

COUNCIL AGENDA STATEMENT



Meeting Date: December 10, 2019
To: Honorable Mayor & Members of the City Council
From: Dan Saus, Utilities Manager
Through: Chuck Lindsey, City Manager

Agenda Item: **Resolution 2019-125**, Approving Change Order’s #8 For “Marathon Area 3 & 4 WWTP Upgrades” To Reynolds Construction In The Amount Not To Exceed \$144,955.72; Authorizing The City Manager To Execute The Change Order And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The City of Marathon put out a bid for “Marathon Area 3 & 4 WWTP Upgrades” back in 2016 and Reynolds construction won the bid and was awarded the contract. The membrane upgrade as well as the tank rehabilitation project for the Area 5 WWTP was added to this contract in change order #4.

This Change Order #8 is for additional work, in the amount of \$144,955.72 to provide additional plant upgrades including:); new upgraded coatings on the SA5 influent equalization tank interior, membranes replacement services, air release valve installations, pipe support installation, valve replacements, davit crane base installations, effluent piping repairs, blower repairs, air piping repairs, and check valve installations on the disc filters.

The complete change order summary is attached as Exhibit C.

This project is grant reimbursable from the FDEP \$17,000,000 Grant LP44041.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other – 2010 Sewer Mandate	_____	_____
3. Not applicable	_____	_____

FISCAL NOTE:

The adopted FY20 Wastewater Utility Budget includes appropriations of \$1,625,000 for wastewater capital improvements, however, no Service Area 5 specific projects were anticipated.

RECOMMENDATION:

Approval of the Resolution

Sponsored by: Lindsey

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-125**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A CONTRACT CHANGE ORDER #8 WITH REYNOLDS CONSTRUCTION FOR THE AREA 3 & 4 WWTP UPGRADE PROJECT IN AN AMOUNT NOT TO EXCEED \$144,955.72; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT CHANGE ORDER #8 AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the “City”) awarded the contract for the “Area 3 & 4 WWTP Upgrade Project” (the “Project”) and issued a notice to proceed on January 3, 2017; and

WHEREAS, change order #8 is found to be reasonable for the additional work requested by City staff and recommended by the city’s engineer to be performed by Reynolds Construction, as the General Contractor, in the amount of \$144,955.72; and

WHEREAS, the City wishes to execute this change order #8 for additional tank coatings, digester repairs, and miscellaneous projects throughout the city;

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

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

Section 2. Change Order #8 is attached hereto, together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney is hereby approved. The City Manager is authorized to execute the contract 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 10th DAY OF DECEMBER 2019.

THE CITY OF MARATHON, FLORIDA

Steven Cook, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

David Migut, City Attorney

EXHIBIT "C"
CHANGE ORDER

CHANGE ORDER NO. 08

TO: City of Marathon

PROJECT: Marathon Area 3&4 WWTP Upgrades

CONTRACTOR: Reynold's Construction

DATE: December 10, 2019

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 "1"** 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, and/or time adjustments 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 the Agreement. The Contractor acknowledges and agrees that (a) the Contract Price of **\$6,854,742.24** under the Agreement will be **changed** 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.

CONSENT OF SURETY TO CHANGE ORDER


The Surety Agrees that this change order is not a cardinal change and if the Change Order includes an increase in the Contract amount, then the penal amount of the payment and performance bond issued for this Contract is increased by the dollar amount of this Change Order.

Travelers Casualty and Surety Company of America
AND Liberty Mutual Insurance Company (Seal)

Surety's Name and Corporate Seal

By: 
Signature and Title William A. Kantlehner, III
City of Marathon Attorney-in-Fact



Attest: 
Signature and Title Diane L. Phelps
Contractor Attorney-in-Fact

By: _____
Name: Charles Lindsey
Title: City Manager


By:  3 Dec 2019
Name: Josh Vondersaar
Title: Operations Manager, VP

Exhibit "1"

CHANGE ORDER SUMMARY

This Change Order is necessary to cover changes in the Work to be performed under this Agreement. Except as may be modified herein all of the provisions of the Agreement apply to and govern all Work under this Change Order.

THE FOLLOWING CHANGES ARE MADE TO THE AGREEMENT DOCUMENTS:

(1)	Original Contract Price	<u>\$2,924,150.00</u>
(2)	Current Contract Price (Adjusted by Previous Change Orders)	<u>\$6,854,742.24</u>
(3)	Total Proposed Change in Contract Price	<u>\$144,955.72</u>
(4)	New Contract Price (Item 2 + Item 3)	<u>\$6,999,697.96</u>
(5)	Original Contract Time	<u>300 Days</u>
(6)	Proposed Change in Contract Time	<u>173 Days</u>
(7)	Current Contract Time (Adjusted by Previous CO)	<u>980 Days</u>
(8)	Total Change in Contract Time	<u>853 Days</u>
(9)	New Contract Time (Item 6 ± Item 7)	<u>1153Days</u>
(10)	Original Contract Substantial Completion Date	<u>Sep 30, 2017</u>
(I 1)	New Contract Substantial Completion Date	<u>January 31st, 2020</u>

CHANGE ORDER HISTORY						
Item No.	Description	Current Contract Amount	Additive Change	Deductive Change	Net Change Contract Price	Net Change Contract Time
I.	CO #1	\$2,924,150.00	\$115,464.34	\$0	\$115,464.34	0
II	CO #2	\$3,039,614.34	\$34,571.55	(\$5,000)	\$29,571.55	100
III	CO #3	\$3,069,285.89	\$30,000.00	\$0	\$30,000.00	90
IV	CO #4	\$3,099,185.89	\$2,913,225.57	\$0	\$2,913,225.57	215
V	CO #5	\$6,012,411.46	\$0	\$0	\$0	140
VI	CO #6	\$6,012,411.46	\$473,907.52	(\$453.71)	\$473,453.81	90
VII	CO#7	\$6,485,865.27	\$368,876.97	\$0	\$368,876.97	45
VIII	CO#8	\$6,854,742.24	\$144,955.72	\$0	\$144,955.72	173
Total					\$4,075,547.96	853

The Change Order is a result of: Additional labor involved for surface prep and repairs to the Marathon Area 5 WWTP EQ Tank. Also included are several Owner-desired improvements beyond the original scope of work for the Area 5 Rehab Project. These improvements are to address equipment installation, replacement, miscellaneous items. A detailed breakdown of the improvements is attached for reference.

The cost breakdown is as follows:

WORK ITEM DESCRIPTION	PRICE
PCO #29a-Install additional tank coatings inside EQ Tank at Marathon Area 5	\$69,710.40
PCO #34-Area 5 shutdowns, Area 6 flood control, & Digester Repairs Area 3	\$10,301.53
PCO #35-Various Improvements at Marathon Area 3,4,5,6,& 7 WWTPs	\$64,943.79
TOTAL	\$144,955.72



Travelers Casualty and Surety Company of America
Travelers Casualty and Surety Company
St. Paul Fire and Marine Insurance Company

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS: That Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company are corporations duly organized under the laws of the State of Connecticut (herein collectively called the "Companies"), and that the Companies do hereby make, constitute and appoint **William A. Kantlehner, III** of Louisville Kentucky, their true and lawful Attorney-in-Fact to sign, execute, seal and acknowledge any and all bonds, recognizances, conditional undertakings and other writings obligatory in the nature thereof on behalf of the Companies in their business of guaranteeing the fidelity of persons, guaranteeing the performance of contracts and executing or guaranteeing bonds and undertakings required or permitted in any actions or proceedings allowed by law.

IN WITNESS WHEREOF, the Companies have caused this instrument to be signed, and their corporate seals to be hereto affixed, this **3rd** day of **February**, 2017.



State of Connecticut

City of Hartford ss.

By: _____

Robert L. Raney
 Robert L. Raney, Senior Vice President

On this the **3rd** day of **February**, 2017, before me personally appeared **Robert L. Raney**, who acknowledged himself to be the Senior Vice President of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, and that he, as such, being authorized so to do, executed the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

In Witness Whereof, I hereunto set my hand and official seal.

My Commission expires the **30th** day of **June**, 2021



Marie C. Tetreault
 Marie C. Tetreault, Notary Public

This Power of Attorney is granted under and by the authority of the following resolutions adopted by the Boards of Directors of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, which resolutions are now in full force and effect, reading as follows:

RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President, any Vice President, any Second Vice President, the Treasurer, any Assistant Treasurer, the Corporate Secretary or any Assistant Secretary may appoint Attorneys-in-Fact and Agents to act for and on behalf of the Company and may give such appointee such authority as his or her certificate of authority may prescribe to sign with the Company's name and seal with the Company's seal bonds, recognizances, contracts of indemnity, and other writings obligatory in the nature of a bond, recognizance, or conditional undertaking, and any of said officers or the Board of Directors at any time may remove any such appointee and revoke the power given him or her; and it is

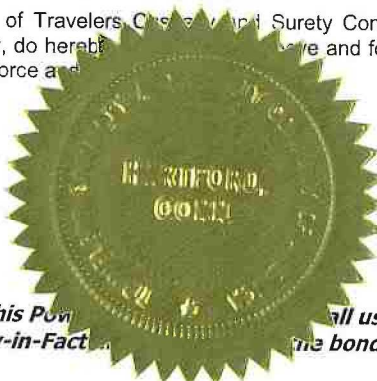
FURTHER RESOLVED, that the Chairman, the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President may delegate all or any part of the foregoing authority to one or more officers or employees of this Company, provided that each such delegation is in writing and a copy thereof is filed in the office of the Secretary; and it is

FURTHER RESOLVED, that any bond, recognizance, contract of indemnity, or writing obligatory in the nature of a bond, recognizance, or conditional undertaking shall be valid and binding upon the Company when (a) signed by the President, any Vice Chairman, any Executive Vice President, any Senior Vice President or any Vice President, any Second Vice President, any Assistant Treasurer, the Treasurer, any Assistant Secretary, the Corporate Secretary or any Assistant Secretary and duly attested and sealed with the Company's seal by a Secretary or Assistant Secretary; or (b) duly executed (under seal, if required) by one or more Attorneys-in-Fact and Agents pursuant to the power prescribed in his or her certificate or their certificates of authority or by one or more Company officers pursuant to a written delegation of authority; and it is

FURTHER RESOLVED, that the signature of each of the following officers: President, any Executive Vice President, any Senior Vice President, any Vice President, any Assistant Vice President, any Secretary, any Assistant Secretary, and the seal of the Company may be affixed by facsimile to any Power of Attorney or to any certificate relating thereto appointing Resident Vice Presidents, Resident Assistant Secretaries or Attorneys-in-Fact for purposes only of executing and attesting bonds and undertakings and other writings obligatory in the nature thereof, and any such Power of Attorney or certificate bearing such facsimile signature or facsimile seal shall be valid and binding upon the Company and any such power so executed and certified by such facsimile signature and facsimile seal shall be valid and binding on the Company in the future with respect to any bond or understanding to which it is attached.

I, **Kevin E. Hughes**, the undersigned, Assistant Secretary of Travelers Casualty and Surety Company of America, Travelers Casualty and Surety Company, and St. Paul Fire and Marine Insurance Company, do hereby certify that the foregoing is a true and correct copy of the Power of Attorney executed by said Companies, which remains in full force and effect.

Dated this **10th** day of **December**, 2019



Kevin E. Hughes
 Kevin E. Hughes, Assistant Secretary

To verify the authenticity of this Power of Attorney, please refer to the above-named Attorney-in-Fact and call us at 1-800-421-3880. The bond to which the power is attached.



This Power of Attorney limits the acts of those named herein, and they have no authority to bind the Company except in the manner and to the extent herein stated.

Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

Certificate No: 8200822-969222

POWER OF ATTORNEY

KNOWN ALL PERSONS BY THESE PRESENTS: That The Ohio Casualty Insurance Company is a corporation duly organized under the laws of the State of New Hampshire, that Liberty Mutual Insurance Company is a corporation duly organized under the laws of the State of Massachusetts, and West American Insurance Company is a corporation duly organized under the laws of the State of Indiana (herein collectively called the "Companies"), pursuant to and by authority herein set forth, does hereby name, constitute and appoint, Thomas J. Mitchell; Ryan P. Mitchell; Christopher E. von Allmen; Andrew G. Windhorst, Jr.; Andrea Cortes; William A. Kantlehner, IV; William A. Kantlehner, III; Roger A. Neal; Diane L. Phelps

all of the city of Louisville state of KY each individually if there be more than one named, its true and lawful attorney-in-fact to make, execute, seal, acknowledge and deliver, for and on its behalf as surety and as its act and deed, any and all undertakings, bonds, recognizances and other surety obligations, in pursuance of these presents and shall be as binding upon the Companies as if they have been duly signed by the president and attested by the secretary of the Companies in their own proper persons.

IN WITNESS WHEREOF, this Power of Attorney has been subscribed by an authorized officer or official of the Companies and the corporate seals of the Companies have been affixed thereto this 1st day of April, 2019.



Liberty Mutual Insurance Company
The Ohio Casualty Insurance Company
West American Insurance Company

By: David M. Carey, Assistant Secretary

State of PENNSYLVANIA
County of MONTGOMERY ss

On this 1st day of April, 2019 before me personally appeared David M. Carey, who acknowledged himself to be the Assistant Secretary of Liberty Mutual Insurance Company, The Ohio Casualty Company, and West American Insurance Company, and that he, as such, being authorized so to do, execute the foregoing instrument for the purposes therein contained by signing on behalf of the corporations by himself as a duly authorized officer.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed my notarial seal at King of Prussia, Pennsylvania, on the day and year first above written.



COMMONWEALTH OF PENNSYLVANIA
Notarial Seal
Teresa Pastella, Notary Public
Upper Merion Twp., Montgomery County
My Commission Expires March 28, 2021
Member, Pennsylvania Association of Notaries

By: Teresa Pastella, Notary Public

This Power of Attorney is made and executed pursuant to and by authority of the following By-laws and Authorizations of The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company which resolutions are now in full force and effect reading as follows:

ARTICLE IV - OFFICERS: Section 12. Power of Attorney.

Any officer or other official of the Corporation authorized for that purpose in writing by the Chairman or the President, and subject to such limitation as the Chairman or the President may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Corporation to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact, subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Corporation by their signature and execution of any such instruments and to attach thereto the seal of the Corporation. When so executed, such instruments shall be as binding as if signed by the President and attested to by the Secretary. Any power or authority granted to any representative or attorney-in-fact under the provisions of this article may be revoked at any time by the Board, the Chairman, the President or by the officer or officers granting such power or authority.

ARTICLE XIII - Execution of Contracts: Section 5. Surety Bonds and Undertakings.

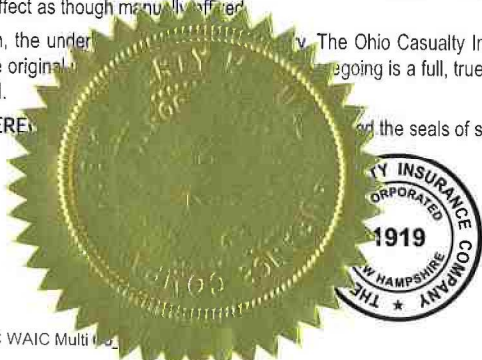
Any officer of the Company authorized for that purpose in writing by the chairman or the president, and subject to such limitations as the chairman or the president may prescribe, shall appoint such attorneys-in-fact, as may be necessary to act in behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations. Such attorneys-in-fact subject to the limitations set forth in their respective powers of attorney, shall have full power to bind the Company by their signature and execution of any such instruments and to attach thereto the seal of the Company. When so executed such instruments shall be as binding as if signed by the president and attested by the secretary.

Certificate of Designation - The President of the Company, acting pursuant to the Bylaws of the Company, authorizes David M. Carey, Assistant Secretary to appoint such attorneys-in-fact as may be necessary to act on behalf of the Company to make, execute, seal, acknowledge and deliver as surety any and all undertakings, bonds, recognizances and other surety obligations.

Authorization - By unanimous consent of the Company's Board of Directors, the Company consents that facsimile or mechanically reproduced signature of any assistant secretary of the Company, wherever appearing upon a certified copy of any power of attorney issued by the Company in connection with surety bonds, shall be valid and binding upon the Company with the same force and effect as though manually affixed.

I, Renee C. Llewellyn, the undersigned, do hereby certify that the original Power of Attorney executed by The Ohio Casualty Insurance Company, Liberty Mutual Insurance Company, and West American Insurance Company do hereby certify that the original Power of Attorney executed by said Companies, is in full force and effect and has not been revoked.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name and the seals of said Companies this 10th day of December, 2019.



By: Renee C. Llewellyn, Assistant Secretary

Not valid for mortgage, note, loan, letter of credit, currency rate, interest rate or residual value guarantees.

To confirm the validity of this Power of Attorney call 1-610-832-8240 between 9:00 am and 4:30 pm EST on any business day.