

RESOLUTION NO. 07-428

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, APPROVING THE ATTACHED AGREEMENT FOR KEY WEST CEMETERY LANDSCAPING SERVICES BETWEEN THE CITY AND MONROE ASSOCIATION FOR RETARDED CITIZENS, INC. ("MARC"); PROVIDING FOR AN EFFECTIVE DATE

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, AS FOLLOWS:

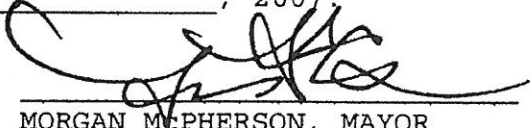
Section 1: That the attached Agreement between the City and MARC is hereby approved. The term shall be for one year in an amount not to exceed \$48,373.00.

Section 2: That this Resolution shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.


Passed and adopted by the City Commission at a meeting held this 4th day of December, 2007.

Authenticated by the presiding officer and Clerk of the Commission on December 5, 2007.

Filed with the Clerk December 5, 2007.

  
MORGAN MCPHERSON, MAYOR

ATTEST:

  
CHERYL SMITH, CITY CLERK

## AGREEMENT

This Agreement is between the City of Key West, Florida (hereinafter "CITY") and Monroe Association for Retarded Citizens, Inc., P.O. Box 428, Key West, Florida, 33041 (hereinafter "MARC").

WITNESSETH:

WHEREAS, CITY desires to contract for landscaping and maintenance services at the CITY cemeteries; and

WHEREAS, MARC agrees to provide these services;

NOW, THEREFORE, in mutual consideration of the promises contained herein, CITY and MARC agree as follows:

### 1. Scope of Work

- A. MARC shall provide a crew of MARC workers with appropriate professional supervision on a 150 hour per week basis to maintain cleanliness of the City Cemeteries and assist the Public Works Division with cemetery landscaping functions and grounds maintenance. MARC shall provide vehicular transportation and all tools, work clothing, training and supervision for the crew.
- B. The MARC crew shall cut grass, clear overgrowth, prune, trim and cut trees and remove all trash and cuttings to the appropriate disposal area.

### 2. PAYMENT

CITY agrees to pay MARC monthly and CITY agrees to pay monthly \$4,031.08 within forty-five (45) days of invoice.

### 3. TERM

The term of this Agreement is for one (1) year, commencing Oct. 2007, and ending Sept. 30, 2008. The agreement may be renewed annually for four years and the cost adjusted according to the Consumer Price Index figures as provided by the City Finance Office.

### 4. INDEMNIFICATION

MARC shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, property damage, losses, personal injuries, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional

wrongful misconduct of MARC, its employees or agents, in the performance of this Agreement.

This indemnification shall survive the expiration or termination of this Agreement. In the event that any action or proceeding is brought against the CITY by reason of such claim or demand, MARC shall, upon written notice from the CITY, resist and defend such action or proceeding by counsel satisfactory to the CITY. MARC shall defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the CITY's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the CITY arising out of this agreement. MARC's obligation under this provision shall not be limited in any way to the agreed upon payment as shown in this Agreement, or the limit of our lack of sufficient insurance protection.

In all instances where MARC may be required to indemnify CITY, CITY shall give MARC prompt and timely notification of any claims. CITY shall not enter into any settlement agreement or otherwise terminate this action without the consent of, and at its option, participation by MARC or its legal representative.

## 5. INSURANCE

MARC agrees to provide at its expense comprehensive liability insurance insuring itself and CITY against all claims of damages or injury to persons or property arising from any reason out its activities related to the agreement, or otherwise arising from its exercise of rights or failure to perform obligations pursuant to this Agreement. The insurance policy shall be written by a solvent insurance company in good standing and fully licensed to do business in Florida, and shall provide a minimum of \$300,000.00 coverage for bodily injury and property damage. The CITY shall be named as an additional insured on the policy. MARC shall provide a copy of the certificate of insurance to the City Clerk within 10 days of execution of this agreement. The insurance amounts herein provided shall not in any way operate to the limit or release MARC from any obligation to indemnify CITY as provided therein.

## 6. TERMINATION

The parties hereto may terminate this Agreement at any time upon written notice mailed to each other at the addresses provided below. Upon such termination CITY shall not be obligated to make any further payments to MARC, other than money due and payable at the time of termination.

7. ADDRESSES FOR NOTICES

FOR CITY

City Manager  
City of Key West  
Post Office Box 1409  
Key West, Fl., 33041-1409

FOR MARC

Director, MARC  
812 Southard St.  
Key West, Fl. , 33040

Copy to:  
Director of Public Works  
Address as above

8. INDEPENDENT CONTRACTOR

MARC clients/workers shall not be deemed to be employees of CITY and shall not accrue any of the rights of CITY's employees under CITY ordinances or personnel policies and procedures.

9. JURISDICTION AND SEVERABILITY

The laws of the State of Florida govern the validity of this to it. The venue for mediation, arbitration or any other legal proceeding shall be in Monroe County, Florida. If any other provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this AGREEMENT will be construed as is such invalid, illegal, or unenforceable provision had never been contained within.

10. ENTIRE AGREEMENT

This agreement sets form all the covenants, promises, agreements and understanding between CITY and MARC. No subsequent alteration, amendment, change or addition to this agreement shall be binding upon CITY or MARC unless reduced to writing and duly executed by both parties.

THIS PART INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS

ATTEST

Cheryl Smith

Cheryl Smith, City Clerk

12-7-07

Date

CITY OF KEY WEST

J. K. Scholl

Jim Scholl, City Manager

12-7-07

Date

MONROE ASSOCIATION FOR RETARDED CITIZENS, INC.

Mark C. Lindas

President/Authorized Agent

12/7/07

Date

MARK C. LINDAS

Print Name of President/Authorized Agent

Wendy S. Vaddy  
Witness

07 December 2007

Date