

CITY OF MARATHON, FLORIDA
RESOLUTION 2012-138

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE LOWEST RESPONSIVE AND RESPONSIBLE AND APPROVING A CONTRACT BETWEEN THE CITY AND TROPIC LANDSCAPING AND LAWN MAINTENANCE, INC., IN AN AMOUNT NOT TO EXCEED \$162,734.00 FOR THE INSTALLATION OF LANDSCAPING IMPROVEMENTS ON THE U.S. 1 MEDIANS BETWEEN AVIATION BLVD. AND COCO PLUM DRIVE; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the "City") solicited bids for the installation of landscaping improvements on U.S. 1 (the "Project"); and

WHEREAS, the lowest bid was received from Tropic Landscaping And Lawn Maintenance, Inc. (the "Contractor") in the amount of \$162,734.00 for the Project, and staff subsequently reviewed and determined the bid was complete, the bidder was responsive and responsible; and

WHEREAS, the City Council finds that accepting the bid and entering into a contract for the Project with the Contractor is in the best interest of the City.

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

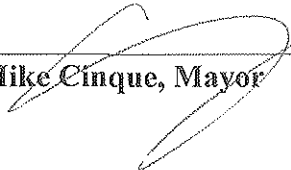
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. The Contract between the City and Contractor for the Project in an amount not to exceed \$162,734.00, 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 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 11th DAY OF DECEMBER, 2012.

THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

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

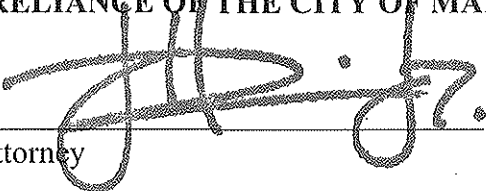
ATTEST:



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

**SECTION 00500
CONSTRUCTION CONTRACT**

THIS CONTRACT (the "Contract") is dated as of the 20th day of December, 2012 by and between **THE CITY OF MARATHON** (hereinafter called the "**CITY**") and **TROPIC LANDSCAPING & LAWN MAINTENANCE, INC.** (hereinafter called **CONTRACTOR**) located at 17973 SW 248th Street, Homestead, Florida 33031

CITY and **CONTRACTOR**, in consideration of the mutual covenants hereinafter set forth, agree as follows:

Article 1. WORK

1.1 Project/Work. **CONTRACTOR** shall complete all Work as specified or indicated in the Contract Documents. The Work is generally described as the following: the **CITY OF MARATHON – US 1 MEDIAN LANDSCAPE PROJECT, PHASE 2**, for the installation of landscape trees and ground cover within the medians on US 1 from Aviation Blvd to Coco Plum Drive.

Article 2. CITY'S REPRESENTATIVE, ARCHITECT AND ENGINEER

2.1. It is understood that the City will designate a representative for the Work. The **City's Representative** referred to in any of the Contract Documents designated herein is Carlos Solis at City Hall, 9805 Overseas Highway, Marathon Florida 33050.

2.2 The City's **Landscape Architect** referred to in any of the Contract Documents designated herein is Jill Cohen, JBC Planning & Design.

2.3 The City's **Engineer** referred to in any of the Contract Documents designated herein is Carlos A. Solis, P.E. 9805 Overseas Hwy, Florida 33050.

Article 3. TERM

3.1 Contract Times. The work shall be substantially completed within **Sixty (60)** calendar days after the date specified in the Notice to Proceed ("Substantial Completion"), and **Ninety (90)** calendar days after the date specified in the Notice to Proceed ("Final Completion").

3.2. Term. This Contract shall not be effective until the City issues a Notice To Proceed to the Contractor and the terms of the Contract shall be through the date of final payment unless terminated earlier pursuant to Section 00700, Article 14, Payments to Contractor and Completion of the General Conditions.

3.3 Survival of Obligations. Any obligations by the Contractor, including but not limited to Document 00700, Article 12, Contractor's General Warranty and Guarantee, that would or could occur after the date of expiration or termination of the Contract shall survive the termination or expiration of the Contract.

3.4. Liquidated Damages. **CITY** and **CONTRACTOR** recognize that time is of the essence in this Contract and that the **CITY** will suffer financial loss if the Work is not completed within the contract times specified in Section 3.1 for the Work above, plus any approved extensions thereof allowed

in accordance with the General Conditions. The **CONTRACTOR** also recognizes the delays, expense and difficulties involved in proving the actual loss suffered by **CITY** if the Work is not completed on time. Accordingly, instead of requiring any such proof, **CITY** and **CONTRACTOR** agree that as liquidated damages for delay (but not as a penalty) **CONTRACTOR** shall pay **CITY Five Hundred Dollars (\$500.00)** for each calendar day that expires after the time specified in Section 3.1 for Substantial Completion of the Work. After Final Completion, if **CONTRACTOR** shall neglect, refuse or fail to complete the remaining Work within the time specified in Section 3.1 for completion and readiness for final payment or any proper extension thereof granted by **CITY**, **CONTRACTOR** shall pay **CITY One Thousand Dollars (\$1,000.00)** for each calendar day that expires after the time specified in Section 3.1 for completion and readiness for final payment.

3.5. Should the Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for performance set in Section 3.1 above because of lack of performance by the **CONTRACTOR**, it is understood and agreed that aside from any other liquidated damages, all actual additional costs incurred by the **CITY** for professional services will be the responsibility of the **CONTRACTOR**.

3.6. Monies due to the **CITY** under Sections 3.4 and 3.5 shall be deducted from any monies due the **CONTRACTOR**, or if no money is due or the amount due is insufficient to cover the amount charged, the **CONTRACTOR** shall be liable for said amount.

Article 4. CONTRACT PRICE

4.1 **CITY** shall pay **CONTRACTOR** for completion of the Work in accordance with the Contract Documents an amount in current funds equal to the sum of the amounts determined pursuant to Sections 4.1.1 and 4.1.2 below:

4.1.1 The contract is a Lump Sum Contract based on the items of work established below and in the contract documents. The established unit prices shall be used for any addition or deletion of work items as directed by the City.

4.1.2 Unit Prices (Combined Bid Form)

CONTRACT BID ITEMS					
ITEM #	ITEM DESCRIPTION	QTY	UNITS	UNIT PRICE	EXTENDED PRICE
1	MOBILIZATION	1	LS	\$4,500.00	\$4,500.00
2	MAINTENANCE OF TRAFFIC	1	LS	\$2,500.00	\$2,500.00
3	SITE WORK	1	LS	\$4,500.00	\$4,500.00
4	JAMAICA CAPER	50	ea	\$185.00	\$9,250.00

5	PIGEON PLUM	29	ea	\$225.00	\$ 6,525.00
6	SILVER BISMARCK PALM	2	ea	\$800.00	\$1,600.00
7	SABAL PALM	42	ea	\$210.00	\$8,820.00
8	SUNSHINE PALM	17	ea	\$265.00	\$4,505.00
9	PERENNIAL PEANUT	9,132	ea	\$3.25	\$29,679.00
10	GREEN ISLAND FICUS	5,038	ea	\$7.50	\$37,785.00
11	DWARF FIRE BUSH	907	ea	\$7.50	\$6,802.50
12	TRINETTE ARBORICOLA	5,163	ea	\$7.50	\$38,722.50
13	YELLOW NECKLAEPOD	503	ea	\$15.00	\$7,545.00
TOTAL BASE BID CONTRACT					\$162,734.00

Written Bid Amount (in Words): One Hundred Sixty Two Thousand Seven Hundred Thirty Four Dollars & 00 Cents

Bid Amount (in numbers): \$162,734.00

Estimated quantities are not guaranteed, and determination of actual quantities and classification are to be made by **ENGINEER** as provided in the Contract Documents.

4.2. The **CONTRACTOR** agrees that all specific cash allowances are included in the above Contract Price and have been computed in accordance with the Contract Documents. **THIS IS A LUMP SUM CONTRACT. QUANTITIES ARE PROVIDED FOR THE BIDDERS CONVENIENCE, AND ESTABLISHMENT OF UNIT PRICE. BIDDER IS TO VERIFY QUANTITIES IN**

PREPARATION OF THE BID. THE CITY RESERVES THE RIGHT TO REDUCE QUANTITIES OF ANY ITEM AS DEEMED IN THE CITY'S BEST INTEREST.

Article 5. PAYMENT PROCEDURES

5.1 **CONTRACTOR** shall submit Applications for Payment in accordance with the General Conditions, Article 14, Payments to Contractor and Completion. Applications for Payment will be processed by **CITY** as provided in the General Conditions.

5.2 **Progress Payments, Retainage.** **CITY** shall make progress payments, deducting the amount from the Contract Price above, on the basis of **CONTRACTOR'S** Applications for Payment as recommended by the **CITY'S REPRESENTATIVE**, on or about the last day of each month during construction as provided herein. All such payments will be made in accordance with the schedule of values established in the General Conditions or, in the event there is no schedule of values, as provided in the General Conditions.

5.2.1 No progress payment shall be made until **CONTRACTOR** delivers to **CITY** complete original partial releases and waivers of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating receipt of partial payment due each for work performed since last progress payment. The partial release shall be accompanied by an affidavit stating that, so far as **CONTRACTOR** has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed for work completed to date. The form of the partial release and waiver of lien and affidavit specified herein shall be approved by the **CITY**.

5.3. The **CONTRACTOR** agrees that ten percent (10%) of the amount due for Work as set forth in each Application for Payment shall be retained by City for each Progress Payment until Final Payment, as defined in the General Conditions, Article 14, Payments to Contractor and Completion.

5.3.1. Prior to Substantial Completion, progress payments will be made in an amount equal to the percentage indicated above, but, in each case, less the aggregate of payments previously made and less such amounts as **CITY'S REPRESENTATIVE** shall determine, or **CITY** may withhold, in accordance with the General Conditions.

5.4. The payment of any Application for Payment by **CITY**, including the Final Request, does not constitute approval or acceptance by **CITY** of any item of the Work in such Request for Payment, nor shall it be construed as a waiver of any of City's rights hereunder or at law or in equity.

5.5. The Final Application for Payment by **CONTRACTOR** shall not be made until the **CONTRACTOR** delivers to the City complete original releases of all liens and claims signed by all Subcontractors, materialmen, suppliers, and vendors on a form approved by the **CITY**, and an affidavit that so far as the **CONTRACTOR** has knowledge or information, the releases include and cover all Materials and Work for which a lien or claim could be filed. The **CONTRACTOR** may, if any Subcontractor, materialmen, supplier or vendor refuses to furnish the required Final Waiver of Lien, furnish a bond satisfactory to City to defend and indemnify City and any other property owner, person or entity City may be required to indemnify against any lien or claim.

5.6. Final Payment. Upon final completion and acceptance of the Work in accordance with the General Conditions, **CITY** shall pay the remainder of the Contract Price and any retainage as recommended by the **CITY'S REPRESENTATIVE**.

Article 6. INSURANCE/INDEMNIFICATION.

6.1. Insurance. The **CONTRACTOR** shall secure and maintain throughout the duration of this Contract, insurance of such type and in such amounts necessary to protect its interest and the interest of the **CITY** against hazards or risks of loss as specified in the General Conditions of the Contract Documents.

6.2. Indemnification. The **CONTRACTOR** shall indemnify, defend and hold harmless the **CITY**, its officials, agents, employees, and volunteers as set forth in General Conditions of the Contract Documents.

Article 7. CONTRACTOR'S REPRESENTATIONS.

In order to induce **CITY** to enter into this Contract, **CONTRACTOR** makes the following representations:

7.1. CONTRACTOR has examined and carefully studied the Contract Documents (including the Addenda) and the other related data identified in the Bidding Documents including "technical data."

7.2. CONTRACTOR has visited the site and become familiar with and is satisfied as to the general, local and site conditions that may affect cost, progress, performance or furnishing of the Work.

7.3. CONTRACTOR is familiar with and is satisfied as to all federal, state and local Laws and Regulations that may affect cost, progress, performance and furnishing of the Work.

7.4. CONTRACTOR has made, or caused to be made, examinations, investigations, tests or studies as necessary to determine surface and subsurface conditions at or on the site. **CONTRACTOR** acknowledges that **CITY** does not assume responsibility for the accuracy or completeness of information and data shown or indicated in the Contract Documents with respect to underground facilities at or contiguous to the site. **CONTRACTOR** has obtained and carefully studied (or assumes responsibility for having done so) all such additional supplementary examinations, investigations, explorations, tests, studies and data concerning conditions (surface, subsurface and Underground Facilities) at or contiguous to the site or otherwise which may affect cost, progress, performance or furnishing of the Work or which relate to any aspect of the means, methods, techniques, sequences and procedures of construction to be employed by **CONTRACTOR** and safety precautions and programs incident thereto. **CONTRACTOR** does not consider that any additional examinations, investigations, explorations, tests, studies or data are necessary for the performance and furnishing of the Work at the Contract Price, within the Contract Times and in accordance with the other terms and conditions of the Contract Documents.

7.5. The CONTRACTOR is aware of the general nature of Work to be performed by **CITY** and others at the site that relates to the Work as indicated in the Contract Documents.

7.6. The CONTRACTOR has correlated the information known to **CONTRACTOR**, information and observations obtained from visits to the site, reports and drawings identified in the Contract Documents and all additional examinations, investigations, explorations, tests, studies and data with the Contract Documents.

7.7. The CONTRACTOR has given the **CITY'S REPRESENTATIVE** written notice of all conflicts, errors, ambiguities or discrepancies that **CONTRACTOR** has discovered in the Contract Documents and the written resolution thereof by the **CITY'S REPRESENTATIVE** is acceptable to

CONTRACTOR, and the Contract Documents are generally sufficient to indicate and convey understanding of all terms and conditions for performance and furnishing of the Work.

7.8. The **CONTRACTOR** warrants the following:

7.8.1. **Anti-Discrimination:** The **CONTRACTOR** agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Contract because of race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

7.8.2. **Anti-Kickback:** The **CONTRACTOR** warrants that no person has been employed or retained to solicit or secure this Contract upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the **CITY, or any other applicable federal or State Agency** has any interest, financially or otherwise, in the Project. For breach or violation of this warranty, the City shall have the right to annul this Contract without liability or, in its discretion, to deduct from the Contract price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

7.8.3. **Licensing and Permits:** The **CONTRACTOR** warrants that it shall have, prior to commencement of work under this Contract and at all times during said work, all required licenses and permits whether federal, state, County or City.

7.8.4. **Public Entity Crime Statement:** The **CONTRACTOR** warrants that it has not been placed on the convicted vendor list following a conviction for public entity crime, as specified in Document 00100, Section 7.5, of the Instructions to Bidders.

Article 8. CONTRACT DOCUMENTS.

8.1 The Contract Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the **CONTRACT** as though physically attached as a part thereof:

8.1.1 Change Orders.

8.1.2 Field Orders.

8.1.3 Contract for Construction.

8.1.4 Exhibits to this Contract.

8.1.5 Supplementary Conditions.

8.1.6 General Conditions.

8.1.7 The Department of Environmental Protection permit and the South Florida Water Management District permit for the Project

8.1.8 Technical Specifications bearing the title: Technical Specifications for **CITY OF MARATHON US 1 MEDIAN LANDSCAPING PROJECT PHASE 2**

8.1.9. Drawings consisting of sheets numbered T1, T2, C1 thru C18A, D1 thru D4, with each sheet bearing the following general title: **CITY OF MARATHON US 1 MEDIAN LANDSCAPING PROJECT PHASE 2**

8.1.10. Bid Documents, including but not limited to: Addendum, Invitation to Bid, Instructions to Bidders, All Sections of Contract Documents, Bid Form provided by **CONTRACTOR**, Notice of Award and Notice to Proceed.

8.1.11. Addenda subject matter takes the same precedence of the respective subject matter that it is modifying. Furthermore, each subsequent addendum takes precedence over previous addenda.

8.1.12. The documents listed above shall be incorporated into this Contract (except as expressly noted otherwise above).

8.1.13. There are no **Contract Documents** other than those listed above in this Article. The Contract Documents may only be amended, modified or supplemented as provided in the General Conditions.

8.1.14. The **Contract Documents** shall remain the property of the **CITY**. The **CONTRACTOR** shall have the right to keep one record set of the Contract Documents upon completion of the Project; provided; however, that in no event shall the **CONTRACTOR** use, or permit to be used, any or all of such Contract Documents on other Projects without the City's prior written authorization.

8.1.15. The General Conditions discuss the bond and surety requirements of the **CITY**. This Contract does [XX] does not [] require bonds. If the Contract does not require bonds, the references to bonds in the General Conditions do not apply to this Contract.

Article 9. MISCELLANEOUS.

9.1. Terms used in this Contract which are defined in Article 1 of the General Conditions will have the meanings indicated in the General Conditions. Terms used in Article 1 of the Instructions to Bidders also apply to this Contract.

9.2. Except as otherwise provided in the Contract Documents with respect to subcontractors, no assignment by a party hereto of any rights under or interests in the Contract Documents will be binding on another party thereto without the written consent of the party sought to be bound; and, specifically but without limitation, moneys that may become due and moneys that are due may not be assigned without such consent (except to the extent that the effect of this restriction may be limited by law), and unless specifically stated to the contrary in any written consent to an assignment no assignment will release or discharge the assignor from any duty or responsibility under the Contract Documents.

9.3. **CITY** and **CONTRACTOR** each binds itself, its partners, successors, assigns and legal representatives to the other party hereto, its partners, successors, assigns and legal representatives in respect to all covenants, agreements and obligations contained in the Contract Documents.

9.4. Severability: Should any provision, paragraph, sentence, word, or phrase contained in this Contract be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Contract, shall remain unmodified and in full force and effect.

9.5. Remedies: If and when any default of this Contract occurs, the **CITY** may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages and specific performance. Such remedies may be exercised in the sole discretion of the **CITY**. Nothing contained in this Contract shall limit the **CITY** from pursuing any legal or equitable remedies that may apply.

9.6. 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 Contract for a period of five (5) years from the date of Final Payment or Termination of this Contract.

9.7. Inspection and Audit: During the term of this Contract and for five (5) years from the date of Termination, the **CONTRACTOR** shall allow **CITY** representatives access during reasonable business hours to **CONTRACTOR'S** records related to this Contract for the purposes of inspection or audit of such records. If upon an 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**.

9.8. 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.

9.9. 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 CONTRACTOR:

Tropic Landscaping & Lawn Maintenance, Inc.
17973 SW 248th Street
Homestead, FL 33031
Attn: Yolanda Santana, President

FOR CITY:

City of Marathon
9805 Overseas Highway
Marathon, Florida 33050
ATTN: Roger Hernstadt, City Manager

WITH COPY TO:

Gray-Robinson
401 E. Las Olas Blvd., Suite 1850
Ft Lauderdale
ATTN: John Herin – City Attorney

9.10. Waiver Of Jury Trial And Venue: The **CITY** and **CONTRACTOR** knowingly, irrevocably, voluntarily and intentionally waive any right either may have to a trial by jury in State and or Federal court proceedings in respect to any action, proceeding, lawsuit or counterclaim based upon the Contract, arising out of, under, or in connection with the Work, or any course of conduct, course of dealing, statements or actions or inactions of any party. The venue for any lawsuit arising out of this Contract shall be in the Middle Keys Division, Monroe County, Florida.

9.11. Attorneys' Fees: If either the **CITY** or **CONTRACTOR** is required to enforce the terms of the Contract by court proceedings or otherwise, whether or not formal legal action is required, the prevailing party shall be entitled to recover from the other party all such costs and expenses, including, but not limited to, court costs, and reasonable attorneys' fees.

9.12. Amendments: This Contract may only be amended by the prior written approval of the parties or by execution of a Change Order in the form attached hereto as Exhibit A.

IN WITNESS WHEREOF, the parties hereto have made and executed this Contract on the respective dates under each signature: THE CITY OF MARATHON, FLORIDA, signing by and through its Mayor, Vice Mayor or City Manager, authorized to execute same by Council action on the 11th day of December, 2012, and by TROPIC LANDSCAPING & LAWN MAINTENANCE, INC., signing by and through its President, duly authorized to execute same.

CITY

ATTEST:

Diane Clavier
Diane Clavier, City Clerk

Roger T. Hernstadt
Roger T. Hernstadt, City Manager

APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE CITY OF MARATHON ONLY:

[Signature]
City Attorney

CONTRACTOR

WITNESSES:

Jocynn Sharp
Name: Jocynn Sharp

TROPIC LANDSCAPING + LAWN MAINTENANCE, INC.
By: [Signature]
Its: President

Ramon R. Santana
Name: RAMON R. SANTANA

(Corporate Seal)

(* 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.

EXHIBIT "A"
CHANGE ORDER

CHANGE ORDER NO. _____

TO: City of Marathon

PROJECT: CITY OF MARATHON – COMMUNITY PARK EAST PARKING AREA RE-PAVING PROJECT

CONTRACTOR: _____

DATE: _____

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 the Contractor for all costs, expenses, overhead, and profit, and any damages 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 this Agreement. The Contractor acknowledges and agrees that (a) the Contract Price of \$ _____ under the Agreement will be [unchanged] [changed] by this Change Order, and (b) the schedule for performance of Work will be [unchanged] [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.

THE CITY OF MARATHON
a Florida municipal corporation

CONTRACTOR

By: _____
Name: _____
Title: _____

By: 
Name: YOLANDA SANTANA
Title: PRESIDENT

END OF SECTION

SECTION 00610
PERFORMANCE BOND BOND NO. 0155861

BY THIS BOND (the "Bond"). We as TROPIC LANDSCAPING AND LAWN MAINTENANCE, INC.
called CONTRACTOR, and BERKLEY REGIONAL INSURANCE COMPANY
hereinafter called SURETY, are bound to the CITY OF MARATHON, a Florida municipal
corporation, hereinafter called CITY, in the amount of One Hundred Sixty-Two Thousand Seven Hundred
Thirty-Four and 00/100 -----Dollars \$162,734.00 -----
for payment of which CONTRACTOR and SURETY bind themselves, their heirs, personal
representatives, executors, administrators, successors and assigns, jointly and severally, with
reference to a written CONTRACT entered into by CONTRACTOR and CITY, for the following:

Contract Title: City of Marathon **CITY OF MARATHON – US 1 MEDIAN LANDSCAPE
PROJECT, PHASE 2.**

THE CONDITION OF THIS BOND is that if the CONTRACTOR:

1. Performs said contract in accordance with its terms and conditions; and
2. Pays CITY all losses, damages (direct and consequential including delay and liquidated damages), expenses, costs, and attorney's fees, including appellate proceedings, that CITY sustains because of a default by CONTRACTOR under the CONTRACT; and
3. Pays CITY and all other amounts due CITY by CONTRACTOR because of a default by CONTRACTOR under the CONTRACT; and
4. Performs the guarantee of all work and materials furnished under the CONTRACT for the time specified in the CONTRACT;

THEN THIS BOND IS VOID, OTHERWISE, IT REMAINS IN FULL FORCE.

Any changes in or under the Contract Documents and compliance or noncompliance with formalities, connected with the Contract or with the changes, do not affect the Surety's obligation under this bond. Surety hereby waives notice of any alteration or extension of time made by the City. Any suit under this bond must be initiated before the expiration of the limitation period applicable to common law bonds under Florida Statutes.

CITY

CITY OF MARATHON, FLORIDA

By:  01/16/13

The 20 day of December, 2012.

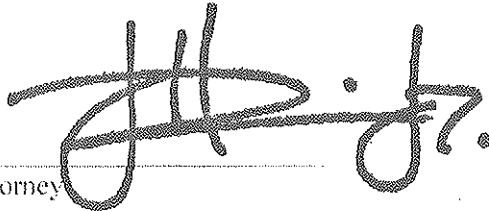
AUTHENTICATION:



City Clerk

(SEAL)

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF THE
CITY OF MARATHON ONLY:


City Attorney

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of:

(Witness)

By: _____
(Individual Principal)

(Witness)

Business Address

WHEN THE PRINCIPAL OPERATES UNDER A TRADE NAME:

Signed, sealed and delivered in the presence of:

(Witness)

Business Name and Address

(Witness)

By: _____
Signature of Individual

WHEN A PARTNERSHIP:

Signed, sealed and delivered in the presence of:

(Witness)

Name and Address of Partnership

(Witness)

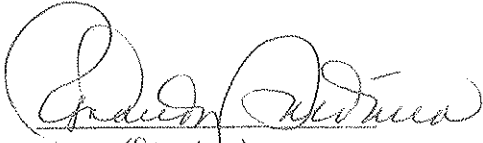
(Partner)

WHEN THE PRINCIPAL IS A CORPORATION:

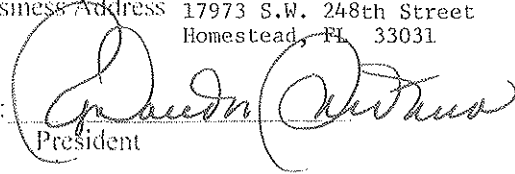
ATTEST:

(Corporate Seal)

TROPIC LANDSCAPING AND LAWN MAINTENANCE, INC.
(Type Corporate Principal Name)


(Secretary)

Business Address 17973 S.W. 248th Street
Homestead, FL 33031

By: 
President


SURETY

ATTEST:

(Surety Seal)

(Type Corporate Surety Name)
BERKLEY REGIONAL INSURANCE COMPANY

Business Address 475 Steamboat Road
Greenwich, CT 06830


(Secretary)

By:
SURETY

By: 
Florida Resident Agent - Charles J. Nielson


(Type Florida Resident's Name) - Charles J. Nielson


Florida Agent's Business Telephone Number
(305) 722-2663

ATTORNEY-IN-FACT

By: 

Name Charles J. Nielson
(Type)

NOTE 1: Surety shall provide evidence of signature authority, i.e., a certified copy of Power of Attorney.

NOTE 2: If both the Principal and Surety are Corporations, the respective Corporate Seals shall be affixed and attached.

NOTE 3: Surety shall include evidence that Agent is licensed in Florida.

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida

ATTACH a certified copy of Power-of-Attorney appointing individual Attorney-in-Fact for execution of Performance Bond on behalf of Surety.

SECTION 00620
PAYMENT BOND

BOND NO. 0155861

BY THIS BOND (the "Bond"). We as TROPIC LANDSCAPING AND LAWN MAINTENANCE, INC., called CONTRACTOR, and BERKLEY REGIONAL INSURANCE COMPANY, hereinafter called SURETY, are bound to the CITY OF MARATHON, a Florida municipal corporation, hereinafter called CITY, in the amount of One Hundred Sixty-Two Thousand Seven Hundred Thirty-Four and 00/100 ----- Dollars \$162,734.00 ----- for payment of which CONTRACTOR and SURETY bind themselves, their heirs, personal representatives, executors, administrators, successors and assigns, jointly and severally, with reference to a written CONTRACT entered into by CONTRACTOR and CITY, for the following:

Contract Title: **CITY OF MARATHON – US 1 MEDIAN LANDSCAPE PROJECT, PHASE 2**

THE CONDITION OF THIS BOND is that if the CONTRACTOR:

Promptly makes payments to all claimants as defined in Section 255.05(1), Florida Statutes, supplying CONTRACTOR with labor, material, or supplies, used directly or indirectly by CONTRACTOR in the prosecution of the work provided for in the contract:

THEN THIS BOND IS VOID, OTHERWISE, IT REMAINS IN FULL FORCE.

Any changes in or under the Contract Documents and compliance or noncompliance with formalities, connected with the CONTRACT or with the changes, do not affect Surety's obligation under this bond. Surety hereby waives notice of any alteration or extension of time made by the CITY.

Claimants must comply with notice requirements set forth in Section 255.05(2), Florida Statutes. No action shall be instituted against the CONTRACTOR or Surety under this bond after one (1) year from the performance of the labor or completion of the delivery of the materials or supplies.

IN WITNESS WHEREOF, this instrument is executed this the _____ day of _____, 20_____.

WHEN THE PRINCIPAL IS AN INDIVIDUAL:

Signed, sealed and delivered in the presence of:

(Witness)

By: _____
(Individual Principal)

(Witness)

Business Address

WHEN THE PRINCIPAL OPERATES UNDER A TRADE NAME:

Signed, sealed and delivered in the presence of:

(Witness)

Business Name and Address

(Witness)

By: _____
Signature of Individual

WHEN A PARTNERSHIP:

Signed, sealed and delivered in the presence of:

(Witness)

Name and Address of Partnership

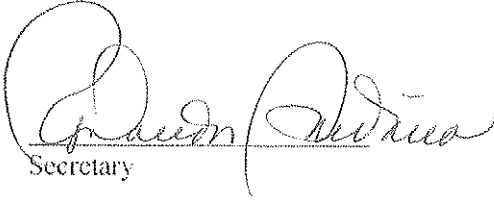
(Witness)

By: _____
(Partner)

WHEN THE PRINCIPAL IS A CORPORATION:

ATTEST:

(Corporate Seal)


Secretary

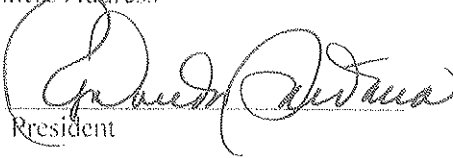
TROPIC LANDSCAPING AND LAWN MAINTENANCE, INC.

(Corporate PRINCIPAL Name)

17973 S.W. 248th Street
Homestead, FL 33031

Business Address

By:


Resident

ATTEST:

(Surety Seal)

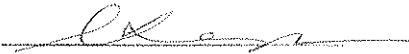
BERKLEY REGIONAL INSURANCE COMPANY
(Corporate SURETY)

475 Steamboat Road
Greenwich, CT 06830

Business Address

By: 
(Surety) Charles J. Nielson

Florida Resident Agent - Charles J. Nielson


(Secretary)

~~ATTORNEY-IN-FACT~~

By: 
Name Charles j. Nielson
(Type)

The provisions and limitations of Section 255.05 Florida Statutes, including but not limited to the notice and time limitations in Sections 255.05(2) and 255.05(10), are incorporated in this bond by reference.

NOTE 1: Surety shall provide evidence of signature authority, i.e., a certified copy of Power of Attorney.

NOTE 2: If both the Principal and Surety are Corporations, the respective Corporate Seals shall be affixed and attached

IMPORTANT: Surety companies executing BONDS must appear on the Treasury Department's most current list (Circular 570 as amended) and be authorized to transact business in the State of Florida.

ATTACH a certified copy of Power-of-Attorney appointing individual Attorney-in-Fact for execution of Performance Bond on behalf of Surety.

The Performance Bond and the Statutory Payment Bond and the covered amounts of each are separate and distinct from each other.

POWER OF ATTORNEY FOR
DEVELOPERS SURETY AND INDEMNITY COMPANY
PO Box 19725, IRVINE, CA 92623 (949) 263-3300

KNOW ALL BY THESE PRESENTS that except as expressly limited, DEVELOPERS SURETY AND INDEMNITY COMPANY, does hereby make, constitute and appoint:

Charles J. Nielson, Charles D. Nielson, Brett M. Rosenhaus, Kevin R. Wojtowicz, Laura Mosholder, jointly or severally

as its true and lawful Attorney(s)-in-Fact, to make, execute, deliver and acknowledge, for and on behalf of said corporation, as surety, bonds, undertakings and contracts of suretyship giving and granting unto said Attorney(s)-in-Fact full power and authority to do and to perform every act necessary, requisite or proper to be done in connection therewith as each of said corporation could do, but reserving to each of said corporation full power of substitution and revocation, and all of the acts of said Attorney(s)-in-Fact, pursuant to these presents, are hereby ratified and confirmed.

This Power of Attorney is granted and is signed by facsimile under and by authority of the following resolution adopted by the Board of Directors of DEVELOPERS SURETY AND INDEMNITY COMPANY, effective as of January 1st, 2008.

RESOLVED, that a combination of any two of the Chairman of the Board, the President, any Executive Vice-President, Senior Vice-President or Vice-President of the corporation be, and that each of them hereby is, authorized to execute this Power of Attorney, qualifying the attorney(s) named in the Power of Attorney to execute, on behalf of the corporation, bonds, undertakings and contracts, of suretyship; and that the Secretary or any Assistant Secretary of the corporation be, and each of them hereby is, authorized to attest the execution of any such Power of Attorney;

RESOLVED, FURTHER, that the signatures of such officers may be affixed to any such Power of Attorney or to any certificate relating thereto by facsimile, and any such Power of Attorney or certificate bearing such facsimile signatures shall be valid and binding upon the corporation when so affixed and in the future with respect to any bond, undertaking or contract of suretyship to which it is attached.

IN WITNESS WHEREOF, DEVELOPERS SURETY AND INDEMNITY COMPANY has caused these presents to be signed by its officers and attested by its Secretary or Assistant Secretary this January 1st, 2008.

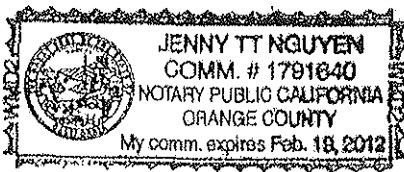
By: Daniel Young
Daniel Young, Vice-President
By: Stephen T. Pate
Stephen T. Pate, Senior Vice-President



State of California
County of Orange

On August 13th, 2008 before me, Jenny TT Nguyen, Notary Public
Date Here Insert Name and Title of the Officer

personally appeared Daniel Young and Stephen T. Pate
Name(s) of Signer(s)



Place Notary Seal Above

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

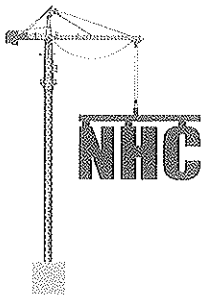
Signature Jenny TT Nguyen
Jenny TT Nguyen, Notary Public

CERTIFICATE

The undersigned, as Secretary or Assistant Secretary of DEVELOPERS SURETY AND INDEMNITY COMPANY does hereby certify that the foregoing Power of Attorney remains in full force and has not been revoked and, furthermore, that the provisions of the resolution of the Board of Directors of said corporation set forth in the Power of Attorney are in force as of the date of this Certificate:

This Certificate is executed in the City of Irvine, California, this 20 day of December 2012

By: Gregg Okura
Gregg Okura, Assistant Secretary



NIELSON, HOOVER & COMPANY, INC.

PUBLIC WORKS BOND
IN COMPLIANCE WITH FLORIDA STATUTES 255.05(1)(A)

SMART, UNCOMPROMISING, TIMELY, EFFECTIVE. NIELSON, HOOVER & COMPANY, INC. SURETY SOLUTIONS THAT MAKE A DIFFERENCE.

BOND NO.	0155861
CONTRACTOR	TROPIC LANDSCAPING AND LAWN MAINTENANCE, INC.
ADDRESS	17973 S.W. 248 TH STREET, HOMESTEAD, FL 33031
PHONE NO.	(305) 245-4144
SURETY COMPANY	BERKLEY REGIONAL INSURANCE COMPANY
ADDRESS	475 STEAMBOAT ROAD, GREENWICH, CT 06830
PHONE NO.	(203) 629-3000
OWNER NAME	CITY OF MARATHON, FL
ADDRESS	9805 OVERSEAS HIGHWAY, MARATHON, FL 33050
PHONE NO.	305-747-0387
CONTRACT/PROJECT NO.	ITB-US1-LS-P2-0-2012
PROJECT NAME	US 1 MEDIAN LANDSCAPE PROJECT, PHASE 2
PROJECT LOCATION	MARATHON, FLORIDA
LEGAL DESCRIPTION AND STREET ADDRESS	VARIOUS
DESCRIPTION	CONSTRUCTION

Front Page

All other bond page(s) are deemed subsequent to this page regardless
of any page number(s) that may be preprinted thereon.