



**City of Marathon City Council Special Call Agenda**  
**9805 Overseas Hwy., Marathon**  
**Thursday, September 19, 2019 5:05 P.M.**

- 1. Call to Order**
- 2. Pledge of Allegiance**
- 3. Roll Call**
- 4. Approval of agenda**
  
- 5. Resolutions for Public Hearing and Adoption**
  - A. Resolution 2019-97**, Adopting The Final Millage Rate And Levy Of Ad Valorem Taxes For The City Of Marathon, Florida For Fiscal Year 2019-2020; And Providing For An Effective Date.....1
  
  - B. Resolution 2019-98**, Adopting The Final Budget For Fiscal Year 2019-2020; Authorizing The Expenditure Of Funds Established By The Budget; And Providing For An Effective Date.....3
  
- 6. Resolution**
  - \*A. 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.....5
  
- 7. Citizens' comments** [3 minutes per individual - Each individual has one opportunity to speak.]
- 8. Council comments**
- 9. Adjournment**

The public hearings will commence at 5:05 p.m., or as soon thereafter as business permits, in the Marathon Council Chambers, 9805 Overseas Highway, Marathon, FL. All interested persons are invited to attend the meeting and participate in the discussion; or, written comments may be sent to the City of Marathon, c/o City Clerk, 9805 Overseas Hwy, Marathon, FL 33050.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Council with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: Anyone needing special assistance at the City Council hearing due to disability should contact the City Attorney at (305) 289-4130 at least three days prior thereto. Please contact the City Clerk at [clavierd@ci.marathon.fl.us](mailto:clavierd@ci.marathon.fl.us) if you would like to receive any of the items on the agenda by email.

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-97**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, ADOPTING THE FINAL MILLAGE RATE AND LEVY OF AD VALOREM TAXES FOR THE CITY OF MARATHON OF MONROE COUNTY, FLORIDA FOR THE FISCAL YEAR 2019-2020; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 12, 2019, the City Council held a public hearing to consider any adjustment of its proposed millage rate, to adopt a tentative millage rate, and to adopt a tentative operating budget for Fiscal Year 2019-2020 (the "FY 2019-2020"), in accordance with Section 200.065(2)(c), *Florida Statutes* and

**WHEREAS**, on September 19, 2019, the City Council held a public hearing to consider any adjustment of its tentative millage rate, to adopt a final millage rate and to adopt a final operating budget for FY 2019-2020, in accordance with Section 200.065(2)(d), *Florida Statutes*.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA AS FOLLOWS:**

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

**Section 2.** The FY 2019-2020 final millage rate for the City of Marathon is 2.59 mills, which is \$2.59 for each thousand dollars of taxable assessed property value; and the tentative millage rate is greater than the rolled-back rate of 2.4459 mills by 5.89%.

**Section 3.** This resolution shall be effective immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 19<sup>th</sup> DAY OF SEPTEMBER, 2019.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, Mayor**

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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David Migut, City Attorney

**CITY OF MARATHON, FLORIDA  
RESOLUTION 2019-98**

**A RESOLUTION OF CITY OF MARATHON, FLORIDA, ADOPTING  
THE FINAL BUDGET FOR FISCAL YEAR 2019-2020; AUTHORIZING  
THE EXPENDITURE OF FUNDS ESTABLISHED BY THE BUDGET;  
AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, on September 12, 2019, the City Council held a public hearing to consider any adjustment of its proposed millage rate, to adopt a tentative millage, and to adopt a tentative operating budget for Fiscal Year 2019-2020 (the “FY 2019-2020”), in accordance with Section 200.065(2)(c), *Florida Statutes*; and

**WHEREAS**, on September 19, 2019, the City Council held a public hearing to consider any adjustment of its tentative millage rate, to adopt a final millage rate, and to adopt a final operating budget for FY 2019-2020, in accordance with Section 200.065(2)(d), *Florida Statutes*; and

**WHEREAS**, the City has set forth the appropriations and revenue estimate for the final operating budget for FY 2019-2020 in the amount of \$83,763,914.

**NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE  
CITY OF MARATHON, FLORIDA AS FOLLOWS:**

**Section 1.** The FY 2019-2020 final operating budget is adopted.

**Section 2.** Funds appropriated in the FY 2019-2020 budget may be expended by and with the approval of the City Manager in accordance with the City Charter, State law, and the ordinances, resolutions and policies and procedures of the City. Supplemental appropriations or the reduction of appropriations, if any, shall be made in accordance with the City Charter.

**Section 3.** This resolution shall be effective immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF  
MARATHON, FLORIDA, THIS 19<sup>th</sup> 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 LEGAL SUFFICIENCY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

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David Migut, City Attorney



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:

	Yes	No
1. Comprehensive Plan:	_____	_____
2. Other: _____	_____	_____
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 Sombrero Beach Project” (the “Project”) by Resolution 2019-15 on February 12, 2019; and

**WHEREAS**, as part of the reconstruction of Sombrero 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 19<sup>th</sup> DAY OF SEPTEMBER, 2019.**

**THE CITY OF MARATHON, FLORIDA**

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**John Bartus, 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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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
<b>Total</b>		<b>\$1,531,426.62</b>	\$249,185.58	\$48,600.00	<b>\$200,585.58</b>	<b>111 Days</b>

## **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.