



April 19, 2024

Liberty Mutual Insurance Company
175 Berkeley Street
Boston, MA 02116

Re: Notice of Performance Concerns – Benchmark Constructions Co. Inc.
Performance Bond # 285068858 for Seminole County Contract No. CC-3999-21/TAD
Issued: May 3, 2022; Amount: \$4,388,725.00

To Whom It May Concern:

We are writing to notify you of significant concerns regarding the performance of Benchmark Construction Co., Inc. and potentially its subcontractors (collectively, “Principal”) on the Country Club Heights Sewer and Water Main Replacement project for Seminole County. It is crucial that you are aware of the following issues:

- 1. Failure to Meet Contractual Timelines:** The project was originally scheduled to be substantially completed on December 4, 2023, with final completion to occur within thirty (30) days thereafter. The County has processed two (2) Change Orders to revise the substantial completion date to March 29, 2024. See attached Change Order No. 01 and Change Order No. 02 for reference. However, Principal has achieved only 30 percent completion and is now proposing a substantial completion date of November 25, 2024, resulting in Principal’s delay of two hundred forty-one (241) days for completion of the project. Principal is incurring liquidated damages in the amount of five hundred and 00/100 dollars (\$500.00) for each day from the substantial completion date of March 29, 2024. The County does not agree with Principal’s proposed substantial completion date of November 25, 2024.
- 2. Non-compliance with Project Specifications:** A substantial amount of installed pipe fails to meet project specifications, as specified in the subject contract. On February 19, 2024, the County provided the Principal with notice as to these deficiencies. See attached Memorandum. As of the date of this letter, the Principal has not rectified these deficiencies.
- 3. Emergency Situations Caused by Construction:** Construction activities by Principal has resulted in additional time and resources by County for emergency situations, such as uncontrolled sewage flow and loss of water pressure in the Country Club Heights subdivision. Enclosed for your reference is a Stop Work Order issued by County on March 6, 2023, as result of these incidents. In addition to liquidated damages, the County intends to recover actual damages incurred from emergency responses by the County’s Utilities crews.

The County is requesting Liberty Mutual Insurance Company provide the County a plan acceptable to County for completion of the subject project without any further delay.

UTILITIES DEPARTMENT

ADMINISTRATION



We look forward to hearing from you.

Sincerely,

A handwritten signature in blue ink, appearing to read "W. J. Edwards", is written over the typed name. The signature is fluid and extends to the right.

William J. Edwards, P.E., Interim Director

Copy to: Benchmark Construction Co., Inc.
Attachments

RESOURCE MANAGEMENT DEPARTMENT
PURCHASING AND CONTRACTS DIVISION



Date: June 13, 2022

Via Email: emmew@bmk8.com

Ref: CC-3999-21/TAD Country Club Heights Sewer and Water Main Replacement Project

NOTICE TO PROCEED

The services provided by your firm shall begin on June 13, 2022 and be substantially completed within **Five Hundred Forty (540) calendar days on December 4, 2023**. These services shall reach final completion within **Thirty (30) calendar days thereafter on January 3, 2024**, as described in the contract documents. The timely and accurate performance of the work set forth in the contract documents is important to the County. It is also a primary consideration for contractor selection on future projects.

Please acknowledge below, retain a copy for your records and return one scanned copy to the Seminole County Purchasing and Contracts Division via reply to the email address below.

We are glad to have you on as part of the County's project team and we look forward to a successful project.

Sincerely,

Tony Durrum, CPPB, A.P.P.
Sr. Procurement Analyst
Phone :(407)-665-7123
E-mail: tdurrum@seminolecountyfl.gov

ACCEPTANCE OF NOTICE

Acceptance of the above "NOTICE TO PROCEED" is hereby acknowledged, this 13th day of June, 2022.

By: Jason P. Coleman
Print Name

[Signature]
Signature

Title: Operations Manager

Company: Benchmark Construction Company, Inc.

cc: Environmental Services/Util. Engineering
Finance/File

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS

CHANGE ORDER
CONSTRUCTION PROJECTS

CONTRACTOR: Benchmark Construction Co., Inc. Date: 5/17/2023
Contract No.: Project Name: Country Club Heights Sewer and Water Main Replacement
Change Order No.: 01 Work Order No.: (if applicable)

Original Contract / Work Order Amount: \$ 4,348,725.00 4,388,725.00
Amount prior to this Change Order, if different: \$
Change Order Amount: [X] Increase [] Decrease [] No Change \$ 37,108.37
Revised Contract / Work Order Amount including this Change Order: \$ 4,425,833.37

Change Order Time: [X] Increase [] Decrease [] No Change 22 Days
Date of Substantial Completion through this Change Order: December 26, 2023
Date of Final Completion through this Change Order: January 25, 2024

Waiver: This Change Order constitutes full and mutual accord and satisfaction for the adjustment of Contract / Work Order Price and Time as a result of increases or decreases in costs and time of performance caused directly and indirectly from the change.

Acknowledgements: The aforementioned change, and work affected thereby, is subject to all provisions of the original Agreement not specifically changed by this Change Order; and it is expressly understood and agreed by the County and the Contractor that the approval of this Change Order will have no effect on the original Agreement other than matters expressly provided herein.

This Change Order does or X does not involve changes to the design of the project, which would require the approval and signature of the Architect or Engineer of Record and County Project Manager.

County Project Manager: Architect / Engineer of Record: Contractor:
Name: Tammy Ryan Pelkey Stefano Ceriana Benchmark Construction
Address: 500 W Lake Mary Blvd 1016 Spring Villas Pt 2260 Southwind Blvd
Winter Springs, FL 32708 Bartlett, IL 60183
Sign: Tammy Ryan Pelkey [Signature] [Signature]
Date: May 17, 2023 May 24, 2023 May 19, 2023

PURCHASING AND CONTRACTS DIVISION:

Signature: Diane Reed Digitally signed by Diane Reed Date: 2023.06.19 14:57:50 -04'00' Date:
FOR Procurement Administrator
As authorized by Section 3.554, Seminole County Administrative Code

WITNESS: Tony Durrum Digitally signed by Tony Durrum Date: 2023.06.19 15:49:58 -04'00' WITNESS: Michael Guild Digitally signed by Michael Guild Date: 2023.06.19 15:45:37 -04'00'

[] For Board approved Items: Meeting Date: Item #

C-02 - CHANGE ORDER FORM (Rev 100120)



SEMINOLE COUNTY CHANGE ORDER ATTACHMENT

Item	Description	Qty	Unit	Unit Price	Qty Incr/Decr	Amount
Project Name: <u>Country Club Heights Sewer and Water Main Rpl</u> Project/Agreement No <u>CC-3999-21/TAD</u>						
Change Order No. <u>01</u> CIP# <u>65285</u>						
1	IINSERTA TEE	66	EA	\$246.00	+7%	\$17,372.52
2	6 PVC HW SWR GXG 45 ELL	66	EA	\$56.65	+7%	\$4,000.62
3	6 PVC HW SWR GXG 22-1/2 ELL	66	EA	\$77.22	+7%	\$5,453.28
4	8X15 F1 SS REP CLMP 8.99 - 9.39	27	EA	\$355.90	+7%	\$10,281.95
Total:						\$37,108.37

CHANGE ORDER ATTACHMENT
Revised 8/8/13 BLH

App. H-2

Certified Copy - Grant Maloy
Clerk of the Circuit Court and Comptroller
Seminole County, Florida




Seminole County Clerk of the Circuit Court and Comptroller
eCertified at 06/19/2023 15:55:24 -04:00
eCertified Id: 00C2-03FC-0B2S
Page 2 of 5



Benchmark Construction Co., Inc.

General Construction / Construction Management / Engineering Services

City Office
3349 S. Kedzie Ave.
Chicago, IL 60623
(773) 247-0881

Suburban Office
2260 Southwind Blvd.
Bartlett, IL 60103
(630) 497-1700
(630) 497-1737 Fax

Company: Seminole County
Date: 5-16-2023

Attn: Seminole County

Project Location: Country Club Heights – Longwood, FL
RE: Proposal, Change Order Request, Cost for extra material, Inserta-tees, and/or Stainless Steel Sleeve required to replace rubber wye's for approximately 66 sewer services

Benchmark Construction's price for this work will be as follows:

1. Mobilization (Equipment, Employee's on Location) (No Extra Cost)
2. Site Preparation (Traffic Control) (No Extra Cost)
3. Work (Connection of approximately 66 services, replacing wye's with Inserta-tee's)

Price for work stated above and below is (Cost of Material): \$406.46 each.
Price for (Cost of Mechanical Sleeve): \$380.81 each.
(Includes all equipment and labor needed)

Scope of Work

Benchmark Construction will provide the following:

- All Equipment
- All Personnel
- All Materials

Seminole County will Provide the following:

- Plans and Specs for project.

Certified Copy - Grant Maloy
Clerk of the Circuit Court and Comptroller
Seminole County, Florida



Seminole County Clerk of the Circuit Court and Comptroller

eCertified at 06/19/2023 15:55:24 -04:00

eCertified Id: 00C2-03FC-0B2S

Page 3 of 5



FEL_WINTER HAVEN, FL WATERWORKS
 #1588
 2439 7TH ST SW
 WINTER HAVEN, FL 33880-1948
 Phone: 863-401-2764
 Fax: 863-291-4240

Deliver To:
 From: Matthew Meyer
 Comments:

11:26:13 MAY 11 2023

Page 1 of 1

FEL-WINTER HAVEN, FL WW
 Order Confirmation
 Phone: 863-401-2764
 Fax: 863-291-4240

Order No: 2031070
 Order Date: 05/09/23
 Writer: MCM

Req Date: 05/20/23

Ship Via: COUNTER PICK-UP
 Terms: NET 10TH PROX

Sold To: MG UNDERGROUND LLC
 9720 N HARMONY BORDER ST
 COUNTRY CLUB HEIGHTS
 BRAZIL, IN 47834

Ship To: CUSTOMER PICK-UP

Cust PO#: DREW

Job Name: COUNTRY CLUB HEIGHTS

Item	Description	Quantity	Net Price	UM	Total
I6P26FB8PE17	6X8 SDR26 X HDPE SDR17 INSERTA TEE	86	246.000	EA	21156.00
GMAX8	8.40-10.15 MAX ADPT COUP	20	206.420	EA	4128.40
MUL067326	6 PVC HW SWR GXG 45 ELL	30	56.650	EA	1699.50
MUL067306	6 PVC HW SWR GXG 22-1/2 ELL	30	77.220	EA	2316.60
			Net Total:		\$29300.50
			Tax:		\$1829.23
			Freight:		\$0.00
			Total:		\$31129.73

WARRANTY PROVISIONS

The purchaser's sole and exclusive warranty is that provided by the manufacturer, if any. Seller makes no express or implied warranties. SELLER DISCLAIMS ALL EXPRESS OR IMPLIED WARRANTIES INCLUDING ALL IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS OR FITNESS FOR A PARTICULAR PURPOSE. IN NO EVENT WILL SELLER BE LIABLE FOR ANY INCIDENTAL, PUNITIVE, SPECIAL OR CONSEQUENTIAL DAMAGES ARISING DIRECTLY OR INDIRECTLY FROM THE OPERATION OR USE OF THE PRODUCT. SELLER'S LIABILITY, IF ANY, SHALL BE LIMITED TO THE NET SALES PRICE RECEIVED BY SELLER. Complete Terms and Conditions are available upon request or can be viewed on the web at <https://www.ferguson.com/content/website-info/terms-of-sale>

LEAD LAW WARNING: It is illegal to install products that are not "lead free" in accordance with US Federal or other applicable law in potable water systems anticipated for human consumption. Products with "NP" in the description are NOT lead free and can only be installed in non-potable applications. Buyer is solely responsible for product selection.
 COVID-19 ORDER: ANY REFERENCE TO OR INCORPORATION OF EXECUTIVE ORDER 14042 AND/OR THE EO-IMPLEMENTING FEDERAL CLAUSES (FAR 52.223-99 AND/OR DFARS 252.223-7999) IS EXPRESSLY REJECTED BY SELLER AND SHALL NOT APPLY AS SELLER IS A MATERIALS SUPPLIER AND THEREFORE EXEMPT UNDER THE EXECUTIVE ORDER.



HOW ARE WE DOING? WE WANT YOUR FEEDBACK!

Scan the QR code or use the link below to complete a survey about your orders:

<https://survey.medallia.com/?bidsorder&fc=44&on=65278>

Certified Copy - Grant Maloy
 Clerk of the Circuit Court and Comptroller
 Seminole County, Florida



Seminole County Clerk of the Circuit Court and Comptroller

eCertified at 06/19/2023 15:55:24 -04:00

eCertified Id: 00C2-03FC-0B2S

Page 4 of 5

FERGUSON®

WATERWORKS

EMAIL DUPLICATE INVOICE

FEL-TAMPA, FL WATERWORKS #044
 REMIT TO NEW ADDRESS:
 PO BOX 100286
 ATLANTA, GA 30384-0286

Deliver To:	
From:	Matthew Meyer
Comments:	

Please Contact With Questions:
 813-627-1240

Invoice Number	Customer	Page
2031261	65278	1

Please refer to Invoice Number when making payment and remit to:

TOTAL DUE ----> 2284.88

FEL-TAMPA, FL WATERWORKS #044
 REMIT TO NEW ADDRESS:
 PO BOX 100286
 ATLANTA, GA 30384-0286

Sold To:

MG UNDERGROUND LLC
 9720 N HARMONY BORDER ST
 COUNTRY CLUB HEIGHTS
 BRAZIL, IN 47834

Ship To:

COUNTER PICK UP
 8008 E SLIGH AVE
 TAMPA, FL 33610-0000

Ship Whse	Sell Whse	Tax Code	Customer Order Number	Sales Person	Job Name	Invoice Date	Batch
44	44	FL2POL	MATT	ERN	COUNTRY CLUB HEIGHTS	05/15/2023	114987
Ordered	Shipped	Item Number	Description	Unit Price	UM	Amount	
6	6	FF193915	8X15 F1 SS REP CLMP 8.99-9.39	355.900	EA	2135.40	
Invoice Sub-Total						2135.40	
Tax						149.48	
Total Amt						2284.88	

TOTAL DUE ---->	2284.88
---------------------------	----------------

ALL ACCOUNTS ARE DUE AND PAYABLE PER THE CONDITIONS AND TERMS OF THE ORIGINAL INVOICE. ALL PAST DUE AMOUNTS ARE SUBJECT TO A SERVICE CHARGE AT THE MAXIMUM RATE ALLOWED BY STATE LAW PLUS COSTS OF COLLECTION INCLUDING ATTORNEY FEES IF INCURRED. FREIGHT TERMS ARE FOR OUR DOCK UNLESS OTHERWISE SPECIFIED ABOVE. COMPLETE TERMS AND CONDITIONS ARE AVAILABLE UPON REQUEST OR CAN BE VIEWED ON THE WEB AT <https://www.ferguson.com/content/website-info/terms-of-sale>
 GOVT BUYERS: ALL ITEMS QUOTED ARE OPEN MARKET UNLESS NOTED OTHERWISE.

LEAD LAW WARNING: IT IS ILLEGAL TO INSTALL PRODUCTS THAT ARE NOT "LEAD FREE" IN ACCORDANCE WITH US FEDERAL OR OTHER APPLICABLE LAW IN POTABLE WATER SYSTEMS ANTICIPATED FOR HUMAN CONSUMPTION. PRODUCTS WITH *NP IN THE DESCRIPTION ARE NOT LEAD FREE AND CAN ONLY BE INSTALLED IN NON-POTABLE APPLICATIONS. BUYER IS SOLELY RESPONSIBLE FOR PRODUCT SELECTION.

COVID-19 ORDER: ANY REFERENCE TO OR INCORPORATION OF EXECUTIVE ORDER 14042 AND/OR THE EO-IMPLEMENTING FEDERAL CLAUSES (FAR 52.223-99 AND/OR DFARS 252.223-7999) IS EXPRESSLY REJECTED BY SELLER AND SHALL NOT APPLY AS SELLER IS A MATERIALS SUPPLIER AND THEREFORE EXEMPT UNDER THE EXECUTIVE ORDER.

Certified Copy - Grant Maloy
 Clerk of the Circuit Court and Comptroller
 Seminole County, Florida



Seminole County Clerk of the Circuit Court and Comptroller
 eCertified at 06/19/2023 15:55:24 -04:00
 eCertified Id: 00C2-03FC-0B2S
 Page 5 of 5

SEMINOLE COUNTY BOARD OF COUNTY COMMISSIONERS

CHANGE ORDER
CONSTRUCTION PROJECTS

CONTRACTOR: Benchmark Construction Co. Inc. Date: 6/26/23

Contract No.: CC-3999-21 Project Name: Country Club Heights Sewer and Water Main Replacement

Change Order No.: 02 Work Order No.: (if applicable)

Original Contract / Work Order Amount: \$ 4,348,725.00 4,388,725.00
Amount prior to this Change Order, if different: \$ 4,385,833.37 4,425,833.37
Change Order Amount: [] Increase [] Decrease [x] No Change \$ 0.00
Revised Contract / Work Order Amount including this Change Order: \$ 0.00

Change Order Time: [x] Increase [] Decrease [] No Change 94 Days
Date of Substantial Completion through this Change Order: 3/29/24
Date of Final Completion through this Change Order: 4/28/24

Waiver: This Change Order constitutes full and mutual accord and satisfaction for the adjustment of Contract / Work Order Price and Time as a result of increases or decreases in costs and time of performance caused directly and indirectly from the change.

Acknowledgements: The aforementioned change, and work affected thereby, is subject to all provisions of the original Agreement not specifically changed by this Change Order; and it is expressly understood and agreed by the County and the Contractor that the approval of this Change Order will have no effect on the original Agreement other than matters expressly provided herein.

This Change Order does or does not involve changes to the design of the project, which would require the approval and signature of the Architect or Engineer of Record and County Project Manager.

County Project Manager: Name: Tammy Ryan Pelkey Address: 500 W Lake Mary Blvd Sanford, FL 32773
Architect / Engineer of Record: Name: Stefano Ceriana Address: 1016 Spring Villas Pt. Winter Springs, FL 32708
Contractor: Name: Benchmark Construction Co. Inc. Address: 2260 Southwind Blvd. Bartlett, IL 60183
Signatures and dates for all parties.

PURCHASING AND CONTRACTS DIVISION:

Robert T. Bradley, Procurement Administrator, Digitally signed by Robert T. Bradley, Date: 2023.07.27 12:15:32 -04'00', Date: 7/27/2023
Liduvina Torres, Digitally signed by Liduvina Torres, Date: 2023.07.27 15:04:47 -04'00', Witness: Herronda S. Mortimer, Digitally signed by Herronda S. Mortimer, Date: 2023.07.28 08:38:33 -04'00'

[] For Board approved Items: Meeting Date: Item #

C-02 - CHANGE ORDER FORM (Rev 100120)



726 W Taft Vineland Rd
Orlando FL 32824

oldcastleinfrastructure.com

June 16TH, 2023

Benchmark Construction,

We, Oldcastle, and the industry were facing significant delays due to material availability as well as labor shortages. We understood that the project for Seminole County Country Club Heights was a high-priority, and we did everything in our power to expedite the sourcing and met the deadlines to complete the project. That being said, we ask that you give Benchmark a 94-day extension to complete this project as the delays in material was out of their control.


Sincerely,

Anna Sappleton
Outside Sales Representative for Central Florida and East Coast





MEMORANDUM

DATE: February 19, 2024
TO: Benchmark Construction
FROM: Seminole County Utilities Engineering 
SUBJECT: Country Club Heights Utility – Sanitary Deficiencies

Utilities Engineering believes that the sanitary system is not functioning as intended and may cause hardship to the residents in the near future. Further, the first stage of video inspection for the currently installed system has not been completed to date in accordance with the approved specifications, Section 33 01 30. Listed below are the deficiencies within the sanitary system that need to be addressed and corrected prior to continuing with further installation construction activities.

We request that Benchmark Construction make these deficiencies their top priority and correct these issues at the earliest convenience.

Burns Ave

- MH 57 to MH 56 – Video needs to be provided. Inspections witnessed 8” HDPE south of MH 57 goes up hill south of the MH.
- MH 888 – Installation of MH 888 is needed.
- MH 56 to MH 888 – Video needs to be provided to determine deficiencies.
- MH 888 to MH 55 – Video needs to be provided to determine deficiencies.
- MH 55 to MH 54 – Provide video once the pipe bursting activity is complete to determine if there are deficiencies.

Clyde Ave

- MH 63 to MH 62 – Video received - 8” HDPE main line is holding water indicating there is either a hump or belly in the line.
- MH 62 to MH 61 – Partial video received shows holding water +/- 20’ south of MH 62. Video stops at 20’ and a complete video not provided. 8” HDPE main line is holding water indicating there is either a hump or belly in the line.
- MH 61 to MH 54 – Video needs to be provided to determine deficiencies.

Densities around manholes and all road crossings.

Repairs to the underdrain system damaged to date.

Coordinate with the County Inspector on the timeframe to complete the deficiencies, testing, and verification of corrections.

THROUGH

*****STOP WORK*****

NOTICE

SEMINOLE COUNTY ENVIRONMENTAL SERVICES DEPARTMENT

NOTICE

Project: Country Club Heights Utilities Rehab

Contractor: Benchmark Construction

In order to avoid a citation for this violation it is necessary to contact the Seminole County Environmental Services Department.

LOCATION: Clyde Ave

DATE: 3/6/23

COMMENTS: Unacceptable construction methods

Laterals Not connected
causing Sewer spills

No Pipe bursting

Dave McBroorn
Utilities Inspector

DO NOT REMOVE THIS NOTICE

Detach and bring this portion of the card with you to the Seminole County Environmental Services Department.

LOCATION: Utilities Engineering @ Reflections

DATE: 3/6/23

COMMENTS: _____

Permit Number: _____

Utilities Inspector, Seminole County