Sponsored by: Williams

CITY OF MARATHON, FLORIDA
RESOLUTION 2026-87

A RESOLUTION OF THE CITY OF MARATHON, FLORIDA ACCEPTING THE LOWEST RESPONSIVE AND RESPONSIBLE BID, AND APPROVING A CONTRACT BETWEEN THE CITY AND VISUALSCAPE, INC. IN AN AMOUNT NOT TO EXCEED $334,570.60 FOR THE INSTALLATION OF LANDSCAPING ALONG THE US 1 CORRIDOR IN FRONT OF THE AIRPORT; 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") has been awarded a Beautification Grant from FDOT in the amount of $100,000 for installation of new landscaping along the US 1 corridor from Aviation Blvd to 107th Ave; and

WHEREAS, the City has been accumulating funds in the Restoration Fund of the Annual Adopted Budget for tree plantings throughout the City; and

WHEREAS, included in the bid proposal, the City has requested an option for three additional months of watering and maintenance as an alternate to the required three months provided for in the contract; and

WHEREAS, on August 26th, 2026, 3 bids were received with the lowest bid submitted by VisualScape, Inc, (the "Contractor"); and

WHEREAS, City staff has reviewed the submitted bids and determined that the low bid was complete, and the bidder was responsive and responsible; and

WHEREAS, the City finds that accepting the low bid and entering into a contract 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 the Contractor for the construction of the Project in an amount not to exceed $294,570.60, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form 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 8TH DAY OF SEPTEMBER 2026.

THE CITY OF MARATHON, FLORIDA

Lynny Del Gaizo, Mayor

AYES: Still, Landry, Matlock, Struyf, Del Gaizo
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:

Steve Williams, City Attorney

SECTION 00500
CONSTRUCTION CONTRACT

This Contract (the "Contract") is dated as of the 8 day of September 2026 by and between the City of Marathon (hereinafter called the "CITY") and **VisualScape, Inc.** (hereinafter called "CONTRACTOR") located at: 17801 NW 137 Ave Miami, FL 33018.

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 construction of this project consists of labor, materials and equipment necessary to complete the installation of Landscaping, decorative beds with plants at various locations along US 1, Airport frontage in the City of Marathon, inclusive of all restoration, and all other work necessary for a complete and accepted project.

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 A. Solis, P.E. Director Engineering, 9805 Overseas Highway, Marathon Florida 33050.

2.2 The CITY's ARCHITECT OF RECORD referred to in any of the Contract Documents designated herein is. Michael Flaugh Landscape Architect.

ARTICLE 3. TERM

3.1 Contract Term. The Work shall be substantially completed within Ninety (90) calendar days after the date specified in the Notice to Proceed ("Substantial Completion"), and fully completed and ready for final payment in accordance with the Contract Documents within One Hundred Twenty (120) calendar days after the date specified in the Notice to Proceed ("Final Completion").

3.2 Contract Time. The Contract Term shall not commence until the CITY issues to CONTRACTOR a Notice to Proceed and the term of the Contract shall be through the date of final payment unless terminated earlier pursuant to Section 00700 – General Conditions, Article 14, Payments to Contractor and Completion.

3.3 Survival of Obligations. Any obligations by the CONTRACTOR, including but not limited to those set forth in Section 00700 – General Conditions, 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 that the damages which the City will incur if the Work is not substantially completed on time and/or fully completed on time are not readily ascertainable at the time this Agreement is entered into, and the Contractor recognizes the difficulties involved in proving the actual loss suffered by CITY if the Work is not substantially completed on time and/or fully completed on time. Accordingly, instead of requiring any such proof, CITY and CONTRACTOR agree that as liquidated damages to compensate the City and not as a penalty for delay or as an incentive to complete on time, CONTRACTOR shall pay CITY ($1000.00) for each calendar day that expires after the time specified in Section 3.1 for Substantial Completion of the Work. After Substantial Completion, if CONTRACTOR fails to fully complete the 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 (750.00) for each calendar day that expires after the time specified in Section 3.1 for full completion and readiness for final payment. Contractor agrees that the liquidated damage amounts specified in the Contract Documents bear a reasonable relationship to the actual damages to be suffered due to public inconvenience and damage to the City's reputation if the Contractor fails to substantially complete and/or fully complete the Work on time. The liquidated damages are not in compensation for any other damages, and expressly exclude damages for completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that may be incurred if the work is not substantially completed on time and/or fully completed on time. All liquidated damages amounts will continue to be charged if the Contractor abandons the Work, or is terminated, and the Work is completed by another party.

3.5 Should the Substantial Completion and/or Full/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 liquidated damages, the Contractor shall be liable to the City for all actual additional costs and/or losses incurred by the CITY including, but not limited to, completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that incurred because the Work was not substantially completed on time and/or fully completed on time.

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 **Exhibit A** of this Section.

4.1.1 For all Unit Price Work, an amount equal to the sum of the established unit price for each separately identified item of Unit Price Work times the estimated quantity of that

item as indicated on the Unit Price Bid Form attached hereto as **Exhibit "A."** 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.

ARTICLE 5. PAYMENT PROCEDURES

5.1 CONTRACTOR shall submit Applications for Payment in accordance with the Section 0700 - 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, in accordance with the Florida Prompt Payment Act. All such payments will be made in accordance with the schedule of values established in the General Conditions and **Exhibit A.**

5.2.1 No progress payment shall be made until CONTRACTOR delivers to the CITY **certified copies of the performance bond and payment bond establishing that the bonds have been recorded with the county clerk,** complete original partial releases of all liens, bond claims, and claims signed by all Subcontractors, materialmen, suppliers, and vendors, indicating amount of partial payment, 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, bond claim, or claim could be filed for work completed to date.

5.2.2 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 five percent (5%) 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 Section 0700 - 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 final 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.

ARTICLE 6. INSURANCE.

6.1 UPON EXECUTION OF THIS CONTRACT, CONTRACTOR SHALL SUBMIT CERTIFICATE(S) OF INSURANCE TO THE CITY EVIDENCING THE REQUIRED COVERAGES AND SPECIFICALLY PROVIDING THAT CITY IS NAMED AS AN ADDITIONAL INSURED WITH RESPECT TO THE REQUIRED COVERAGES AND THE OPERATIONS..

6.2 CONTRACTOR shall file Certificates of Insurance with the City, reflecting evidence of all Coverages. All certificates of insurance must clearly identify the Contract to which they pertain, including a brief description of the subject matter of the Contract. They shall be filed with the City's Risk Management within fourteen (14) days of the execution of this Contract by both parties. The certificates of insurance shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days' prior written notice has been given to the City. Policies for Coverage shall be issued by companies authorized to do business under the laws of the State of Florida and any such companies' financial ratings must be no less than A-VII in the latest edition of the "BEST'S KEY RATING GUIDE", published by A.M. Best Guide.

6.3 All coverages shall be in force throughout the life of this Contract. In the event insurance certificates provided to City indicate that any insurance shall terminate and lapse during the period of this Contract and any and all amendments or extensions of it, then in that event, CONTRACTOR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like Coverages for the remaining term of the Contract and any and all extension of it, is in effect. REPRESENTATIONS.

6.4 CONTRACTOR shall procure and maintain at its own expense and keep in effect during the full term of the Contract a policy or policies of insurance which must include the following coverages and minimum limits of liability:

General Liability insurance with limits of not less than $1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverage for contractual liability, personal injury, broad form property damage, products and completed operations. Annual Aggregate shall apply "Per Project/Job". This policy of insurance shall be written in an "occurrence" based format and include a Waiver of Subrogation in favor of the City.

Comprehensive or Business Automobile Liability insurance with/ limits not less than $1,000,000 each occurrence combined single limit for Bodily Injury and Property Damage including coverages for owned, hired, and non-owned vehicles, equipment or both as applicable This policy of insurance shall be written in an "occurrence" based format and include a Waiver of Subrogation in favor of the City.

Workers Compensation- Statutory Limits (per limits outlined by Chapter 440, Florida Statutes)

Employers Liability Limits:

- $500,000 for bodily injury caused by an accident, each accident
- $500,000 for bodily injury caused by disease, each employee
- $500,000 for bodily injury caused by disease, policy limit

Workers Compensation must be provided for all persons fulfilling this contract, whether employed, contracted, temporary or subcontracted.

Contractor(s) must be in compliance with all applicable State and federal workers' compensation laws, including US Longshore and Harbor Workers Compensation Act, Jones Act (maritime), Federal Employers Liability Act (railroad), etc.

6.5 **Subcontractors' Compliance**: It is the responsibility of the contractor to ensure that all subcontractors comply with all insurance requirements.

6.6 **Cancellation Requirements**: Required insurance shall always be maintained during which the contractor is on City premises. The above policies shall provide the City of Marathon with 30 days' written notice of cancellation or material change from the insurer. If the policies do not contain such a provision, it is the responsibility of the Contractor to provide such notice.

6.7 **Notice Requirements**: If an insurable incident occurs while CONTRACTOR is engaged in a City project, notification to the City is required.

6.8 **Certificates of Insurance/Verification of Coverage**: Proof of the required insurance reflecting all required insurance above will be furnished by CONTRACTOR to the City of Marathon by Certificate of Insurance within 5 days of notification of award. All certificates (and any required documents) must be received and approved by the City before any work commences to permit CONTRACTOR time to remedy any deficiencies.

Valid Certificates verifying coverage is in force as required above must be on file with the City at all times during contract. If the policies renew during the term of the Contract, updated Certificates verifying coverage is in force shall be submitted to the City within 10 days of expiration. Contractor and/or any Subcontractor shall not perform or continue to work pursuant to this contract, unless all coverages remain in full force and effect; work delay is subject to provisions in this contract. If contractor fails to provide proof of insurance within 7 days of City's receipt of notice at any time during this contract, the City shall have the right to consider the contract breached, and therefore terminated.

A copy of Additional Insured Endorsement or other endorsements may be attached to the Certificate.

Description of Operations section of COI: Confirm coverage required is documented in the body of the Certificate of Insurance, and also in the Description of Operations. Additionally, include Job, Event, Contract, or Contract number.

Notices/ Certificate Holder:

City of Marathon

9805 Overseas Highway

Marathon, FL 33050

The City of Marathon, Florida reserves the right to review/revise, reject or accept any required policies of insurance, including limits, coverages or endorsements, herein throughout the term of this Contract.

ARTICLE 7. **Indemnification.**

(a) General Indemnity. Contractor shall indemnify and hold harmless the City, its officers, and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential, including, but not limited to, fees and charges of engineers, architects, attorney's, consultants and other professionals and trial and appellate court and arbitration costs arising out of or resulting from the performance of the Work, excluding claims arising from the sole negligence of City. Such indemnification shall specifically include but not be limited to claims, damages, losses and expenses arising out of or resulting from (i) any and all bodily injuries, sickness, death, disease; (ii) injury to or destruction of real property or tangible personal property, be it publicly or privately owned, including the loss of use resulting therefrom; (iii) other such damages, liabilities or losses received or sustained by any person or persons during or on account of any operations connected with the construction of the Work including the warranty period; (iv) the use of any improper materials; (v) any construction defect

including patent defects; (vi) any act or omission of Contractor or his Subcontractors, agents, servants or employees; (vii) the violation of any federal, state, county or City laws, ordinances or regulations by Contractor, his Subcontractors, agents, servants or employees; (viii) the breach or alleged breach by Contractor of any term of this Agreement, including the breach or alleged breach of any warranty or guarantee.

(b) Defense. In the event that any claims are brought or actions are filed against the City that are encompassed by the Contractor's duty to indemnify as stated in this Agreement, the Contractor agrees to defend against all claims and actions brought against the City regardless of whether such claims or actions are rightfully or wrongfully brought or field. City reserves the right to select its own legal counsel to conduct any defense in any such proceedings and all costs and fees associated therewith including any costs or fees of an appeal shall be the responsibility of Contractor.

(c) Specific Indemnity. Contractor shall indemnify and hold harmless the City for liability for damages to persons or property caused in whole or in part by any act, omission, or default of the City, its officers, directors, agents, or employees arising from the Agreement or its performance. Such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the City or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the Contractor or any of the Contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. The extent of the indemnification shall be limited to$5,000,000 which the parties agree bears a reasonable commercial relationship to the contract. The monetary limitation on the extent of the indemnification provided to the City shall not be less than $1 million per occurrence.

(d) Payment of Losses. Contractor shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever, excluding only those in which the damages arose out of the sole negligence of City, in connection with the foregoing indemnification, including, but not limited to, reasonable attorney's fees and costs to defend all claims or suits in the name of City when applicable.

(e) Contractor's indemnification shall not be limited to the amount of comprehensive general liability insurance which Contractor is required to obtain under the Agreement. Nothing contained herein is intended nor shall it be construed to waive the City's rights and immunities under the common law or Section 768.28 Florida Statutes, as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party described in this Section and its subparts.

ARTICLE 8. **CONTRACTOR'S REPRESENTATIONS**

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

8.1 Contractor shall exercise the same degree of care, skill and diligence in the performance of the Work as is ordinarily provided by a professional under similar circumstances.

If at any time during the term of this Agreement or within one year from the completion of the Work, it is determined that the Contractor's deliverables are incorrect, defective or fail to conform to the Scope of Work or perform as intended, upon written notification from the City Manager, the Contractor shall at Contractors sole expense, immediately correct the Work.

8.2 Contractor and its subcontractors shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall develop and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent public and private property and of underground facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, and Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be immediately remedied by Contractor. The contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and the City has made final payment to Contractor.

8.3 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."

8.4 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.

8.5 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 subsurface conditions or 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.

8.6 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.

8.7 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.

8.8 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.

8.9 On a daily basis during the course of the Work, Contractor shall maintain the site free of debris and dust so as to minimize any inconvenience to surrounding properties. Upon completion of the Work, Contractor shall remove all apparatus, debris, equipment, materials, and tools created or used to construct the Work, and except for the Work or as otherwise directed by the City return the site in the same condition as at the beginning of the Work.

8.10 The CONTRACTOR warrants the following:

8.10.1 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.

8.10.2 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 declare contractor in default, and/or 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.

8.10.3 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.

8.10.4 Public Entity Crime Statement: The CONTRACTOR warrants that it has not been place on the convicted vendor list following a conviction for public entity crime, as specified in Document 00200, Section 7.5, of the Instructions to Bidders.

8.10.5 E-Verify. In accordance with F.S. 448.095, the Contractor shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Contractor during the term of the Contract and shall expressly

require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the Contract term.

ARTICLE 9. CONTRACT DOCUMENTS.

9.1 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:

9.1.1 Change Orders.

9.1.2 Field Orders.

9.1.3 Contract for Construction.

9.1.4 Exhibits to this Contract.

9.1.5 Supplementary Conditions.

9.1.6 General Conditions.

9.1.7 Any federal, state, county or city permits for the Project

9.1.8 Specifications bearing the title: **Contract Documents for US1 Beautification Project**

9.1.9 Drawings consisting of a cover sheet and inclusive of all sheets bearing the following general titles: **US1 Beautification Project.**

9.1.10 Bid Documents, including but not limited to: Addendum, Invitation to Bid, Instructions to Bidders, Bid Form provided by CONTRACTOR, Notice of Award and Notice to Proceed.

9.1.11 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.

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

9.1.13 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.

9.1.14 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.

9.1.15 The General Conditions discuss the bond and surety requirements of the CITY. This Contract requires the CONTRACTOR to provide payment and performance bonds, unless stated otherwise in Section 255.05, Florida Statutes.. If the Contract does not require bonds, the references to bonds in the General Conditions do not apply to this Contract.

ARTICLE 10. Termination.

10.1 The City Manager without cause may terminate this Agreement upon thirty (30) days written notice to the Contractor, or immediately with cause.

10.2 Unless directed otherwise in writing by the City Manager, upon receipt of the City written notice of intent to terminate or notice of actual termination, the Contractor shall stop the Work.

10.3 In the event of termination by the City, the Contractor shall be paid for all Work accepted by the City Manager up to the date of termination.

10.4 The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data properly indexed and labeled pertaining to the Work to the City, in a hard copy and/or electronic format (as specified by the City) within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

ARTICLE 11. **Nondiscrimination.**

11.1 During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

ARTICLE 12. **MISCELLANEOUS.**

12.1 Terms used in this Contract which are defined in Article 1 of the General Conditions, Section 700, will have the meanings indicated in the General Conditions. Terms used in Article 1 of the Instructions to Bidders, Section 200, also apply to this Contract.

12.2 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.

12.3 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.

12.4 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.

12.5 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, liquidated damages specified in Article 3.4, 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. A default by CONTRACTOR under any contract with the CITY will be a default under all contracts with the CITY. The CITY may apply the proceeds from any contract between CONTRACTOR and the CITY to satisfy amounts owed by the CONTRACTOR to the CITY under any other contract.

12.6 The failure of the City to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach of wrongful conduct.

12.7 The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

ARTICLE 13. **Access to Public Records.**

The CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes.

All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City. The Records are not intended or represented to be suitable for use, partial use, or reuse by the City or others on extensions of this project or on any other project. Any such use, reuse, or modifications made by the City to any of Consultant's Records will be at City's sole risk and without liability to Consultant, and City shall, to the extent allowable by Florida law, and subject to Section 768.28, Florida Statute, and all monetary limits listed therein, indemnify, defend and hold Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom.

13.1.1 The "CONTRACTOR" as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

1. Keep and maintain public records required by the City to perform the service.

2. Upon request from the City Clerk, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.

3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the City.

4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the CONTRACTOR or keep and maintain public records required by the City to perform the service. If the CONTRACTOR transfers all public records to the City upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City.

13.1.2 Public Records" is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of physical form, made or received in connection with this Agreement.

13.1.3 Should the CONTRACTOR assert any exemption to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the CONTRACTOR.

13.1.4 The CONTRACTOR consents to the City's enforcement of the CONTRACTOR's Chapter 119 requirements by all legal means, including, but not limited to, a mandatory injunction, whereupon the CONTRACTOR shall pay all court costs and reasonable attorney's fees incurred by the City.

13.1.5 The CONTRACTOR's failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by the CONTRACTOR shall be grounds for immediate unilateral cancellation of this Agreement by the City.

13.1.6 **IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE**

CUSTODIAN OF PUBLIC RECORDS AT 305-743-0033, CITYCLERK@CI.MARATHON.FL.US, OR 9805 OVERSEAS HIGHWAY, MARATHON FLORIDA 33050.

13.7 Inspection and Audit. During the term of this Contract and for five (5) years from the date of final completion or 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.

ARTICLE 14. **Counterparts.**

14.1 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.

14.2 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
ATTN: Steve Williams
9805 Overseas Highway
Marathon, Florida 33050
ATTN: City Manager

WITH COPY TO:

City Attorney
9805 Overseas Highway
Marathon, Florida 33050
Phone: 305-289-4103 Fax:
305-289-4123

FOR CONTRACTOR

VisualScape, Inc.
Ivan C. Vila, President
17801 NW 137 Avenue
Miami, FL 33018
(305) 362-2404, IVila@visualscapeinc.com

14.3 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 Monroe County, Florida.

14.4 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 parties shall bear their own attorney fees, costs and expenses, at the trial and appellate level.

14.5 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 provided by the City

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 or Vice Mayor, authorized to execute same by Council action on the day of Sep 8th, 2026, and by Visualscape, Inc (Contractor), signing by and through its president, duly authorized to execute same.

CONTRACTOR

WITNESS

By: _____
Ricardo Villasmil, Estimator

By: _____
Ivan C. Vila
President

By _____
(Signature and Title)
(Corporate Seal)
Jose M. Quintero, Director of Pre-Construction
(Type Name/Title signed above)

10 day of September, 2026.

CITY

ATTEST

_____
~~City Clerk~~ Deputy City Clerk

CITY OF MARATHON, FLORIDA

_____,
City Manager

21st day of September, 2026.

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

By: _____
City Attorney

(*) 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.

CERTIFICATE AS TO CORPORATE PRINCIPAL

I, Ivan C. Vila, certify that I am the President of VisualScape, Inc. and that Ivan C. Vila, who signed the Bid with the City of Marathon, Monroe County, Florida for VisualScape, Inc., is President of said Corporation with full authority to sign said **Bid** on behalf of the Corporation.

Signed and sealed this 10th day of September, 2026.

(SEAL) _____
Signature

Ivan C. Vila, President
Typed w/Title

STATE OF FLORIDA
COUNTY OF Miami-Dade

SWORN TO AND SUBSCRIBED before me this 10 day of September, 2026.

My Commission Expires:

_____
Notary Public

JOSE M. QUINTERO
MY COMMISSION # HH 579586
EXPIRES: August 11, 2028

CERTIFICATE AS TO AUTHORIZED CORPORATE PERSONNEL

I, Ivan C. Vila, certify that I am the President of VisualScape, Inc., who signed the Bid with the City of Marathon, Monroe County, Florida, for the project titled US 1 Beautification Project, and that the following persons have the authority to sign **payment requests** on behalf of the Corporation:

Adrian Rivero, Jr., Director of Landscape Construction
(Signature) (Typed Name w/Title)

(Signature) (Typed Name w/Title)

(Signature) (Typed Name w/Title)

Signed and sealed this 10 day of September, 2026

(SEAL)

Signature

Ivan C. Vila, President
Typed w/Title

STATE OF FLORIDA
COUNTY OF MONROE

SWORN TO AND SUBSCRIBED before me this 10 day of September, 2026.

My Commission Expires:

Notary Public

JOSE M. QUINTERO
MY COMMISSION # HH 579586
EXPIRES: August 11, 2028

EXHIBIT A

Unless otherwise noted, this is a Lump Sum contract. Quantities herein are provided for the use and convenience of the Contractor. Contractor shall verify the quantities and adjust if deemed necessary. All work, labor, and materials needed to complete the work, whether specifically detailed in an item listed below, or incidental to construction, shall be included in the lumps sum cost provided in this bid. There shall be no additional compensation for quantities required to complete the work unless the scope of work is changed by a Change Order.

BID FORM

US 1 Beautification Project

QTY	UNIT	UNIT COST	TOTAL	BOTANICAL NAME	COMMON NAME	CONT	CAL	SIZE
CANOPY TREES								
10	ea	$ 670.00	$ 6,700.00	CLUSIA ROSEA	PITCH APPLE	25 GAL	1.5"	8' -10' HT
20	ea	$ 670.00	$ 13,400.00	COCCOLOBA DIVERSIFOLIA	PIGEON PLUM	25 GAL	1.5"	8' -10' HT
10	ea	$ 670.00	$ 6,700.00	COCCOLOBA UVIFERA	SEA GRAPE	30 GAL	2"	10 - 12' HT.
10	ea	$ 720.00	$ 7,200.00	SABAL PALMETTO	SABAL PALM	B & B		16' - 20' OA HT.
10	ea	$ 670.00	$ 6,700.00	SIMAROUBA GLAUCA	PARADISE TREE	25 GAL	2"	8-10' OA HT.
10	ea	$ 670.00	$ 6,700.00	SWIETENIA MAHAGONI	MAHOGANY	25 GAL	2"	10-12' OA HT.
UNDERSTORY TREES		$	$					
10	ea	$ 647.50	$ 6,475.00	CANELLA WINTERANA	CINNAMON BARK	25 GAL	1"	6'-8' OA HT
30	ea	$ 547.50	$ 16,425.00	CORDIA SEBESTENA	ORANGE GEIGER	25 GAL	1.5"	8-10' OA HT.
20	ea	$ 647.50	$ 12,950.00	KRUGIODENDRON FERREUM	BLACK IRONWOOD	25 GAL	1"	6'-8' OA HT
20	ea	$ 497.50	$ 9,950.00	MYRCIANTHES FRAGRANS	SIMPSON STOPPER	25 GAL	1"	8-10' OAHT.
SHRUBS		$	$					
200	ea	$ 20.00	$ 4,000.00	BORRICHIA FRUTESCENS	SEA OX-EYE DAISY	1 GAL		12" HT., FULL
150	ea	$ 78.00	$ 11,700.00	CALLICARPA AMERICANA	AMERICAN BEAUTYBERRY	7 GAL		30"HT., FULL
101	ea	$ 58.00	$ 5,858.00	CHRYSOBALANUS ICACO	COCOPLUM	7 GAL		36"HT., FULL
60	ea	$ 118.00	$ 7,080.00	CLUSIA GUTIFERA	SMALL LEAF CLUSIA	15 GAL		4' HT., FULL
100	ea	$ 58.00	$ 5,800.00	DURANTA REPENS	GOLDEN DEWDROP	7 GAL		18" X 18"
200	ea	$ 18.00	$ 3,600.00	ERNODEA LITTORALIS	GOLDEN CREEPER	1 GAL		12" HT., FULL
50	ea	$ 88.00	$ 4,400.00	EUGENIA FOETIDA	SPANISH STOPPER	7 GAL		36" HT., FULL
202	ea	$ 20.00	$ 4,040.00	HELIANTHUS DEBILIS	DUNE SUNFLOWER	1 GAL		8" HT., FULL
25	ea	$ 78.00	$ 1,950.00	PSYCHOTRIA NERVOSA	WILD COFFEE	7 GAL		30"HT., FULL
151	ea	$ 83.00	$ 12,533.00	SAVIA BAHAMENSIS	MAIDEN BUSH	7 GAL		36" HT., FULL
50	ea	$ 103.00	$ 5,150.00	SCHAEFFERIA FRUTESCENS	FLORIDA BOXWOOD	7 GAL		24" HT., FULL
150	ea	$ 38.00	$ 5,700.00	SOPHORA TOMENTOSA	NECKLACE POD	3 GAL		18" HT. FULL
103	ea	$ 103.00	$ 10,609.00	SURIANA MARITIMA	BAY CEDAR	7 GAL		24" HT., FULL
203	ea	$ 20.00	$ 4,060.00	TRIPSACUM FLORIDANUM	DWARF FAKAHATCHEE	1 GAL		18" HT. FULL
SOD								
7683	sf	$ 1.20	$ 9,459.60	PASPALUM NOTATUM 'ARGENTINE'	BAHIA SOD			
SOIL AND MULCH								
232	cy	$ 118.00	$ 27,376.00		TOPSOIL			
75	cy	$ 105.00	$ 7,875.00		MULCH			

PLANT MATERIAL TOTAL (WITH SOIL AND MULCH)	$ 224,390.60	-
MAINTENANCE OF TRAFFIC	$ 6,450.00	-
MOBILIZATION (Cannot Exceed 10%)	$ 18,700.00	-
Bonds	$ 4,200.00	-
3 Month Maintenance & Watering	$ 40,830.00	-
TOTAL PROJECT BASE BID	$ 294,570.60	-

Optional Bid Additional 3 Month Maintenance and Watering $ 40,830.00

TOTAL PROJECT BASE BID: $ 294.570.60 . (insert price using words) Two hundred ninety four thousand five hundred seventy and sixty cents (Dollars)

9.01 Bidder will complete the work in accordance with the Contract Documents for the Total Base Bid itemized above.

SUBMITTED on August 26, 2026.

State Contractor License No. CGC1526863. (If applicable.)