

**CITY OF MARATHON, FLORIDA
RESOLUTION 2011-91**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A FIRST AMENDMENT TO THE CONTRACT BETWEEN THE CITY GONZALEZ BROTHERS LANDSCAPING, INC. FOR LANDSCAPING AND FACILITIES MAINTENANCE SERVICES TO EXTEND SAME FOR A TWO YEAR PERIOD; AUTHORIZING THE CITY MANAGER TO EXECUTE THE FIRST AMENDMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, in 2007 the City of Marathon, Florida (the "City") and Gonzalez Landscaping, Inc. ("Gonzalez") entered into a contract for landscaping and facilities maintenance at all of the City's parks and beaches (the "Contract"); and

WHEREAS, in 2009 the Contract was modified and extended by the City; and

WHEREAS, the Contract is scheduled to expire on September 30, 2011, and the City and Gonzalez desire to enter into a First Amendment to the Contract to extend it for a two (2) year period with two (2) one (1) year renewal options (the "First Amendment").

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 First Amendment between the City and Gonzalez, a copy of which is attached hereto as "Exhibit A", is hereby approved. The City Manager is authorized to execute the First Amendment 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 27th DAY OF SEPTEMBER, 2011.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Cinque, Keating, Ramsay, Worthington, Snead
NOES: None
ABSENT: None
ABSTAIN: None

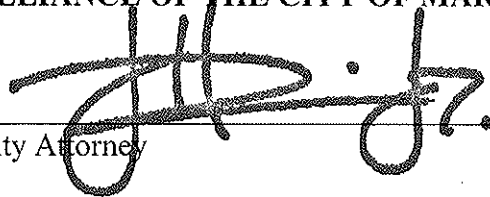
ATTEST:



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 CONTRACT
FOR
LANDSCAPE AND FACILITIES MAINTENANCE SERVICES**

This First Amendment to the Contract for Landscape and Facilities Maintenance Services (the "First Amendment") made and entered into this 27th day of September 2011 between the City of Marathon, Florida, a municipal corporation organized and existing under the laws of the State of Florida, with its address at 9805 Overseas Highway, Marathon, Florida, 33050 (hereinafter referred to as "City") and Gonzalez Landscaping Brothers, Inc., a Florida corporation, with its address at P.O. Box 501740, Marathon, Florida 33050 (hereinafter referred to as "Contractor").

WITNESSETH:

WHEREAS, on August 14, 2007, the City and Contractor entered into a Contract for Landscape and Facilities Maintenance Services (the "Contract"), attached as Exhibit "A," and

WHEREAS, on July 14, 2009 the City and Contractor modified the Contract by a Change Order, attached as Exhibit "B"; and

WHEREAS, the City and Contractor desire to amend the Contract, as modified by the Change Order, 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 2.3 of the Contract

2.3 TERM:

This ~~Agreement~~ Contract shall be effective upon ~~Notice to Proceed~~ as of October 1, 2011 and shall continue through September 30, ~~2009~~ 2013. The City may, at its sole option, extend this ~~Agreement~~ Contract on the same terms and conditions for two additional one (1) year terms. Such extension shall be effective upon written notice from the City to the Contractor received no later than 30 days prior to the date of termination.

Section 2. Miscellaneous

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

¹ / Additions to existing text are shown by underline; deletions are shown by ~~strikeout~~.

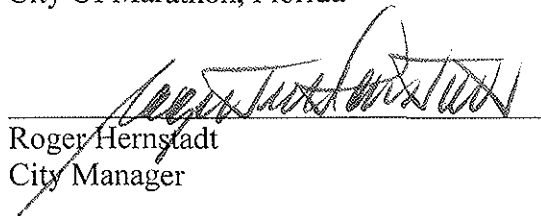
IN WITNESS WHEREOF, City and Contractor have set their hands and seals,
as of the day and year first above written.

Attest:

City Of Marathon, Florida

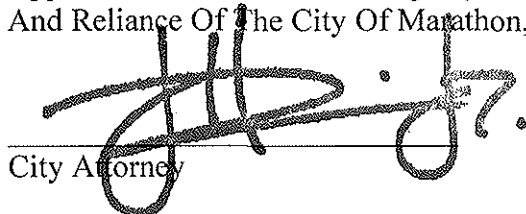


Diane Clavier
City Clerk



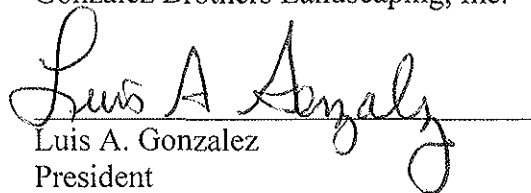
Roger Hernstadt
City Manager

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



City Attorney

Gonzalez Brothers Landscaping, Inc.



Luis A. Gonzalez
President

CHANGE ORDER

#1

TO: City of Marathon

PROJECT: Landscape and Facilities Maintenance of City Parks and Marina

CONTRACTOR: Gonzalez Brothers Landscaping, Inc.

DATE: October 1, 2007

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 Gonzalez Brothers Landscaping, Inc. for all costs, expenses, overhead, and profit, and any damages of every kind that Gonzalez Brothers Landscaping, Inc. may incur in connection with the above referenced changes in the Landscaping Services or any other effect on any of the Landscaping Services under this Agreement. Gonzalez Brothers Landscaping, Inc. acknowledges and agrees that (a) the Guaranteed Maximum Price of \$350,000 under the Agreement will be changed by this Change Order, and (b) the schedule for performance of Landscaping Services will be changed by this Change Order. Gonzalez Brothers Landscaping, Inc. 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: Clyde Burnett

Name: CLYDE BURNETT

Title: CITY MANAGER

GONZALEZ BROTHERS LANDSCAPING,
INC.

By: Luis Gonzalez

Name: Luis Gonzalez

Title: President

Schedule "A" of changes to contract to Change Order # 1 between The City of Marathon and Gonzalez Brothers Landscaping, Inc. dated July 14, 2009

Paragraph 2.1. **SCOPE OF WORK**

Daily locking and unlocking the 33rd Street Boat Ramp bath facility at dusk and dawn as well as stocking and cleaning 3 times weekly.
All other detailed specifications remain unchanged.

Paragraph 2.3. **TERM**

This agreement shall be effective from October 1, 2009, through September 30, 2011.

Paragraph 2.2. **COMPENSATION/PAYMENT**

Sub-para: 2.2.3.

Contractor shall be paid an additional \$8,400 dollars annually for additional scope of work referenced in Paragraph 2.1 above for a total annual amount of \$358,400