G. Gilbert, III** , who moved its adoption. The motion was seconded by Commissioner **Raquel A. Regalado** and upon being put to a vote, the vote was as follows:

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

The Chairperson thereupon declared this resolution duly passed and adopted this 7th day of March, 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

Basia Pruna

By: _____
Deputy Clerk

Approved by County Attorney as
to form and legal sufficiency.

SED

Sarah E. Davis