

**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 10TH DAY OF JANUARY, 2023

THE CITY OF MARATHON, FLORIDA



Mayor Luis Gonzalez

AYES: Landry, Matlock, Smith, Still, Gonzalez
NOES: None
ABSENT: None
ABSTAIN: None

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:



Steve Williams, City Attorney

CHANGE ORDER

CHANGE ORDER NO. 2

TO: City of Marathon

PROJECT: Landscaping and Maintenance Service Contract

CONTRACTOR: Brightview Landscape Services

DATE: December 30, 2022

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 \$132,592.43 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.

City of Marathon

By: George Barrett
Name: George Barrett
Title: City Manager


Contractor

By: Peter Olmedo
Name: Peter Olmedo
Title: Branch Manager

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 proposal were obtained, and it was determined that the City's existing contractor provided the best value to the City. Exhibit A.

EXHIBIT A

BrightView 

December 30, 2022

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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 FIELDS 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 representative 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 any permits 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 Commercially Insurance, Automotive Liability Insurance, Worker's Compensation 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 all required liability.~~
- 6. ~~Liability Contractor shall not be liable for any damage that occurs from acts of God defined as extreme weather conditions like earthquake, etc. and rules, regulations or restrictions imposed by an government or governmental agency, national or regional emergency epidemic, pandemic health related outbreak or other medical events not caused by one or more delays or failure of performance beyond the commercially reasonable control of either party. Under these circumstances Contractor shall have the right to terminate the terms and prices of the Contract within sixty (60) days.~~
- 7. ~~Any third parties claims and/or damages resulting from work requested that is not an activity owned by Customer or not under Customer's management and control shall be the 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. Contractor will furnish access to all parts of jobsite when Contractor is to perform work as required by the Contract at other locations. If a site is not available during normal business hours and other reasonable periods of time Contractor will perform the work as reasonably practicable 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 Agreement may be terminated by the either party with or without cause upon seven (7) business days 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 hereby bind themselves their partners, successors, assigns and legal representative to the other party with respect to all provisions 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 the Agreement to any company which controls or is under common control with Contractor or in connection with assignment to an affiliate pursuant to a merger, sale of all or substantially all of its assets or equivalent acquisition, 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. It or based on the time this proposal was prepared. The price quoted in this proposal for the work identified 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 deficiencies or conditions resulting from conditions that were not identified 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 and/or landscape design services ("Design Services") are not included in this Agreement and shall not be provided by the Contractor. Any design services in the Contract Documents are the sole responsibility of the Customer. If the Customer must employ a licensed engineer, architect and/or landscape design professional, any costs concerning those Design Services are to be paid by the Customer directly to the professional.~~

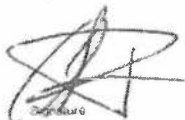
~~15. Cancellation The cancellation of work must be done in writing before the work is dispatched to the jobsite or otherwise will be liable for a minimum three week cancellation fee and applied to Customer.~~

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 lined trunk, 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. ~~Work to be completed within the green period and before the start of the dormant period or work not in accordance with the schedule of the State of Arizona shall constitute a breach of liability.~~

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 attorney's 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 MECHANICS LIEN ON THE TITLE TO YOUR PROPERTY.



Signature: **PAUL DAVIS**
 Title: **PARKS AND RECREATION DIR**
 Date: **December 30, 2022**

Signature: **BrightView Landscape Services, Inc. "Contractor"**
 Title: **Account Manager, Senior**
 Date: **December 30, 2022**

Job #: **35260000**
 SO #: **7995750**
 Proposed Price: **\$132,592.43**