

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2009-44**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY TO ENTER INTO CHANGE ORDER # 5 CHANGING CONTRACT TIME FROM 360 DAYS TO FINAL COMPLETION TO 437 DAYS TO FINAL COMPLETION IN SERVICE AREA 6: ORIGINAL CONTRACT DATED AUGUST 8, 2007, WITH GLOBETEC CONSTRUCTION, LLC, FOR CONSTRUCTION OF SERVICE AREA 4 & 6 WASTEWATER, STORMWATER AND WATER REUSE (IN AN AMOUNT NOT TO EXCEED \$28,916,180); AND PROVIDING AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon City Council, pursuant to Resolution 2007-98, approved a contract with Globtec Construction LLC for Service Area 4 & 6 collection systems for wastewater on August 8, 2007 (the “Agreement”); and

**WHEREAS**, as construction proceeds on the wastewater/Stormwater project, the City has previously approved several change orders to the dollar amount of the contract but no time extensions were included with these requests; and

**WHEREAS**, no monetary changes are requested in this change order.

**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.

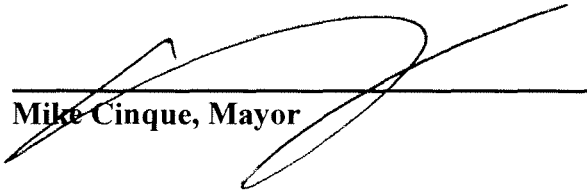
**Section 2.** The City Council hereby authorizes Change Order # 5, a copy of which is attached hereto as “Exhibit A”, for a time extension on the Service Area 4 and 6 wastewater, stormwater and water reuse projects in the City of Marathon.

**Section 3.** The City Council authorizes the City Manager to execute the Change Order on behalf of the City.

**Section 4.** This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED** by the City Council of the City of Marathon, Florida, this 14th day of April, 2009.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Mike Cinque, Mayor**

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

**ATTEST:**

  
\_\_\_\_\_  
Diane Clavier  
City Clerk

Diane Clavier  
City Clerk

(City Seal)

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

  
\_\_\_\_\_  
City Attorney

EXHIBIT "A"  
CHANGE ORDER

CHANGE ORDER NO. 5

TO: City of Marathon

PROJECT: City of Marathon Service Area 4 Wastewater and Stormwater Project Contract dated August 8, 2007, in the amount of \$28,916,180

ENGINEER: Weiler Engineering Corporation

CONTRACTOR: Globetec Construction LLC

DATE: March 16, 2009

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 \$ 28,916,180.00 under the Agreement will be **unchanged** by this Change Order, and (b) the schedule for performance of Work will be **changed** 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.

THE CITY OF MARATHON  
a Florida municipal corporation

CONTRACTOR

By: Clyde Burnett  
Name: CLYDE BURNETT  
Title: CITY MANAGER

By: [Signature]  
Name: JORGE FONTE  
Title: VICE PRESIDENT

END OF SECTION

# EXHIBIT A

## Backup for Change Order No. 5 Area 4 and 6 Wastewater and Stormwater Project

Globetec Construction has requested an extension of contract time for Contract 2, Area 6 Wastewater and Stormwater Project. The Notice to Proceed for Area 6 was issued on April 1, 2008. The original contract time was 330 calendar days to Substantial Completion and 360 calendar days to Final Completion. Weiler Engineering recommends granting an extension of 77 calendar days to both the Substantial Completion date and the Final Completion Date as summarized below.

|               | Days to Substantial Completion | Days to Final Completion | Substantial Completion Date | Final Completion Date |
|---------------|--------------------------------|--------------------------|-----------------------------|-----------------------|
| Original Time | 330                            | 360                      | February 25, 2009           | March 27, 2009        |
| Revised Time  | 407                            | 437                      | May 13, 2009                | June 12, 2009         |

Weiler Engineering recommends approval of this request in recognition of Globetec's efforts to accommodate certain requests by the City of Marathon, including but not limited to:

- Move installation of the reclaimed water lines behind Winn Dixie forward in their schedule to accommodate the City's needs related to grant funding
- Accept changes in design at the request of residents of the City resulting in relocation or addition of vacuum pits and gravity services
- Replace the gravity service to the Winn Dixie building
- Accommodate the City in unplanned road bed and asphalt rehabilitation on a case by case basis.

The above activities have resulted in an undetermined amount of additional work. An in-depth analysis of Globetec's critical path schedule would need to be performed in order to determine the exact impact of the schedule changes and additional work on Globetec's critical path. However, since the completion of the Area 6 wastewater treatment plant is planned for mid-May, 2009, Globetec's requested extension will not impact the City's ability to gain beneficial use of the collection system.

By accepting this Change Order, Globetec acknowledges that all time due for previously executed change orders and for future changes to the work that are currently known is satisfied for Contract 1 and Contract 2. No further claims for time extensions will be granted for Area 4 or Area 6 as a result of the work identified in this document. Any additional time requested for future unknown changes will be determined by the impact of those changes on Globetec's critical path schedule.

Globetec acknowledges that any claims for additional time for the following have been satisfied:

- Weather delays during the 2008 hurricane season
- All work addressed in Change Order No. 1, including
  1. Deductive change to Sombrero Blvd Roadbed Repair
  2. Airport Force Main Paving
  3. Airport Electrical Repair

4. Lynmeade Area Road Replacement
  5. Tingler Road Improvements
- All work addressed in Change Order No. 2, including
    1. East & West Harbor Roadbed Reconstruction
    2. Louisa St & 39<sup>th</sup> St. Intersection Roadbed Repairs
    3. City Marina Sewer Lift Station & Forcemain
  - All work addressed in Change Order No. 3, including
    1. Raising of Sombrero Blvd Roadbed in Selected Locations
    2. Raising of W. Copa de Oro Roadbed
    3. Avenue K Construction
    4. Lynmeade Stormwater Structure Relocation
  - All work addressed in Change Order No. 4, including
    1. Avenida Primiceria Road Raising
    2. Camino Del Veintos Road Replacement
    3. Boulevard De Palmas Road Replacement
    4. Avenue H Road Replacement
  - All changes initiated by property owners, including the replacement of the Winn Dixie/K Mart gravity line and all work associated with that job
  - Miscellaneous work performed at the City's request, including watering of Sombrero Beach Road sod, replacement of the Sombrero Blvd south equalization pipe.
  - Future known changes, including
    1. Modifications to Sombrero Blvd Roadbed Repair Requirements
    2. Repair of the Sombrero Blvd north equalization pipe
    3. Coco Plum Dr. Leveling Course
    4. Winn Dixie Concrete Ramp Replacement
    5. Extension of Vacuum Lines on Sunrise Isle

Weiler Engineering and Globetec acknowledge and agree that should the determination and pertinent approvals and agreements of the final location of the vacuum main in the US 1 corridor in Area 6 not be determined prior to April 15, the Area 6 schedule may be further impacted. Should this occur, Globetec may be entitled to further time extension for Contract 2, the Area 6 contract. The amount of time due, if any, will be included in a change order for that work.

Weiler Engineering and Globetec further acknowledge and agree that the alignment of the vacuum main in the US 1 corridor may create an unknown impact on the Area 4 schedule easements and pertinent approvals and agreements if the necessary easements are not obtained in a timely manner. If the necessary are not obtained by April 15, 2009, Globetec may be entitled to an undetermined time extension for Contract 1, the Area 4 contract. If the easements are not finalized prior to April 15, 2009, an extension of time on the Area 4 contract, if an extension is warranted, will be included in a change order for that work.