

COUNCIL AGENDA STATEMENT



**Meeting Date:** July 14, 2020  
**To:** Honorable Mayor and Council Members  
**From:** George Garrett, Planning Director  
**Through:** Chuck Lindsey, City Manager

**Agenda Item:** **Resolution 2020-38**, Approval Of A Quote And Project Proposal In The Amount Of \$24,400.00 From LPS Contracting Under A Continuing Services Agreement And Work Authorization To Complete Phase II Of A Maintenance Dredge Project On Calle Ensueno.

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BACKGROUND & JUSTIFICATION:

Over the course of the past two years, the City has been working to obtain and complete a mangrove trimming / maintenance dredging project for a canal and culvert that crosses Calle Ensueno.

The mangrove trimming portion of the project is complete, having been completed by Adventure Environmental Inc. Additionally, the west side of the canal has been maintenance dredged to approximately 7 feet, Mean Low Water.

Phase 2 of the maintenance dredge project will complete the permitted maintenance dredging east of Calle Ensueno.

The project is before you today, because the sum of Phase 1 and 2 exceeds \$35,000 which is the limit of spending authorization allowed of the City Manager. Phase 1 of the project was completed at an expense of \$34,870.00

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>  X  </u>	<u>      </u>
2. Other – 2010 Sewer Mandate	<u>      </u>	<u>      </u>

FISCAL NOTE:

The adopted FY20 Stormwater budget includes appropriations of \$832,208 for canal and culvert restoration projects. This expenditure will be submitted for reimbursement from the City’s FDEP LP44044 grant.

RECOMMENDATION:

Approval of Resolution 2020-38

Sponsored by: Lindsey

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2020-38**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA APPROVING A QUOTE AND PROJECT PROPOSAL IN THE AMOUNT OF \$24,400.00 FROM LPS CONTRACTION UNDER A CONTINUING SERVICES AGREEMENT AND WORK AUTHORIZATION TO COMPLETE PHASE II OF A MAINTENANCE DREDGE PROJECT ON CALLE ENSUENO.**

**WHEREAS**, the City of Marathon has completed mangrove trimming and phase 1 of a maintenance dredging project on Canal No. 256, Calle Ensueno; and

**WHEREAS**, the City Council reviewed the proposal and work authorization for LPS Contracting Inc to complete Phase 2 of the Calle Ensueno Maintenance Dredging Project; and

**WHEREAS**, Chapter 166, *Florida Statutes*, grants the City of Marathon (the “City”) broad municipal home rule powers to provide for the health, safety and welfare of its residents, business owners and visitors by enacting regulations for the protection of the public,

**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.** Phase 2 of the Maintenance Dredging project at Canal No 256, Calle Ensueno is hereby approved at a cost of \$24,400.00

**Section 3.** The City Manager is hereby authorized to sign the attached Work Authorization with LPS Contracting Inc, a Continuing Services Contractor, in order to complete the project.

**Section 4. Effective Date.** This Resolution shall become effective immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 14TH DAY OF JULY, 2020.**

**THE CITY OF MARATHON, FLORIDA**

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**Steve Cook, Mayor**

AYES:

NOES:

ABSENT:

ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk

(City Seal)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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Dirk Smits, City Attorney

## EXHIBIT "A"

### PROJECT AGREEMENT

Work Authorization No. PL-2020-002

Pursuant to the provisions contained in the "Continuing Services Agreement" between the CITY OF MARATHON, FLORIDA (the "CITY") and LPS Utilities Inc. DBA LPS Contracting., ("CONTRACTOR") dated June 3, 2020, this Project Agreement authorizes the CONTRACTOR to provide the services as set forth below:

Project Name: Calle Ensueno Maintenance Canal/Culvert Dredge Project

The CITY and CONTRACTOR agree as follows:

#### **SECTION 1. SCOPE OF SERVICES**

1.1 The CONTRACTOR shall perform the work and services to the CITY for the Project as described in the "Scope of Services and Project Schedule" attached as Exhibit "1." All work and contractual obligations shall be in accordance with the executed Continuous Service Agreement with the Contractor on file.

1.2 The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

#### **SECTION 2. TERM/TIME OF PERFORMANCE/DAMAGE**

2.1 **Term.** This Project Agreement shall commence on the date this instrument is fully executed by all parties ("Commencement Date") and shall continue in full force and effect, unless otherwise terminated pursuant to Section 5 or other applicable provisions of this Project Agreement. The City Manager, in his sole discretion, may extend the term of this Agreement through written notification to the CONTRACTOR. Such extension shall not exceed 30 days. No further extensions of this Agreement shall be effective unless authorized by the CITY Council.

2.2 **Contract Time.** The CONTRACTOR shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without interruption, in accordance with the time frames set forth in Exhibit "1". The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

2.3 **Time is of the Essence.** All limitations of time set forth in this Agreement are of the essence.

#### **SECTION 3. AMOUNT, BASIS AND METHOD OF COMPENSATION**

3.1 **Lump Sum Compensation.** CITY agrees to pay CONTRACTOR as compensation for performance of all services described in Exhibit "1" of \$24,400.00.

**[OR, IF HOURLY, "CITY AGREES TO PAY CONTRACTOR COMPENSATION AT CONTRACTOR'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$ N/A .]**

3.2 **Reimbursable Expenses.** The following expenses are reimbursable at their actual cost: travel and accommodations, long distance telephone calls, facsimile, courier services, mileage (at a rate approved by the CITY), photo and reproduction services. All document reproductions are also reimbursable at a rate approved by the CITY.

#### **SECTION 4. BILLING AND PAYMENTS TO THE CONTRACTOR**

4.1 **Invoices.** CONTRACTOR shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the CITY. The CITY shall pay CONTRACTOR within thirty (30) calendar days of approval by the City Manager of any invoices submitted by CONTRACTOR to the CITY.

4.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONTRACTOR is disputed, or additional backup documentation is required, the CITY shall notify the CONTRACTOR within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONTRACTOR shall provide the CITY with additional backup documentation within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONTRACTOR. The CITY, at its sole discretion, may pay to the CONTRACTOR the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

4.3 **Suspension of Payment.** In the event that the CITY becomes credibly informed that any representations of the CONTRACTOR, provided pursuant to Subparagraph 3.1, are wholly or partially inaccurate, or in the event that the CONTRACTOR is not in compliance with any term or condition of this Project Agreement, the CITY may withhold payment of sums then or in the future otherwise due to the CONTRACTOR until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the CITY'S reasonable satisfaction.

4.4 **Retainage.** The CITY reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due to the CONTRACTOR until the project is completed. Said retainage may be withheld at the sole discretion of the City Manager and as security for the successful completion of the CONTRACTOR'S duties and responsibilities under the Project Agreement.

4.5 **Final Payment.** Submission of the CONTRACTOR'S invoice for final payment and reimbursement shall constitute the CONTRACTOR'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONTRACTOR to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONTRACTOR shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONTRACTOR.

## **SECTION 5. TERMINATION/SUSPENSION**

5.1 **For Cause.** This Project Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONTRACTOR abandons this Project Agreement or causes it to be terminated by the CITY, the CONTRACTOR shall indemnify the CITY against any loss pertaining to this termination.

5.2 **For Convenience.** This Project Agreement may be terminated by the CITY for convenience upon fourteen (14) calendar days' written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subcontractor obligations. The CONTRACTOR shall be compensated for all services performed to the satisfaction of the CITY and for reimbursable expenses incurred prior to the date of termination. The CONTRACTOR shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Paragraph 4.1 of this Project Agreement. Under no circumstances shall the CITY make any payment to the CONTRACTOR for services which have not been performed.

5.3 **Assignment upon Termination.** Upon termination of this Project Agreement, a copy of all of the CONTRACTOR's work product shall become the property of the CITY and the CONTRACTOR shall, within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONTRACTOR pertaining to this Project Agreement.

## **SECTION 6. INCORPORATION OF TERMS AND CONDITIONS OF CONTINUING SERVICES AGREEMENT**

This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated \_\_\_\_\_ between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the Continuing Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

**ATTEST:**

**CITY OF MARATHON**

\_\_\_\_\_  
Diane Clavier, City Clerk

By: \_\_\_\_\_  
Charles Lindsey, City Manager

Date: \_\_\_\_\_

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

\_\_\_\_\_  
City Attorney

\_\_\_\_\_  
Witness

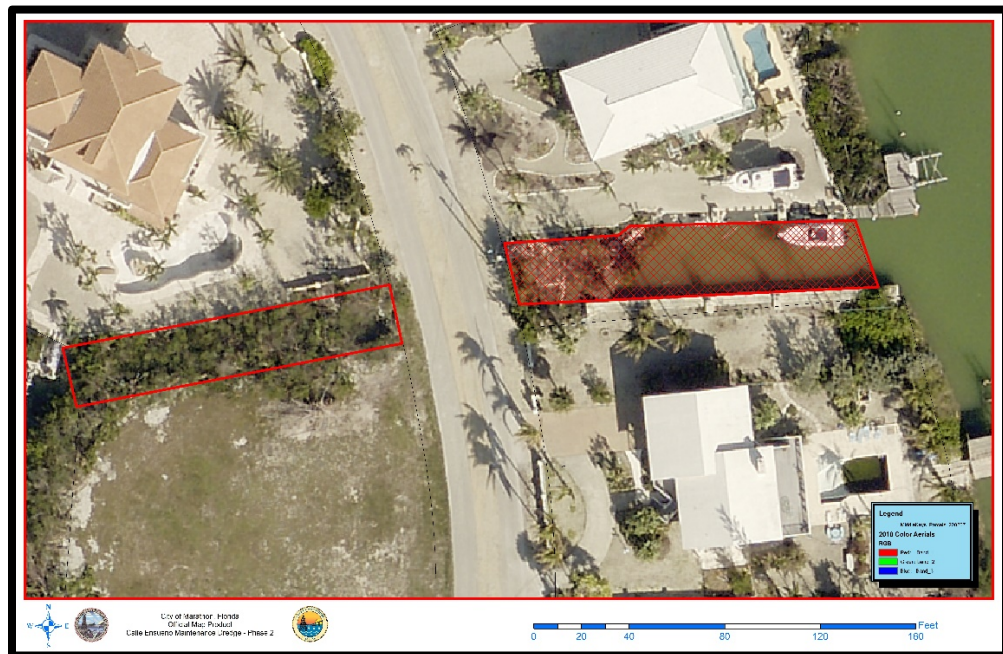
By: \_\_\_\_\_  
President

Date: \_\_\_\_\_

# EXHIBIT "1"

## Scope of Services and Project Schedule

The Project in question is known as the "Calle Ensueno, Canal/Culvert Maintenance Dredge Project," (Project). The Project will be carried out on the canal and culvert that crosses under and extends east and west from Calle Ensueno North, just to the north of the intersection of Calle Ensueno North and South and Avenida Primaceria.





The CONTRACTOR is responsible for maintenance dredging the canal pursuant to specifications and conditions established in the attached CITY, FDEP, and ACOE permits. The CONTRACTOR is only responsible for completing maintenance dredging work within the area east of the culvert crossing at Calle Ensueno North.

The approximate length and width of the area to be maintenance dredged is 148 Ft. X 35 Ft., varying in width based on the specific conditions of the mangroves that fringe the canal.

The CONTRACTOR will be responsible for initiating and completing the project from the point of recording a Notice to Proceed to project completion and final approvals by the CITY. Adequate project completion shall be defined by three primary final conditions:

1. Maintenance dredging of the eastern leg of the permitted dredge area has been completed within the specifications and conditions spelled out in all relevant permits; and
2. There are no infractions of the permit specifications and conditions; and
3. The upland area surrounding the approved maintenance dredge area, including private property, edge or Right-Of-Way (ROW) and ROW pavement has been substantially returned to pre-Project conditions.

#### Detailed Project Scope of Services

The CONTRACTOR shall be responsible for:

1. Mobilization to the Project area.
2. Establishing and maintaining all required turbidity prevention devices in place
3. Coordinating with any permitting agencies as may be required in attached permits
4. Carrying out approved maintenance dredging with minimal additional impacts to fringing mangroves associated with the Project site
5. Maintaining outstanding site control of dredge equipment and vessels and dredge spoil transport vehicles, in the water, surrounding the Project site, and between and at the dredge spoil disposal area at the Florida Keys Country Club and Manor Lane.
6. Maintaining a well-organized and clean site at the end of each workday. This applies particularly to maintaining a clean pavement area on Calle Ensueno
7. Documenting that Permit conditions have been met in general, including but not limited to, the extent of maintenance dredging (Length, Width, and Depth)
8. Project close-out, including No 7. above and Project site clean-up for final close-out

The CITY shall be responsible for:

1. Obtaining temporary access to adjacent property to the south as it borders the maintenance dredge area
2. Maintaining Project oversight, including answering any questions about CONTRACTOR responsibilities during the Project and raising and addressing any concerns as they may arise during Project completion
3. Approving any close-out requirements as outlined above and as it may relate to Permit specifications and conditions.

#### Project Schedule

Thirty days (one month) from Notice of Commencement to Substantial Completion.

ATTACHMENTS  
FDEP & ACOE PERMITS



# Proposal

Attn:	George Garrett
Job:	Phase 2 Canal 256 Maintenance Dredging
Bid #:	001
Date of Bid:	6/17/2020

Estimator:	Trent Meyer
Phone Number:	(815)-276-1731
Email:	trent.meyer@lps-contracting.com

ITEM NO.	ITEM DESCRIPTION	QTY	UNIT	UNIT PRICE	TOTAL PRICE
<b>Base Bid</b>					
010	Splitting and Mobilization of Barges	1.00	LS	\$ 5,000.00	\$ 5,000.00
020	Maintenance Dredging, Dewatering, and Haul Off	1.00	LS	\$ 24,746.00	\$ 19,400.00

BASE BID TOTAL \$ 24,400.00

**\*Notes**

Includes mangrove trimming and haul off.

Price figured to split the barge and bring a lesser production machine in to avoid having to remove the ex boat lift or walkway.

Dredging to be done by mechanical methods via excavator.

Priced to transport dredge material from dredge area by floating hopper barge. Hopper barges will be pushed to the Sombrero Beach Golf Course and unloaded there.

Print Name: \_\_\_\_\_

Sign Name: \_\_\_\_\_