



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

DT: August 22, 2007

TO: Honorable Mayor and Village Council

FR: Jud Kurlancheek, *Interim Village Manager*

RE: Change Order 1: Water Main Replacement Project

Director
Jud Kurlancheek, AICP
Chief Building Official
Eugenio M. Santiago, P.E.

RECOMMENDATION

It is recommended that the Village Council approve Change Order No. 1 for the Water Main Replacement and Sanitary Sewer System construction project in Zone 4 subject to Fortune International paying for the additional work as required by the Miami-Dade Water and Sewer Department.

BACKGROUND

The Miami Dade Water and Sewer Department (MDWASD) required the 8 inch diameter water main along Sonesta Drive from the Key Biscayne Public Library to Ocean Drive (approximately 1,100 linear feet) to be increased to 12 inches. This was required by MDWASD in order to meet the fire flow requirements resulting from the proposed Sonesta project. The additional cost of the larger diameter main is \$ 95,669.37 and will be paid by the Fortune International directly to the contractor, Metro Equipment. The only role the Village plays is ministerial by approving the attached change order. Also attached is the Memorandum of Agreement between the Fortune and Metro Equipment.

This work was completed in early August for the following reasons:

1. This approach was the least disruptive to the residents. The water and sewer project had commenced. We did not want to install the 8 inch line and then have another project, sometime thereafter, dig in this same completed area only to replace it with a 12 inch line. This would have been a significant inconvenience to the general public.
2. MDWASD required the water line to be upsized and notified us to allow for the work to be completed during this phase.
3. The developer agreed to pay the additional cost of the larger water line. There was no additional cost to the Village.

RESOLUTION NO. 2007-

A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING AND APPROVING CHANGE ORDER NO. 1 TO CONSTRUCTION CONTRACT BETWEEN THE VILLAGE AND METRO EQUIPMENT SERVICES, INC., TO PROVIDE FOR UPSIZING OF A WATER MAIN SITUATED WITHIN THE VILLAGE OF KEY BISCAYNE ZONE 1 AND ZONE 4 WATER MAIN REPLACEMENT, SANITARY SEWER SYSTEM, AND MDWASD PUMP STATION 131 UPGRADE PROJECT; PROVIDING FOR IMPLEMENTATION; PROVIDING FOR EFFECTIVE DATE.

WHEREAS, pursuant to public bidding process, the Village of Key Biscayne (the “Village”) has previously entered into a Contract for construction and a contract addendum with Metro Equipment Services, Inc. (the “Contractor”) for the construction of zone 1 and zone 4 water main replacement, sanitary sewer system and MDWASD pump station 131 upgrade (the “Project”); and

WHEREAS, the Miami-Dade Water and Sewer Authority (the “MDWASD”) has recently advised the Village that a private property owner, Fortune International (the “Developer”) must provide for the installation of a 12 inch water main along Sonesta Drive (a distance of approximately 1100 linear feet) to meet the fire flow protection needs of the Developer’s proposed redevelopment of the Sonesta property, in lieu of the 8 inch size water main previously approved for that segment of the water main; and

WHEREAS, pursuant to Memorandum of Agreement, the Developer shall be required to pay the Contractor for the cost of the above described water main upsizing; and

WHEREAS, the Contractor has submitted a proposal of \$95,669.37 for the full cost of the water main upsizing work, as described in the attached Change Order No. 1; and

WHEREAS, pursuant to Village Code Sec. 2-85, the Village Council finds that it is impractical to engage in additional competitive bidding for the relatively minor work required by Change Order No. 1, in light of the need to enable the Project to continue to proceed in an

expeditious manner, and accordingly the Village Council does hereby waive competitive bidding procedures for the work of Change Order No. 1; and

WHEREAS, the Village Council finds that the Project has previously been authorized by Capital Project authorizing Ordinance No. 2006-6, and that the Contract has been approved by Resolution No.2007- 19, and now desires to approve Change Order No. 1; and

WHEREAS, the Village Council finds that it is in the best interest of the Village to proceed as indicated in this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recitals Adopted. That each of the recitals stated above is hereby adopted and confirmed.

Section 2. Change Order Approved, Specification of Funds, Conditions.

A. **Change Order Approved.** That Change Order No. 1 (the “Change Order”), in substantially the form attached hereto, between the Contractor and the Village concerning the work of the Project is hereby approved, and the Village Manager is hereby authorized to execute the Change Order on behalf of the Village, once approved as to form and legal sufficiency by the Village Attorney, and subject to the provisions and conditions of this Resolution.

B. **Funding Source.** That funding for the Project shall be provided in accordance with the Village Manager’s memorandum which accompanies this Resolution, in an amount which shall not exceed the Change Order cost amount which is expressly set forth in the above stated recitals, with the Developer to be responsible for the cost thereof in accordance with the Memorandum of Agreement.

C. **Conditions.** That the Change Order shall be subject to the applicable conditions provided in Section 2 (C) of Resolution No. 2007- 19.

Section 3. Implementation. That the Village Manager is hereby authorized to take any and all action which is necessary to implement the purposes of this Resolution and the Change Order.

Section 4. **Effective Date.** That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this 28th day of August, 2007.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

METRO EQUIPMENT SERVICE, INC.

MEMORANDUM OF UNDERSTANDING AND AGREEMENT

The Parties hereto, Metro Equipment Service, Inc. (hereinafter "Metro") and NEH-Fortune Associates, L.L.P. (hereinafter "Fortune"), by and through the undersigned, enter into this Memorandum of Understanding and Agreement dated this ~~22~~ day of August, 2007, and state as follows:

WHEREAS, Metro is under contract ("Contract") with the Village of Key Biscayne (hereinafter "Owner") to construct improvements known as Proposed Water System Zone 4 Phase 2 - Somesta Drive; and

WHEREAS, Fortune is the owner of future improvement known as Somesta Redevelopment, which improvements require the installation of 12" water main in place of a proposed 8" water main that is currently included in the scope of work of the Contract; and

WHEREAS, Owner has requested and Metro and furnished a proposal for a change order to the Contract for the increased cost and time associated with furnishing and installing a 12" water main in place of the 8" water main included in the Contract scope ("Changed Work"), which proposed Change Order is attached hereto as Exhibit A; and

WHEREAS, Owner and Fortune have entered into an Agreement whereby Fortune has acknowledged responsibility for payment of the increased cost reflected in the proposed Change Order (Exhibit A) and whereby Fortune has agreed to make payment for such work in the amount of \$95,669.37 and has agreed to make such payment on or before September 30, 2007; and

METRO EQUIPMENT SERVICE, INC.

WHEREAS, Owner has requested that Metro consent to receiving payment for the Changed Work directly from Fortune and Metro has agreed to such request subject to Fortune entering into an agreement acknowledging its responsibility to make payment directly to Metro for the Changed Work as reflected in the Change Order (Exhibit A).

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

1. Metro hereby agrees to perform the scope of work described in the Change Order attached hereto as Exhibit A directly for Fortune, and Fortune agrees to pay Metro \$95,669.37 for the performance of such work.

2. Fortune acknowledges that the work performed and to be performed by Metro as described in the Change Order attached as Exhibit A ~~is for the improvement of the property owned by Fortune.~~ 

3. The work performed by Metro for Fortune as described in Exhibit A will be subject to the same inspection and approval process as the remainder of the work being performed by Metro pursuant to the Contract.

4. Fortune shall make payment in full for the work described in Exhibit A on or before September 30, 2007, or within ten (10) days of the inspection and approval of such work by the Owner in accordance with the Contract, should such inspection and approval occur subsequent to September 30, 2007.

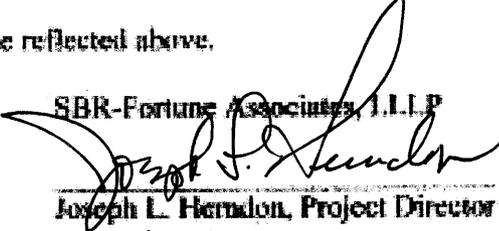
METRO EQUIPMENT SERVICE, INC.

5 In addition to any other rights that Metro may have pursuant to this Memorandum of Understanding and Agreement and pursuant to Florida law in regard to receiving payment for the work described herein, should Fortune fail to make payment in accordance with the terms hereof, Owner agrees that after receiving notice of such non-payment from Metro, it will proceed with the issuance of the Change Order to the Contract as reflected in Exhibit A attached hereto, and thereafter issue payment for same to Metro and pursue any action that Owner may have against Fortune for recovery of such amount pursuant to the Agreement between Owner and Fortune.

6 With the exception of the responsibility for payment as addressed herein, all other terms and conditions of the Contract between Metro and Owner with respect to the performance of the work described herein shall remain in effect and shall not be modified or altered by this Agreement.

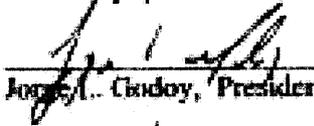
IN WITNESS WHEREOF, the Parties enter into this Agreement on the day and date reflected above.

SBR-Fortune Associates, L.L.P.


Joseph L. Herndon, Project Director

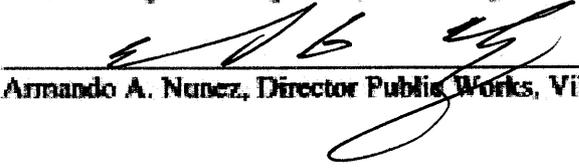
8/23/07
Date

Metro Equipment Service, Inc.


Jorge A. Caidoy, President

August 22, 2007
Date

Acknowledged and Agreed by the Village of Key Biscayne:


Armando A. Nunez, Director Public Works, Village of Key Biscayne

METRO EQUIPMENT SERVICE, INC.

Cost Estimate

8/22/2007

Project Title: Proposed Water System Zone 4 Phase 2
 Project Address: Sonesta Dr
 Owner: Village of Key Biscayne
 Contractor: Metro Equipment Services Inc.
 Agreement Date: 8/22/2007

This cost estimate is necessary to cover changes in the work to be performed under the agreement. The general conditions, supplementary conditions, and standard specifications apply to and govern all work under this cost estimate.

Description of Change: For the purpose of upgrading the proposed 8" w/m to a 12" w/m to accommodate the future water use needs of the development that the line will be feeding. Estimate based on drawing provided by CTS for work required by MOWASD.

Description of Changes	Labor/Material	Qty	Total
Furnish and install 12" DWP Water Main (LF)	\$95.45	1100	\$104,995.00
Furnish and install 12" Gate Valve	\$3,540.00	8	\$28,320.00
Furnish and install 12x8 DIP TEE	\$1,206.50	4	\$4,826.00
Furnish and install 12x6 DIP TEE	\$1,094.00	1	\$1,094.00
Furnish and install 12" DIP 45 Degree Bend	\$1,003.50	2	\$2,007.00
Furnish and install 12x16 Tapping Sleeve and Valve	\$10,652.00	1	\$10,652.00
Furnish and install 16" plug	\$450.00	1	\$450.00
Restoration of Sonesta Drive including Milling and overlay (SY)	\$35.00	244	\$8,555.40
Restoration of Landscaping and sod	\$500.00	1	\$500.00
	Subtotal		\$161,399.40
Credit			
Bid Item #75 Install 8" DWP W/M	\$56.00	-1100	-\$61,600.00
Bid Item #80 Install 8" Gate Valve	\$1,500.00	-6	-\$9,000.00
Bid Item #82 Furnish and install 8" TEE	\$650.00	-4	-\$2,600.00
Bid Item #81 Furnish and install 8"x8" TEE	\$600.00	-1	-\$600.00
	Subtotal		\$87,599.40
	Contractor's 5%		\$8,069.97
	Total		\$95,669.37

Landscaping/Removal of trees will be provided by the Village of Key Biscayne, and any curb and Gutter that will need to be replaced will be replaced at no charge to Metro by the Village.

Metro Equipment Service Inc.

Approved By:

Daniel Gonzalez

Company:

Project Manager

Name:

Date: August 22, 2007

Sign:

Date:

**Exhibit A
CHANGE ORDER**

NO. 1

Project: Zone 1 and Zone 4 Water Main Replacement,
Sanitary Sewer System and MDWASD Pump
Station 131 upgrade

Date of Issuance: 28-Aug-07

Owner: Village of Key Biscayne
88 West McIntyre Street
Key Biscayne, Florida 33149

Contractor: Metro Equipment Services, Inc.
9425 SW 72nd Street
Miami, Florida 33173

Engineer: Corzo Castella Carballo
Thompson Salman, P.A.
901 Ponce de Leon Boulevard, Suite 900
Coral Gables, FL 33134

Contract for: Water Main replacement and the construction
of a new sanitary sewer system in Zone 1 and
Zone 4. Project also includes the replacement
of a pump station in Zone 1.

Engineer's Project No.: 01108-017

You are hereby directed to make the following changes in the Contract Documents:

Description:

MDWASD is requiring Fortune International to install a 12" water main along Sonesta Drive (approximately 1100 linear feet) to meet the fire flow needs of their proposed development on Sonesta property. They have agreed to pay the Contractor the cost of upsizing the water main planned along that corridor (as part of Zone 1 and Zone 4) from 8" to 12". This change order is subject to each of the conditions which are expressly stated in the Village Council Resolution which approved this change order, as if set out in full herein.

Summary of Additional Work:

Work for this change order involves installation of a 12" water main along Sonesta Drive, in lieu of 8" water main originally proposed and approved by MDWASD. A new 16" water main tapping will be required at west end of the line.

Purpose of Change Order:

To incorporate the upsizing of proposed water main on Sonesta Drive from 8" diameter to 12" diameter, as requested by MDWASD to meet the needs of Fortune International project at Sonesta property.

Attachments (List of documents supporting change):

Letter of Agreement between Metro and Fortune International and proposal from Metro Equipment.

CHANGE IN CONTRACT PRICE:		CHANGE IN CONTRACT TIME:	
Original Contract Price:	\$5,998,658.00	Original Contract Time:	300 DAYS
Previous Change Orders:	\$0.00	Net Change from Previous Orders:	0 DAYS
Contract Price Prior to this Change Order:	\$5,998,658.00	Contract Time Prior to this Change Order:	300 DAYS
Net Increase of this Change Order:	\$95,669.37	Net Increase of this Change Order:	0 DAYS
Contract Price with all approved Change Orders:	\$6,094,327.37	Contract Time with all approved Change Orders:	300 DAYS
		Original Contract Completion date:	4/29/2008
		New Contract Completion date:	4/29/2008

Recommend Approval: 	Approved:	Approved:
<i>Engineer</i> Ramon Castella, P.E.	<i>Owner</i> Jud Kurlancheek Interim Village Manager	<i>Contractor</i> Jorge L. Godoy