

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2010-133**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER NO. 10 TO CONTRACT DATED OCTOBER 14, 2008, WITH LANZO CONSTRUCTION CO. TO CONSTRUCT THE SERVICE AREA 5 WASTEWATER /STORMWATER IMPROVEMENTS (IN THE AMOUNT OF \$19,126,494) INCREASING CONTRACT PAYMENT IN THE AMOUNT OF \$122,500 FOR VARIOUS COLLECTION SYSTEM CONSTRUCTION CHANGES AS DELINEATED IN ATTACHED CHANGE ORDER # 10, AUTHORIZING THE CITY MANAGER TO EXECUTE THE CHANGE ORDER ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon (the "City") entered into a contract with Lanzo Construction Company ("Lanzo") for Construction of Service Area 5 Stormwater and Wastewater Collection System Project (the "Project") in October of 2008 (the "Contract"); and

**WHEREAS**, the Change Order to the Contracted price is in an amount not to exceed \$122,500 for various collection system construction changes, less \$43,030 in holdbacks for unresolved claims from residents.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THAT:**


**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** Change Order No.10 to the Contract between the City and Lanzo attached hereto as "Exhibit A," is hereby approved together with such non-material changes as may be acceptable to the City Manager and approved as form and legality by the City Attorney is hereby approved. The City Manager is authorized to execute the Change Order on behalf of the City and expend budgeted funds.

**Section 3.** This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14<sup>th</sup> DAY OF DECEMBER, 2010.

THE CITY OF MARATHON, FLORIDA



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Ginger Snead, Mayor

AYES: Cinque, Keating, Ramsay, Worthington, Snead  
NOES: None  
ABSENT: None  
ABSTAIN: None

**ATTEST:**



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Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**



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City Attorney

CHANGE ORDER NO. 10

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TO: City of Marathon

PROJECT: City of Marathon Service Area 5 Wastewater and Stormwater Project Contract dated September 9, 2008, in the amount of \$19,126,494.00.

ENGINEER: Weiler Engineering Corporation

CONTRACTOR: Lanzo Construction Co.

DATE: December 14, 2010

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This Change Order will authorize the following change to the Agreement:

The Work as set forth in the Agreement is hereby amended to include the items set forth on Exhibit "A" attached hereto and by this reference made a part hereof.

This Change Order constitutes full, final, and complete compensation to the Contractor for all costs, expenses, overhead, and profit, and any damages of every kind that the Contractor may incur in connection with the above referenced changes in the Work, and any other effect on any of the Work under this Agreement. The Contractor acknowledges and agrees that (a) the Contract Price of \$ 19,126,494.00 under the Agreement will be **changed** by this Change Order, and (b) the schedule for performance of Work will be **unchanged** by this Change Order. Contractor expressly waives any claims for any additional compensation, damages or time extensions in connection with the above-referenced changes. Except as herein or heretofore expressly modified, all terms of the Agreement shall remain in full force and effect and shall cover the performance of, and payment for, any work authorized hereunder. Any defined terms not defined in this Change Order shall have the meanings set forth in the Agreement.

By signing below the parties indicate acceptance of this Change Order as set forth herein.

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THE CITY OF MARATHON  
a Florida municipal corporation

CONTRACTOR

By: \_\_\_\_\_

By: \_\_\_\_\_

Name: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Title: \_\_\_\_\_

END OF SECTION

## CHANGE ORDER SUMMARY

Change Order No.           10        
Project Title         Service Area 5 Collection System Project  
Bid No.                      N/A        
Owner:                 City of Marathon  
Contractor:            Lanzo Construction Company, Florida  
Agreement Date:       September 9, 2008

This Change Order is necessary to cover changes in the work to be performed under this Agreement. The GENERAL CONDITIONS, SUPPLEMENTARY CONDITIONS, and STANDARD SPECIFICATIONS apply to and govern all work under this Change Order.

### THE FOLLOWING CHANGES ARE MADE TO THE CONTRACT DOCUMENTS:

(1)	Original Contract Price	<u>\$19,126,494.00</u>
(2)	Current Contract Price (Adjusted by Previous Change Orders)	<u>\$20,376,534.17</u>
(3)	Total Proposed Change in Contract Price	<u>\$ 108,470.00</u>
(4)	<b>New Contract Price (Item 2 + Item 3)</b>	<b><u>\$20,485,004.17</u></b>
(5)	Original Contract Time (Substantial)	<u>850 Days</u>
(6)	Original Contract Time (Final)	<u>915 Days</u>
<u>Adjustments by Previous Change Orders:</u>		
(7)	Substantial Completion	<u>866 Days</u>
(8)	Final Completion	<u>931 Days</u>
(9)	Total Proposed Change in Contract Time	<u>0 Days</u>
(10)	<b>New Substantial Contract Time (Item 7 + Item 9)</b>	<b><u>866 Days</u></b>
(11)	<b>New Final Contract Time (Item 8 + Item 9)</b>	<b><u>931 Days</u></b>
(12)	Original Contract Substantial Completion Date	<u>March 5, 2011</u>
(13)	Original Contract Final Completion Date	<u>May 9, 2011</u>
(14)	<b>New Contract Substantial Completion Date</b>	<b><u>March 21, 2011</u></b>
(15)	<b>New Contract Final Completion Date</b>	<b><u>May 25, 2011</u></b>

# EXHIBIT "A"

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## CHANGES ORDERED

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### ITEM 1 – Additional Work Added to Area 5 Collection System

**Description of Change:** Negotiated lump sum of \$122,500.00 for additional work for the Service Area 5 Wastewater and Stormwater Collection System Project.

**Change in Contract Price:** \$122,500.00

**Change in Contract Time:** 0 Days

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### ITEM 2 – Kiefer Dental Office Damage Claim

**Description of Change:** Claim by a local business resulting from broken water line and telephone cable will be withheld from the lump sum in Item #1.

**Reason for Change:** During construction, Lanzo workers broke a water main and a telephone line, both of which were in conflict with the proposed location of the new vacuum sewer system. This damage caused a loss of water service and resulted in a claim for 1½ days of lost revenue for the dental office of Dr. Kiefer. The City has instructed that \$5,680.00 be deducted from the negotiated lump sum in Item #1 and held until the claim is resolved.

**Change in Contract Price:** - \$5,680.00 (Holdback)

**Change in Contract Time:** 0 Days

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### ITEM 3 – Bishop, Rosasco & Co. Damage Claim

**Description of Change:** Claim by a local business resulting from broken telephone and internet cables will be withheld from the lump sum in Item #1.

**Reason for Change:** During construction, Lanzo workers broke a telephone/internet cable that was in conflict with the proposed location of the new vacuum sewer system. This damage caused a loss in phone and internet service, resulting in claim for 1 day of lost revenue for the accounting firm of Bishop, Rosasco & Co.

The City has instructed that \$7,225.00 be deducted from the negotiated lump sum in Item #1 and held until the claim is resolved.

**Change in Contract Price:** - \$7,225.00 (Holdback)

**Change in Contract Time:** 0 Days

**ITEM 4 – Fence Repair on 68<sup>th</sup> & 69<sup>th</sup> Street**

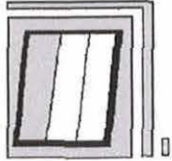
**Description of Change:** Damages to a resident’s chain link fence will be withheld from the lump sum in Item #1.

**Reason for Change:** During construction, Lanzo workers damaged a resident’s fence at the end of both 68<sup>th</sup> and 69<sup>th</sup> St. Weiler Engineering has estimated the cost of the fence repair to be \$1,125.00. The City has directed that this amount be deducted from the negotiate lump sum in Item #1 and be withheld until the repairs to the damaged fence have been made.

**Change in Contract Price:** - \$1,125.00 (Holdback)

**Change in Contract Time:** 0 Days

AREA 5 CHANGE ORDER HISTORY			
No.	Description	Change in Contract Price	Change in Contract Time
1	Aviation Changes	\$ 19,100.00	0 Days
2	Oceanside AT&T Utility Conflicts	\$ 30,441.89	0 Days
3	Shark & Marlin Road Reconstruction	\$ 130,704.90	0 Days
4	Harbor Dr. Sewer/Storm Modification	\$ 8,126.21	0 Days
5	Seal WCS Inlet for S-82 on 79 <sup>th</sup> St.	\$ 720.00	0 Days
6	Pre-Existing Asphalt Damage Repairs Repair Subsiding Road – Harbor & Aviation	\$ 145,000.00	14 Days
7	Replace D-Pit with A-Pit	\$ 13,879.27	2 Days
8	Deduction of Original US-1 Corridor Work Additive Recalculation of US-1 Corridor Work	\$ 902,067.90	0 Days
9	<i>Resident Change Requests</i>	<i>\$126,534.06</i>	<i>0</i>
10	<i>Area 5 Additional Work</i>	<i>\$ 122,500.00</i>	<i>0 Days</i>
	<i>Holdback for Dental Office Claim</i>	<i>- \$ 5,680.00</i>	
	<i>Holdback for Accounting Firm Claim</i>	<i>- \$ 7,225.00</i>	
	<i>Holdback for Damaged Fence on 68<sup>th</sup>/69<sup>th</sup> St.</i>	<i>- \$ 1,125.00</i>	
<b>TOTAL</b>		<b>\$1,449,074.23</b>	<b>16 Days</b>



**LANZO**  
CONSTRUCTION  
CO., FLORIDA

125 Southeast 5th Court  
Deerfield Beach, Florida 33441-4749  
Office: (954) 979-0802  
Fax: (954) 979-9897

January 5, 2011

Mail & Fed-X 7966-2593-9294

City of Marathon, Florida  
9805 Overseas Highway  
Marathon, Florida 33050

Attention: Maria Thorley  
Executive Assistant

Reference: City of Marathon, Area 5, Sewer & Stormwater  
Lanzo Job No. – F-376  
Change Order 10, Unacceptable Items 2, 3, & 4  
Request for Modification

Change Order # 10 as presented to Lanzo in your letter of December 20 cannot be executed by Lanzo. Please reissue by removing Items 2, 3, & 4. Item 1 should stand alone.

Lanzo's May 13, 2010 meeting with the City of Marathon resulted in a negotiated settlement of \$122,500 (Item 1) for additional work performed. This negotiated settlement should stand alone.

Item 2 (Kiefer Dental Office - \$5,680) and Item 3 (Bishop, Rosasco & Co. - \$7,225) are Insurance issues and have been turned over to Lanzo's carrier (CNA) for review and resolution. I have attached CNA's letters to Bishop, Rosasco & Co. and Dr. Kiefer for reference. Civil issues should stand apart from Area 5 Contract issues. Item 4 (Fence Repair on 68<sup>th</sup> & 69<sup>th</sup> Street) is currently being remedied as part of the Punchout of Areas S-1 and S-2.

Lanzo cannot accept Change order 10 as presented. Private Liability issues are associated with Insurance Coverage and should not be a part of Contract Change Order. Please modify Change Order 10 to recognize the Lanzo / Marathon Meeting of May 13, 2010.

If I can be of assistance in your review, please call me at 954.931-6581.

Sincerely,

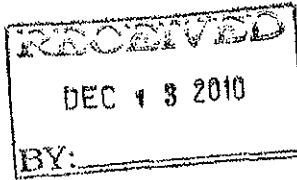
Bob Beaty, PE  
Project Engineer

Cc: F376 Change Order 10 5-Jan\_11  
Weiler – E.Castle  
Lanzo – MPT, JMT, BR, KP



PO Box 8317  
Chicago, IL 60680-8317

December 9, 2010



**Alan Carr**  
Claim Specialist  
CHICAGO, IL  
Telephone 407-919-3012  
877-371-5121 x3012  
Facsimile 407-670-0255  
Email alan.carr@cna.com

THOMAS KIEFER DMD  
11300 OVERSEAS HIGHWAY  
MARATHON,FL,33050-3468

Claim Number: E2726972 M9 Location Code: 8888  
Policyholder: LANZO CONSTRUCTION COMPANY  
Underwriting Co: National Fire Insurance Company Of Hartford  
Date of Loss: 10/20/2009  
Policy Number: 2086706825  
Claimant: THOMAS KIEFER

Please be advised that CNA Insurance is the general liability carrier for Lanzo Construction Company. This letter refers to the accident referenced above where in there was damage to a water line, allegedly caused by our client. We have received your letter of November 19, 2009 outlining the damages you sustained as a result of this incident.

I discussed this matter with your office manager yesterday, as I was requesting supporting documentation for the loss. I was told that documentation would be difficult due to the fact that applicable documentation would have information protected under the HIPPA laws. However, to consider any claim I will need supporting documentation that would include the following:

1. Documentation that supports the "inconvenience and rescheduling" of as many as 32 patients. I will need to know that these patients did not come back at another time for an appointment to ensure that there is not duplicate billing in the alleged damages.
2. Your office manager advised me that at the time of the accident your office was in their busy period and that you had revenues of \$10,000 to \$15,000 a day (supporting your office manager's claim that the \$5680 in damages is a conservative figure), but I will need documentation that shows that this was the range of your daily revenue.
3. The letter of November 19, 2010 also outlines that the Florida Keys Aqueduct Authority (FKAA) was not able to declare the water safe until 4:00PM the following day indicating you were without water for a day and a half as oppose to the 4-6 hours of the actual water outage. Please provide me with any documentation you have from FKAA that outlines this issue.

Please feel free to include and attach any other documentation that would allow me to completely review this loss and the alleged damages. If you have any questions please feel free to contact me at any time.



Claim Number: E2726972 M9

- 2 -

December 9, 2010

Please use our claim number when corresponding with our office.

Sincerely,

Alan Carr

CC: BOB BRICE  
Lanzo Construction Company  
1 Stainless Plaza  
Deerfield Beach, FL 33441-4747



Express Center  
PO Box 16320 Reading PA 19612

**Michael Sowers**

Claims Tech

Telephone 877-378-0541 x5535

Facsimile 312-260-6857

Internet Michael.Sowers@cna.com

10-13-10

BISHOP ROSASCO AND CO  
2500 OVERSEAS HWY  
SUMMERLAND KEY, FL 33042

Claim: E2678896

Our insured: LANZO CONSTRUCTION CO FLORIDA

Date of loss: 4-28-10

Location of loss: 80TH STREET MARATHON FL 33050

Underwriting Co: National Fire Insurance Company Of Hartford

Dear: BISHOP ROSASCO AND CO

We have completed our investigation and believe we have sufficient information to make a proper decision regarding your claim. Please understand that our obligation as an insurer is not to pay all claims, but to pay only those for which our insured is legally responsible.

You stated that you incurred a loss of business when an AT&T utility line was damaged on our insured's job site on 4-28-10.

Our investigation reveals that our insured had called in locate requests for the project that included the AT&T lines in question. Our insured has provided us photos that show that the line was incorrectly located by more than four feet. This is outside of the 24 inch tolerance zone for the state of Florida. It was also verified by an AT&T employee that was on site that there were no locate lines on the ground in the area where the line in question was hit. There is no evidence to show that the loss of business that your company incurred was the result of any negligence by our insured. Therefore, we have concluded that our insured is not responsible for your damages and we must respectfully decline to make any payment to this claim.

Sincerely,

Michael Sowers