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**CITY OF MARATHON, FLORIDA
RESOLUTION 2003-155**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH ANTHONY CULVER D/B/A CULVER'S CLEANING CO., TO PROVIDE CITY HALL CLEANING SERVICES FOR AN INTIAL TERM OF TEN MONTHS IN THE AMOUNT OF \$760 PER MONTH.

WHEREAS, the City of Marathon advertised an Invitation to Bid for City Hall Cleaning Services closing on December 1, 2003; and

WHEREAS, three bids were received; and

WHEREAS, Anthony Culver d/b/a Culver's Cleaning Company was the lowest responsible and responsive bidder.

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

Section 1. The agreement between the City and Anthony Culver d/b/a Culver's Cleaning Company regarding the provision of cleaning services for City Hall for an initial term of ten (10) months in the amount of \$760.00 per month, a copy of which is attached as Exhibit "A"; together with such non-substantial changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is approved. The City Manager is authorized to sign the agreement on behalf of the City.

Section 2. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 9th day of December, 2003.

THE CITY OF MARATHON, FLORIDA

A handwritten signature in black ink, appearing to read 'Randy Mearns', is written over a horizontal line. The signature is stylized and somewhat cursive.

Randy Mearns, Mayor

AYES: Bartus, Pinkus, Repetto, Worthington, Mearns
NOES: None
ABSENT: None
ABSTAIN: None

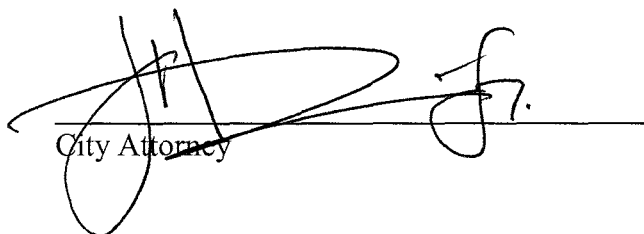
ATTEST:



Cindy L. Ecklund
City Clerk

(City Seal)

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



City Attorney

CONTRACT

THIS CONTRACT is made this 9th day of December 2003 by and between the City of Marathon, Florida (the "City") and Culver's Cleaning Company (the "Contractor").

The parties, for the consideration provided for below, mutually agree as follows:

- 1.1. **SCOPE OF WORK** -The Contractor shall furnish all labor, materials, supervision, equipment, supplies, and incidentals required to perform the scope of work as outlined in the Detailed Specifications.
- 1.2. **COMPENSATION/PAYMENT**
 - 1.2.1. Contractor shall provide the City with an invoice on a monthly basis within ten (10) days of the end of each month stating the services provided in the preceding month.
 - 1.2.2. The City shall make payment on said invoices of approved amounts due, that are not subject to set off, as required under the Florida Prompt Payment Act. No payments shall be due or payable for Work not performed or materials not furnished.
 - 1.2.3. The Contractor shall be compensated at the unit prices specified in the Bid Schedule based upon the actual Work completed for the month.
3. **TERM**- This Agreement shall be effective upon execution by both parties and shall continue through September 30, 2004. The City may, at its sole option, extend this Agreement on the same terms and conditions for an additional term of a one (1) year extension. Such extension shall be effective upon receipt of a written notice from the City to the Contractor received no later than 30 days prior to the date of termination.
- 1.4. **CONTRACTOR'S DUTY TO INSPECT** -The Contractor has carefully examined the described rights of way, water management areas and similar planting areas and has made sufficient tests and other investigations to fully satisfy himself as to site conditions, and he assumes full responsibility therefore. The Contractor shall be responsible for the repair or replacement of any facility damaged by the Contractor.
- 1.5. **NON-WAIVER**- The approval, and/or acceptance of any part of the Work by the City shall not operate as a waiver by City of any other terms and conditions of the Agreement.
- 1.6. **PROTECTION OF PROPERTY AND THE PUBLIC**- The Contractor shall continuously maintain adequate protection of all his Work from damage and shall protect public and private property from injury or loss arising in connection with this contract as follows:
 - 1.6.1. The Contractor shall take all necessary precautions for the safety of employees in the performance of the Work on, about or adjacent to the premises, and shall comply with all applicable provisions of Federal, State, and local laws, including, but not limited to the requirements of the Occupational Safety and Health Act of 1970, and amendments thereto, the Construction safety Act of 1969, and amendments thereto, and building codes to prevent accidents or injury to persons on, about or adjacent to the premises where the Work is being performed.

1.7. **INDEMNIFICATION**

1.7.1. The Contractor shall indemnify and hold harmless the City, its officers, agents and employees from and against all liability, claims, damages, losses and expenses, including reasonable attorney's fees and costs at both trial and appellate levels arising out of or resulting from the performance of Work under this contract, caused by any act or omission of the Contractor or anyone directly or indirectly employed by Contractor or anyone for whose acts Contractor may be liable.

1.7.2. This indemnification obligation shall survive the termination of this Agreement.

1.7.3. The Contractor shall defend the City or provide for such defense, at the City's option.

1.7.4. The City has provided specific consideration for the indemnification of \$100.00 from the sums due to the Contractor under this Agreement.

1.7.5. The Contractor shall be held responsible for any violation of laws, rules, regulations or ordinances affecting in any way the conduct of all persons engaged in or the materials or methods used by him, on the Work. Contractor shall give all notices and comply with all laws, ordinances, rules, regulations and orders of any public authority bearing on the performance of the Work under this contract. Contractor shall secure and pay for all permits, fees, licenses, and inspections necessary for the execution of the Work, and upon termination of this contract for any reason, Contractor shall transfer such permits, if any, and if allowed by law, to the City.

1.8. **CONTRACT DOCUMENTS** -The following documents shall, by this reference, be considered part of this Contract:

- Instructions to Bidders;
- All Addendums;
- Contract Agreement;
- Bid;
- Detailed Specifications;
- Qualification Statement;
- Insurance Certificates; and
- Licenses.

1.9. **CONTRACTOR'S EMPLOYEES**

1.9.1. Contractor's employees shall serve the public in a courteous, helpful, and impartial manner.

1.9.2. Contractor shall, upon receipt of a written request from the City, immediately exclude any employee of Contractor from providing Work under this Agreement.

1.9.3. The Work contemplated in this Agreement is on public property, accordingly no alcoholic beverages shall be allowed.

1.10. **VEHICLES AND EQUIPMENT** -Contractor shall have on hand at all times and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform

the Work under this Agreement. All vehicles used by Contractor to provide services under this agreement shall be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle in letters legible by the public. The City may require the repair or replacement of equipment as reasonably necessary. No other advertising shall be permitted on the vehicles.

1.11. **INSURANCE**-The Contractor shall provide and maintain during the life of this Agreement the following coverages:

1.11.1. "Worker's Compensation Insurance" in amounts as specified by Florida Law.

1.11.2 Comprehensive and general liability and auto insurance policies. Insurance shall be provided with a limit of \$1,000,000.00 in each of three policies as follows:

a. Comprehensive General Liability Insurance, including Products and/or Completed Operations, Explosion Hazard, Collapse Hazard and Underground Property Damage Hazard. The City shall be named as additional insured.

b. Comprehensive Auto Liability Insurance. The City shall be named as an additional insured.

c. Contractual Liability Insurance. The City shall be named as additional insured.

1.11.3. All insurance shall be obtained from companies that are licensed and authorized to do business in the State of Florida.

1.11.4. At the time of execution of this Agreement, the Contractor will file with the City certificates of such insurance that are acceptable to the City. These certificates shall contain a provision that the coverage afforded under the policies will not be canceled or materially changed until at least thirty (30) days prior written notice has been given to the City.

1.1.1.5. Contractor shall provide the City with a surety bond which covers all employees.

1.12. **ASSIGNMENT AND AMENDMENT** -No assignment by the Contractor of this contract or any part of it, or any monies due or to become due, shall be made, nor shall the Contractor hire a sub-contractor to perform its duties under this Agreement without prior written approval of the City. This Agreement may only be amended by the parties with the same formalities as this Agreement.

1.13. **TERMINATION**

1.13.1. Either party may terminate this Agreement without cause upon 30 days written notice to the other party.

1.13.2. Upon notice of such termination, the City shall determine the amounts due to the Contractor for services performed up to the date of termination. The Contractor shall not be entitled to payment of any lost profits or for Work performed after the date of termination.

1.13.3. After receipt of a notice of termination, and except as otherwise directed, the Contractor shall stop all Work under this Agreement, and shall do so on the date specified in the notice of termination.

1.13.4. The City may terminate this Agreement upon five (5) days written notice if the Contractor defaults on any material term of this Agreement.

1.14. **CHOICE OF LAW** -This contract shall be governed by the laws of the State of Florida. Venue shall lie in Monroe County.

- 1.15. **ATTORNEY'S FEES** -In the event either party to this Agreement is required to retain legal counsel to enforce any of its rights under this Agreement, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.
- 1.16. **ACCESS TO PUBLIC RECORDS-** The Contractor shall comply with the applicable provisions of Chapter 119, Florida Statutes. The City shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor shall retain all records associated with this Agreement for a period of three (3) years from the date of Termination.
- 1.17. **INSPECTION AND AUDIT-** During the term of this Agreement and for three (3) years from the date of Termination the Contractor shall allow City representatives access during reasonable business hours to Contractor's records related to this Agreement for the purposes of inspection or audit of such records. If upon audit of such records, the City determines the Contractor was paid for services not performed, upon receipt of written demand by the City, the Contractor shall remit such payments to the City.
- 1.18. **SEVERABILITY** -If a term, provision, covenant, contract or condition of this contract is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this contract and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.
- 1.19. **WAIVER OF JURY TRIAL-** The parties irrevocably, knowingly agree to waive their rights to a trial by jury in any action to enforce the terms or conditions of this Agreement.
- 1.20. **COUNTERPARTS-** This contract may be signed in one or more counterparts, each of which, when executed shall be deemed an original and together shall constitute one and the same instrument.
- 1.21. **NOTICES** -Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

For City:

City of Marathon

10045-55 Overseas Highway

Marathon, FL 33050

Attention: Mike Puto, Director of Community Development

For Contractor:


Anthony Culver d/b/a Culver's Cleaning Co.

P.O. Box 500333

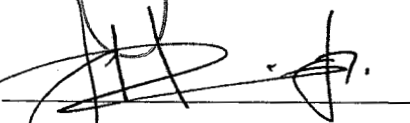
Marathon, Florida 33050

IN WITNESS WHEREOF the parties hereto have executed this agreement on the day and date first above written.

Attest: CITY OF MARATHON

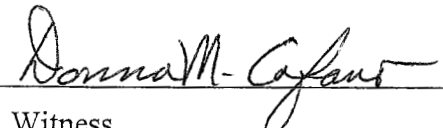
By: 
Cindy Ecklund, City Clerk

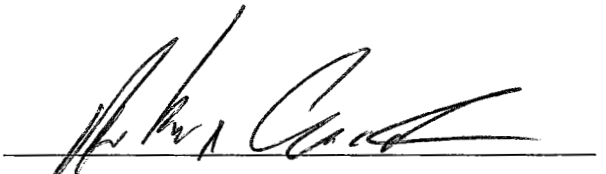
By: 
Randy Mearns, Mayor

By: 
City Attorney

Signed, sealed and witnessed in the presence of:

As to Contractor:

By: 
Witness

By: 
Anthony Culver d/b/a Culver's Cleaning Co.

(* In the event that the Contractor is a corporation, there shall be attached to each counterpart a certified copy of a resolution of the board of the corporation, authorizing the officer who signs the contract to do so in its behalf.