

COUNCIL AGENDA STATEMENT



Meeting Date: January 10, 2023  
To: Honorable Mayor and City Councilmembers  
From: Carlos A. Solis, P.E. Public Works Manager  
Through George Garrett, City Manager

Agenda Item: **Resolution 2023-10**, Approving A Change Order To The City’s Contract With Brightview Landscape Services In the Amount of \$132,592.42 For The Renovation/Restoration Of The North And South Baseball/Softball Fields At Community Park As Required To Accommodate The Junior And Senior Divisions Of The Little League Program; Authorizing The City Manager To Execute The Agreement And Expend Appropriated and Budgeted Funds On Behalf Of The City; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

The City operates and maintains the ball fields at Community Park for use by the City’s youth and sponsorship of Little League Baseball and Softball. The fields are due for re-sodding, and during this process, the fields are to be renovated to accommodate the junior and senior league programs for youth older than 12 years old. The proposal encompasses all the work required to achieve this task. Proposals were obtained from other contractors, and the cost provided by Brightview, which is already under contract with the City, was substantially lower than the other contractors.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	_____	_____
2. Other _____	_____	_____
3. Not applicable _____		

FISCAL NOTE:

The Adopted FY23 Capital Infrastructure Special Revenue Fund Budget includes appropriations of \$50,000 for the baseball field refurbishment. Approval of the resolution will appropriate the additional funds from the unappropriated surplus in the Capital Infrastructure Fund to complete this project.

RECOMMENDATION:

Council approve Resolution

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2023-10**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING A CHANGE ORDER TO THE CITY'S CONTRACT WITH BRIGHTVIEW LANDSCAPE SERVICES IN THE AMOUNT OF \$132,592.42 FOR THE RENOVATION/RESTORATION OF THE NORTH AND SOUTH BASEBALL/SOFTBALL FIELDS AT COMMUNITY PARK AS REQUIRED TO ACCOMMODATE THE JUNIOR AND SENIOR DIVISIONS OF THE LITTLE LEAGUE PROGRAM; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND APPROPRIATED AND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City of Marathon (the "City") currently contracts with Brightview Landscape Services landscaping services; and

**WHEREAS**, the City operates and maintains the ball fields at Community Park for use by the City's youth and sponsorship of Little League Baseball and Softball. The fields are due for re-sodding, and

**WHEREAS**, the City solicited proposals from other contractors and Brightview Landscape Services had the lowest proposal; and

**WHEREAS**, the City recommends that the Council authorize the City to enter into a change order with and expend funds in the amount of \$132,592.42.

**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 #2 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 and expend appropriated and 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 10<sup>TH</sup> DAY OF JANUARY, 2023**

**THE CITY OF MARATHON, FLORIDA**

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**Mayor Luis Gonzalez**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

**ATTEST:**

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Diane Clavier, City Clerk  
(City Seal)

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

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Steve Williams, City Attorney

**CHANGE ORDER**

**CHANGE ORDER NO. 2**

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**TO: City of Marathon**

**PROJECT: Landscaping and Maintenance Service Contract**

**CONTRACTOR: Brightview Landscape Services**

**DATE: December 30, 2022**

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This Change Order constitutes a one time additional charge to the contract Between the City and Brightview, dated May 15, 2018 and extended by Resolution 2021-021 effective May 8, 2021, and represents full, final, and complete compensation to the Contractor for all costs, expenses, overhead, and profit, and any damages, and/or time adjustments of every kind that the Contractor may incur in connection with the above referenced changes in the Work, as described in **Exhibit A** and any other effect on any of the Work under the Agreement. The Contractor acknowledges and agrees that a one time additional charge to the service contract in the amount of **\$132,592.42.** will be **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.

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**City of Marathon**

**Contractor**

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

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

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

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

Title: \_\_\_\_\_

Title: \_\_\_\_\_

## **CHANGE ORDER JUSTIFICATION**

The City requested that the contractor provide additional services to remove the existing sod at both baseball fields at Community Park, and install new sod. As part of this work, the clay infield will be rehabilitated and extended out to the outfield to accommodate the older league of the Little League program, as well as revamp the irrigation system. Two other proposals were obtained, and it was determined that the City's existing contractor provided the best value to the City. **Exhibit A.**

## Proposal for Extra Work at SOUTH SOFTBALL SKINNED FIELD RENOVATION

Property Name	CITY OF MARATHON COMMUNITY PARK	Contact	PAUL DAVIS
Property Address	200 OCEAN 36 ST MARATHON , FL 33050	To Billing Address	BVLS Florida Keys BrightView Landscape Services, Inc. Location # 35490 4155 E. Mowry Dr Homestead, FL 33033

Project Name      BASEBALL/SOFTBALL    FILEDS    RENOVATION

Project Description    NORTH & SOUTH FIELDS RENOVATION

### Scope of Work

QTY	UoM/Size	Material/Description	Unit Price	Total
70,000.00	SQUARE FEET	DEMO OF SOFTBALL FIELD	\$0.11	\$7,994.00
20.00	EACH	HAULING AND DISPOSAL FEE - GRASS STIRPPINGS	\$850.00	\$17,000.00
12.00	EACH	#200 SAND	\$1,060.00	\$12,720.00
8.00	LOAD	RED INFIELD CLAY	\$2,442.31	\$19,538.49
2.00	EACH	LASER GRADE SOFTBALL FIELD	\$7,333.33	\$14,666.66
40.00	BAG	RED CONDITIONER INSTALLED	\$48.16	\$1,926.40
2.00	EACH	SET OF BASES FOR SOFTBALL FIELD, PITCHING RUBBER AND HOMEPLATE INSTALLED	\$1,987.88	\$3,975.76
60,000.00	SQUARE FEET	BIMINI BERMUDA SOD	\$0.52	\$31,416.00
60,000.00	SQUARE FEET	INSTALLATION SOD	\$0.30	\$18,000.00
2.00	EACH	RETRO FIT IRRIGATION AT SOFTBALL FIELD	\$1,053.64	\$2,107.28
2.00	EACH	RETROFIT IRRIGATION ON OUTFIELD	\$1,623.92	\$3,247.84

For internal use only

**SO#**                    7995750  
**JOB#**                 352600000  
**Service Line**        130

**Total Price**                    \$132,592.43

**THIS IS NOT AN INVOICE**

This proposal is valid for thirty (30) days unless otherwise approved by Contractor's Senior Vice President  
8191 NW 84 St, Medley, FL 33166 ph. (305) 863-0025 fax (305) 863-0255

### TERMS & CONDITIONS

1. The Contractor shall recognize and perform in accordance with written terms, written specifications and drawings only contained or referred to herein. All materials shall conform to bid specifications.
- ~~2. Work Force: Contractor shall designate a qualified representative with experience in landscape maintenance/construction upgrades or when applicable in tree management. The workforce shall be competent and qualified, and shall be legally authorized to work in the U.S.~~
- ~~3. License and Permits: Contractor shall maintain a Landscape Contractor's license if required by State or local law, and will comply with all other license requirements of the City, State and Federal Governments, as well as all other requirements of law. Unless otherwise agreed upon by the parties or prohibited by law, Customer shall be required to obtain all necessary and required permits to allow the commencement of the Services on the property.~~
- ~~4. Taxes: Contractor agrees to pay all applicable taxes, including sales or General Excise Tax (GET), where applicable.~~
- ~~5. Insurance: Contractor agrees to provide General Liability Insurance, Automotive Liability Insurance, Worker's Compensation Insurance, and any other insurance required by law or Customer, as specified in writing prior to commencement of work. If not specified, Contractor will furnish insurance with \$1,000,000 limit of liability.~~
- ~~6. Liability: Contractor shall not be liable for any damage that occurs from Acts of God defined as extreme weather conditions, fire, earthquake, etc. and rules, regulations or restrictions imposed by any government or governmental agency, national or regional emergency, epidemic, pandemic, health related outbreak or other medical events not caused by one or other delays or failure of performance beyond the commercially reasonable control of either party. Under these circumstances, Contractor shall have the right to renegotiate the terms and prices of this Contract within sixty (60) days.~~
- ~~7. Any illegal trespass, claims and/or damages resulting from work requested that is not on property owned by Customer or not under Customer management and control shall be the sole responsibility of the Customer.~~
- ~~8. Subcontractors: Contractor reserves the right to hire qualified subcontractors to perform specialized functions or work requiring specialized equipment.~~
- ~~9. Additional Services: Any additional work not shown in the above specifications involving extra costs will be executed only upon signed written orders, and will become an extra charge over and above the estimate.~~
- ~~10. Access to Jobsite: Customer shall provide all utilities to perform the work. Customer shall furnish access to all parts of jobsite where Contractor is to perform work as required by the Contract or other functions related thereto, during normal business hours and other reasonable periods of time. Contractor will perform the work as reasonably practical after the Customer makes the site available for performance of the work.~~
- ~~11. Payment Terms: Upon signing this Agreement, Customer shall pay Contractor 50% of the Proposed Price and the remaining balance shall be paid by Customer to Contractor upon completion of the project unless otherwise, agreed to in writing.~~
- ~~12. Termination: This Work Order may be terminated by the either party with or without cause, upon seven (7) workdays advance written notice. Customer will be required to pay for all materials purchased and work complete to the date of termination and reasonable charges incurred in demobilizing.~~
- ~~13. Assignment: The Customer and the Contractor respectively, bind themselves, their partners, successors, assignees and legal representative to the other party with respect to all covenants of this Agreement. Neither the Customer nor the Contractor shall assign or transfer any interest in this Agreement without the written consent of the other provided, however, that consent shall not be required to assign this Agreement to any company which controls, is controlled by, or is under common control with Contractor or in connection with assignment to an affiliate or pursuant to a merger, sale of all or substantially all of its assets or equity securities, consolidation, change of control or corporate reorganization.~~
- ~~14. Disclaimer: This proposal was estimated and priced based upon a site visit and visual inspection from ground level using ordinary means, at or about the time this proposal was prepared. The price quoted in this proposal for the work described, is the result of that ground level visual inspection and therefore our company will not be liable for any additional costs or damages for additional work not described herein, or liable for any incidents/accidents resulting from conditions, that were not ascertainable by said ground level visual inspection by ordinary means at the time said inspection was performed. Contractor cannot be held responsible for unknown or otherwise hidden defects. Any corrective work proposed herein cannot guarantee exact results. Professional engineering, architectural, and/or landscape design services ("Design Services") are not included in this Agreement and shall not be provided by the Contractor. Any design defects in the Contract Documents are the sole responsibility of the Customer. If the Customer must engage a licensed engineer, architect and/or landscape design professional, any costs concerning these Design Services are to be paid by the Customer directly to the designer involved.~~

~~15. Cancellation: Notice of Cancellation of work must be received in writing before the crew is dispatched to their location or Customer will be liable for a minimum travel charge of \$100.00 and billed to Customer.~~

The following sections shall apply where Contractor provides Customer with tree care services:

16. Tree & Stump Removal: Trees removed will be cut as close to the ground as possible based on conditions to or next to the bottom of the tree trunk. Additional charges will be levied for unseen hazards such as, but not limited to concrete brick filled trunks, metal rods, etc. If requested mechanical grinding of visible tree stump will be done to a defined width and depth below ground level at an additional charge to the Customer. Defined backfill and landscape material may be specified. Customer shall be responsible for contacting the appropriate underground utility locator company to locate and mark underground utility lines prior to start of work. Contractor is not responsible damage done to underground utilities such as but not limited to, cables, wires, pipes, and irrigation parts. Contractor will repair damaged irrigation lines at the Customer's expense.
- ~~17. Waiver of Liability: Requests for crown thinning in excess of twenty-five percent (25%) or work not in accordance with ISA (International Society of Arboricultural) standards will require a signed waiver of liability.~~

#### Acceptance of this Contract

By executing this document, Customer agrees to the formation of a binding contract and to the terms and conditions set forth herein. Customer represents that Contractor is authorized to perform the work stated on the face of this Contract. If payment has not been received by Contractor per payment terms hereunder, Contractor shall be entitled to all costs of collection, including reasonable attorneys' fees and it shall be relieved of any obligation to continue performance under this or any other Contract with Customer. Interest at a per annum rate of 1.5% per month (18% per year), or the highest rate permitted by law, may be charged on unpaid balance 15 days after billing.

NOTICE: FAILURE TO MAKE PAYMENT WHEN DUE FOR COMPLETED WORK ON CONSTRUCTION JOBS, MAY RESULT IN A MECHANIC'S LIEN ON THE TITLE TO YOUR PROPERTY

Customer

#### PARKS AND RECREATION DIR

Signature Title

**PAUL DAVIS**  
Printed Name

**December 30, 2022**  
Date

#### BrightView Landscape Services, Inc. "Contractor"

**Account Manager, Senior**

Signature Title

**Paul Olmedo**  
Printed Name

**December 30, 2022**  
Date

**Job #: 352600000**

**SO #: 7995750**

**Proposed Price: \$132,592.43**