

**CITY OF MARATHON, FLORIDA
RESOLUTION 2024-18**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE RESPONSIBLE BID AND APPROVING A CONTRACT BETWEEN THE CITY AND THE KING'S ENTERPRISES. IN AN AMOUNT NOT TO EXCEED \$42,000.00 FOR THE MARINA BUILDING IMPROVEMENT PROJECT; AUTHORIZING THE CITY MANAGER TO EXECUTE THE CONTRACT AND APPROPRIATE FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City of Marathon (the "City") published an Invitation To Bid (ITB) for construction of a storage loft at the City Marina (the "Project") and four bids were received on January 26, 2024; and

WHEREAS, King Enterprises (the "Contractor") was the lowest responsible bidder and after review, staff recommends the contract be awarded to the Lowest responsive bidder in the amount of \$42,000; and

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. The Contract between the City and the Contractor for the construction of the Project in an amount not to exceed \$42,000.00, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form by the City Attorney, is hereby approved. The City Manager is authorized to execute the Contract and expend 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 13th DAY OF FEBRUARY, 2024

THE CITY OF MARATHON, FLORIDA



Robyn Still, Mayor

AYES: Gonzalez, Matlock, Smith, Landry, Still
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

SECTION 0500
CONSTRUCTION CONTRACT

THIS AGREEMENT is made between the City of Marathon, Florida, a Florida municipal corporation whose address and principal place of business is 9805 Overseas Highway, Marathon, Florida 33050, (hereinafter the "City") and The King's Enterprises a Florida corporation whose address and principal place of business is: 7954 Tuna Drive, Marathon, Fl, 33050, (hereinafter the "Contractor"), and

WHEREAS, the City desires to engage the Contractor to provide construction services as specified below (the "Work").

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Contractor and the City agree as follows.

1. **Scope of Services/Deliverables.**

- (a) The Contractor shall provide the Work specified in **Exhibit "A" – Project Planset**, at the lump sum price specified in **Exhibit "B" – Unit Price Bid Form** attached to this Agreement, and made a part hereof by this reference. Contractor shall be responsible for supplying all apparatus, equipment, labor, materials, means of transport, services and tools incidental or necessary to complete the Work as indicated in the planset incorporated into this contract.

2. **Term/Commencement Date and Liquidated Damages.**

- (a) Unless specified otherwise, the Contractor shall not commence work until the City issues Contractor a written Notice to Proceed and the Work shall be substantially completed within **(30)** calendar days after the date specified in the Notice to Proceed ("Substantial Completion"), and fully completed and ready for final payment in accordance with the Agreement Documents within **(45)** calendar days after the date specified in the Notice to Proceed ("Final Completion"). The City Manager may extend the term of this Agreement up to an additional sixty (60) days at his sole discretion based upon the recommendation of the City's Community Services Director, City Engineer or Utilities Director.
- (b) Contractor agrees that time is of the essence and Contractor shall complete each deliverable for the Work within the timeframes set forth above unless extended by the City Manager. The City shall issue a written notice identifying the date the Work is deemed fully complete which shall be the Final Completion date.
- (c) Should the Substantial Completion and/or Final Completion and acceptance of Work, together with any modification or additions, be delayed beyond the time for

performance set above because of lack of performance by the Contractor, it is understood and agreed that aside from any liquidated damages, the Contractor shall be liable to the City for all actual additional costs and/or losses incurred by the City including, but not limited to, completion contractor expenses, lost/unrealized revenue, financing costs, professional services, attorney fees, and/or additional City staffing that incurred because the Work was not substantially completed on time and/or fully completed on time.

- (d) Monies due to the City for liquidated damages and/or actual damages shall be deducted from any monies due the Contractor, or if no money is due or the amount due is insufficient to cover the amount charged, the Contractor shall be liable for said amount.

3. **Compensation and Payment.**

- (a) For the purpose of developing the values to be paid on a monthly basis, Contractor shall submit a Schedule of Values to be reviewed and approved by the City at least thirty (30) days before the first progress payment request. This Schedule of Values shall constitute the values of each unit within each category that will be paid for the Work (see, Application for Payment, Instructions “General Information”).
- (b) The Contractor shall invoice the City on a monthly basis. All invoices shall provide a detailed statement of the Work performed by Contractor for the period of time covered by the invoice. Contractor shall use their formal Invoice form in requesting progress or final payments and which is to include such supporting documentation as is required by the Agreement Documents. The City will withhold 10% of each Pay Application as retainage which shall be paid upon Final Completion of the Work.
- (c) Each application for partial payment shall include partial lien/bond releases from all subcontractors and suppliers and a sworn statement by Contractor that partial payments received from City for the Work have been applied by Contractor to discharge in full all of Contractor’s obligations, including payments to subcontractors and suppliers, stated in prior applications for payment. If payment has been withheld from a subcontractor and/or supplier the sworn statement shall state the reasons for the nonpayment. All partial payment requests shall be accompanied by consents of surety for each subcontractor and supplier.
- (d) The final application for payment shall be accompanied by all documentation called for in the Agreement Documents, together with complete and legally effective releases and/or waivers (satisfactory to City) of all liens and claims arising out of or in connection with the Work and consent of the surety, if any, to final payment. If any subcontractor or supplier fails to furnish a sub-tier release, Contractor shall provide the City with a sworn written explanation for why the subcontractor or supplier has not been paid. The City may require the Contractor to provide security to ensure all disputed and/or undisputed amounts owed are paid; or withhold the

disputed and/or undisputed amounts owed from the final payment until such time as the final releases and consents of surety for each subcontractor and supplier.

- (e) The City shall pay Contractor in accordance with the Florida Prompt Payment Act. When the Contractor believes the Work is substantially complete, the Contractor shall notify the City and within 15 calendar days the parties shall create and review a single draft punch list of items to be completed in order for the Work to be fully complete. The City shall review the draft punch list and within 5 days of being provided with the draft punch list, the City shall provide the Contractor with the Final Punch list of work to be completed for the Work to be deemed fully complete.
- (f) If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay to the Contractor the undisputed portion of the invoice. Upon written request of the Finance Director, the Contractor shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.
- (g) All payments shall only be from appropriations budgeted on an annual basis.

4. **Subcontractors.**

- (a) The Contractor shall be responsible for all payments to any subcontractors and shall maintain responsibility for all work related to the Work.
- (b) Any subcontractors used on the Work must have the prior written approval of the City Manager and be properly licensed and insured in the same amounts as the Contractor.

5. **City's Responsibilities.**

- (a) Upon request, if available, the City shall furnish maps, plans, studies, reports and other information regarding anticipated field conditions readily available and in the City's possession.
- (b) The City shall arrange for access to and make all provisions for Contractor to enter upon real property as required for Contractor to inspect the site and perform the Work as may be requested in writing by the Contractor.

6. **Contractor's Responsibilities.**

- (a) Contractor shall exercise the same degree of care, skill and diligence in the performance of the Work as is ordinarily provided by a professional under similar circumstances. If at any time during the term of this Agreement or within one year from the completion of the Work, it is determined that the Contractor's deliverables are incorrect, defective or fail to conform to the Scope of Work or perform as intended, upon written notification from the City Manager, the Contractor shall at Contractor's sole expense, immediately correct the Work.
- (b) Contractor and its subcontractors shall comply with all applicable laws and regulations relating to the safety of persons or property, or to the protection of persons or property from damage, injury, or loss; and shall develop and maintain all necessary safeguards for such safety and protection. Contractor shall notify owners of adjacent public and private property and of underground facilities and other utility owners when prosecution of the Work may affect them, and shall cooperate with them in the protection, removal, relocation, and replacement of their property. All damage, injury, or loss to any property caused, directly or indirectly, in whole or in part, by Contractor, any Subcontractor, Supplier, or any other individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, shall be immediately remedied by Contractor. Contractor's duties and responsibilities for safety and for protection of the Work shall continue until such time as all the Work is completed and the City has made final payment to Contractor.
- (c) On a daily basis during the course of the Work, Contractor shall maintain the site free of debris and dust so as to minimize any inconvenience to surrounding properties. Upon completion of the Work, Contractor shall remove all apparatus, debris, equipment, materials, and tools created or used to construct the Work, and except for the Work or as otherwise directed by the City return the site in the same condition as at the beginning of the Work.
- (d) If the Work will create any obstructions, road closures or traffic impacts, Contractor shall provide the City and surrounding property owners with no less than seventy-two (72) hours prior notice of the anticipated or planned obstructions, road closures or traffic impacts.
- (e) Contractor shall be responsible for all local, state, and federal permitting required to perform the work set forth in the project documents. The City shall reimburse all permit expenses paid by the contractor.

7. **Termination.**

- (a) The City Manager without cause may terminate this Agreement upon thirty (30) days written notice to the Contractor, or immediately with cause.

- (b) Unless directed otherwise in writing by the City Manager, upon receipt of the City's written notice of intent to terminate or notice of actual termination, Contractor shall stop the Work.
- (c) In the event of termination by the City, the Contractor shall be paid for all Work accepted by the City Manager up to the date of termination.
- (d) The Contractor shall transfer all books, records, reports, working drafts, documents, maps, and data properly indexed and labeled pertaining to the Work to the City, in a hard copy and/or electronic format (as specified by the City) within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

8. **Insurance.**

The Contractor shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the City. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. If requested by the City Manager, the insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and volunteers. The insurance coverage shall include a minimum of:

- (a) Worker's Compensation and Employer's Liability Insurance. If applicable, coverage to apply for all employees at minimum statutory limits as required by Florida Law. Contractors with Worker's Compensation exemption shall not hold City liable for employee injury or claims. Employers Liability Insurance shall be as follows:
 - \$500,000 for bodily injury caused by an accident, each occurrence
 - \$500,000 for bodily injury caused by disease, each occurrence
 - \$500,000 for bodily injury caused by disease, each occurrence
- (b) Comprehensive Automobile and Vehicle Liability Insurance. Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$1,000,000 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles. Commercial General Liability. If applicable, commercial general liability coverage with limits of liability of not less than \$1,000,000 per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability.
- (c) Comprehensive General Liability with minimum limits of One Million Dollars (\$1,000,000) per occurrence combined single limit for Bodily Injury Liability and Property Damage Liability with respect to CONTRACTOR, and One Million Dollars (\$1,000,000) with per occurrence respect to Subcontractors, combined

single limit for Bodily Injury Liability and Property Damage Liability. Coverage must be afforded on a form no more restrictive than the latest edition of the Comprehensive General Liability policy, without restrictive endorsements, as filed by the Insurance Services Office.

- (d) The Contractor will add the City as an additional named insured on all insurance policies applicable to the Work under this Agreement. Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Certificates of Insurance shall include the City as additional named insured. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted.

9. **Nondiscrimination.**

- (a) During the term of this Agreement, Contractor shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

10. **Agreement Documents.**

The Agreement Documents listed below, which are listed in their order of precedence for the purpose of resolving conflicts, errors and discrepancies, by this reference shall become a part of the Agreement as though physically attached as a part thereof:

Change Orders
Agreement
Exhibits to the Agreement
Bid Documents (Project Planset, Addendum, Invitation to Bid/RFQ, Instructions to Bidders/Proposers, Proposal Form provided by Contractor, Notice of Award and Notice to Proceed);

CONTRACTOR AGREES THAT THERE IS NO IMPLIED OR EXPRESS WARRANTY OF CONSTRUCTABILITY WITH REGARD TO THE WORK OR DESIGN ENCOMPASSED BY THE AGREEMENT DOCUMENTS.

11. **Attorneys' Fees and Waiver of Jury Trial.**

- (a) If either the City or Contractor is required to enforce the terms of the Agreement by court proceedings or otherwise, whether or not formal legal action is required, the parties shall bear their own attorney fees, costs and expenses, at the trial and appellate level.

- (b) In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

12. **Indemnification.**

- (a) **General Indemnity.** Contractor shall indemnify and hold harmless the City, its officers, and employees, from or on account of all claims, damages, losses, liabilities and expenses, direct, indirect or consequential, including, but not limited to, fees and charges of engineers, architects, attorney's, consultants and other professionals and trial and appellate court and arbitration costs arising out of or resulting from the performance of the Work, excluding claims arising from the sole negligence of City. Such indemnification shall specifically include but not be limited to claims, damages, losses and expenses arising out of or resulting from (i) any and all bodily injuries, sickness, death, disease; (ii) injury to or destruction of real property or tangible personal property, be it publicly or privately owned, including the loss of use resulting therefrom; (iii) other such damages, liabilities or losses received or sustained by any person or persons during or on account of any operations connected with the construction of the Work including the warranty period; (iv) the use of any improper materials; (v) any construction defect including patent defects; (vi) any act or omission of Contractor or his Subcontractors, agents, servants or employees; (vii) the violation of any federal, state, county or City laws, ordinances or regulations by Contractor, his Subcontractors, agents, servants or employees; (viii) the breach or alleged breach by Contractor of any term of this Agreement, including the breach or alleged breach of any warranty or guarantee.
- (b) **Defense.** In the event that any claims are brought or actions are filed against the City that are encompassed by the Contractor's duty to indemnify as stated in this Agreement, the Contractor agrees to defend against all claims and actions brought against the City regardless of whether such claims or actions are rightfully or wrongfully brought or filed. City reserves the right to select its own legal counsel to conduct any defense in any such proceedings and all costs and fees associated therewith including any costs or fees of an appeal shall be the responsibility of Contractor.
- (c) **Specific Indemnity.** Contractor shall indemnify and hold harmless the City for liability for damages to persons or property caused in whole or in part by any act, omission, or default of the City, its officers, directors, agents, or employees arising from the Agreement or its performance. Such indemnification shall not include claims of, or damages resulting from, gross negligence, or willful, wanton or intentional misconduct of the City or its officers, directors, agents or employees, or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the Contractor or any of the Contractors, subcontractors, sub-subcontractors, materialmen, or agents of any tier or their respective employees. The extent of the indemnification shall be limited to \$5,000,000 which the parties agree bears a

reasonable commercial relationship to the contract. The monetary limitation on the extent of the indemnification provided to the City shall not be less than \$1 million per occurrence.

- (d) Payment of Losses. Contractor shall pay all claims, losses, liens, settlements or judgments of any nature whatsoever, excluding only those in which the damages arose out of the sole negligence of City, in connection with the foregoing indemnifications, including, but not limited to, reasonable attorney's fees and costs to defend all claims or suits in the name of City when applicable.
- (e) Contractor's indemnification shall not be limited to the amount of comprehensive general liability insurance which Contractor is required to obtain under the Agreement. Nothing contained herein is intended nor shall it be construed to waive City's rights and immunities under the common law or Section 768.28 *Florida Statutes*, as amended from time to time. This obligation shall not be construed to negate, abridge, or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party described in this Section and its subparts.
- (f) The provisions of this section shall survive termination of this Agreement.

13. **Notices/Authorized Representatives.**

- (a) Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: George, Garrett, City Manager
 9805 Overseas Highway
 Marathon, Florida 33050

With a Copy to: Steven Williams
 City Attorney
 9805 Overseas Hwy
 Marathon, FL 33050

For The Contractor: Nicholas Wielander, Principal
7954 Tuna Dr
Marathon, Fl 33050

14. **Governing Law.**

- (a) This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this

Agreement shall be in Monroe County, Florida, Middle Keys Division of the Circuit Court or the Federal Southern District of Florida.

15. **Entire Agreement/Modification/Amendment.**

- (a) This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.
- (b) No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document. This Agreement may be amended to provide for additions, deletions, and revisions in the Work or to modify the terms and conditions thereof via a written Change Order, in such form as may be provided by City from time to time.

16. **Ownership and Access to Records and Audits.**

1. **Access to Public Records.** The CONTRACTOR shall comply with the applicable provisions of Chapter 119, Florida Statutes.

All records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City. The Records are not intended or represented to be suitable for use, partial use, or reuse by the City or others on extensions of this project or on any other project. Any such use, reuse, or modifications made by the City to any of Consultant's Records will be at City's sole risk and without liability to Consultant, and City shall, to the extent allowable by Florida law, and subject to Section 768.28, Florida Statute, and all monetary limits listed therein, indemnify, defend and hold Consultant harmless from all claims, damages, losses and expenses, including but not limited to attorneys' fees, resulting therefrom.

The "CONTRACTOR" as defined by Section 119.0701(1)(a), Florida Statutes, and shall comply with the public records provisions of Chapter 119, Florida Statutes, including the following:

1. Keep and maintain public records required by the City to perform the service.
2. Upon request from the City Clerk, provide the City with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes or as otherwise provided by law.
3. Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the CONTRACTOR does not transfer the records to the City.
4. Upon completion of the contract, transfer, at no cost, to the City all public records in possession of the CONTRACTOR or keep and maintain public records required by the City to perform the service. If the CONTRACTOR transfers all public records to the City upon completion of the contract, the CONTRACTOR shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the CONTRACTOR keeps

and maintains public records upon completion of the contract, the CONTRACTOR shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the City, upon request from the City Clerk, in a format that is compatible with the information technology systems of the City.

1. Public Records” is defined in Section 119.011(12), Florida Statutes, and includes all documents, papers, letters, photographs, data processing software, or other material, regardless of physical form, made or received in connection with this Agreement.

2. Should the CONTRACTOR assert any exemption to the requirements of Chapter 119 and related law, the burden of establishing such exemption, by way of injunctive or other relief as provided by law, shall be upon the CONTRACTOR.

3. The CONTRACTOR consents to the City’s enforcement of the CONTRACTOR’s Chapter 119 requirements by all legal means, including, but not limited to, a mandatory injunction, whereupon the CONTRACTOR shall pay all court costs and reasonable attorney’s fees incurred by the City.

4. The CONTRACTOR’s failure to provide public records within a reasonable time may be subject to penalties under Section 119.10, Florida Statutes. Further, such failure by the CONTRACTOR shall be grounds for immediate unilateral cancellation of this Agreement by the City.

5. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS CONTRACT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS, DIANE CLAVIER AT 305-289-5020, CITYCLERK@CLMARATHON.FL.US, OR 9805 OVERSEAS HIGHWAY, MARATHON FLORIDA 33050.

17. **Nonassignability.**

(a) This Agreement shall not be assignable by Contractor unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Contractor, and such firm's familiarity with the City's area, circumstances, and desires.

18. **Severability.**

(a) If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. **Independent Contractor.**

- (a) The Contractor and its employees, volunteers and agents shall be and remain independent contractor and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **Compliance with Laws.**

- (a) The Contractor shall ensure that it, and all its subcontractors (at all tiers), comply with all federal, state and local applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Work.
- (b) **E-Verify System** - Beginning January 1, 2021, in accordance with F.S. 448.095, the Contractor and any subcontractor shall register with and shall utilize the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees hired by the Contractor during the term of the Contract and shall expressly require any subcontractors performing work or providing services pursuant to the Contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the work authorization status of all new employees hired by the subcontractor during the Contract term. Any subcontractor shall provide an affidavit stating that the subcontractor does not employ, contract with, or subcontract with an unauthorized alien. The Contractor shall comply with and be subject to the provisions of F.S. 448.095

21. **Waiver.**

- (a) The failure of the City to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

22. **Survival of Provisions.**

- (a) Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

23. **Prohibition of Contingency Fees.**

- (a) The Contractor warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Contractor, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Contractor, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

24. **Counterparts.**

- (a) This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterpart shall constitute one and the same instrument.

25. **Authorization to Sign Agreement.**

- (a) The execution and delivery of this Agreement by Contractor is within Contractor's capacity and all requisite action has been taken to make this Agreement valid and binding on Contractor in accordance with its terms.

26. **Non-Exclusive Agreement.**

- (a) The services to be provided by the Contractor pursuant to this Agreement shall be non-exclusive and nothing herein shall preclude the City from engaging other firms to perform the same or similar services for the benefit of the City as determined in its sole and absolute discretion.

27. **Continuing the Work.**

- (a) Unless directed otherwise in writing by the City Manager, Contractor shall carry on the Work and adhere to the progress schedule during all disputes or disagreements with City.

28. **Changes In The Work.**

- (a) Without invalidating the Agreement and without notice to any surety, City may, at any time or from time-to-time, order additions, deletions, or revisions in the Work by a Written Amendment or Change Order. Upon receipt of any such document, Contractor shall promptly proceed with the Work involved.
- (b) The Contract Price may only be changed by a written Change Order. Any claim for an increase or decrease in the Contract Price shall be based on written notice of intent to claim delivered to the City promptly [but in no event later than three (3) business days after the first occurrence of the event giving rise to the amount of the claim]. Contractor shall deliver to the City a good faith estimate of the cost and

time impacts caused by the claim causing event within seven (7) calendar days of the first occurrence of the event giving rise to the claim. Within seven (7) calendar days of the conclusion of the claim causing event, but no later than the Substantial Completion date, Contractor shall deliver to the City a full and complete written claim identifying all costs and time impacts that the Contractor believes should be paid due to the claim causing event and shall include full and final substantiation for all price and time adjustments. The City Manager will review the claim and make a decision on the request. The City Manager's decision will be final unless within seven (7) calendar days of the date of the City Manager's decision the Contractor provides the City with written notice expressly stating that the Contractor disputes the decision and intends to pursue the matter via litigation. Failure by Contractor to strictly comply with the provisions of this article will result in a waiver of the claim.

29. **Subsurface Conditions**

- (a) Information shown on the Drawings and/or indicated in the Agreement Documents as to the location of existing utilities and subsurface conditions has been prepared from the most reliable data available to the City. This information is not guaranteed, however, and it shall be the Contractor's responsibility to determine the location, character and depth of existing utilities. The City expressly disclaims any warranty as to the underground conditions to be encountered. The Contractor should not rely on locations, condition, or quantity of subsurface structures or conditions depicted on drawings, as the locations, condition, and quantities are approximations.

30. **Compensation for Delay.**

- (a) NO CLAIM FOR DAMAGES OR ANY CLAIM OTHER THAN FOR AN EXTENSION OF TIME SHALL BE MADE OR ASSERTED AGAINST THE CITY BY REASON OF ANY DELAYS, DISRUPTION, INTERFERENCE, OR HINDRANCE (collectively "Delay"). Notwithstanding anything to the contrary contained in the Agreement Documents, the Contractor shall not be entitled to additional compensation for any Delay unless the Delay shall have been caused by acts constituting willful or intentional interference by the City with the Contractor's performance of the Work, and then only where such acts continue after Contractor's written notice to the City of such interference.

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature. The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same; and by Contractor by and through its President, who has been duly authorized to execute same.

ATTEST:

CITY OF MARATHON

Hilary Palmer
for Diane Clavier, City Clerk DEPUTY CLERK

By: George Garrett
George Garrett, City Manager

Date: 2/20/24

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

St. Williams
Steven Williams, City Attorney

CONTRACTOR

By: Nicholas Wielander
Nicholas Wielander, President

Date: 2/15/24

EXHIBIT "A"
Project Planset

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GENERAL REQUIREMENTS:

1. PRIOR STARTING ANY WORK THE CONTRACTOR SHALL REVIEW THESE PLANS AND SITE CONDITIONS AND NOTIFY THE ENGINEER IF ANY DISCREPANCIES ARE DISCOVERED.
2. THE ENGINEER IS NOT RESPONSIBLE FOR THE SUPERVISION OF THE CONTRACTOR NOR HIS EMPLOYEES DURING THE CONSTRUCTION. IT IS CONTRACTOR'S RESPONSIBILITY TO PROVIDE MEANS AND ESTABLISH METHODS OF THE CONSTRUCTION TO MEET REQUIREMENTS OF ALL APPLICABLE CODES, INDUSTRY STANDARDS AND REQUIREMENTS OF THESE PLANS.
3. QUALITY OF THE WORK SHALL MEET OR EXCEED INDUSTRY STANDARD PRACTICES.
4. ANY DEVIATIONS FROM THESE PLANS SHALL BE REVIEWED AND APPROVED BY THE ENGINEER.

DESIGN DATA:

1. APPLICABLE BUILDING CODE: FBC 8TH EDITION (2023)
2. APPLICABLE DESIGN LOADS: PER ASCE/SEI 7-22
FLOOR LIVE LOAD: 125 PSF (LIGHT STORAGE)
ROOF LIVE LOAD: 20 PSF (300 LB CONC.)
BASIC WIND SPEED: 180 MPH
EXPOSURE: D
STRUCTURAL CATEGORY: II
3. ASCE 24-14 FLOOD RESISTANT DESIGN AND CONSTRUCTION

FLOOD ZONE: N/A

ALL PRESSURES SHOWN ARE BASED ON ASD DESIGN, WITH A LOAD FACTOR OF 0.6

SOILS AND FOUNDATIONS:

PRESUMPTIVE LOAD-BEARING VALUES OF FOUNDATION MATERIALS ARE USED IN LIE OF A COMPLETE GEOTECHNICAL EXPLORATION. FOUNDATIONS SHALL BE PLACED ON A 'SEDIMENTARY AND FOLIATED ROCK' WITH A ALLOWABLE LOAD BEARING PRESSURE OF 3,000 PSF. NOTIFY THE ENGINEER OF SOIL CONDITIONS ARE DIFFERENT.

1. ALL FOUNDATIONS, SLABS AND FOOTERS SHALL BE PLACED ON STABILIZED UNDISTURBED SUBGRADE SOIL.
2. MINIMUM FOUNDATION DEPTH SHALL BE 24" UNLESS OTHERWISE IS SPECIFIED ON THE PLANS. IF OVER-EXCAVATED - FILL SHALL NOT BE PLACED BACK INTO THE TRENCH UNLESS APPROVED BY THE ENGINEER.
3. FILL UNDER THE FOUNDATIONS SHALL BE USED ONLY IF APPROVED BY THE ENGINEER. CLEAN FILL MATERIAL SHALL BE PLACED IN 6"-8" LAYERS AND COMPACTED TO 95% DENSITY USING THE MODIFIED PROCTOR TEST.
4. FILL MATERIAL SHALL BE CLEAN GRANULAR SAND OR LIMEROCK MIX WITHOUT ANY ORGANIC MATERIALS, CLAY, MUCK AND ROCKS LARGER THAN 4". BACKFILL SHALL NOT CONTAIN ANY WOOD OR CELLULOSE DEBRIS.

AUGER PILES

1. AUGERCAST PILES SHALL BE 16" DIAMETER WITH MINIMUM EMBEDMENT OF 5FT INTO THE CAP ROCK UNLESS OTHERWISE SHOWN ON THE PLANS.
2. CONCRETE FOR PILES SHALL HAVE A MIN. COMPRESSIVE STRENGTH OF 5000 PSI, WATER CEMENT RATIO SHALL NOT EXCEED W/C=0.40.
3. REINFORCEMENT SHALL BE FOUR (4) #5 REBAR VERTICALLY WITH #3 HOOKS AT 10" O.C. CONTRACTOR SHALL USE PLASTIC CHAIRS OR CENTRALIZERS TO PROVIDE A 3" COVER ON ALL SIDES OF THE REINFORCEMENT.

CONCRETE

1. APPLICABLE CODE: ACI 318 LATEST EDITION AND ACI 301.
2. ALL CONCRETE ELEMENTS SHALL HAVE A MIN. COMPRESSIVE STRENGTH OF 4000 PSI UNLESS OTHERWISE IS SHOWN ON THE PLANS. WATER CEMENT RATIO SHALL NOT EXCEED W/C=0.40.
3. ALL CAST-IN-PLACE CONCRETE SHALL BE CURED AND PROTECTED FROM DRYING PER ACI 305R-10 'HOT WEATHER CONCRETING'.
4. ALL EXPOSED EDGES SHALL HAVE 1/2" CHAMFERS.
5. NO COLD JOINTS ARE ALLOWED UNLESS OTHERWISE APPROVED BY THE ENGINEER.

REINFORCEMENT

1. ALL REBAR SHALL BE DEFORMED CARBON-STEEL ASTM A615/A615M-13 GRADE 60 UNLESS OTHERWISE SPECIFIED ON THE PLANS.
2. ADD ALTERNATE REINFORCEMENT OPTION: ASTM A1035 GRADE 100 (MMFX2) AS CORROSION RESISTANT ALTERNATIVE FOR ALL REINFORCEMENT.
3. ALL REQUIREMENTS FOR PLACEMENT, COVER, TOLERANCES, ETC. SHALL BE PER ACI 318-11.
4. ALL HOOKS AND BENDS SHALL BE FACTORY MADE UNLESS FIELD BENDS ARE APPROVED BY THE ENGINEER.
5. ONLY PLASTIC CHAIRS AND CENTRALIZERS SHALL BE USED FOR REINFORCEMENT SUPPORT.

HARDWARE

1. HARDWARE SHALL BE 304 STAINLESS STEEL OR BETTER OR ZMAX GALVANIZED FOR NON EXPOSED SIMPSON PRODUCTS, UNLESS OTHERWISE SPECIFIED.
2. ALL CONNECTORS SHALL HAVE STAINLESS STEEL SCREWS AND FASTENERS OR ACP APPROVED TREATED (FOR NOT EXPOSED LOCATIONS).

STRUCTURAL LUMBER

1. ALL WOOD MEMBERS SHALL MEET OR EXCEED REQUIREMENTS SPECIFIED IN 'ANSI/AF&PA NATIONAL DESIGN SPECIFICATION (NDS) FOR WOOD CONSTRUCTION' AND ALL REFERENCED STANDARDS.
2. ALL WOOD MEMBERS SHALL BE PRESSURE TREATED SOUTHER PINE NO1 OR GREATER KILN DRIED AS SPECIFIED IN THE STANDARDS, UNLESS OTHERWISE SPECIFIED.
3. ALL WOOD MEMBERS EXPOSED TO EXTERIOR, IN DIRECT CONTACT WITH CONCRETE OR STEEL SHALL BE PRESSURE-TREATED (PT) UC3B GRADE PER AWWA STANDARDS.
4. NAILING SHALL BE IN ACCORDANCE WITH FBC 7TH EDITION (2020). NAILS AND OTHER FASTENERS FOR PT WOOD SHALL BE STAINLESS STEEL OR ACP APPROVED TREATED.
5. SHEATHING SHALL BE 3/4" PT CDX PLYWOOD SHEATHING GRADE, UNLESS OTHERWISE IS SPECIFIED ON THE PLANS. USE 10D RING-SHANK NAILS WITH SPACING OF 4" O.C. ON ALL EDGES AND 6" O.C. IN THE FIELD. @ 3' O.C. ALL SUPPORTS IN ZONE 3.

STRUCTURAL STEEL

1. STRUCTURAL STEEL COMPONENTS SHALL BE AS DESCRIBED IN 'SPECIFICATIONS FOR STRUCTURAL STEEL BUILDINGS' AISC 2005 OR LATER EDITION.
2. HSS SHAPES (STRUCTURAL TUBING) SHALL BE ASTM A500 (FY=46 KSI).
3. STEEL PLATES, FLANGES AND MISCELLANEOUS ELEMENTS SHALL BE ASTM A36 (FY=36 KSI) UNLESS NOTED OTHERWISE ON THE PLANS.
4. W-SHAPES, C-SHAPES AND OTHER FORMED STEEL SHALL BE ASTM A992 (FY=50 KSI).
5. ALL WELDING SHALL BE IN CONFORMANCE WITH THE LATEST SPECIFICATIONS AWS D1.1/D1.1M-2010, STRUCTURAL WELDING CODE - STEEL.

STRUCTURAL STEEL COATING:

1. ALL SURFACES SHALL BE ABRASIVE BLAST CLEANED TO NEAR-WHITE METAL (PER SSPC-SP10)
 2. ALL SURFACES SHALL BE PRIMED WITH POLYAMIDE EPOXY - ONE COAT (8.0 MILS DFT).
 3. APPLY SEALANT AT ALL LOCATIONS WHERE STEEL IS WELDED, LAPPED ETC. SEALANT MATERIAL SHALL BE COMPATIBLE WITH THE PAINTING SYSTEM.
 4. TOP LAYER SHALL BE TWO (2) COAT POLYURETHANE (3.0 MILS DFT EACH).
 5. TOP PAINT SHALL BE UV RESISTANT OR HAVE A UV RESISTANT COATING.
 6. COLORS SHALL MATCH EXISTING OR TO BE SELECTED BY THE OWNER.
- NON-EXPOSED STEEL (INTERIOR):
7. 3 COATS OF 'SUMTER COATINGS' UNIVERSAL PRIMER (6.0 MILS DFT) OR APPROVED EQUAL.

REINFORCED MASONRY (CMU)

1. ALL MASONRY SHALL BE REINFORCED CONCRETE MASONRY UNIT IN ACCORDANCE WITH THE LATEST EDITION OF ACI 530/ASCE 5/TMS 402.
2. INSTALL ALL BLOCKS IN RUNNING BOND.
3. MINIMUM MASONRY BLOCK (ASTM C90) STRENGTH SHALL (F'm) BE 2000 PSI.
4. TYPE 'S' MORTAR (ASTM C270) SHALL BE USED USING 3/8" FULL BEDDING REINFORCED W/ 9 GAGE 304SS LADDER WIRE EVERY 2ND ROW.
5. FILLED CELLS SHALL BE REINFORCED WITH #4 REBAR @ 24" O.C. (UNLESS OTHERWISE IS SPECIFIED ON THE PLANS). (CHROMX9100)
6. GROUT SHALL BE PEA ROCK PUMP MIX (ASTM C476) WITH A MINIMUM COMPRESSIVE STRENGTH OF 4000 PSI (28 DAY) (ASTM C109). TARGETED SLUMP SHALL BE 8"-11".
7. EACH GROUTED CELL SHALL HAVE CLEANOUT OPENINGS AT THE BOTTOM. THERE SHALL BE NO LOOSE MORTAR OR OTHER DEBRIS IN THE BOTTOM OF THE CELL. USE BLAST PRESSURE WASHING FOR SURFACE PREPARATION.

WINDOWS AND DOORS

1. ALL EXTERIOR WINDOWS & DOORS SHALL BE LARGE AND SMALL MISSILE IMPACT RATED.
2. ALL EXTERIOR WINDOWS & DOORS SHALL HAVE FLORIDA PRODUCT APPROVAL AND NCA. PRODUCT APPROVAL LABELS SHALL BE PERMANENTLY ATTACHED TO THE FRAME.
3. WIND PRESSURE ON COMPONENTS AND CLADDING (CH 30 PART 1)
4. THE CONTRACTOR IS RESPONSIBLE FOR FIELD VERIFICATION MEASUREMENTS OF ALL EXISTING OPENINGS PRIOR ORDERING.

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SEAN MARATHON
PROFESSIONAL ENGINEER
STATE OF FLORIDA
LICENSE NO. 71488

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DATE OF REVISION: 01/23/23
BY: SEAN MARATHON
REVISION: 01/23/23

DATE: 01/23/23
TIME: 10:00 AM
SCALE: AS SHOWN

PROJECT: ARTIBUS DESIGN
ENGINEERING AND PLANNING

ARTIBUS DESIGN
3710 N. ROOSEVELT BLVD
KEY WEST, FL 33040
(305) 304-3512
WWW.ARTIBUSDESIGN.COM
CA # 308335

CITY OF MARATHON

CITY OF MARATHON
MARINA BUILDING
STORAGE LOFT

800 35TH ST OCEAN
MARATHON, FL 33050

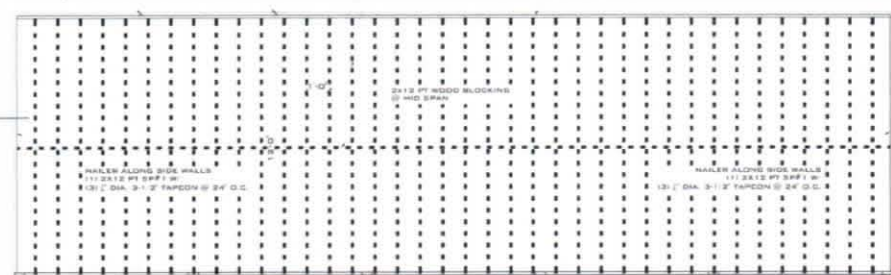
NOTES

2310-01 5-100 1

1" PT EDG PLYWOOD ROUGH
 ALLOW 1/2" FINISH
 BLEND AND NAIL @ 12" O.C.
 2x12 PT SPP1 FLOOR JOISTS @
 18" O.C. LUBERIZE EACH END

LOAD BEARING LEDGER
 12" 2x12 PT SPP1 W/
 1/2" DIA. HDB WEDGE
 ANCHORS 4" W/ EMBEDMENT
 CHG ALONG THE LEDGER MUST
 BE SCHEDULED WITH SOLID WOOD
 FOR 1/2" SQUARE OR CIRCULAR
 CONCRETE MIX PIERCE
 INSTALLING THE ANCHORS

2x12 PT WOOD BLOCKING
 @ HDB SPAC



2x12 PT SPP1 STAIR STRINGERS @ 12" O.C.
 TOP, L222 STAIR STRINGER CONNECTOR
 W/ 1/2" DIA. HDB ALL-THREAD ANCHORS
 @ 12" O.C. LUBERIZE EACH END

2x8 PT SPP1 FLOOR JOISTS @
 18" O.C. LUBERIZE EACH END
 LANDING

12" 2x8 PT SPP1 BUILD-UP
 BEAM W. 1/2" DIA. HDB BOLTS
 TO WOOD POSTS

2x12 PT SPP1 STAIR STRINGERS @ 12" O.C.
 TOP, L222 STAIR STRINGER CONNECTOR
 W/ 1/2" DIA. HDB ALL-THREAD ANCHORS
 @ 12" O.C. LUBERIZE EACH END

PROPOSED HANDRAILS
 EACH SIDE OF THE STAIRS
 EXTEND 12" BEYOND FINISH
 AND LIFT FREE WITH CODE
 APPROVED TERMINATIONS

2x8 PT SPP1 WALL LEDGER
 @ 18" O.C. LUBERIZE EACH END

FRAMING PLAN OPTION #1
 SCALE: 1/4" = 1'-0"



SITE MAP
 SCALE: NTS

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CITY OF MARATHON

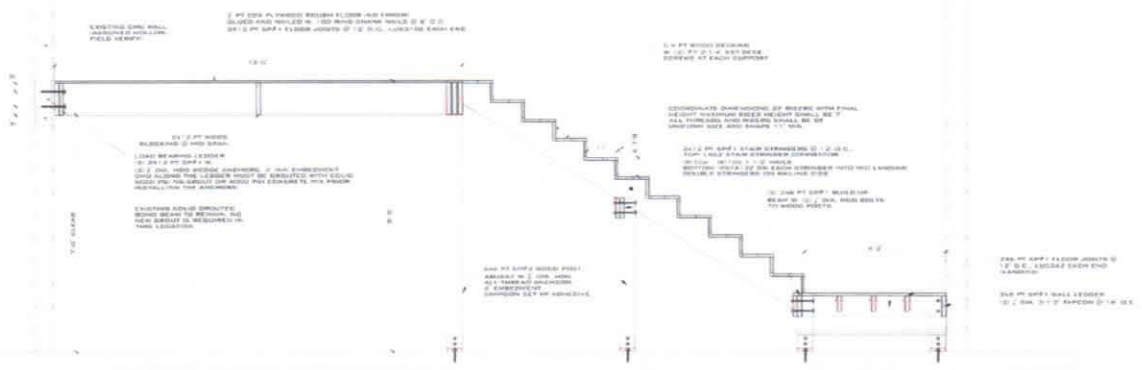
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 MARINA BUILDING
 STORAGE LOFT

800 35TH ST OCEAN
 MARATHON, FL 33050

FRAMING PLAN
 OPTION #1
 DATE: 11/11/2021 11:44 AM
 2310-01 5-101 1



SECTION 1-1
SCALE: 1/2" = 1'-0"
OPTION #1



SECTION 2-2
SCALE: 3/4" = 1'-0"
OPTION #1

NOTE: GUARDRAILS AND HANDRAILS ARE NOT SHOWN FOR CLARITY. SEE TYPICAL DETAILS

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SCALE: AS SHOWN
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CITY OF MARATHON

CITY OF MARATHON
MARINA BUILDING
STORAGE LOFT

800 35TH ST OCEAN
MARATHON, FL 33050

DATE: 05/11/2011
SCALE: AS SHOWN
STATUS: DETAILS
2310-01 S-102 1

H/ANDS DECK TIES @ 18" O.C.
 1/2" DIA. HOB EPoxy ANCHORS,
 5' MIN. EMBEDMENT.
 CHL. DEL. @ ANCHOR HEIGHTS MUST
 BE ENCLOSED WITH SOLID 5000 PSI
 CONCRETE OR HOB PSI CONCRETE
 W/EA PRIOR INSTALLING THE
 ANCHORS.

7" PLYWOOD ROUGH
 FLOOR AND FINISH
 BUILT AND NAILED W/ 1" DB
 NAIL-SPLAKE NAILS @ 8" O.C.
 2X12 PT SRF FLOOR JOISTS @
 12" O.C. LUSK @ EACH END

6x6 PT SRF WOOD POST, ABURAZ
 W/ 2" DIA. HOB ALL-THREAD ANCHORS,
 4' EMBEDMENT SHIPSON SET-UP ADHESIVE

12" 2X12 PT SRF BUILT-UP BEAM
 EDWARDS COLUMN CAPS FOR
 INTERMEDIATE SUPPORTS
 EDWARDS COLUMN CAPS FOR END
 SUPPORTS



FRAMING PLAN OPTION #2
 SCALE: 1/4" = 1'-0"



SITE MAP
 SCALE: NTS

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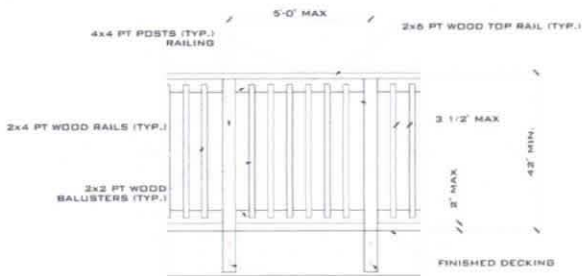
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CITY OF MARATHON

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 STORAGE LOFT

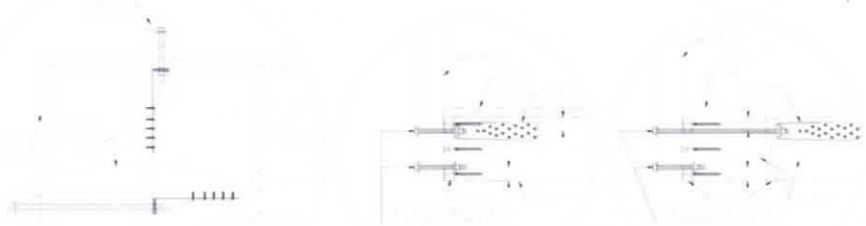
800 35TH ST OCEAN
MARATHON, FL 33050
FRAMING PLAN
OPTION #2
 SHEET NO. 2310-01 DATE 05-10-23 DRAWN BY S-103 CHECKED BY 1



12/ 5/8" HOG BOLTS
AT EACH 4x4 RAILING POST

- MINIMUM FASTENERS REQUIREMENTS:
- 1. TOP RAIL TO POSTS - (4) #10x3" SST SCREWS EACH POST;
 - 2. HORIZONTAL RAILS - (3) #10x3" SST SCREWS EACH SIDE;
 - 3. VERTICAL BALUSTERS - (1) #9x2.5' SST SCREWS EACH END;

TYPICAL WOOD RAILING
SCALE: NTS



TYPICAL 4X4 RAILING POST ANCHOR
SCALE: NTS



**TYPICAL WOOD RAILING
ALONG STAIRS**
SCALE: NTS

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DATE OF APPROVAL: 10/24/22 BY: SERGE

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CITY OF MARATHON

PROJECT: CITY OF MARATHON
MARINA BUILDING
STORAGE LOFT

DATE: 8/20/22 BY: SERGE HADJIMAZOU

SCALE: 1/8" = 1'-0" DATE: 10/24/22 DRAWN: SERGE HADJIMAZOU CHECKED: SERGE HADJIMAZOU

2310-01 S-105 1

EXHIBIT "B"
Unit Price Bid Form

Unless otherwise noted, this is a Lump Sum contract. Quantities herein are provided for the use and convenience of the Contractor. Contractor shall verify the quantities and adjust if deemed necessary. There shall be no additional compensation for quantities required to complete the work, unless the scope of work is changed by a Change Order.

Alternate Bid Framing Option #2

	Scope	Unit of Measure	Estimated Quantity	Total
TOTAL LS	Construction of Storage Loft Framing Option #2 as Specified in Project Plans, Exhibit "A"	LS	1	\$ 42,000.00

Any item not specifically listed above is considered incidental as to the complete work. The total price submitted is all inclusive for all work, materials, labor and all other aspect required for a complete job.

TOTAL BASE BID: \$ 42,000.00 , (insert price using words)
(Forty-Two Thousand Dollars and 00/100)

END OF SECTION