

**CITY OF MARATHON, FLORIDA
RESOLUTION 2010-02**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, ACCEPTING THE BID AND APPROVING A CONTRACT BETWEEN THE CITY OF MARATHON AND MERIDIAN COMMUNITY SERVICES GROUP, INC., FOR COMMUNITY DEVELOPMENT BLOCK GRANT PROGRAM ADMINISTRATION SERVICES; AUTHORIZING THE ACTING CITY MANAGER TO EXECUTE THE CONTRACT ON BEHALF OF THE CITY AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the “City”) plans to submit an application for Federal Community Development Block Grant funds for fiscal year 2010-2011; and

WHEREAS, the City requires a Program Administration Services Consultant (the “Program Services”) to manage the project if grant funds are awarded to the City; and

WHEREAS, the City published a request for proposals for the Program Services in accordance with the City’s procurement policy (the “RFP”), and the proposal submitted by Meridian Community Services Group, Inc., (the “Consultant”) was ranked number one by City staff; and

WHEREAS, the City Council finds that the Consultant’s proposal meets the requirements of the RFP and is in the best interest of the City.

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 by this reference.

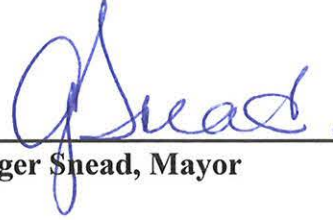
Section 2. The City hereby accepts the proposal submitted by the Consultant.

Section 3. The agreement between the City and Consultant for the provision of Program Services, a copy of which is attached as Exhibit “A,” together with such non-material changes as may be acceptable to the Acting City Manager and approved as to form by the City Attorney, is hereby approved. The Acting City Manager is authorized to execute the agreement on behalf of the City

Section 4. 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 January 2010.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

AYES: Cinque, Ramsay, Worthington, Keating, Snead
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

**CONTRACT BETWEEN
THE CITY OF MARATHON
AND
Meridian Community Services Group**

THIS CONTRACT is made as of this ___ day of ____, 2010, by and between Meridian Community Services Group, a Florida corporation, (hereinafter the “CONSULTANT”), and the **CITY OF MARATHON, FLORIDA**, a Florida municipal corporation, (hereinafter the “CITY”).

WHEREAS, the City solicited proposals, and selected Consultant to perform Program Administration Services for a Community Development Block Grant (“CDBG”) for the FFY 2009 funding cycle; and

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

1. **Covenant for Services.**

1.1 The CITY does hereby contract with CONSULTANT to perform the services described herein and CONSULTANT does hereby agree to perform such services under the terms and conditions set forth in this Contract.

2. **Availability of Funds.**

2.1 Payment of funds pursuant to this Contract is subject to and conditioned upon the release of authorized appropriations from the Florida Department of Community Affairs (the “DCA”). The CITY’S Grant Award Agreement with DCA shall become part of this Contract, consistent with Rule 9B-43.014, F.A.C. CONSULTANT shall be paid in accordance with Section 5 and Attachment “C” of this Contract.

3. **Scope of Services/Deliverables.** CONSULTANT agrees, under the terms and conditions of this Contract and the applicable Federal, State and local laws and regulations, to undertake, perform, and complete the necessary Program Administration Services required to implement and complete the CITY’S FFY 2009 CDBG project in compliance with applicable laws and regulations (the “Project Work”). The CDBG Program provides funding for housing and community development. At the Federal level it is administered by the US Dept of Housing and Urban Development (HUD). At the State level it is administered by the Florida Department of Community Affairs (DCA). Projects using CDBG funds must benefit low- and moderate-income persons, aid in the prevention or elimination of slums or blight, or address community development needs having a particular urgency due to a serious and immediate threat to the health or welfare of the community. The CDBG Program awards funds in four different areas

Commercial Revitalization, Economic Development, Housing, and Neighborhood Revitalization. The objective of the Commercial Revitalization category is to conserve and revitalize commercial areas that are showing signs of decline by addressing problems which contribute to the decline. The objective of the Economic Development category is to promote investment of private capital, retention of local economic enterprises, expansion of local tax bases and the provision of long-term jobs with growth potential, principally for very low-, low- and moderate-income persons. The objective of the Housing component of the CDBG Program is to improve housing conditions and expand housing opportunities which directly benefit very low-, low- and moderate-income persons. The objective of the Neighborhood Revitalization category is to revitalize declining neighborhoods and improve infrastructure in neighborhoods through a concentrated approach that addresses the problems which influence neighborhood vitality. To implement the City CDBG Project, individual project applications for funding will be accepted from the community, applications will be evaluated, qualifying individual projects will be selected for implementation, and contractor(s) will be procured to execute individual projects.

3.1 **Program Administration Services.** The Program Administration Services can be categorized into three areas: assuring compliance with all Federal and State CDBG Program requirements, processing community funding requests for individual projects, and managing implementation of individual projects. Specific tasks will include the following

- 3.1.1 Be present during site visits.
- 3.1.2 Keep proper records.
- 3.1.3 Develop project financial management system for receiving and disbursing funds.
- 3.1.4 Assist City staff in developing, negotiating, and administering contract agreements for public services.
- 3.1.5 Assist City staff in completing CDBG funded projects and meeting the CITY'S contractual responsibilities.
- 3.1.6 Conduct technical review of citizen requests for CITY administered CDBG funding.
- 3.1.7 Provide technical/project management assistance to actual and prospective CDBG applicants.
- 3.1.7 Maintain individual project account records.
- 3.1.8 Develop work plans for individual project contract documents.

- 3.1.8 Prepare individual project contract documents.
- 3.1.9 Develop budget for individual project contracts.
- 3.1.10 Conduct individual project environmental review.
- 3.1.11 Manage individual project contract schedule and compliance.
- 3.1.12 Coordinate with Federal, State, or other agencies and contacts, as necessary.
- 3.1.13 Assure contractors compliance with Davis-Bacon and other wage requirements.
- 3.1.14 Manage the budget.
- 3.1.15 Review vouchers and program accomplishment forms and recommend solutions for budget revisions and/or amendments to existing contracts.
- 3.1.16 Review bid documents and contract documents for compliance with Federal and State requirements.
- 3.1.17 Conduct preconstruction conferences.
- 3.1.18 Oversee citizen complaint process.
- 3.1.19 Monitor contractor, engineer, and construction specialist progress, including field verification of quantities and adherence to project specifications and maintenance of detailed construction logs.
- 3.1.20 Supervise payment authorizations.
- 3.1.21 Develop and process individual project contract amendments as needed.
- 3.1.22 Review change orders and amendments for compliance with Federal and State requirements as needed.
- 3.1.23 Provide regular project status reports to City Staff and City Council.
- 3.1.24 Monitor all project activity to ensure compliance with Federal and State requirements.

- 3.1.25 Prepare inspection reports.
- 3.1.26 Review final change order, pay request, and construction documents.
- 3.1.27 Gather all necessary supporting documents for administrative/financial close out.
- 3.1.29 Prepare documents for administrative/financial close out.
- 3.1.30 Prepare final status report.

4. **Term/Commencement Date.**

- 4.1 This Contract shall become effective upon execution by both parties and the release of authorized appropriations from the DCA, and shall remain in effect through grant closeout and satisfaction of grant requirements, unless earlier terminated in accordance with Section 7 hereof.

5. **Compensation and Payment.**

- 5.1 The CITY shall pay CONSULTANT the sum of 14% (Housing) or 7.5% (Neighborhood) of the grant award, subject to availability of grant funds for the Project Work performed by CONSULTANT. The CITY shall pay CONSULTANT the sum of \$5,000 upon CONSULTANTS submission to the CITY of all materials required for Release of Funds as specified in the CITY'S Grant Award Agreement with DCA. The remaining portion of CONSULTANT'S fee shall be paid in 17 equal monthly payments. If the project is completed in less than 18 months, the balance of the fee will be paid to CONSULTANT upon CONSULTANT'S completion and submission of the Closeout Status Report to DCA.
- 5.2 CONSULTANT shall submit a monthly invoice containing a summary of activities completed by CONSULTANT during the time frame for which the invoice is submitted. The invoice shall be submitted to the CITY for the CITY'S review and approval in conjunction with a progress meeting to review open action items. The City shall pay Contractor in accordance with the Florida Prompt Payment Act, subject to availability of project funds.
- 5.3 If a dispute should occur regarding an invoice submitted, the City Manager or designee may withhold payment of the disputed amount and may pay CONSULTANT the undisputed portion of the invoice. Upon written request of the CITY, the CONSULTANT shall provide written documentation justifying the invoice. Any compensation disputes shall be decided by the City Manager whose decision shall be final.

5.4 If additional services are requested or required, then the additional services shall be established based on the hourly rates identified in Attachment "C" of this Contract. Additional services shall include additional project management due to construction delays beyond the construction contract period. The liquidated fee clause established in the construction contract would be utilized to pay for the additional services caused by the construction delays.

6. **Subcontractors.**

6.1 If CONSULTANT subcontracts any of the work required under this Contract, CONSULTANT agrees to include in the subcontract that the subcontractor is bound by the terms and conditions of this Contract with the CITY. In no event, however, shall this provision be construed or interpreted to establish any contractual relationship between the CITY and any subcontractor engaged by CONSULTANT.

6.2 CONSULTANT agrees to include in the subcontract that the subcontractor shall indemnify and hold harmless the DCA and the CITY from and against all claims of whatever nature by the subcontractor arising out of the subcontractor's performance of work for CONSULTANT.

7. **Termination.**

7.1 This Contract may be terminated in whole or in part in writing by either party in the event of the failure by the other party to fulfill its obligations under this Contract through no fault of the terminating party (the "Default"), provided that no termination may be effected unless the other party is given: (1) not less than ten (10) calendar days written notice (delivered by certified mail, return receipt requested) of intent to terminate; and (2) given not less than twenty (20) days to cure the Default prior to termination.

7.2 The City Manager without cause may terminate this Contract upon thirty (30) days prior written notice to the CONSULTANT.

7.2 Upon receipt of the City's written notice of termination, CONSULTANT shall stop ALL Project Work unless directed otherwise in writing by the City Manager or designee.

7.3 If termination for Default is effected by the CITY, an equitable adjustment in the price for this Contract shall be made for the Project Work performed by CONSULTANT up to the date of termination, provided the Contractor has first complied with the provisions of Paragraph 7.4; but (1) no amount shall be allowed for anticipated profit on unperformed services or other

work, and (2) any payment due to CONSULTANT at the time of termination may be adjusted to cover any additional costs to the CITY because of CONSULTANT'S default.

7.4 The CONSULTANT shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the Project Work to the CITY, in a hard copy and electronic format within fourteen (14) days from the date of the written notice of termination or the date of expiration of this Contract.

8. **Insurance.** The CONSULTANT shall secure and maintain throughout the duration of this Contract insurance of such type and in such amounts as required by the City Manager. 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 coverages shall include a minimum of:

8.1 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.

8.2 Comprehensive Automobile and Vehicle Liability Insurance. Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$300,000 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.

8.3 Commercial General Liability. 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.

8.4 Professional Liability: If applicable, the CONSULTANT shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$1,000,000.

8.5 U.S. Longshoremen & Harbor Workers Insurance: If applicable, the CONSULTANT shall furnish longshoreman & harbor insurance when any work is done from a barge, in the amount not less than \$1,000,000.

8.6 Certificates of Insurance shall be provided to the CITY at the time of execution of this Contract and certified copies provided if requested. 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.**

9.1 During the term of this Contract, CONSULTANT shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and agrees to abide by all Federal and State laws regarding nondiscrimination

10. **Attorneys Fees and Waiver of Jury Trial.**

10.1 In the event of any litigation arising out of this Contract, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

10.2 In the event of any litigation arising out of this Contract, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

11. **Indemnification.**

11.1 CONSULTANT shall defend, indemnify, and hold harmless the CITY, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or any way connected with CONSULTANT'S performance or non-performance of any provision of this Contract including, but not limited to, liabilities arising from contracts between the CONSULTANT and third parties made pursuant to this Contract. CONSULTANT shall reimburse the CITY for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any such claim or investigation and for any judgment or damages arising out of, related to, or in any way connected with CONSULTANT'S performance or non-performance of this Contract.

11.2 The provisions of this Section 11 shall survive termination of this Agreement.

12. **Notices/Authorized Representatives.**

12.1 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: Peter Rosasco, Acting City Manager
City of Marathon, Florida
9805 Overseas Highway
Marathon, Florida 33050
(305) 743-0033

With a copy to: John R. Herin, Jr.
City Attorney
City of Marathon
Stearns Weaver Miller Weissler Alhadeff &
Sitterson, P.A.
Museum Tower, Suite 2200
150 W. Flagler Street
Miami, Florida 33130
Telephone: (305) 789-3200
Facsimile: (305) 789-3395

For The Consultant: Lisa A. Blair, President ICEO
Meridian Community Services Group, Inc.
P.O. Box 13408
Tallahassee, FL 32317
(888) 877-1908

13. **Governing Law.**

13.1 This Contract 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 Contract shall be in Monroe County, Florida, Middle Keys Division of the Circuit Court of the State of Florida or the United States District Court for the Southern District of Florida.

14. **Entire Agreement/Modification/Amendment.**

14.1 All modifications or amendments to this Contract shall be in writing, executed with the same formalities as this Contract, and addressed to the appropriate parties hereto and given personally, by registered or certified mail, return receipt requested, by facsimile, or by a national recognized overnight courier service.

14.2 All modifications or amendments shall be effective upon the date of receipt and attached to the original of this Contract. The amount of

compensation to be paid to CONSULTANT will not be amended without mutual agreement of the CITY and CONSULTANT, formally executed in writing, subject to availability of funds.

14.3 This writing contains the entire agreement of the parties and supercedes 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.

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

15.1 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 Contract shall be the property of the CITY.

15.2 The City Manager or his designee shall, during the term of this Contract and for a period of three (3) years from the date of termination of this Contract, have access to and the right to examine and audit any records of the CONSULTANT involving transactions related to this Contract.

15.3 The CITY may cancel this Contract for refusal by the CONSULTANT to allow access by the City Manager or his designee to any records pertaining to work performed under this Contract that are subject to the provisions of Chapter 119, Florida Statutes.

16. **Nonassignability.**

16.1 This Contract shall not be assignable by CONSULTANT unless such assignment is first approved in writing by the City Manager. The City is relying upon the stated qualifications and personal expertise of the CONSULTANT, and such firm's familiarity with the CITY'S area, circumstances, and desires.

17. **Severability.**

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

18. **Independent Contractor.**

18.1 The CONSULTANT and its employees, volunteers and agents shall be and remain independent contractors 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 Contract. This Contract 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.

19. **Compliance with Laws.**

19.1 The CONSULTANT shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project Work. If applicable, the CONSULTANT shall be registered with the CITY'S Building Department to perform its trade within the CITY.

20. **Waiver**

20.1 The failure of either party to this Contract 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 Contract shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

21. **Survival of Provisions**

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

22. **Prohibition Of Contingency Fees**

22.1 The CONSULTANT warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONSULTANT, to solicit or secure this Contract, 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 CONSULTANT, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Contract.

23. **Counterparts**

23.1 This Contract may be executed in several counterparts, each of which shall be deemed an original and each such counterpart shall constitute one and the same instrument.

24. **Truth-in-Negotiation Certificate**

24.1 Signature of this Contract by the CONSULTANT shall act as the execution of a truth-in-negotiation certificate stating that wage rates and

other factual unit costs supporting the compensation of this Contract are accurate, complete, and current at the time of contracting. The Contract prices and any additions shall be adjusted to exclude any significant sums by which the CITY determines the CONSULTANT'S compensation was increased due to inaccurate, incomplete, or noncurrent wage rates and other factual unit costs. All such adjustments shall be made within one year following the termination of this Contract.

25. **Energy Efficiency**

25.1 CONSULTANT shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163).

26. **Eligibility**

26.1 CONSULTANT certifies that it is eligible to receive Federal and State funded contracts. CONSULTANT also certifies that no party, which is ineligible for such work, will be subcontracted to perform services under this Contract.

27. **Conflict of Interest**

27.1 No member of or Delegate to the Congress of the United States, or Resident Commissioner, and no elected state official or state employee shall share in any proceeds of this Contract, or in any benefit to arise from it. No member of the governing body, officer or employee of the CITY or agents who exercises any function or responsibility with respect to this Contract, during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed. Further, CONSULTANT shall cause to be incorporated in all subcontracts the language set forth in this paragraph prohibiting conflict of interest.

28. **Federal Statutory Requirements**

28.1 When applicable, CONSULTANT and the CITY shall comply with the provisions contained in Attachment A and incorporated herein.

29. **Attachments.** This Contract is subject to the provisions of the following Attachments, which are attached to and made a part of this Contract:

29.1 Attachment A, "Federal Provisions," consisting of three (3) pages.

- 29.2 Attachment B, "Section 3 and Affirmative Action Plan," consisting of one (1) page.
- 29.3 Attachment C, "Fee Schedule," consisting of one (1) page.
- 29.4 Attachment D, "Sworn Statement on Public Entity Crimes," consisting of two (2) pages.

IN WITNESS WHEREOF, the parties hereto hereby execute this Contract 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 the CONSULTANT, signing by and through its President/CEO, whose representative has been duly authorized to execute same.

Attest:


 Diane Clavier, City Clerk

CITY OF MARATHON

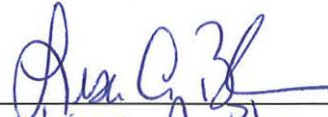
By: 
 Peter L. Rosasco, Acting City Manager

Date: 1-29-10

Approved As To Form And Legal Sufficiency For The Use
 And Reliance Of The City Of Marathon, Florida Only:


 City Attorney

CONSULTANT

By: 
 Name: Lisa A. Blawie
 Its: President/CEO
 Date: 2/10/10

ATTACHMENT A

FEDERAL PROVISIONS

1. Equal Employment Opportunity

During the performance of this Contract, CONSULTANT agrees as follows:

a. CONSULTANT will not discriminate against any employee or applicant for employment because of age, race, sex, national origin, ethnic background, and handicap status. CONSULTANT will take affirmative action to ensure that applicants are employed, and that employees are treated fairly during employment, without regard to their race, creed, sex, color, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, transfer; recruitment or recruitment advertising; layoff or termination, rates of pay or other forms of compensation; and selection for training, including apprenticeship. CONSULTANT agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the CITY setting forth the provisions of this non-discrimination clause.

b. CONSULTANT will, in all solicitation or advertisements for employees placed by or on behalf of CONSULTANT, state that all qualified applicants will receive consideration for employment without regard to age, race, sex, national origin, ethnic background, and handicap status.

c. CONSULTANT will cause the foregoing provisions to be inserted in all subcontracts for any work covered by this Contract so that such provisions will be binding upon each subcontractor, provided that the foregoing provisions shall not apply to contracts or subcontracts for standard commercial supplies or raw materials.

d. CONSULTANT will comply with all provisions of Executive Order 11246 of September 24, 1965, as amended by Executive Order 11375 of October 13, 1967 and as supplemented in Department of Labor regulations (41 CFR Chapter 60).

e. CONSULTANT will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records and accounts by the CITY and the State of Florida, or the United States Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations and orders.

f. In the event of CONSULTANT'S non-compliance with the equal opportunity clauses of this Contract or with any of such rules, regulations or orders, this Contract may be cancelled, terminated or suspended in whole or in part and CONSULTANT may be declared ineligible for further government contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions

may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the United States Secretary of Labor, or as otherwise provided by law.

g. CONSULTANT will include the provisions of paragraphs (a) through (g) in every subcontract or purchase order unless exempted by rules, regulations or orders of the United States Secretary of Labor issued pursuant to Section 204 of Executive order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. CONSULTANT will take such action with respect to any subcontract or purchase order as the local governing authority(s) representative may direct as a means of enforcing such provisions including sanction for non-compliance: Provided, however, that in the event CONSULTANT becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the CITY, CONSULTANT may request the United States to enter into such litigation to protect the interests of the United States.

2. **Civil Rights Act of 1964**

Under Title VI of the Civil Rights Act of 1964, no person shall, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

3. **Section 109 of the Housing and Community Development Act of 1974**

No person in the United States shall on the grounds of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under Title I of the Housing and Community Development Act.

4. **"Section 3" Compliance in the Provision of Training, Employment, and Business Opportunities**

a. The work to be performed under this Contract is assisted by direct federal assistance from the U.S. Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968 (24 CFR Part 135), as amended, 12 U.S.C. 170. Section 3 requires that, to the greatest extent feasible, opportunities for training and employment be given to lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project.

b. The parties to this Contract will comply with the provisions of said Section 3 and regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this Contract. The parties to this Contract certify and

agree that they are under no contractual or other disability, which would prevent them from complying with these requirements.

c. CONSULTANT will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants-for employment or training.

d. CONSULTANT will include this Section 3 clause in every subcontract for work in connection with the project and will, at the direction of the applicant for or recipient of federal financial assistance, take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135. CONSULTANT will not subcontract with any subcontractor where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR Part 135 and will not let any subcontract unless the subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

e. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department of Housing and Urban Development issued hereunder prior to the execution of this Contract, shall be a condition of the federal financial assistance provided to the project, binding upon the applicant or recipient for such assistance, its successors and assigns. Failure to fulfill these requirements shall subject the applicant or recipient, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or loan agreement or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

5. Access and Retention to Records

The CITY, the DCA, the U.S. Department of Housing and Urban Development, the Comptroller General of the United States, and any of their duly authorized representatives, shall have access to any books, documents, papers, and records of CONSULTANT which are directly pertinent to this Contract for the purpose of making audit, examination, excerpts, and transcriptions. CONSULTANT shall retain all records relating to this Contract for five (5) years after the CITY makes final payment and all other pending matters are closed.

ATTACHMENT B

SECTION 3 AND AFFIRMATIVE ACTION PLAN

1. CONSULTANT will solicit and evaluate applications for employment in a manner that is non-discriminatory based upon age, race, sex, national origin, ethnic background, and handicap status.
2. When training and/or employment opportunity arises in connection with this project, CONSULTANT will, to the greatest extent feasible, provide maximum opportunity to lower income residents of the project. Employment opportunity will be locally advertised in a manner that will ensure that potentially eligible applicants are: 1) made aware of the opportunity, and 2) provided a convenient way to apply for employment.
3. During this project, CONSULTANT will seek to purchase necessary goods and/or services from businesses that are located in, or owned by persons residing in the jurisdiction.
4. CONSULTANT will utilize the HUD and Florida lists of minority businesses in filling subcontracting and/or purchasing needs.
5. CONSULTANT will include applicable equal opportunity provisions in subcontracts issued in connection with this project.
6. CONSULTANT shall publicize and post this policy in a conspicuous place available to employees and applicants for employment and training.
7. CONSULTANT is under no contractual or other disability, which would prevent compliance with this policy.

ATTACHMENT C

FEE SCHEDULE

Where grant funds cannot be used or for additional services the following schedule will be utilized:

HOURLY FEE SCHEDULE

CONSULTANT also offers the option of an hourly fee schedule as follows:

Principal	\$ <u>225⁰⁰</u> per hour
Project Manager	\$ <u>150⁰⁰</u> per hour
Financial Services Manager	\$ <u>140⁰⁰</u> per hour
Construction Manager	\$ <u>110⁰⁰</u> per hour
Construction Inspector	\$ <u>85⁰⁰</u> per hour
Accounting/Budget Specialists	\$ <u>85⁰⁰</u> per hour
Administrative Assistant	\$ <u>45⁰⁰</u> per hour

*Hourly rates travel, office and other associated costs.

*Please note that all fees include overhead, profit, travel, office supplies, benefits, etc.

ATTACHMENT D

**SWORN STATEMENT UNDER SECTION 287.133(3)(a), Florida Statutes, ON PUBLIC ENTITY
CRIMES**

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to the City of Marathon by Lisa A. Bly President for CONSULTANT, whose business address is 1500. Nathan Drive, 4th Fl., 32305, and its Federal Employer Identification No. (FEIN) is 20-0071782.

2. I understand that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.

3. I understand that “convicted” or “conviction” as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an “affiliate” as defined in Paragraph 287.133(1)(a), Florida Statutes, means:

A. A predecessor or successor of a person convicted of a public entity crime; or

B. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term “affiliate” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm’s length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a “person” as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term “person” includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

X Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list. (Attach copy of the final order.)

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE REPRESENTATIVE FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH ONE (1) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017 FLORIDA STATUTES, FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

[Handwritten Signature]

Signature

Sworn to and subscribed before me this 18th day of February, 2007.

Personally known X

_____ or Produced Identification

[Handwritten Signature]

Notary Public - State of Florida

_____ (Type of Identification)

My commission expires Oct. 4, 2011



(Printed, typed or stamped name of Notary Public) commission of _____