

**CITY OF MARATHON, FLORIDA
RESOLUTION 2010-36**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING WORK AUTHORIZATION NO. 1 WITH DAVID S. KOPPEL, P.E. FOR DESIGN AND ENGINEERING SERVICES FOR THE COCOPUM RECREATIONAL TRAIL IN AN AMOUNT NOT TO EXCEED \$27,100 PLUS ELIGIBLE REIMBURSABLES; AUTHORIZING THE CITY MANAGER TO EXECUTE THE WORK AUTHORIZATION ON BEHALF OF THE CITY AND EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City desires to engage the services of a an engineering firm for the design and engineering services for the CocoPlum Recreational Trail; and

WHEREAS, City staff solicited cost proposals from three engineering companies with the necessary expertise that are under contract (continuing service agreements) with the City; and

WHEREAS, after reviewing the two lowest cost proposals and considering existing work loads, the City desires to issue a Work Authorization to the submitter of the second lowest cost proposal, David S. Koppel, P.E. for design and engineering services for the CocoPlum Recreational Trail, in an amount not to exceed \$27,100, plus eligible reimbursables.

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

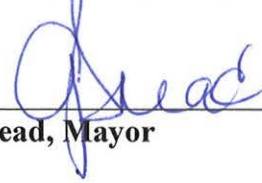
Section 1. The above recitals are true and correct and incorporated herein.

Section 2. Work Authorization No.1 between the City and David S. Koppel, P.E. for design and engineering services for the CocoPlum Recreational Trail in an amount not to exceed \$27,100 plus eligible reimbursables, a copy of which is attached hereto as Exhibit "A," together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney is hereby approved. The City Manager is authorized to execute the agreement on behalf of the City, and expend budgeted funds.

Section 3. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 13th DAY OF APRIL, 2010.

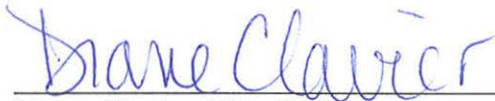
THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

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

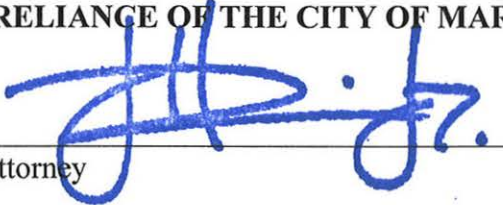
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

EXHIBIT "A"

PROJECT AGREEMENT

Work Authorization No. 1

Pursuant to the provisions contained in the "Continuing Services Agreement" between the CITY OF MARATHON, FLORIDA (the "CITY") and **David S. Koppel, P.E.**, ("CONTRACTOR") dated July 14, 2009, this Project Agreement authorizes the CONTRACTOR to provide the services as set forth below:

The CITY and CONTRACTOR agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONTRACTOR shall provide the services to the CITY for the Project as described in the "Scope of Services and Project Schedule" attached as Exhibit "1."

1.2 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.

SECTION 2. TERM/TIME OF PERFORMANCE/DAMAGE

2.1 **Term.** This Project Agreement shall commence on the date this instrument is fully executed by all parties ("Commencement Date") and shall continue in full force and effect, unless otherwise terminated pursuant to Section 5 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 CONTRACTOR. Such extension shall not exceed 30 days. No further extensions of this Agreement shall be effective unless authorized by the CITY Council.

2.2 **Contract Time.** The CONTRACTOR 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 Exhibit "1". 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.

2.3 **Time is of the Essence.** All limitations of time set forth in this Agreement are of the essence.

SECTION 3. AMOUNT, BASIS AND METHOD OF COMPENSATION

3.1 **Lump Sum Compensation.** CITY agrees to pay CONTRACTOR as compensation for performance of all services described in Exhibit "1" \$27,100.00.

[OR, IF HOURLY, "CITY AGREES TO PAY CONTRACTOR COMPENSATION AT CONTRACTOR'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$_____.]

3.2 **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 4. BILLING AND PAYMENTS TO THE CONTRACTOR

4.1 **Invoices.** CONTRACTOR shall submit invoices which are identified by the specific project number on a monthly basis in a timely manner. 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 CONTRACTOR within thirty (30) calendar days of approval by the City Manager of any invoices submitted by CONTRACTOR to the CITY.

4.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the CITY for payment to the CONTRACTOR is disputed, or additional backup documentation is required, the CITY shall notify the CONTRACTOR within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONTRACTOR 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 CONTRACTOR. The CITY, at its sole discretion, may pay to the CONTRACTOR the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

4.3 **Suspension of Payment.** In the event that the CITY becomes credibly informed that any representations of the CONTRACTOR, provided pursuant to Subparagraph 3.1, are wholly or partially inaccurate, or in the event that the CONTRACTOR 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 CONTRACTOR until the inaccuracy, or other breach of Project Agreement, and the cause thereof, is corrected to the CITY'S reasonable satisfaction.

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

4.5 **Final Payment.** Submission of the CONTRACTOR'S invoice for final payment and reimbursement shall constitute the CONTRACTOR'S representation to the CITY that, upon receipt from the CITY of the amount invoiced, all obligations of the CONTRACTOR to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONTRACTOR 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 CONTRACTOR.

SECTION 5. TERMINATION/SUSPENSION

5.1 **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 CONTRACTOR abandons this Project Agreement or causes it to be terminated by the CITY, the CONTRACTOR shall indemnify the CITY against any loss pertaining to this termination.

5.2 **For Convenience.** This Project Agreement may be terminated by the CITY for convenience upon fourteen (14) calendar days' written notice to the CONTRACTOR. In the event of termination, the CONTRACTOR shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subcontractor obligations. The CONTRACTOR 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 CONTRACTOR shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply with the provisions of Paragraph 4.1 of this Project Agreement. Under no circumstances shall the CITY make any payment to the CONTRACTOR for services which have not been performed.

5.3 **Assignment upon Termination.** Upon termination of this Project Agreement, a copy of all of the CONTRACTOR's work product shall become the property of the CITY and the CONTRACTOR 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 CONTRACTOR pertaining to this Project Agreement.

SECTION 6. INCORPORATION OF TERMS AND CONDITIONS OF CONTINUING SERVICES AGREEMENT

This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated 9-28-09 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.

ATTEST:

CITY OF MARATHON

Diane Clavier
City Clerk

By: Roger T. Hernstadt
Roger T. Hernstadt, City Manager 04/28/10

Date: 4-28-10

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

[Signature]
City Attorney

David S. Koppel, P.E.

Danna M. Gofano
Witness

By: [Signature]

Date: 4/27/10

**Scope of Services and Project Schedule
Exhibit 1**

**DAVID S. KOPPEL, P.E.
2773 KOEHN AVENUE
BIG PINE KEY, FL
(305) 797-1465
Email: koppelds@yahoo.com**

PROPOSAL FOR: City of Marathon, Coco Plum Bike Path

DATE: February 28, 2010

SCOPE OF WORK:

Final Design

A. After meeting with the City of Marathon and incorporation of any changes requested from preliminary design, and upon written authorization from CITY, David S. Koppel, P.E. shall:

1. On the basis of the above acceptance, direction and authorization, prepare final Drawings and specifications indicating the scope, extent, and character of the Work to be performed and furnished by CONTRACTOR.
2. Advise CITY of any adjustments to the opinion of Probable Construction Cost and any adjustments to Total Project Costs and David S. Koppel, P.E. will provide an overall construction cost estimate and also an overall construction cost estimate for the portion to be bid out prior to start of project.
3. Prepare and furnish Bidding Documents for review and approval by CITY, its legal counsel, and other advisors, as appropriate, and assist CITY in the preparation of other related documents.

Bidding Assistance

A. After acceptance by CITY of the Bidding Documents and the final opinion of probable Construction Costs as determined in the Final Design Phase and upon written authorization by CITY to proceed, David S. Koppel, P.E., shall:

1. Assist CITY in advertising for and obtaining bids for the Work.
2. Conduct a pre-bid conference.
3. Issue Addenda as appropriate to clarify, correct, or change the Bidding Documents and to respond to questions from prospective bidders.
4. Consult with CITY as to the acceptability of subcontractors, suppliers, and other individuals and entities proposed by Contractor for those portions of the Work as to which such acceptability is required by Bidding Documents.
5. Attend the bid opening,
6. Develop a tabulation of bids, review all submitted bids for responsiveness,

7. Review the low bidder for responsibility and review their references until a bidder is selected. With the review of the CITY's legal council, The Engineer will provide a written Recommendation of Award to the CITY.

B. The bidding Phase will be considered complete upon the CITY receiving the written recommendation of an award.

Construction Engineering and Inspection Services

A. The construction project shall be administered by the CITY. Pre-construction meetings, construction progress meetings, review of shop drawings and applications for payment and other construction phase services will be the sole responsibility of the CITY. David S. Koppel, P.E. will provide assistance as needed in the preparation of responses to requests for information or clarification in relation to the project documents and will provide general advice to the CITY regarding the construction project. Project close-out and certifications will be performed by the CITY.

PRICE PROPOSAL:

The price proposal is contingent upon the following:

1. Final design to be based upon the preliminary design produced by WEC, with minor deviations as authorized by the City.
2. Final design shall incorporate the preliminary plans produced by WEC into the project manual and bid documents
3. No additional plan sheets will be produced except for those showing the rest area and boardwalk.
4. Typical sections and details will be added to complement the preliminary plans and provide the needed direction to the Contractor.
5. General and technical notes will be added to address any remaining items.
6. Environmental permitting is not included

PRICE:

Final Design \$20,400.00

Bidding Assistance \$1,900.00

Construction Engineering and Inspection Services \$4,800.00

Total Fee \$27,100.00

Note:

- 1. Reimbursable expenses are not included and will be billed without markup. It is anticipated that plans and copies will be printed at Office Depot in Marathon.**
- 2. Cost to prepare permit drawings and the application for environmental resource permit is not included, but could be added for \$3,200 if desired by the City. This fee does not include the cost of additional tasks required by the permitting agency, should there be any.**
- 3. Final design will be completed within 8 weeks.**
- 4. The above fee reflects a 33% discount from the original fee amount.**

END OF PROPOSAL