

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2010-13**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER NO. 1 TO CONTRACT DATED DECEMBER 14, 2009 WITH ATLANTIC CIVIL, INC FOR CONSTRUCTION OF SOMBRERO BEACH ROAD EXTENSION PROJECT (IN THE AMOUNT OF \$856,365.71), INCREASING THE CONTRACT SUM IN AN AMOUNT NOT TO EXCEED \$152.46; AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CHANGE ORDER ON BEHALF OF THE CITY AND EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in December of 2009, the City of Marathon (the “City”) entered into a contract with Atlantic Civil, Inc (“ACI”) for construction of the Sombrero Beach Road Extension Project (“Contract”); and

**WHEREAS**, FDOT requested incorporation of additional Federal contract provisions, and the contract amount needs to adjusted to address administrative errors; and

**WHEREAS**, Change Order No. 1 is an additive change order to the Contract, in the amount of \$152.46

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

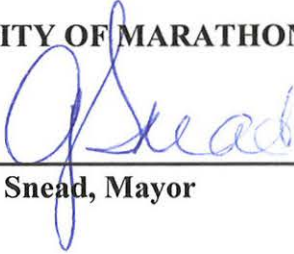
**Section 1.** The above recitals are true and correct and incorporated herein.

**Section 2.** Change Order No. 1, to the Contract between the City and ACI in an amount not to exceed \$152.46, attached hereto as “Exhibit A,” together with such non-material changes as may be acceptable to the Acting City Manager and approved as to form and legality by the City Attorney is hereby approved. The Acting 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 26<sup>th</sup> day of January 2010.

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
**Ginger Snead, Mayor**

AYES:           Cinque, Ramsay, Keating, Worthington, Snead  
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

CHANGE ORDER # 1

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TO: City of Marathon

**PROJECT:** Sombrero Beach Road Extension Project contract dated December 14, 2009

**ENGINEER:** Weiler Engineering

**CONTRACTOR:** Atlantic Civil, Inc

**DATE:** January 19, 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 in Exhibits "A" and "B" attached hereto and by this reference made a part hereof.

This Change Order constitutes full, final, and complete compensation to Atlantic Civil, Inc. for all costs, expenses, overhead, and profit, and any damages of every kind that Atlantic Civil, Inc. may incur in connection with the above referenced changes in the Construction Work under this Agreement. Atlantic Civil, Inc. acknowledges and agrees that (a) the Guaranteed Maximum Price of \$856,365.71 under the Agreement will be **changed** by this Change Order, and (b) the schedule for performance of Construction Work will not be changed by this Change Order. Atlantic Civil, Inc. 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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CITY OF MARATHON  
a Florida municipal corporation

By: 

Name: Peter Rosasco

Title: Acting City Manager

ATLANTIC CIVIL, INC.

By: 

Name: Steve Torcise, Jr.

Title: President

Exhibit "A"

**CHANGE ORDER SUMMARY**

Change Order No. 1  
 Project Title Sombrero Beach Road Extension  
 Bid No. N/A  
 Owner: City of Marathon  
 Contractor: Atlantic Civil, Inc.  
 Agreement Date: December 14, 2009

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>\$856,365.71</u>
(2) Current Contract Price (Adjusted by Previous Change Orders)	<u>\$856,365.71</u>
(3) Total Proposed Change in Contract Price	<u>\$ 152.46</u>
(4) New Contract Price (Item 2 + Item 3)	<u>\$856,518.17</u>
(5) Original Contract Time	<u>180 Days</u>
(6) Proposed Change in Contract Time	<u>0 Days</u>
(7) Current Contract Time (Adjusted by Previous Change Orders)	<u>180 Days</u>
(8) Total Proposed Change in Contract Time	<u>0 Days</u>
(9) New Contract Time (Item 6 + Item 7)	<u>180 Days</u>
(10) Original Contract Substantial Completion Date	<u>June 10, 2010</u>
(11) New Contract Substantial Completion Date	<u>June 10, 2010</u>

Item Narrative

There was an error in transferring the price of Demolition from the bid to the contract document, and there was an error in the calculation of the cost of 24" HDPE Pipe, Complete, In Place in the bid document. This change order corrects these errors.

<b>SOMBRERO BEACH ROAD EXTENSION CHANGE ORDER HISTORY</b>						
Item No.	Description	Current Contract Amount	Additive Change	Deductive Change	Net Change Contract Price	Net Change Contract Time
1.	Total Contract Price and Schedule	\$856,365.71	\$152.46	\$0.00	\$152.46	0 Days
<b>Total Net Change Order</b>					<b>\$152.46</b>	<b>0 Days</b>

In addition, the Florida Department of Transportation requested that the following contract provisions be incorporated into the contract.

**Title VI – Civil Rights Act of 1964**

The City of Marathon and all contractors and subcontractors associated with the execution of this project will comply with all requirements imposed by Title VI of the Civil Rights Act of 1964 and the regulations of the U.S. Department of Transportation issued thereunder. All contracts and subcontracts associated with this project will ensure compliance with Title VI of the Civil Rights Act of 1964, 49 CFR Part 21, and related statutes and regulations.

**Executive Order (EO) Number 11246, Equal Employment Opportunity**

EO Number 11246 bans discrimination and requires contractors and subcontractors to take affirmative action to ensure that all individuals have an equal opportunity for employment, without regard to race, color, religion, sex, national origin, disability or status as a Vietnam era or special disabled veteran. This project will comply with EO 11246 and all contracts and subcontracts will reference EO 11246.

**Payroll Submittal With Employee Information**

Payrolls submitted shall set out accurately and completely all of the information required to be maintained under 29 CFR 5.5 (a) (3) (i) except that full social security numbers and home addresses shall not be included on weekly transmittals. Instead, the payrolls shall only need to include an individual identifying number for each employee (e.g. ' last four digits of social")

Finally, the applicable U.S. Department of Labor Wage Rates Table was changed from FL 35 to FL 299 on 10/09/09 just prior to the close of the bid. The Florida Department of Transportation has requested that the new applicable Wage Rate Table, listed in Exhibit B, be included in the Contract.

Exhibit "B"

General Decision Number: FL080299 10/09/2009 FL 299

State: Florida

Construction Type: Highway

Counties: Glades, Hardee, Hendry and Monroe Counties in Florida.

HIGHWAY CONSTRUCTION PROJECTS

Modification Number      Publication Date  
0                                      10/09/2009

SUFL2009-196 08/05/2009

	Rates	Fringes
CARPENTER, Including Formwork	\$11.97	\$0.00
CEMENT MASON/CONCRETE FINISHER...	\$10.05	\$0.00
LABORER: Asphalt Raker.....	\$9.75	\$2.19
LABORER: Common or General	\$9.94	\$0.00
LABORER: Flagger.....	\$9.43	\$0.00
LABORER: Pipelayer.....	\$8.33	\$0.00
OPERATOR: Backhoe/Excavator.....	\$10.42	\$0.00
OPERATOR: Bulldozer.....	\$11.69	\$0.00
OPERATOR: Distributor.....	\$10.38	\$0.00
OPERATOR: Grader/Blade.....	\$13.78	\$0.00
OPERATOR: Loader.....	\$10.33	\$0.00
OPERATOR: Milling Machine.....	\$ 10.08	\$0.00
OPERATOR: Oiler.....	\$9.58	\$0.00

OPERATOR: Paver.....	\$11.59	\$2.10
OPERATOR: Roller.....	\$10.23	\$0.00
OPERATOR: Screed.....	\$ 11.70	\$0.00
OPERATOR: Tractor.....	\$8.15	\$0.00
TRUCK DRIVER: 4 Axle Truck.....	\$11.18	\$1.60
TRUCK DRIVER: Lowboy Truck.....	\$11.86	\$0.00
TRUCK DRIVER: Dump Truck.....	\$17.00	\$0.00

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WELDERS - Receive rate prescribed for craft performing operation to which welding is incidental.

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Unlisted classifications needed for work not included within the scope of the classifications listed may be added after award only as provided in the labor standards contract clauses (29 CFR 5.5(a)(1)(ii)).

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In the listing above, the "SU" designation means that rates listed under the identifier do not reflect collectively bargained wage and fringe benefit rates. Other designations indicate unions whose rates have been determined to be prevailing.

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### WAGE DETERMINATION APPEALS PROCESS

1.) Has there been an initial decision in the matter? This can be:

- \* an existing published wage determination
- \* a survey underlying a wage determination
- \* a Wage and Hour Division letter setting forth a position on a wage determination matter
- \* a conformance (additional classification and rate) ruling

On survey related matters, initial contact, including requests for summaries of surveys, should be with the Wage and Hour Regional Office for the area in which the survey was conducted because those Regional Offices have responsibility for the Davis-Bacon survey program. If the response from this initial contact is not satisfactory, then the process described in 2.) and 3.) should be followed.

With regard to any other matter not yet ripe for the formal process described here, initial contact should be with the Branch of Construction Wage Determinations. Write to:

Branch of Construction Wage Determinations  
Wage and Hour Division  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

2.) If the answer to the question in 1.) is yes, then an interested party (those affected by the action) can request review and reconsideration from the Wage and Hour Administrator (See 29 CFR Part 1.8 and 29 CFR Part 7).

Write to:

Wage and Hour Administrator  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

The request should be accompanied by a full statement of the interested party's position and by any information (wage payment data, project description, area practice material, etc.) that the requestor considers relevant to the issue.

3.) If the decision of the Administrator is not favorable, an interested party may appeal directly to the Administrative Review Board (formerly the Wage Appeals Board). Write to:

Administrative Review Board  
U.S. Department of Labor  
200 Constitution Avenue, N.W.  
Washington, DC 20210

4.) All decisions by the Administrative Review Board are final.

END OF GENERAL DECISION