

**RESOLUTION NUMBER 2021-08**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, APPROVING CHANGE ORDER NO. 1 TO AMENDMENT 9 OF THE DESIGN-BUILD AGREEMENT RFQ-13-02-PW BETWEEN THE TOWN OF FORT MYERS BEACH AND MITCHELL & STARK CONSTRUCTION CO.; DECREASING THE CONTRACT AMOUNT BY \$2,276,723.09; EXTENDING THE FINAL COMPLETION DATE TO JANUARY 19TH, 2021; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE CHANGE ORDER; AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

**WHEREAS**, Article X of the Town Charter of the Town of Fort Myers Beach ("Town") empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

**WHEREAS**, the Town entered into a Design Build Agreement RFQ-13-02-PW ("Agreement") with Mitchell & Stark Construction Co., ("Contractor") in September of 2013; and,

**WHEREAS**, the Town and Contractor subsequently amended said Agreement in April of 2019 with Amendment 9 in the amount of \$5,075,373.47 to include construction of water mains along Estero Boulevard from the bend off the north bridge to Lovers Lane; and,

**WHEREAS**, Change Order No. 1 to Amendment 9 of the Agreement decreases the contracted amount by \$2,276,723.09 and extends the date of final completion to January 19<sup>th</sup>, 2021.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH, AS FOLLOWS:**

Section 1. The above recitals are true and correct and are hereby incorporated by reference as though fully set forth herein and are hereby adopted as the legislative and administrative findings of the Town Council.

Section 2. Change Order No. 1 to Amendment 9 of the Agreement between the Town and the Contractor attached hereto as "Exhibit A" is hereby approved.

Section 3. The Town Manager is authorized to execute the Change Order and expend budgeted funds on behalf of the Town.

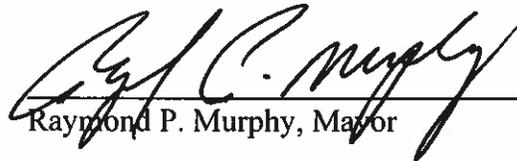
Section 4. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Atterholt and seconded by Council Member Allers, and upon being put to a vote, the result was as follows:

Raymond P. Murphy, Mayor	Aye
Rexann Hosafros, Vice Mayor	Aye
Dan Allers, Councilmember	Aye
Bill Veach, Councilmember	Aye
Jim Atterholt, Councilmember	Aye

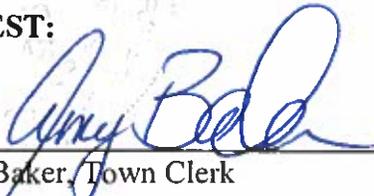
ADOPTED this 16<sup>th</sup> day of February 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

**TOWN OF FORT MYERS BEACH**



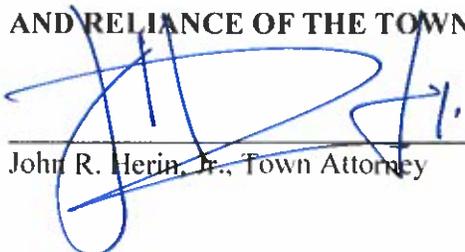
Raymond P. Murphy, Mayor

**ATTEST:**



Amy Baker, Town Clerk

**APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:**



John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 18 day February 2021.

RFQ-13-02-PW  
ESTERO BLVD. WATER MAIN (AMENDMENT 9)

**PART E**  
**FMB:011 - CONSTRUCTION CONTRACT**  
**CHANGE ORDER**

No.: 1

(A Change Order requires approval by the Finance Director and Town Manager for expenditures under \$25,000, approval by the Town Council for expenditures over \$25,000).

CONTRACT/PROJECT NAME: Town of Fort Myers Beach, Estero Blvd Water Main (Amendment 9)  
 CONTRACTOR: Mitchell & Stark Construction, Co. PROJECT NO.: RFQ-13-02-PW  
 CONTRACT NO.: RFQ-13-02-PW BID NO.: RFQ-13-02-PW  
 CHANGE REQUESTED BY: Christy Cory DATE OF REQUEST: 01/19/2021

Upon the completion and execution of this Change Order by both parties to the Contract the Contractor is authorized to and shall proceed to make the following changes in the Contract Documents:  
*(If you need space other than what has been provided, please attach additional sheets.)*

Description: Reconciliation of installed quantities for Work Completed and extension of the contract time.  
 Purpose of Change Order: To reconcile quantities for Work Completed and to extend the contract time.  
 Attachments: (List documents supporting change) Change Order 1 Reconciliation Worksheet

CHANGE IN CONTRACT PRICE:	CHANGE IN CONTRACT TIME:
Original Contract Price <u>\$ 5,075,373.47</u>	Original Contract Time <u>410</u> Calendar Days
Previous Change Order No. _____ to No. _____ <u>\$ 0.00</u>	Net Change from previous Change Orders <u>0</u> Calendar Days
Contract Price prior to this Change Order <u>\$ 5,075,373.47</u>	Contract Time prior to this Change Order <u>410</u> Calendar Days
Net Increase (Decrease) of this Change Order <u>\$ (2,276,723.09)</u>	Net Increase (Decrease) of this Change Order <u>226</u> Calendar Days
Contract Price will all approved Change Orders <u>\$ 2,798,650.39</u>	Contract Time with all approved Change Orders <u>636</u> Calendar Days

It is understood and agreed that the acceptance of this modification by the CONTRACTOR constitutes an accord and satisfaction, and represents payment in full (both time and money) for all costs arising out of, or incidental to, the above mentioned change.

RECOMMENDED:  
 By: [Signature] 1/11/21  
 Consultant (if applicable) Date  
 By: Christy Cory 1/27/21  
 Department Director Date

ACCEPTED  
 By: [Signature]  
 Contractor  
 Date Accepted: 1/26/2021

TOWN APPROVAL:  
 By: \_\_\_\_\_  
 Finance Director (Under \$25,000)  
 Date Approved: \_\_\_\_\_

Contracts Management  
 APPROVED:  
 Town Attorney Date

(CORPORATE SEAL)

By: \_\_\_\_\_  
 Town Manager (Under \$25,000)  
 Date Approved: \_\_\_\_\_  
 By: \_\_\_\_\_  
 Mayor, Town Council  
 (Over \$25,000)  
 Date Approved: \_\_\_\_\_

Town of Port Myers Beach  
 Howell & Stark Construction Company, Inc.  
 Contract No: RFG-03-02-PW Amendment 9 Return Water Main Phase 2B  
 Change Order #1 Reconciliation Worksheet

ITEM NO.	DESCRIPTION	UNIT PRICE	UNIT	CONTRACTED QUANTITY	INSTALLED QUANTITY TO DATE	DIFFERENCE	QTY DIFFERENCE x UNIT PRICE	Current Contracted Amount	Revised Amount	Revised (-) Current Contracted Amount
1	Mobilization/De-mobilization	20,000.00	LS	1	0	-1	-20,000.00	20,000.00	20,000.00	0.00
2	General Excavation, Backfill, Hauling and/or Gravel	180,000.00	LS	1	0	-1	-180,000.00	180,000.00	180,000.00	0.00
3	Pipe Construction Voids	1,000.00	LF	1	0	-1	-1,000.00	1,000.00	1,000.00	0.00
4	Locate Utilities in Advance of Construction	5,000.00	LS	1	0	-1	-5,000.00	5,000.00	5,000.00	0.00
5	Grassy Velocity Full Tree	25,000.00	LF	1	0	-1	-25,000.00	25,000.00	25,000.00	0.00
6	Maintenance of Traffic (Flaggers as needed)	275.00	MO	12	11	-1	-275.00	3,225.00	3,225.00	0.00
7	Maintenance of Traffic (Cones, signs, and flashing only)	100,000.00	LS	1	0	-1	-100,000.00	100,000.00	100,000.00	0.00
8	Survey and As-Built Data	1,000.00	EA	1	0	-1	-1,000.00	1,000.00	1,000.00	0.00
9	Construction	20,000.00	LS	1	0	-1	-20,000.00	20,000.00	20,000.00	0.00
10	Revised 12" Water Main Lateral	2,824.00	EA	2,342	2,342	0	0.00	6,614,808.00	6,614,808.00	0.00
11	12" DI 14 PVC Water Main	178.00	LF	220	220	0	0.00	39,060.00	39,060.00	0.00
12	12" DI 14 PVC Water Main	178.00	LF	40	40	0	0.00	7,120.00	7,120.00	0.00
13	12" DI 14 PVC Water Main	178.00	LF	340	340	0	0.00	60,320.00	60,320.00	0.00
14	12" DI 14 PVC Water Main	178.00	LF	620	620	0	0.00	110,360.00	110,360.00	0.00
15	12" DI 14 PVC Water Main	178.00	LF	900	900	0	0.00	160,200.00	160,200.00	0.00
16	12" DI 14 PVC Water Main	178.00	LF	1,200	1,200	0	0.00	213,600.00	213,600.00	0.00
17	12" DI 14 PVC Water Main	178.00	LF	1,500	1,500	0	0.00	267,000.00	267,000.00	0.00
18	12" DI 14 PVC Water Main	178.00	LF	1,800	1,800	0	0.00	320,400.00	320,400.00	0.00
19	12" DI 14 PVC Water Main	178.00	LF	2,100	2,100	0	0.00	373,800.00	373,800.00	0.00
20	12" DI 14 PVC Water Main	178.00	LF	2,400	2,400	0	0.00	427,200.00	427,200.00	0.00
21	12" DI 14 PVC Water Main	178.00	LF	2,700	2,700	0	0.00	480,600.00	480,600.00	0.00
22	12" DI 14 PVC Water Main	178.00	LF	3,000	3,000	0	0.00	534,000.00	534,000.00	0.00
23	12" DI 14 PVC Water Main	178.00	LF	3,300	3,300	0	0.00	587,400.00	587,400.00	0.00
24	12" DI 14 PVC Water Main	178.00	LF	3,600	3,600	0	0.00	640,800.00	640,800.00	0.00
25	12" DI 14 PVC Water Main	178.00	LF	3,900	3,900	0	0.00	694,200.00	694,200.00	0.00
26	12" DI 14 PVC Water Main	178.00	LF	4,200	4,200	0	0.00	747,600.00	747,600.00	0.00
27	12" DI 14 PVC Water Main	178.00	LF	4,500	4,500	0	0.00	801,000.00	801,000.00	0.00
28	12" DI 14 PVC Water Main	178.00	LF	4,800	4,800	0	0.00	854,400.00	854,400.00	0.00
29	12" DI 14 PVC Water Main	178.00	LF	5,100	5,100	0	0.00	907,800.00	907,800.00	0.00
30	12" DI 14 PVC Water Main	178.00	LF	5,400	5,400	0	0.00	961,200.00	961,200.00	0.00
31	12" DI 14 PVC Water Main	178.00	LF	5,700	5,700	0	0.00	1,014,600.00	1,014,600.00	0.00
32	12" DI 14 PVC Water Main	178.00	LF	6,000	6,000	0	0.00	1,068,000.00	1,068,000.00	0.00
33	12" DI 14 PVC Water Main	178.00	LF	6,300	6,300	0	0.00	1,121,400.00	1,121,400.00	0.00
34	12" DI 14 PVC Water Main	178.00	LF	6,600	6,600	0	0.00	1,174,800.00	1,174,800.00	0.00
35	12" DI 14 PVC Water Main	178.00	LF	6,900	6,900	0	0.00	1,228,200.00	1,228,200.00	0.00
36	12" DI 14 PVC Water Main	178.00	LF	7,200	7,200	0	0.00	1,281,600.00	1,281,600.00	0.00
37	12" DI 14 PVC Water Main	178.00	LF	7,500	7,500	0	0.00	1,335,000.00	1,335,000.00	0.00
38	12" DI 14 PVC Water Main	178.00	LF	7,800	7,800	0	0.00	1,388,400.00	1,388,400.00	0.00
39	12" DI 14 PVC Water Main	178.00	LF	8,100	8,100	0	0.00	1,441,800.00	1,441,800.00	0.00
40	12" DI 14 PVC Water Main	178.00	LF	8,400	8,400	0	0.00	1,495,200.00	1,495,200.00	0.00
41	12" DI 14 PVC Water Main	178.00	LF	8,700	8,700	0	0.00	1,548,600.00	1,548,600.00	0.00
42	12" DI 14 PVC Water Main	178.00	LF	9,000	9,000	0	0.00	1,602,000.00	1,602,000.00	0.00
43	12" DI 14 PVC Water Main	178.00	LF	9,300	9,300	0	0.00	1,655,400.00	1,655,400.00	0.00
44	12" DI 14 PVC Water Main	178.00	LF	9,600	9,600	0	0.00	1,708,800.00	1,708,800.00	0.00
45	12" DI 14 PVC Water Main	178.00	LF	9,900	9,900	0	0.00	1,762,200.00	1,762,200.00	0.00
46	12" DI 14 PVC Water Main	178.00	LF	10,200	10,200	0	0.00	1,815,600.00	1,815,600.00	0.00
47	12" DI 14 PVC Water Main	178.00	LF	10,500	10,500	0	0.00	1,869,000.00	1,869,000.00	0.00
48	12" DI 14 PVC Water Main	178.00	LF	10,800	10,800	0	0.00	1,922,400.00	1,922,400.00	0.00
49	12" DI 14 PVC Water Main	178.00	LF	11,100	11,100	0	0.00	1,975,800.00	1,975,800.00	0.00
50	12" DI 14 PVC Water Main	178.00	LF	11,400	11,400	0	0.00	2,029,200.00	2,029,200.00	0.00
51	12" DI 14 PVC Water Main	178.00	LF	11,700	11,700	0	0.00	2,082,600.00	2,082,600.00	0.00
52	12" DI 14 PVC Water Main	178.00	LF	12,000	12,000	0	0.00	2,136,000.00	2,136,000.00	0.00
53	12" DI 14 PVC Water Main	178.00	LF	12,300	12,300	0	0.00	2,189,400.00	2,189,400.00	0.00
54	12" DI 14 PVC Water Main	178.00	LF	12,600	12,600	0	0.00	2,242,800.00	2,242,800.00	0.00
55	12" DI 14 PVC Water Main	178.00	LF	12,900	12,900	0	0.00	2,296,200.00	2,296,200.00	0.00
56	12" DI 14 PVC Water Main	178.00	LF	13,200	13,200	0	0.00	2,349,600.00	2,349,600.00	0.00
57	12" DI 14 PVC Water Main	178.00	LF	13,500	13,500	0	0.00	2,403,000.00	2,403,000.00	0.00
58	12" DI 14 PVC Water Main	178.00	LF	13,800	13,800	0	0.00	2,456,400.00	2,456,400.00	0.00
59	12" DI 14 PVC Water Main	178.00	LF	14,100	14,100	0	0.00	2,509,800.00	2,509,800.00	0.00
60	12" DI 14 PVC Water Main	178.00	LF	14,400	14,400	0	0.00	2,563,200.00	2,563,200.00	0.00
61	12" DI 14 PVC Water Main	178.00	LF	14,700	14,700	0	0.00	2,616,600.00	2,616,600.00	0.00
62	12" DI 14 PVC Water Main	178.00	LF	15,000	15,000	0	0.00	2,670,000.00	2,670,000.00	0.00
63	12" DI 14 PVC Water Main	178.00	LF	15,300	15,300	0	0.00	2,723,400.00	2,723,400.00	0.00
64	12" DI 14 PVC Water Main	178.00	LF	15,600	15,600	0	0.00	2,776,800.00	2,776,800.00	0.00
65	12" DI 14 PVC Water Main	178.00	LF	15,900	15,900	0	0.00	2,830,200.00	2,830,200.00	0.00
66	12" DI 14 PVC Water Main	178.00	LF	16,200	16,200	0	0.00	2,883,600.00	2,883,600.00	0.00
67	12" DI 14 PVC Water Main	178.00	LF	16,500	16,500	0	0.00	2,937,000.00	2,937,000.00	0.00
68	12" DI 14 PVC Water Main	178.00	LF	16,800	16,800	0	0.00	2,990,400.00	2,990,400.00	0.00
69	12" DI 14 PVC Water Main	178.00	LF	17,100	17,100	0	0.00	3,043,800.00	3,043,800.00	0.00
70	12" DI 14 PVC Water Main	178.00	LF	17,400	17,400	0	0.00	3,097,200.00	3,097,200.00	0.00
71	12" DI 14 PVC Water Main	178.00	LF	17,700	17,700	0	0.00	3,150,600.00	3,150,600.00	0.00
72	12" DI 14 PVC Water Main	178.00	LF	18,000	18,000	0	0.00	3,204,000.00	3,204,000.00	0.00
73	12" DI 14 PVC Water Main	178.00	LF	18,300	18,300	0	0.00	3,257,400.00	3,257,400.00	0.00
74	12" DI 14 PVC Water Main	178.00	LF	18,600	18,600	0	0.00	3,310,800.00	3,310,800.00	0.00
75	12" DI 14 PVC Water Main	178.00	LF	18,900	18,900	0	0.00	3,364,200.00	3,364,200.00	0.00
76	12" DI 14 PVC Water Main	178.00	LF	19,200	19,200	0	0.00	3,417,600.00	3,417,600.00	0.00
77	12" DI 14 PVC Water Main	178.00	LF	19,500	19,500	0	0.00	3,471,000.00	3,471,000.00	0.00
78	12" DI 14 PVC Water Main	178.00	LF	19,800	19,800	0	0.00	3,524,400.00	3,524,400.00	0.00
79	12" DI 14 PVC Water Main	178.00	LF	20,100	20,100	0	0.00	3,577,800.00	3,577,800.00	0.00
80	12" DI 14 PVC Water Main	178.00	LF	20,400	20,400	0	0.00	3,631,200.00	3,631,200.00	0.00
81	12" DI 14 PVC Water Main	178.00	LF	20,700	20,700	0	0.00	3,684,600.00	3,684,600.00	0.00
82	12" DI 14 PVC Water Main	178.00	LF	21,000	21,000	0	0.00	3,738,000.00	3,738,000.00	0.00
83	12" DI 14 PVC Water Main	178.00	LF	21,300	21,300	0	0.00	3,791,400.00	3,791,400.00	0.00
84	12" DI 14 PVC Water Main	178.00	LF	21,600	21,600	0	0.00	3,844,800.00	3,844,800.00	0.00
85	12" DI 14 PVC Water Main	178.00	LF	21,900	21,900	0	0.00	3,898,200.00	3,898,200.00	0.00
86	12" DI 14 PVC Water Main	178.00	LF	22,200	22,200	0	0.00	3,951,600.00	3,951,600.00	0.00
87	12" DI 14 PVC Water Main	178.00	LF	22,500	22,500	0	0.00	4,005,000.00	4,005,000.00	0.00
88	12" DI 14 PVC Water Main	178.00	LF	22,800	22,800	0	0.00	4,058,400.00	4,058,400.00	0.00
89	12" DI 14 PVC Water Main	178.00	LF	23,100	23,100	0	0.00	4,111,800.00	4,111,800.00	0.00
90	12" DI 14 PVC Water Main	178.00	LF	23,400	23,400	0	0.00	4,165,200.00	4,165,200.00	0.00
91	12" DI 14 PVC Water Main	178.00	LF	23,700	23,700	0	0.00	4,		