

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-129**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING CHANGE ORDER #1 TO BILTMORE CONSTRUCTION CO., INC., CONTRACT FOR THE PROJECT KNOWN AS CITY OF MARATHON FIRE STATION NO. 14; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the "City") issued a Request for Qualifications for Construction Manger at Risk (General Contractor) for the construction of the Fire Station No. 14 (the "Project"); and

WHEREAS, after qualifications were received on June 14, 2006, the City Council reviewed all submissions and identified Biltmore Construction Co., Inc. (the "Contractor") as the most qualified company; and

WHEREAS, a contract was approved by City Council by Resolution 2006-113; and

WHEREAS, advance payment for pre-cast drawings from the sub-contractor Cement Industries, Inc. is desired by 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. The City is hereby authorized to enter into change order # 1 with Biltmore Construction Co., Inc., for pre-cast shop drawings. Such change order # 1 shall be substantially in the form of the Agreement attached hereto as Exhibit "A", 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.

Section 3. The City Manager is authorized to sign the agreement.

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 12th day of September, 2006.

THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

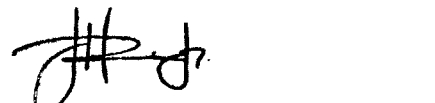
ATTEST:



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

TO: City of Marathon

PROJECT: Fire Station No. 14

CONTRACTOR: Biltmore Construction

DATE: Sept. 12, 2006

Agreement between the City of Marathon and Biltmore Construction dated July 26, 2006

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 Biltmore Construction for all costs, expenses, overhead, and profit, and any damages of every kind that Biltmore may incur in connection with the above referenced changes in the Design Work or any other effect on any of the Construction Management Work under this Agreement. Biltmore acknowledges and agrees that (a) the Guaranteed Maximum Price of \$TBD under the Agreement will be unchanged by this Change Order, this \$90,000 was and is part of the Guaranteed Maximum Price and is to expedite the preparation of the pre-cast shop drawings from Cement Industries, Inc.. Biltmore will not advance the full funding until receipt of the pre-cast shop drawings, and (b) the schedule for performance of Design Work will be unchanged by this Change Order. Biltmore Construction 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.

CITY OF MARATHON
a Florida municipal corporation

By: Michael H. Puto

Name: MICHAEL H. PUTO

Title: CITY MANAGER

BILTMORE CONSTRUCTION

By: [Signature]

Name: Ed Parker, Jr.

Title: President