



COUNCIL AGENDA STATEMENT

Date: September 19, 2019
To: Honorable Mayor and City Council
From: Carlos A. Solis, P.E., Director of Public Works and Engineering
Through: Chuck Lindsey, City Manager

Agenda Item: Resolution 2019-99, Approving Change Order No. 3 To Contract Between The City And Discount Rock & Sand, Inc. For The Reconstruction of Sombrero Beach From Hurricane Irma Damages; Increasing The Contract Time By 90 Days As A Result Of Delays In The Issuance Of The USACOE Permit As Part Of The Beach Reconstruction Project; Authorizing The City Manager To Execute The Change Order And Expend Budgeted Funds On Behalf Of The City; And Providing For An Effective Date.

BACKGROUND & JUSTIFICATION:

The beach reconstruction project had a renourishment component. This entailed sand renourishment for both the upland portion of the beach, and a water ward renourishment to re-establish the shoreline that existed prior to Hurricane Irma. The latter portion of the work requires a USACOE permit. The permit was applied for in September of 2018 when the plans were being prepared. The permit process for any fill within jurisdictional waters is a long process, sometimes as far out as two years, as the ACOE coordinated with several federal agencies exerting jurisdiction. It is evident that the permit is not going to be issued by October 4, which is the current completion day for the project. The 90 day extension should provide sufficient time for the issuance of the permit, and completion of the renourishment portion of the project. This change order is for time only.

CONSISTENCY CHECKLIST:

Table with 3 columns: Item, Yes, No. Row 1: 1. Comprehensive Plan: Yes/No. Row 2: 2. Other: Yes/No. Row 3: 3. Not applicable: X

FISCAL NOTE: N/A

Time only change order.

Finance Director: _____

RECOMMENDATION:

Approval of Resolution

**CITY OF MARATHON, FLORIDA
RESOLUTION 2019-99**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CHANGE ORDER NO. 3 TO CONTRACT BETWEEN THE CITY AND DISCOUNT ROCK & SAND, INC. EXTENDING THE FINAL COMPLETION DATE 90 DAYS AS A RESULT OF DELAYS IN THE ISSUANCE OF THE USACOE PERMIT AS PART OF THE BEACH RECONSTRUCTION PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CHANGE ORDER ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the “City”) awarded the contract for the reconstruction of Sombbrero Beach Project” (the “Project”) by Resolution 2019-15 on February 12, 2019; and

WHEREAS, as part of the reconstruction of Sombbrero Beach due to damages suffered from Hurricane Irma, the water ward renourishment to re-establish the shoreline that existed prior to the Hurricane requires a USACOE permit; and

WHEREAS, the USACOE water ward renourishment permit was applied for in September 2018; and

WHEREAS, change order #3 is found to be reasonable given the typical process for USACOE permitting and this change order is for completion time only.

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

Section 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. Change Order #3 is attached hereto, 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 change order 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 19th DAY OF SEPTEMBER, 2019.

THE CITY OF MARATHON, FLORIDA

John Bartus, Mayor

AYES:
NOES:
ABSENT:
ABSTAIN:

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:**

David Migut, City Attorney

CHANGE ORDER # 3 –

TO: City of Marathon
PROJECT: Sombrero Beach Irma Reconstruction Project
ENGINEER: Weiler Engineering
CONTRACTOR: Discount Rock & Sand, Inc.
DATE: September 13, 2019

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 in Exhibits “B” attached hereto and by this reference made a part hereof.

This Change Order constitutes full, final, and complete compensation to **Discount Rock & Sand, Inc.** for all costs, expenses, overhead, and profit, and any damages of every kind that **Discount Rock & Sand, Inc.** may incur in connection with the above referenced changes in the Construction Work under this Agreement. **Discount Rock & Sand, Inc.** acknowledges and agrees that (a) the Guaranteed Maximum Price of \$1,531,426.62 under the Agreement will **not be changed** by this Change Order. **Discount Rock & Sand, 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

Discount Rock & Sand, Inc.

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Exhibit "A"

CHANGE ORDER SUMMARY

Change Order No. 3
Project Title **Sombrero Beach Irma Reconstruction Project**
Bid No. 2018-009
Owner: City of Marathon
Contractor: **Discount Rock & Sand, Inc.**
Agreement Date: February 26, 2019

This Change Order is necessary to cover changes in the work to be performed under this Agreement. The GENERAL CONDITIONS, SUPPLEMENTARY CONDITIONS, and STANDARD SPECIFICATIONS apply to and govern all work under this Change Order.

THE FOLLOWING CHANGES ARE MADE TO THE CONTRACT DOCUMENTS:

(1)	Original Contract Price	<u>\$1,343,241.00</u>
(2)	Current Contract Price (Adjusted by Previous C.O.)	<u>\$1,500,641.00</u>
(3)	Total Proposed Change in Contract Price	<u>\$0</u>
(4)	New Contract Price (Item 2 + Item 3)	<u>\$1,531,426.62</u>
(5)	Original Contract Time	<u>180 Days</u>
(6)	Proposed Change in Contract Time	<u>90 Days</u>
(6)	Current Contract Time (Adjusted by Previous C.O.)	<u>201 Days</u>
(7)	Total Proposed Change in Contract Time	<u>111 Days</u>
(8)	New Contract Time (Item 6 + Item 7)	<u>291 Days</u>
(9)	Original Contract Final Completion Date	<u>September 18, 2019</u>
(10)	New Contract Final Completion Date	<u>January 2, 2020</u>

**SOMBRERO BEACH IRMA RECONSTRUCTION PROJECT
CHANGE ORDER HISTORY**

Item No.	Description	Current Contract Amount	Additive Change	Deductive Change	Net Change Contract Price	Net Change Contract Time
1.		<u>\$1,343,241.00</u>	<u>\$206,000.00</u>	\$48,600.00	<u>\$157,400.00</u>	0 Days
2		<u>1,500,641.00</u>	\$43,185.58	\$12,399.96	\$30,785.62	21 Days
3		<u>1,531,426.62</u>	\$0	\$0	\$0	90
Total		\$1,531,426.62	\$249,185.58	\$48,600.00	\$200,585.58	111 Days

Exhibit “B”

CHANGE ORDER JUSTIFICATION

The beach reconstruction project had a renourishment component. This entailed sand renourishment for both the upland portion of the beach, and a waterward renourishment to re-establish the shoreline prior to Hurricane Irma. The latter portion of the work requires a USACOE permit. The permit was applied for in September of 2018 when the plans were being prepared. The permit process for any fill within jurisdictional waters is a long process, sometimes as far out as two years, as the ACOE coordinated with several federal agencies exerting jurisdiction. It is evident that the permit is not going to be issued by October 4, which is the current completion day for the project. The 90 day extension should provide sufficient time for the issuance of the permit, and completion of the renourishment portion of the project.