

**CITY OF MARATHON, FLORIDA
RESOLUTION 2009-46**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING CERTAIN PURCHASES IN EXCESS OF \$10,000 AND LESS THAN \$25,000; WAIVING COMPETITIVE BIDDING AS A SOLE SOURCE PROCUREMENT, AND AUTHORIZING THE CITY MANAGER TO ENTER INTO AGREEMENTS IN CONNECTION THEREWITH; APPROPRIATING FUNDS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Resolution 2003-134, the City Council of the City of Marathon, Florida (the “City”), adopted Purchasing Policies and Procedures after determining that it was fiscally prudent and in the best interests of the City’s residents for the City to adopt policies and procedures for City employees and officials regarding the purchasing and acquisition of contractual services, equipment, goods, professional services and other similar types of services; and

WHEREAS, pursuant to Resolution 2007-156, the City Council amended the Purchasing Policies and Procedures to provide that any purchases over \$10,000 and less than \$25,000 must be placed on a City Council agenda as a consent item for approval prior to execution of the contract or consummation of the purchase; and

WHEREAS, under the City’s adopted purchasing policies and procedures, the City Council may waive competitive bidding in the event that “only one vendor possesses the unique and singularly available capability to meet the requirement of the solicitation (such as technical qualifications)”; and

WHEREAS, the City has for many years contracted with Randy Mearns, agent for Fireworks Displays Unlimited, LLC. and Staff considers this firm uniquely qualified to provide the 4th of July fireworks display desired by the City; and

WHEREAS, the City Manager has authorized staff to prepare purchase orders for those items set forth on Exhibit A attached hereto and now wishes to bring them before City Council as a consent item.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, that:

Section 1. The City Council hereby approves the purchases set forth on Exhibit A hereto.

Section 2. The City Manager is authorized to execute any agreements in connection with this purchase and hereby waives the competitive bidding requirement as a sole source procurement.

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 12th day of May, 2009.

THE CITY OF MARATHON, FLORIDA



Mayor Mike Cinque

AYES: Ramsay, Snead, Vasil, Worthington, Cinque
NOES: None
ABSENT: None
ABSTAIN: None


ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

FIREWORKS DISPLAYS UNLIMITED, LLC

**SPECTACULAR CUSTOM FIREWORKS DISPLAYS AND SPECIAL FX
FOR ANY OCCASION**
STRICTLY ELECTRONICALLY FIRED DISPLAYS

PROPOSAL FOR FIREWORKS DISPLAY

Sponsors : **City of Marathon**
Contact : Randy Mearns
Date of Display : July 4th, 2009
Location : Sombrero Beach
Time : 9:00pm
Duration : Approximately 40 minutes
Show Price : \$18,000.00
Remarks : **Includes labor, transport, insurance, pyrotechnician with crew, and equipment rental.**

We the undersigned, being interested in a fireworks display for **City of Marathon**, agree to pay a price of **\$18,000.00** for the display agreed upon, which will be furnished by Fireworks Displays Unlimited, LLC.

The undersigned, intending to be legally bound, agree as follows:

1. Sponsor to make payment in full of the contract price at time of display, or no later than 10 days post event.
2. In the event Sponsor shall fail to pay any sum when due under the terms of this contract, Sponsor shall pay, in addition to such amount, interest at the rate of 1-1/2% per month on the unpaid amount from the original due date. Sponsor does further agree that it shall pay Fireworks Displays' reasonable attorney fees and court costs in the event Fireworks Displays shall commence suit or incur fees to compel Sponsor to pay any sums due hereunder or otherwise as a result of Sponsor's default of any of the terms and provisions herein contained.
3. SPONSOR'S AGENT: **Randy Mearns** shall be designated as sponsor's agent to whom all questions and inquiries shall relay all questions and inquiries. Sponsor's agent shall be the only agent of sponsor authorized to request rescheduling of the delivery and exhibition of the fireworks on the part of sponsor.

4. If event is on land, sponsor to furnish police and/or crowd security personnel, provide proper parking supervision, and insure adequate patrol of the safety zone as marked and secured by the sponsor until Fireworks Displays Unlimited, LLC. advises that it is no longer necessary.
5. If event is over water, Fireworks Displays Unlimited will be responsible for marine permit and control of safety zone.
6. Fireworks Displays Unlimited, LLC. reserves the right to terminate the display in the event persons, vehicles, or animals enter the secured safety zone and security is unable or unwilling to remove them and enforce the safety regulations.
7. Fireworks Displays Unlimited, LLC. will furnish all applicable licenses, permits and \$1,000,000 liability insurance and pyrotechnicians for your electronically fired display.
8. Hold harmless Fireworks Displays Unlimited, LLC. from any claims that do not directly relate to damages produced by its staff, equipment or pyrotechnic material.
9. CREDITS: As a material inducement to Fireworks Displays agreeing to enter into this agreement, Sponsor shall give Fireworks Displays program credit as sole fireworks supplier and producer in all press releases, advertising, and any other program announcements, printed or otherwise.
10. If show is canceled, sponsor is responsible for any permit, fire watch or barge/tug fees, if applicable. Additionally, sponsor will be responsible for load in/ load out expenses not to exceed 50% of budget.
11. If wind exceeds 20 miles per hour, fireworks display will be postponed to an agreed date between sponsor and Fireworks Displays Unlimited, LLC.
12. Rain date policy is as follows: Postponement time is 11:30am day of display.
13. If the delivery and/or exhibition of the fireworks is postponed by reason of inclement weather, it shall be re-scheduled to the Inclement Weather Date set forth above.
14. **IMPORTANT NOTE:** Items listed in this proposal assume a firing area that conforms to NFPA Code 1123-1995, which states that there must be at least 70 feet per inch of shell diameter between firing site and any spectators, cars or buildings. This program requires a safety zone that has a radius of 420 feet because of the inclusion of 6-inch shells. Adjustments will be made to the content of this program if necessary to conform to NFPA 1123-1995.

Firepower Displays Unlimited, Inc., upon acceptance of this contract in writing, agrees to fulfill the contract in a workmanlike and professional manner.

Accepted this day of 5/13/09

On behalf of City of Marathon, Clyde Burnett

On behalf of Fireworks Displays Unlimited, LLC., [Signature],
Gary Avins, President

OPENING BARRAGE

60 - THREE INCH SHELLS - **TITANIUM SALUTES** – these shells explode into a burst of brilliant white lights and booming reports, **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern.

18 - FOUR-INCH SHELLS - **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **WHISTLES** – a break of color followed by whistles.

8 - FIVE-INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern.

9 - SIX-INCH SHELLS - **FANCY STAR SHELLS** - Assorted brilliant colors in various patterns, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern.

BODY OF SHOW

270 - THREE INCH SHELLS - **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold, silver or assorted colors, **GOLDEN, SILVER, GLITTERING OR CRACKLING PALM TREES** – a palm tree image with different forms with trunk-like rising effect, **ASSORTED TWO COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two distinct color changes that resemble a round and weeping flower pattern, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low, **ASSORTED COMETS**, bright luminous thick tail with comet-like appearance with various colors, **ASSORTED TIGERTAILS**, similar to comets, **ASSORTED MINES**, projects various types of effect and colored stars that are launched and ignited at a low altitude.

180 - FOUR INCH SHELLS - **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **WHISTLES** – a break of color, followed by whistles, **SCREAMING DRAGONS** – a break of bright magnesium colors followed by loud screaming whistle, **GOLD FLITTER, SILVER OR GLITTER CROSSETTES** - exploding comets crackling into criss-crossing effects, **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **TOURBILLIONS** – titanium silver spinning effects, **WILLOWS** – golden, silver or assorted colors of very fine lines with an umbrella like effect cascading slowly, **RINGSHELLS** – assorted ring patterns of different colors of one, two, three or five different colors, **GOLDEN, SILVER, GLITTERING OR CRACKLING PALM TREES** – a palm tree image with trunk-like different forms, **ASSORTED TWO and THREE COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two or three distinct color changes that resemble a round and weeping flower pattern, **STROBES** – a variety of bright twinkling shells, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low, **MULTI-BREAK SALUTE SHELLS** – a variety of salute effects that incorporate multiple powerful reports into the display, **ASSORTED COMETS**, bright luminous thick tail with comet-like appearance with various colors, **ASSORTED TIGERTAILS**, similar to comets, **ASSORTED MINES**, projects various types of effect and colored stars that are launched and ignited at a low altitude.

88 - FIVE INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **TOURBILLIONS** – titanium silver spinning effects, **GOLD FLITTER, SILVER OR GLITTER CROSSETTES** – exploding comets crackling into criss-crossing effects, **WILLOWS** - golden, silver or assorted colors of very fine lines with an umbrella like effect cascading, **RINGSHELLS** – assorted ring patterns of different colors of one, two, three or five different colors, **GOLDEN, SILVER, GLITTERING OR CRACKLING PALM TREES** – a palm tree image with different forms with trunk-like rising effect, **GOLD OR SILVER RAIN** – slow cascading gold or silver effect, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern, **STROBES** – a variety of bright twinkling shells, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending with an umbrella-like canopy cascading and falling low, **MULTI-BREAK SALUTE SHELLS** – a variety of salute effects that incorporate multiple powerful reports into the display, **STAR FISH** – group of large glittering tail comet stars, **CRISS-CROSS OR BEES**, assorted color bees or criss-cross.

117 - SIX INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **TOURBILLIONS** – titanium silver spinning effects, **GOLD FLITTER, SILVER OR GLITTER CROSSETTES** – exploding comets crackling into criss-crossing effects, **WILLOWS** - golden, silver or assorted colors of very fine lines with an umbrella like effect cascading slowly, **RINGSHELLS** – assorted ring patterns of different colors of one, two, three or five different colors, **GOLDEN, SILVER, GLITTERING PT CRACKLING PALM TREES** – a palm tree image of different forms with trunk-like rising effect, **GOLD OR SILVER RAIN** – slow cascading gold or silver effect, **ASSORTED TWO, THREE & FOUR COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two, three or four distinct color changes that resemble a round and weeping flower pattern, **STROBES** – a variety of bright twinkling shells, **ASSORTED COLOR BROCADES** – a dense golden effect with an umbrella-like canopy cascading and falling low, **ASSORTED COLOR PARACHUTE** – assorted cascading effect from parachute, **SHELL OF SHELLS OR THOUSAND FLOWER** – multi-color star shell with additional smaller shells dispersed outside resembling blooming flowers, **MULTI-BREAK SALUTE SHELLS** – a variety of salute effects that incorporate multiple powerful titanium reports into the display, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly, **FANCY PATTERNS** – five pointed star shapes, hearts, smiling face, etc..., **STAR FISH** – group of large glittering tail comet stars. effect with an umbrella-like canopy cascading and falling low, **SHELL OF SHELLS** – multi-color star shell with additional smaller shells dispersed outside.

GRAND FINALE

420 - THREE INCH SHELLS - **TITANIUM SALUTES** – these shells explode into a burst of brilliant white lights and booming reports, **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly,

72 - FOUR INCH SHELLS - **ASSORTED COLOR, PEONIES & CHRYSANTHEMUMS** – bursts resembling a round and weeping flower pattern, **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **SPIDERWEBS** – long hanging fine webs of gold or silver, **ASSORTED COLOR & CRACKLING EFFECTS** – assorted color peonies and chrysanthemums with crackling effects, **WILLOWS** - very fine lines with an umbrella like effect cascading slowly, **ASSORTED COLOR BROCADES** – a dense golden, silver or assorted color effect ending at the tips with an umbrella-like canopy cascading and falling low.

24 - FIVE INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **ASSORTED TWO and THREE COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two or three distinct color changes that resemble a round and weeping flower pattern.

18 - SIX INCH SHELLS - **FANCY STAR SHELLS** – Assorted brilliant colors in various patterns, **ASSORTED TWO and THREE COLOR CHANGING CHRYSANTHEMUMS & PEONIES** – two or three distinct color changes that resemble a round and weeping flower pattern.

OVER 1,200 SHOTS – Assorted Finale Barrage, Titanium Reports, Whistles, Assorted Color, Tourbillions.

TOTAL SHELLS

	OPENING	BODY	FINALE	TOTAL SHELLS
3" SHELLS	60	270	420	750
4" SHELLS	18	180	72	270
5" SHELLS	8	88	24	120
6" SHELLS	9	117	18	144
CAKES	2	6	4	12



GOVERNMENT SERVICES GROUP, INC.

public sector
Franklin & Associates
solutions

April 14, 2009

Via Electronic Transfer

Ms. Susie Thomas
City of Marathon
9805 Overseas Highway
Marathon, FL 33050

Re: Work Plan for Ongoing Assistance with the Non-Ad Valorem Assessment Program for Stormwater Management Services

Dear Susie,

This correspondence is written to present a scope of services and fee for Government Services Group, Inc. (GSG) to provide specialized assistance to the City of Marathon (City) and its staff in the ongoing management and maintenance of the non-ad valorem assessment program for stormwater management services for Fiscal Year 2009-10.

Attached as Appendix A is a work plan which articulates the services to be provided by GSG to assist you in the maintenance of the non-ad valorem assessment program in a manner that is conducive to the collection of the assessments using the uniform method of collection in section 197.3632, Florida Statutes. Appendix A also provides a list of project deliverables, delivery schedule and payment schedule. The attached scope of services and fees are based on the following assumptions:

1. The Fiscal Year 2009-10 stormwater assessment program will use the current assessment methodology developed by Chen and Associates for the City.
2. The Fiscal Year 2009-10 assessment database will use the existing database from the Fiscal Year 2008-09 certified assessment roll developed by Chen and Associates for the City.
3. GSG will not conduct an analysis of the sufficiency of the data on the existing database relative to the property data contained on the ad valorem tax roll maintained by the Monroe County Property Appraiser.
4. The impervious area data associated with new additions to the ad valorem tax roll will be identified and provided by the City or Chen and Associates in electronic format and will include the parcel identification number and the amount of impervious area assigned to the new additions.
5. Any missing data will be provided by fieldwork conducted by City staff.
6. All legal documentation will be prepared by the City's attorney.

Please review the attached scope of services. The execution of this letter agreement indicates acceptance of the proposal and notice to proceed. Upon execution of this agreement, please provide us with a signed copy for our files.

Ms. Susie Thomas
April 14, 2009
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We look forward to working with the City on this very important project. If you or any other City officials have any questions, please feel free to telephone me.

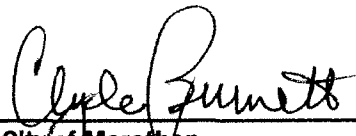
Sincerely,

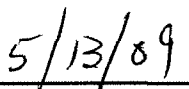


Camille P. Tharpe
Senior Vice President

Attachments

ACCEPTED AND AGREED TO:

BY: 
City of Marathon


Date

Appendix A

SCOPE OF SERVICES

Scope of Services

- Task 1: Ongoing Project Management Services for Current Fiscal Year Assessment Program** Upon notice to proceed, GSG will be retained to administer the current fiscal year assessment program and maintain the assessment roll database. Such retainer services will include GSG's availability to respond to requests for information or assistance from City staff regarding all aspects of the current assessment program. In addition, GSG will prepare the critical events schedule for the upcoming fiscal year to ensure adherence to statutory deadlines and will maintain the current fiscal year database in a manner that ensures data availability to specific requests.
- Task 2: Create the Preliminary Assessment Roll** GSG will import updated Property Appraiser data to construct the preliminary annual assessment roll for the assessment program. Corrections from the City will be applied to the updated data. GSG will then create the preliminary assessment roll by extending the rates to the affected tax parcels according to the methodology.
- Task 3: Review the Assessment Resolution(s)** GSG will review the assessment resolution(s) prepared by the City Attorney.
- Task 4: Assist in Notice Process** If requested by the City, GSG will prepare and mail the first class notices required by section 197.3632, Florida Statutes. The charge for this task is not included in the lump sum fee, and is detailed below under Fees and Costs.
- Task 5: Assist in Rate Adoption Process** GSG will advise and assist with the legal requirements for the adoption of the final assessment rate resolution(s) and certification of the assessment roll(s) in accordance with section 197.3632, Florida Statutes.
- Task 6: Certify, Export and Transmit the Final Assessment Roll in Conformance with Uniform Method** Using the final assessment roll, GSG will prepare export files on compatible electronic medium capable of merger with the ad valorem tax roll files and will transmit the file to the Tax Collector in the prescribed format.

FEES AND COSTS

For services provided by GSG, the lump sum fee for the proposed scope of services for Fiscal Year 2009-10 is \$10,000. It is possible that the GSG fees for future fiscal years may be reduced based on our experiences for this initial year work effort. Except as noted below, the lump sum fee includes reimbursement for all out-of-pocket expenses.

The lump sum fee for professional services includes no on-site visits by GSG staff. Any on-site meetings by GSG staff may be arranged at our standard hourly rates provided below. All expenses related to these requested meetings will be billed in accordance with section 112.061, Florida Statutes. If necessary, in lieu of on-site visits, periodic telephone conference calls may be scheduled to discuss project status.

The standard hourly rates for GSG are as follows:

GOVERNMENT SERVICES GROUP, INC.

Chief Executive Officer	\$225
Senior Vice President	\$175
Vice President	\$160
Senior Project Manager/Consultant/Project Coordinator	\$160
Consultant/Database Analyst/Technical Services	\$130
Administrative Support	\$ 50

The lump sum fee does not include the costs of producing and mailing the statutorily required first class notices or prepayment notices. Mailing and production costs depend on the number of assessable parcels of property within the assessment program area, but average approximately \$1.30¹ per parcel. Payment of mailing and production costs is due two weeks prior to the mailing date. For non-domestic notices, mailing charges will include the actual amount of postage beyond the domestic rate and if U.S. postage rates increase prior to mailing, the additional postage per notice will be charged. A \$400 setup fee is charged for mailings to less than 2,000 parcels.

The City is responsible for any and all newspaper publications, including, but not limited to, making arrangements for publications and any costs associated therewith.

The City is also responsible for any costs incurred to obtain information from the property appraiser or other public officials that is necessary for the assessment program.

The lump sum fee also does not include the development of an assessment roll maintenance and customer service support system. Because of the complexity of this project, the City staff may want to develop customer service interface functions and address all report requirements. Information about these services is provided in the Additional Services section.

PAYMENT SCHEDULE

Payment will be based on the following schedule assuming that notice to proceed is received by May 2009. If notice to proceed occurs after May 2009, payment will be pro-rated on the basis of the anticipated number of months included in the project.

Payment Date	Payment Amount
June 2009	50% of total lump sum fee
September 2009	50% of total lump sum fee

DELIVERABLES SCHEDULE

Event	Date
Notice to Proceed	May 2009
Develop Database	May - July 2009
First Class Mailed Notice	May - August 2009
Published Notice	May - August 2009
Public Hearing	May - September 2009
Certification to Tax Collector	by September 15, 2009

¹ The quoted price includes the May 11, 2009 U.S. postage rate increase. The additional postage charge will be included for any postage rate increase that occurs after May 11, 2009.

EXHIBIT “A”

PROJECT AGREEMENT

Between

CITY OF MARATHON, FLORIDA

And

WEILER ENGINEERING CORPORATION

for

Work Authorization No. Twenty Eight (28)

Coco Plum Bike Path Restoration – Preliminary Design / Feasibility Study

PROJECT AGREEMENT
Between

THE CITY OF MARATHON, FLORIDA

And

WEILER ENGINEERING CORPORATION

For

Work Authorization No. Twenty Eight (28)

Coco Plum Bike Path Restoration – Preliminary Design / Feasibility Study

Pursuant to the provisions contained in the “Continuing Services Agreement” between the CITY OF MARATHON, FLORIDA (the “CITY”) and THE WEILER ENGINEERING CORPORATION, (“CONSULTANT”) dated June 23, 2004, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The CITY and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide engineering services to the CITY for the Project as described in the “Project Description” attached as Exhibit “1.”

1.2 The “Scope of Services and Project Schedule” and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit “2.”

1.3 The CITY may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

Work Order Number 28

Coco Plum Bike Path Restoration – Preliminary Design / Feasibility Study

5/13/2009

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SECTION 2. DELIVERABLES

As part of the Scope of Services and Project Schedule, the CONSULTANT shall provide to the CITY the following Deliverables:

Preliminary design of the proposed layout and extension of the new Coco Plum Bike Path and a feasibility study of the final design and permitting requirements.

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Project Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect one year, unless otherwise terminated pursuant to Section 4 or other applicable provisions of this Project Agreement. The City Manager, in his sole discretion, may extend the term of this Agreement through written notification to the CONSULTANT. Such extension shall not exceed 180 days. No further extensions of this Agreement shall be effective unless authorized by the CITY Council.

3.2 **Commencement.** The CONSULTANT'S services under this Project Agreement and the time frames applicable to this Project Agreement shall commence upon the date provided in a written Notification of Commencement ("Commencement Date") provided to the CONSULTANT from the CITY. The CONSULTANT shall not incur any expenses or obligations for payment to third parties prior to the issuance of the Notification of Commencement. CONSULTANT must receive written notice from the City Manager prior to the beginning the performance of services.

3.3 **Contract Time.** Upon receipt of the Notification of Commencement, the CONSULTANT shall commence services to the CITY on the Commencement Date, and shall continuously perform services to the CITY, without interruption, in accordance with the time frames set forth in the "Project Schedule," a copy of which is attached and incorporated into this Agreement as Exhibit "3". The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.4 **Liquidated Damages.** Unless otherwise excused by the CITY in writing, in the event that the CONSULTANT fails to meet to the contract time for completion of services as determined by the Project Schedule, the CONSULTANT shall pay to the CITY the sum of dollars identified below per day for each and every calendar day unexcused delay beyond the completion date, plus approved time extensions, until completion of the project: \$ N/A per day. The CONSULTANT may claim extension if the factors involved are not under their direct control.

Work Order Number 28

Coco Plum Bike Path Restoration -- Preliminary Design / Feasibility Study

5/13/2009

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Any sums due and payable hereunder by the CONSULTANT shall be payable, not as a penalty, but as liquidated damages representing and estimate at or before the time of executing this Agreement. When the CITY reasonably believes that completion will be inexcusably delayed, the CITY shall be entitled, but not required, to withhold from any amounts otherwise due the CONSULTANT an amount then believed by the CITY to be adequate to recover liquidated damages applicable to such delays. If and when the CONSULTANT overcomes the delay in achieving completion, or any part thereof, for which the CITY has withheld payment, the CITY shall promptly release to the CONSULTANT those funds withheld, but no longer applicable, as liquidated damages.

3.5 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Lump Sum Compensation.** CITY agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "2" \$ 12,640. ~~OR, IF HOURLY, "CITY AGREES TO PAY CONSULTANT COMPENSATION AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$ _____."~~

4.2 **Reimbursable Expenses.** The following expenses are reimbursable at their actual cost: travel and accommodations, long distance telephone calls, facsimile, courier services, mileage (at a rate approved by the CITY), photo and reproduction services. All document reproductions are also reimbursable, at a rate approved by the CITY.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 Invoices

5.1.1 **Lump Sum Compensation and Reimbursable Expenses.** CONSULTANT shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule set forth in Exhibit "3", to this Project Agreement. Invoices for each phase shall not exceed amounts allocated to each phase of the Project plus reimbursable expenses accrued during each phase. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the CITY. The CITY shall pay CONSULTANT within thirty (30) calendar days of approval by the City Manager of any invoices submitted by CONSULTANT to the CITY.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONSULTANT is disputed, or additional backup documentation is required, the CITY shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the CITY with additional backup documentation within five (5) working days of the date of the CITY'S notice. The CITY may request additional information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The CITY, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the CITY becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement, the CITY may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the CITY's reasonable satisfaction.

5.4 **Retainage.** The CITY reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due to the CONSULTANT for the design until the design is completed. Said retainage may be withheld at the sole discretion of the City Manager and as security for the successful completion of the CONSULTANT'S duties and responsibilities under the Project Agreement.

5.5 **Final Payment.** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the CITY all documents requested by the CITY evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the CITY by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This Project Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Project Agreement or causes it to be terminated by the CITY, the CONSULTANT shall indemnify the CITY against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the CITY

for cause and it is subsequently determined by a court by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 of this Project Agreement and the provision of Section 6.2 shall apply.

6.2 **For Convenience.** This Project Agreement may be terminated by the CITY for convenience upon fourteen (14) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Paragraph 5.1 of this Project Agreement. Under no circumstances shall the CITY make any payment to the CONSULTANT for services which have not been performed.

6.3 **Assignment upon Termination.** Upon termination of this Project Agreement, a copy of all of the CONSULTANT's work product shall become the property of the CITY and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the CITY, transfer to either the CITY or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Further, upon the CITY'S request, the CONSULTANT shall assign its rights, title and interest under any subcontractor's agreements to the CITY.

6.4 **Suspension for Convenience.** The CITY shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the CITY, the CONSULTANT shall immediately comply with same. In the event the CITY directs a suspension of performance as provided for herein through no fault of the CONSULTANT, the CITY shall pay to the CONSULTANT its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for any such suspension.

SECTION 7. INCORPORATION OF TERMS AND CONDITIONS OF CONTINUING SERVICE AGREEMENT

7.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated June 23, 2004 between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the

Continuing Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

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Work Order Number 28

Coco Plum Bike Path Restoration – Preliminary Design / Feasibility Study

5/13/2009

Page No.6

ATTEST:

CITY OF MARATHON

Diane Clavier
City Clerk

By: Clyde Burnett
Clyde Burnett, City Manager

Date: 5/13/09

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

[Signature]
City Attorney

ATTEST:

WEILER ENGINEERING CORPORATION

By: [Signature]
Edward R. Castle, Vice President

Date: 5/14/09

Exhibit "1"

Project Description

The City of Marathon wishes to improve the existing bike path adjacent to Coco Plum Drive. To comply with FDEP grant requirements, Weiler Engineering will look into the possibilities of widening the bike path and/or separating the bike path from the edge of pavement. The preliminary design will include the revised layout of the existing bike path from the bridge at Coco Plum Drive Station 15+70 to Avenue K and the layout of the extension of the bike path from Avenue K to the end of Coco Plum Drive including a cantilevered boardwalk where required. Weiler Engineering will coordinate with regulatory agencies to determine the final design requirements and prepare a feasibility analysis along with a preliminary construction cost estimate. If, after the preliminary design and feasibility study have been completed, the City requests the design be finalized and permitted, a separate work authorization will be negotiated at that time.

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Exhibit "2"

Scope of Services and Project Schedule

Design

Weiler Engineering will perform the preliminary design for the Coco Plum Bike Path. The design will include preliminary plans for the bike path from the bridge at Station 15 + 70 to the end of Coco Plum Drive. WEC will also perform a feasibility analysis to determine permitting requirements and a preliminary construction cost estimate.

Preliminary Design Phase

A. After consultation with the CITY and inclusion of any specific modification of changes in the scope, extent, character, or design requirements of the Projection desired by the CITY, and upon written authorization from the CITY, ENGINEER shall:

1. On the basis of the above acceptance, selection and authorization, prepare Preliminary Design Phase documents consisting of preliminary design criteria, preliminary drawings, outline specifications, written descriptions of the Project and a feasibility analysis.
2. Use existing surveys to be provided as part of this scope of work and topographic and utility mapping as needed for design purposed. Utility mapping will be based upon information obtained from utility owner.
3. Advise CITY if additional reports, data, information, or services are necessary and assist CITY in obtaining such reports, data, information, or services.
4. Based on the information contained in the Preliminary Design Phase documents, submit and ENGINEER's opinion of Total Project Costs for each component separately itemized, including the following: opinion of probable Construction Cost, allowances for contingencies and the for the estimated total costs of design, professional, and related services provides by ENGINEER and, on the basis of information furnished by CITY, allowances for other items and services included within the definition of Total Project Costs.
5. Perform or provide the following additional Preliminary Design Phase tasks of deliverables: Preliminary design layout.

6. Furnish the Preliminary Design Phase documents to and review them with CITY.
7. Submit to CITY 2 final copies of the Design Phase documents and revised opinion of probable Construction Cost within 60 days after authorization to proceed with this phase.

B. ENGINEER's services under the Preliminary Design Phase will be considered complete on the date when final copies of the Preliminary Design Phase documents have been delivered to CITY.

Project Schedule

CONSULTANT will begin work upon receipt of the Notice to Proceed. Final design and submittal to the regulatory agencies will be completed within ninety days.

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EXHIBIT “3”

Payment Schedule

Feasibility Analysis	\$ 3,225
Preliminary Design Plans	\$ 8,785
Construction Cost Estimate	\$ 630

TOTAL..... \$ 12,640

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EXHIBIT "B"

PAGE 1 OF 2

CONSULTANT'S BILLING RATE

THE WEILER ENGINEERING CORPORATION

Principal	\$ 125.00
Project Manager	\$ 105.00
Professional Structural Engineer	\$ 105.00
Registered Professional Engineer	\$ 105.00
Professional Civil Engineer	\$ 105.00
Professional Landscape Architect.....	\$ 95.00
Registered Engineer Intern (E.I.T.)	\$ 95.00
Senior Engineering Designer	\$ 85.00
Construction Inspector.....	\$ 65.00
Engineering Technician	\$ 75.00
Clerical.....	\$ 35.00
Reimbursable Expenses	
Blueprints.....	\$ 2.30
Vellums.....	\$ 10.00(24 x 36 sheet)
Mylars	\$ 25.00(24 x 36 sheet)
Travel	Cost
(Travel outside of County)	
Overnight mail	Cost

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EXHIBIT “B”

PAGE 2 OF 2

GENERAL DESCRIPTION OF EMPLOYEE CATEGORIES

R. Jeff Weiler, P.E., President - Mr. Weiler is a Professional Engineer registered in the State of Florida. He is the President and Owner of The Weiler Engineering Corporation.

Ed R. Castle, P.E., Vice President - Wastewater Department Manager – Mr. Castle is a Professional Engineer registered in the State of Florida. He will be the Engineer in Responsible Charge for this project.

Rick Milloy, Environmental Scientist – Mr. Milloy will be responsible for the environmental permitting requirements an coordination with regulatory agencies.

Michael Giardullo, E.I., Project Manager – Mr. Giardullo will be the primary designer and project manager for this project.

Serhiy Mashtakov, Senior Engineering Designer – Mr. Mashtakov will be the senior technician on this project.

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Letter of Understanding
between
University of Northern Iowa
(hereinafter referred to as "*Camp Adventure™ Youth Services*")
and
the City of Marathon, Parks and Recreation Department

Price Quote: \$23,250.00
Duration of Program: Ten (10) Weeks (including a one (1) week orientation).
Number of Program Director: One (1)
Number of Counselors: Four (4)

Program Certification

I certify that I have read through the "Proposal to Operate Summer Youth Services for the City of Marathon, Parks and Recreation Department" and understand and accept all provisions contained within, including the City of Marathon, Parks and Recreation Department's responsibility to provide housing at no cost to the counselors, access to reasonably priced meals, and will furnish all required supplies and services to support the program locally. I understand that housing provided will be within walking distance of the program site (or have daily transportation available) and that the Department will pay for any program related expenses to include, but not limited to field trips, snacks, arts & crafts supplies and camper T-shirts. I understand that any extraordinary circumstances (e.g. counselors have to ride public transportation to work every day and it costs money) that may affect the program implementation will be cleared and approved in advance with *Camp Adventure™ Youth Services* Headquarters.

Financial Certification

I certify that I have the authority to commit the City of Marathon, Parks and Recreation Department to the above Price Quote and agree to pay the amount in full upon receipt of an invoice from the University of Northern Iowa's Grants and Contracts Office. I understand that the nature of contracting with *Camp Adventure™ Youth Services* is such that some are unrecoverable after the initial implementation of the program (airfare, overhead, supplies and services) and agree to pay those costs in full even in the event that the terms of the contract are not fully met (e.g. a counselor has to leave the site before the scheduled departure date). I understand that this budget figure can not be modified by local *Camp Adventure™ Youth Services* staff members and that any request for a modification must be made in writing to the *Camp Adventure™ Youth Services* Headquarters.

***Camp Adventure™* Certification**

Camp Adventure™ Youth Services certifies that it has read and understands any and all documentation that has been provided by the City of Marathon, Parks and Recreation Department, including but not limited to emails, facsimiles, letters and formal requests for proposals. These documents are identified under the header "Received Documentation."

Camp Adventure™ Youth Services certifies that each staff member provided will have completed a forty (40) hour staff development course and has completed the required certifications to work with children (CPR & First Aid), required immunizations (MMR, Tetanus and TB Skin Test) and that all background checks have been initiated. (State/Local and Federal).

Camp Adventure™ Youth Services Certification (con.)

Camp Adventure™ Youth Services certifies that each counselor will be provided with program materials including staff handbooks, a resource card file, an activity book, summer coursework books and a camp director handbook. The program to be provided has been developed by Camp Adventure™ for exclusive use in the summer of 2009 by Camp Adventure™ Youth Services counselors world-wide.

Camp Adventure™ Youth Services certifies that it is a not-for-profit organization and that funds not used in a direct cost role are used as indirect costs supporting development, programming, marketing and administrative functions.

Camp Adventure™ Youth Services certifies that if a counselor is unable to perform their duties due to an event or circumstance other than an "Unforeseen Act of Nature" (i.e. natural disaster, war, untimely illness or death) Camp Adventure™ Youth Services will refund a portion of the Basic Costs, at a rate of \$200.00 per week for each week of absence (prorated per day if necessary).

University of Northern Iowa

**The City of Marathon
Parks and Recreation Department**

Julianne Gassman 04/23/08
Associate Director
Camp Adventure™

Typed Name of Program Certifier and Title

Signed Name of Program Certifier Date

Susan R. Edginton 04/23/08
Program Director
Camp Adventure™

Typed Name of Financial Certifier and Title

Edward Ebert Date
Grants & Contracts Administrator
University of Northern Iowa

Signed Name of Financial Certifier Date

University of Northern Iowa
School of Health, Physical Education and Leisure Services
Camp Adventure™

COST ESTIMATE SHEET

Marathon, Florida

(1) Basic Costs:

\$225.00 x 4 staff x 10 weeks =	\$ 9,000.00	
\$275.00 x 1 program directors x 10 weeks =	<u>\$ 2,750.00</u>	
	\$11,750.00	\$ 11,750.00

(2) Supervisory Support Costs:

Regional Project Director		
\$150.00/per staff person (5) =	\$ 750.00	
Transportation 1 @ \$750.00 =	<u>\$ 750.00</u>	
	\$ 1,500.00	\$ 1,500.00

(3) Student Transportation:

5 Students @ \$750.00 =	<u>\$ 3,750.00</u>	
	\$ 3,750.00	\$ 3,750.00

(4) Administrative & Indirect Costs:

\$125.00 x 4 staff x 10 weeks	\$5,000.00	
\$125.00 x 1 program directors x 10 weeks	<u>\$1,250.00</u>	
	\$6,250.00	<u>\$ 6,250.00</u>

TOTAL COSTS \$23,250.00

Budgets Notes:

This is a budget based on the following criteria:

1. Four (4) Staff and 1 Program Director – 5 staff total
2. Ten (10) total weeks on site, nine (9) weeks of programming and one (1) week of orientation.
Staff arrive on June 8, 2009
Program starts on June 15, 2009
Program ends on August 14, 2009
Staff depart on August 16, 2009
3. Housing arrangements and costs are the responsibility of the host installation.