

**CITY OF MARATHON, FLORIDA
RESOLUTION 2011-106**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER NO. 1 TO THE CONTRACT DATED SEPTEMBER 13, 2011, WITH ENERGY SYSTEMS GROUP, LLC. (ESG) IN THE ORIGINAL AMOUNT OF \$450,000, FOR THE EECBG GRANT SERVICES; ADDING REGULATORY LANGUAGE NECESSITATED BY THE GRANT, 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 Marathon City Council (the “City Council”) approved a contract with Energy Systems Group, LLC, on September 13, 2011, by Resolution 2011-88 to complete energy audits and perform electrical refits at City properties

WHEREAS, the Federal funded grant has certain regulatory requirements which were not attached to the original grant document City Council approved; and

WHEREAS, the proposed Change Order incorporates into the ESG contract the Federal Regulatory documentation necessitated by the grant.

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

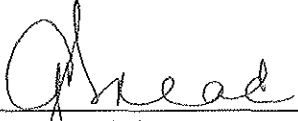
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The change order adding regulatory language necessitated by the grant, a copy of which is 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, is hereby approved. The City Manager is authorized to execute change order 1 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 25th DAY OF OCTOBER, 2011.


THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Cinque, Keating, Ramsay, 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

**FIRST AMENDMENT TO ENERGY SERVICES PROGRAM AGREEMENT
BETWEEN
THE CITY OF MARATHON
AND
ENERGY SYSTEMS GROUP, LLC**

This First Amendment to the Agreement for Energy Services Program (the "First Amendment") made and entered into this 12th day of July 2011 between the City of Marathon, Florida, a Florida municipal corporation whose address and principal place of business is 9805 Overseas Highway, Marathon, Florida 33050, (hereinafter the "City") and Energy Systems Group, LLC, an Indiana limited liability company whose address and principal place of business is: 4655 Rosebud Lane, Newburgh, Indiana 47630, (hereinafter the "Contractor").

WITNESSETH:

WHEREAS, on September 13, 2011, the City and Contractor entered into an Agreement for EECBG Grant Services (the "Agreement"), attached as Exhibit "A;" and

WHEREAS, the City and Contractor desire to amend the Agreement as set forth herein.

NOW THEREFORE, in consideration of the mutual promises and covenants set forth in this First Amendment and other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereby amend the Agreement to read as follows:¹

Section 1. Amendment to Section 10 of the Agreement

10. **Agreement Documents:**

The following documents (if applicable) shall, by this reference, be considered part of this Agreement:

Attachment A: Public Construction Bond
Attachment B: Special Audit Requirements
Attachment D: Certified Payroll Form
Attachment E: Labor Standards Interview Form
Attachment F: Whistleblower Poster
Attachment G: Employee Rights Under the Davis-Bacon Act
Davis-Bacon Act Contract Provisions
Contract Work Hours and Safety Standards Act Provisions
Federal Funding Grantee, Sub-grantee and Contractor Provisions
Payment Request Summary Form

^{1/} Additions to existing text are shown by underline; deletions are shown by ~~strikethrough~~.

Fully Executed EECBG Grant Agreement


Section 2. Miscellaneous

All other terms and conditions of the Agreement not in conflict or superseded by this First Amendment shall remain in full force and effect as if set forth herein.

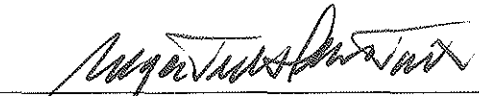
IN WITNESS WHEREOF, City and Contractor have set their hands and seals, as of the day and year first above written.

Attest:

City Of Marathon, Florida

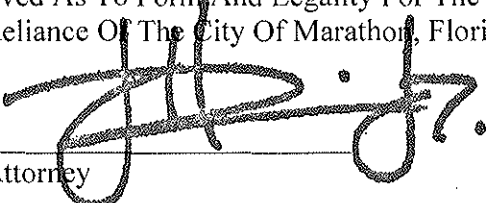


Diane Clavier
City Clerk




Roger Hernstadt
City Manager

Approved As To Form And Legality For The Use
And Reliance Of The City Of Marathon, Florida Only:



City Attorney

Energy Systems Group, LL



By: Chris Summers
Its: Ronald Poreta