

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2012-45**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER NO. 11 TO THE CONTRACT DATED JULY 27, 2010, BETWEEN THE CITY AND WHARTON-SMITH, INC., IN THE ORIGINAL AMOUNT OF \$4,227,000.00 FOR THE EXPANSION OF THE SERVICE AREA 5 WASTEWATER TREATMENT PLANT; INCREASING THE CONTRACT IN AN AMOUNT NOT TO EXCEED \$19,900.00; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CHANGE ORDER AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon (the "City") entered into a contract with Wharton-Smith, Inc., ("Wharton-Smith") for construction of the Service Area 5 wastewater treatment plant expansion project (the "Project") in July 2010 (the "Contract"); and

**WHEREAS**, this Change Order encompass unanticipated manufacturer defects in purchased treatment system components and equipment for the Project resulting in an increase in the Contract cost in an amount not to exceed \$19,900.00.

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

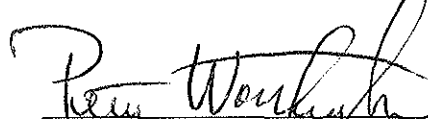
**Section 1.** The above recitals are true and correct and are incorporated herein by this reference.

**Section 2.** Change Order No. 11 to the Contract between the City and Wharton-Smith attached hereto as "Exhibit A," is hereby approved. The City Manager is authorized to execute the Change Order and expend budgeted funds on behalf of the City.

**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 24<sup>th</sup> DAY OF APRIL, 2012.**

**THE CITY OF MARATHON, FLORIDA**

  
\_\_\_\_\_  
Pete Worthington, Mayor

AYES: Keating, Ramsay, Snead, Worthington  
NOES: None  
ABSENT: Cinque  
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. 11

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TO: City of Marathon

PROJECT: City of Marathon Service Area 5 WWTP Expansion  
Resolution 2010-78 dated July 27, 2010, in the amount of \$4,227,000

ENGINEER: Weiler Engineering Corporation

CONTRACTOR: Wharton-Smith Inc.

DATE: April 18, 2012

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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 on Exhibit "A" attached hereto and by this reference made a part hereof.

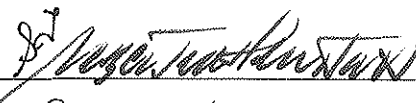
This Change Order constitutes full, final, and complete compensation to the Contractor for all costs, expenses, overhead, and profit, and any damages of every kind that the Contractor may incur in connection with the above referenced changes in the Work, and any other effect on any of the Work under this Agreement. The Contractor acknowledges and agrees that (a) the Contract Price of \$4,227,000.00 under the Agreement will be **changed** by this Change Order, and (b) the schedule for performance of Work will be **unchanged** 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.

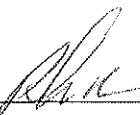
By signing below the parties indicate acceptance of this Change Order as set forth herein.

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THE CITY OF MARATHON  
a Florida municipal corporation

CONTRACTOR

By:   
Name: Roger Hernstadt  
Title: City Manager

By:   
Name: Phil M. Nepp  
Title: President

END OF SECTION

# EXHIBIT "A"

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## CHANGES ORDERED

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### ITEM 1 – Negotiated Extended Overhead

**Description of Change:** Increased extended overhead costs due to unforeseen existing conditions, delays caused by owner purchased equipment, and other unanticipated contract changes and requirements. One half of the negotiated extra costs paid via this change order. The first half was paid via Change Order #10 and since that time the second half has been recovered from a third party.

**Reason for Change:** This project was a retrofit of an existing facility and, as such, there were a multitude of unforeseen existing conditions and other unanticipated requirements that have substantially added to the complexity and amount of contract work required to keep the project moving towards successful completion. The owner purchased treatment system components and equipment also caused delays in the project.

**Scope of Work:** N/A

**Change in Contract Price:** \$19,900.00

**Change in Contract Time:** 0 Days for Substantial Completion  
0 Days for Final Completion

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## CHANGE ORDER SUMMARY

Change Order No.      11    
Project Title        Service Area 5 WWTP Expansion  
Bid No.               N/A    
Owner:              City of Marathon  
Contractor:         Wharton-Smith Inc.  
Agreement Date:    July 27, 2010

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>\$4,227,000.00</u>
(2)	Current Contract Price (Adjusted by Previous Change Orders)	<u>\$4,511,484.00</u>
(3)	Total Proposed Change in Contract Price	<u>\$ 19,900.00</u>
(4)	<b>New Contract Price (Item 2 + Item 3)</b>	<b><u>\$4,531,384.00</u></b>
(5)	Original Contract Time (Substantial)	<u>330 Days</u>
(6)	Original Contract Time (Final)	<u>360 Days</u>
	<u>Adjustments by Previous Change Orders:</u>	
(7)	Substantial Completion	<u>488 Days</u>
(8)	Final Completion	<u>518 Days</u>
(9)	Total Proposed Change in Contract Time to Substantial	<u>0 Days</u>
(10)	Total Proposed Change in Contract Time to Final	<u>0 Days</u>
(11)	<b>Revised Substantial Contract Time (Item 7 + Item 9)</b>	<b><u>0 Days</u></b>
(12)	<b>Revised Final Contract Time (Item 8 + Item 9)</b>	<b><u>0 Days</u></b>
(13)	Original Contract Substantial Completion Date	<u>September 24, 2011</u>
(14)	Original Contract Final Completion Date	<u>October 24, 2011</u>
(15)	<b>Revised Contract Substantial Completion Date</b>	<b><u>January 31, 2012</u></b>
(16)	<b>Revised Contract Final Completion Date</b>	<b><u>March 30, 2012</u></b>

