

Sponsored by: Burnett

**CITY OF MARATHON, FLORIDA
RESOLUTION 2009-94**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER NO. 10 TO GLOBETEC CONSTRUCTION LLC CONTRACT DATED AUGUST 8, 2007, IN THE ORIGINAL AMOUNT OF \$28,916,180 TO EXTEND THE FINAL COMPLETION DATE TO OCTOBER 17, 2009 AND PROVIDING AN EFFECTIVE DATE

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

WHEREAS, the original contract called for 330 days to substantial completion and 360 days to final completion; and

WHEREAS, Globetec has been unable to meet this deadline due to the need to obtain an FDOT permit, which permit has not yet been issued through no fault of Globetec; and

WHEREAS, the City agrees that a change order to the Contract is appropriate that will revise the deadlines to be 534 days to substantial completion and 564 days to final completion;

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 approves Change Order #10 a copy of which is attached hereto as "Exhibit A", for a time extension to the Contract with Globetec Construction LLC for Construction of Service Areas 6 wastewater, stormwater and water reuse project in the City of Marathon.

Section 3. The City Council hereby authorizes the City Manager to execute Change Order #10 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 28th day of July, 2009.

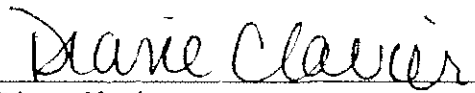
THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

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

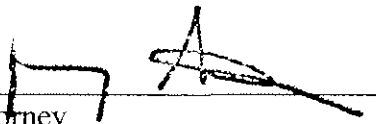
ATTEST:



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. 10

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: July 21, 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.

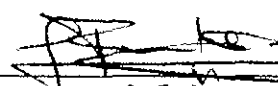
This Change Order constitutes full, final, and complete compensation to the Contractor for all costs, expenses, overhead, and profit, and any damages of every kind that the Contractor may incur in connection with the above referenced changes in the Work, and any other effect on any of the Work under 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: 
Name: CLYDE BURNAY
Title: CITY MANAGER

By: 
Name: JORGE FONTE
Title: VICE PRESIDENT
AUG/10/2009

END OF SECTION

EXHIBIT A

Backup for Change Order No. 10 GlobeTec Area 4 & 6 Collection System Contract

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. Change Order #5 was approved by City Council and previously granted an extension of 77 calendar days to both the Substantial Completion date and the Final Completion date. Weiler Engineering recommends granting an additional extension of 127 calendar days (86 days from today's date) 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: All Change Orders	534	564	September 17, 2009	October 17, 2009

Weiler Engineering recommends approval of this request in recognition of GlobeTec's efforts to accommodate the schedule and of their continued progress. This change in Contract time is requested in order to compensate for the delayed response from the Florida Department of Transportation concerning the review of the City's Application for an Area 6 US-1 Utility Permit. The application was provided to FDOT on April 27, 2009 (86 days ago) and no permit has been issued nor has any response relating to this permit been received. GlobeTec Construction is unable to begin work on US-1 in Area 6 until the City obtains the required permit from FDOT.

Weiler Engineering and GlobeTec Construction acknowledge and agree that, should the FDOT permit not be obtained by August 10, 2009, 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 separate change order from this one.



"Excellence in Engineering"

5800 Overseas Highway, Ste 36
Marathon, Florida 33050
(305) 289-4161 ph
(305) 289-4162 fax

August 9, 2009

Jorge Fonte
Globetec Construction
4774 Powerline Rd
Dearfield Beach, FL 33073

RE: Change Order No. 10

Mr. Fonte:

This letter is intended to clarify the terms of Change Order No. 10 which was a time extension for the Areas 6 construction contract. That change order approves an extension of 127 additional calendar days, moving the substantial completion date to September 17, 2009. The intent of the change order was to provide an interim extension to your contract until such time as the FDOT permit for the construction in the US 1 corridor is issued. At that time, we will negotiate an extension with Globetec based on the scope of work and on the terms and conditions of the FDOT permit. It is understood that until the permit conditions are known, it will not be possible to determine the time required to perform the modified scope of work.

Change Order No. 10 provides a mechanism to extend the substantial completion date sufficiently to allow for issuance of the FDOT permit and for execution of the an additional change order extending the time to accommodate the changed work in accordance with the contract documents. Without the interim extension, the term of the contract would be exceeded. Change Order No. 10 was approved by Council and needs to be executed in that form. Note that the contract amount in the Change Order is the ORIGINAL contract amount, not the amount as modified by previous change orders.

Please sign the attached Change Order No. 10. Contact me if you need any further information or have questions regarding this issue.

Sincerely,

Edward R. Castle
Florida PE No. 58574