

**CITY OF MARATHON, FLORIDA
RESOLUTION 2017-52**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AWARDED A CONTRACT FOR THE DESIGN, PERMITTING AND CONSTRUCTION ENGINEERING SERVICES OF "AREA 6 WWTP SLUDGE TREATMENT FACILITY" TO WEILER ENGINEERING CORPORATION; APPROVING PROJECT AGREEMENT IN THE NOT TO EXCEED AMOUNT OF \$293,611.00 FOR ENGINEERING AND PERMITTING AND \$280,887.50 FOR CONSTRUCTION ENGINEERING SERVICES FOR A TOTAL AMOUNT OF \$574,498.50; AUTHORIZING THE CITY MANAGER TO EXECUTE THE AGREEMENT AND EXPEND BUDGETED FUNDS ON BEHALF OF THE CITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the City of Marathon (the "City") and Weiler Engineering Corporation (the "Contractor") have entered into a continuing services agreement for Professional Engineering Services in February of 2017; and

WHEREAS, work authorizations No. 2017-03 and 2017-04," (the "Project Agreement") contains the scope of work to provide professional engineering services required for the design, permitting and bidding and construction engineering services for Area 6 WWTP Sludge Treatment Facility" (the "Project") dated July 11, 2017; and

WHEREAS, the City staff wish to enter into this agreement, which will enable the City to bid and construct a centralized sludge treatment facility to treat all waste activated sludge generated by the City's.

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

Section 1. The foregoing recitals are true and correct and are incorporated herein by this reference.

Section 2. The Project Agreement attached hereto as WA 2017-03 Exhibit "A", and WA 2017-04 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 sign the Project Agreement and expend budgeted funds on behalf of the City.

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

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 24TH DAY OF OCTOBER, 2017.

THE CITY OF MARATHON, FLORIDA



Dr. Daniel Zieg, Mayor

AYES: Cook, Coldiron, Bartus, Senmartin, Zieg
NOES: None
ABSENT: None
ABSTAIN: None

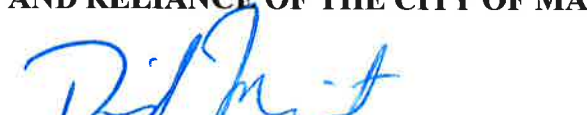
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



David Migut, City Attorney

EXHIBIT "A"

PROJECT AGREEMENT

Between

CITY OF MARATHON, FLORIDA

And

WEILER ENGINEERING CORPORATION

for

Work Authorization No. 2017-03

Area 6 WWTP Sludge Treatment Facility Design & Permitting

PROJECT AGREEMENT

Between

THE CITY OF MARATHON, FLORIDA

And

WEILER ENGINEERING CORPORATION

For

Work Authorization No. 2017-03

Area 6 WWTP Sludge Treatment Facility Design & Permitting

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 February 14, 2017, 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.

SECTION 2. DELIVERABLES

The Weiler Engineering Corporation (WEC) will assist the City in implementing a sludge treatment facility to treat all waste activated sludge generated by the City's WWTPs by providing Design and Permitting Phase Engineering Services.

Deliverables will include:

Design & Permitting Phase

- Design Calculations for Sludge and Centrate Storage Tanks and for the Disc Filtration System;
- 60% Design Drawings for Civil, Mechanical, Structural and Electrical design for the Sludge Treatment Facilities, the Centrate/Influent Equalization Tank, the Sludge Storage Tank and the Disc Filtration System;
- Evaluation and Recommendations for stabilization of the foundation of the Operations Building
- Comprehensive Evaluation of Corrosion on the existing metal treatment tanks and schedule of corrosion control measures to be taken
- Design and Permitting of a water main to provide fire protection and increases potable water flow for the Area 6 WWTP
- 100% Design Drawings for Civil, Mechanical, Structural and Electrical design for the Sludge Treatment Facilities, the Centrate/Influent Equalization Tank, the Sludge Storage Tank and the Disc Filtration System;
- Modeling and design for Storm Water Treatment System;
- Prepare and submit permit applications for FDEP WWTP Major Modification and Environmental Resources Permit for drainage;
- Detailed Technical Specifications;
- Schedule of Values (Bid Form); and
- Engineer's Construction Cost Estimate.

Bidding Phase

- Assistance with Procurement Documents;
- Response to Vendor RFI;
- Moderate a Pre-Bid Conference; and
- Assistance with Proposal Evaluation and Recommendation of Award.

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 two years, 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.

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 **Compensation.** CITY agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "2" \$ 255,730.00 plus reimbursable expenses not to exceed \$37,881.00. Total not to exceed amount for this Work Authorization is \$293,611.00 ~~[OR, IF HOURLY, "CITY AGREES TO PAY CONSULTANT COMPENSATION AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$ N/A]~~

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 Not To Exceed Billing.** 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 personnel performing the work, the percentage of the work completed and the total billing in accordance with the Payment Schedule set forth in Exhibit "3", to this Project Agreement. Invoices will show the total amount billed against this work authorization and shall not exceed the not-to-exceed amount without authorization from 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.

SECION 7. INCORPORATION OF TERMS AND CONDTIONS OF CONTINUING SERVICE AGREEMENT

7.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated February 14, 2017 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.

PURSUANT TO F.S. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ANY NEGLIGENCE.

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ATTEST:

CITY OF MARATHON

Diane Clavier
City Clerk

By: Chuck Curley
City Manager

Date: 1/30/18

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

D. Spigt
City Attorney

ATTEST:

WEILER ENGINEERING CORPORATION

By: Edward R. Castle
Edward R. Castle, Vice President

Date: 2/1/18

Exhibit "1"

Project Description

General Project Understanding

The City of Marathon intends to install a sludge treatment facility at which all the residuals generated by the City's WWTPs will be treated. The facility will consist, in general, of an enclosed metal building with chemical tanks and reactors for sludge treatment and a centrifuge dewatering area. A sludge holding tank and a centrate/influent equalization tank will be required as well. A disc filtration system, including foundation and structural platform design and disc filter design including hydraulic, electrical and control designs, is included in the scope. The City wishes to include plans for corrosion control work on the existing metal tanks and structures as part of the project and to investigate causes and mitigation for the settlement of the existing operation building. The City also wishes to install a larger potable water main and to coordinate with the fire marshal for a potential fire hydrant.

The scope of work by WEC is divided into two phases: a design and permitting phase and a bidding phase. Specific tasks in each phase are detailed below:

Phase 1. Design and Permitting Phase

Task 1.01 - Data Collection / Field Evaluation

WEC will obtain the services of a qualified licensed professional surveying company to perform a survey of Avenue I and the WWTP grounds, including all improvements therein. WEC will also obtain the services of a qualified, licensed geotechnical engineering firm to perform bores to 75' in depth and provide recommendations for foundation design. Locations of existing underground utilities will be determined from the available Record Drawings for the site.

WEC will also perform a detailed inspection of the existing metal tanks and will develop a tabulation of corrosion and coatings conditions for the metal tanks and structures. An inspection of the CBS Operations Building/Vacuum Pump Station foundation and walls will be performed to evaluate historical settlement of the structure and identify possible causes, potential future settlement and potential remedial actions.

Task 1.02 - Preliminary Design

Based on the information gather in task 1.01, WEC will produce a preliminary or conceptual site plan concept showing the location of the recommended improvements. This design will serve as the road map for the detailed construction plan design and permitting. WEC will provide this conceptual layout to the City for review.

Task 1.03 - Preliminary Design Review Meeting

WEC will meet with the City's Project Representative regarding the preliminary design. WEC will address any questions from the Project Representative before proceeding with the detailed design phases.

Task 1.04 - 60% Construction Plans

Based on the approved preliminary design, WEC will prepare detail construction plans clearly depicting the scope of work including location of proposed improvements, materials used and Contractor requirements. The plan set will include the following at a minimum: cover sheet, aerial location map, general notes, existing conditions, plan sheets depicting location of proposed improvements relative to existing features, section and profile views as required, detail sheets including Civil, Mechanical, Structural and Electrical details, project specific notes and best management practices plan. The 60% plans will be submitted to the City for review.

Task 1.05 - Regulatory Coordination and Permitting

During the preliminary design phase, WEC will coordinate with the South Florida Water Management District (SFWMD) and the Florida Department of Environmental Protection (FDEP) to determine permitting requirements. SFWMD or FDEP may require a new Environmental Resource Permit (ERP) or a modification to the existing ERP for the City's Area 6 WWTP Stormwater System. The FDEP will require a major modification to the existing WWTP permit to allow construction of the sludge treatment facility and the equalization and holding tanks. Permit applications will be submitted following City review of the 60% construction plans. Any required permit fees shall be paid by the City.

Task 1.06 - Final Construction / Bid Plans

Following the City's review of the 60% construction plans, WEC will address any comments provided by the City. WEC will also incorporate any requirements from regulatory agencies during the permitting of this project. WEC will provide final plans for construction and bidding signed by a Florida Registered Professional Engineer. Any required permit documents will be supplied to the City with the final construction plans. Final deliverable will include five (5) signed and sealed construction plan sets and one (1) CD containing a PDF file of the signed and sealed construction plan set.

Task 1.07 - Generation of Technical Specifications

WEC will generate a separate technical specifications package specific to the scope of work. The technical specifications package will address material and installation requirements as well as general conditions such as mobilization, maintenance of traffic, measurement and payment, etc. The technical specifications package will be signed and sealed by a Florida Registered Professional Engineer and will be provided with the final construction plans. Final deliverables will include two (2) signed and sealed technical specification packages

and one (1) CD containing a PDF file of the signed and sealed technical specifications package.

Task 1.08 - Generation of Schedule of Values and Engineer's Estimate

WEC will provide a list of pay items with quantity and unit of measure for use as the bid form in the bid documents. WEC will also prepare an engineer's estimate of construction cost. The engineer's estimate will be submitted along with the 60% construction plans and a final engineer's estimate will be submitted with the final construction plans. The schedule of values will be submitted with the final construction plans.

Phase 2. Bidding Phase

Task 2.01 - Assistance with Up-Front Bid Documents

As needed by the City, WEC will assist in the development of the up-front bid documents including, but not limited to: completion of standard City documents, recommended days for substantial and final completion, liquidated damages, bonding requirements, listing of all contract documents, and listing of plan sheets.

Task 2.02 - Conduct Pre-bid Meeting

WEC will conduct one pre-bid meeting with prospective Bidders. WEC will provide an agenda, a summary of the scope and will answer questions during the meeting. WEC will prepare the meeting minutes for publication by the City.

Task 2.03 - Response to Bidder RFI

WEC will respond in writing to any Requests for Information (RFI) submitted by prospective Bidders through the method outlined in the bid documents. WEC will also prepare any bid addenda if needed.

Task 2.04 - Assistance with Bid Evaluation / Recommendation of Award

At the close of bidding, WEC will review the qualifications of the Bidders and the completeness of the bids to determine the responsibility of the Bidders. Any Bidders unable to meet the minimum requirements for responsibility and responsiveness will be disqualified. WEC will provide a recommendation of award to the City identifying the lowest cost responsive and responsible Bidder.

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Exhibit "2"

Scope of Services and Project Schedule

Description

See Exhibit 1

Anticipated Project Schedule

CONSULTANT will begin work upon execution of this Work Authorization.

Task Description	Estimated Time
1.01 Data Collection and Field Investigation	Begin on NTP, Completed 60 Days after NTP
1.02 Preliminary Design	Begin on receipt of Survey, Complete within 14 Days
1.03 Preliminary Design Review Meeting	7 Days after submittal of Preliminary Design to City
1.04 60% Construction Plans	Begin after Prelim Design Review, Complete within 75 days
1.05 Regulatory Coordination and Permitting	Concurrent with 60% Design phase
1.06 Final Construction Plans	Begin on approval of 60% Design, Complete within 60 days
1.07 Technical Specifications	Concurrent with Final Design phase
1.08 Schedule of Values and Estimate	Concurrent with Final Design phase
2.01 Assistance with Bid Documents	Concurrent with 60% Design phase
2.02 Pre-Bid Meeting	Approximately 30 days after publication of Bid Documents
2.03 Response to Bidder RFIs	Until 10 Days prior to Bid Due Date
2.04 Recommendation of Award	7 Days after Bid due Date

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EXHIBIT "3"

Payment Schedule

Area 6 WWTP Sludge Treatment Facility

*All work to be performed and paid according to the percentage completion of the Work.
Applications for Payment will be submitted with a detailed account of tasks performed.*

Design, Permitting and Bidding Lump Sum Fee	\$ 255,730.00
Estimated Reimbursable Expenses	\$ 37,881.00
TOTAL NOT TO EXCEED FEE	\$293,611.00

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EXHIBIT "B"

PAGE 1 OF 2

CONSULTANT'S BILLING RATE

Company: The Weiler Engineering Corporation	
Job Position Title	Total Hourly Rate \$/Hour
Principal in Charge	\$195.00
Expert Witness	\$250.00
Registered Professional Engineer (P.E.)	\$145.00
Environmental Scientist	\$145.00
Registered Structural Professional Engineer (P.E.)	\$145.00
Project Manager	\$145.00
Senior Planner	\$125.00
Registered Engineer Intern (E.I.)	\$115.00
Plans Examiner	\$115.00
Senior Construction Inspector	\$105.00
Senior Engineering Designer	\$100.00
Engineering Designer	\$90.00
Construction Inspector	\$90.00
Engineering Technician	\$80.00
Field Technician	\$80.00
Clerical	\$55.00
Reimbursable Expenses - Cost plus 15%	

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EXHIBIT "B"

PAGE 2 OF 2

GENERAL DESCRIPTION OF EMPLOYEE CATEGORIES

Principal in Charge – The Principal in Charge will be an owner and officer of the Company. This position may include R. Jeffery Weiler, PE, President of The Weiler Engineering Corporation and Edward R. Castle, PE, Vice President of The Weiler Engineering Corporation.

Registered Professional Engineer – Registered Professional Engineer will be a Professional Engineer licensed to provide Engineering Services in the State of Florida.

Project Manager – Project Manager will be a qualified senior staff member with appropriate skills and experience to oversee and manage Weiler Engineering staff. The Project Manager will have primary responsibility of the day to day functions of the project and will perform QA/QC reviews of the work product.

Registered Engineering Intern – Registered Engineering Intern will be a graduate of an accredited Engineering program and will be licensed in the State of Florida as an Engineering Intern.

Engineering Designer – Engineering Designer will be a senior staff member with education and experience sufficient to perform the work. Skills will include drafting in AutoCAD, proficiency in use of computerized word processing programs and spreadsheets, with a thorough understanding of engineering principals.

Senior Construction Inspector – Senior Construction Inspector will be a senior staff member with education and experience sufficient to perform the work. Skills will include ability to read and interpret plans and technical specifications, understanding of and experience with industrial and underground construction methods and materials, good organizational and record-keeping skills and a thorough understanding of general engineering principles.

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EXHIBIT “A”

PROJECT AGREEMENT

Between

CITY OF MARATHON, FLORIDA

And

WEILER ENGINEERING CORPORATION

for

Work Authorization No. 2017-04

Area 6 WWTP Sludge Treatment Facility Construction Engineering Services

PROJECT AGREEMENT

Between

THE CITY OF MARATHON, FLORIDA

And

WEILER ENGINEERING CORPORATION

For

Work Authorization No. 2017-04

Area 6 WWTP Sludge Treatment Facility Construction Engineering Services

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 February 14, 2017, 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.

SECTION 2. DELIVERABLES

The Weiler Engineering Corporation (WEC) will assist the City in construction of a sludge treatment facility to treat all waste activated sludge generated by the City's WWTPs by providing Construction Engineering Inspection and Construction Administration Services.

Deliverables will include:

- Notice of Award
- Notice to Proceed
- Approval of preliminary schedules, schedule of values and other preliminary matters
- Approval of shop drawings and submittals
- Copies of daily construction inspection reports
- Monthly construction status reports
- Recommendations to process Contractor progress payments
- Certification of Substantial Completion and Final Punch List to Contractor
- Notification of Completion of Construction for Wastewater Facilities to FDEP
- Certification of Final Completion to Contractor
- Approved Record Drawings (produced by Contractor)
- Approved Final Operation and Maintenance Manuals (produced by Contractor)
- Recommendation for Final Payment to Contractor
- Noticed of Availability of Record Drawings and Final Operation and Maintenance Manuals to FDEP

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 two years, 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 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.

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 **Compensation.** CITY agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "2" **\$ 280,887.50** plus reimbursable expenses not to exceed **\$0.00**. Total not to exceed amount for this Work Authorization is **\$280,887.50** ~~[OR, IF HOURLY, "CITY AGREES TO PAY CONSULTANT COMPENSATION AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$~~ N/A ~~]~~

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 Not To Exceed Billing.** 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 personnel performing the work, the percentage of the work completed and the total billing in accordance with the Payment Schedule set forth in Exhibit "3", to this Project Agreement. Invoices will show the total amount billed against this work authorization and shall not exceed the not-to-exceed amount without authorization from 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.

SECIION 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 February 14, 2017 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.

PURSUANT TO F.S. 558.0035, AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR ANY NEGLIGENCE.

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ATTEST:

CITY OF MARATHON

Diane Claver
City Clerk

By: Chuck Rudey
City Manager

Date: 1/31/18

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

D. F. M. J. T.
City Attorney

ATTEST:

WEILER ENGINEERING CORPORATION

By: Edward R. Castle
Edward R. Castle, Vice President

Date: 2/1/18

Exhibit "1"

Project Description

General Project Understanding

The City of Marathon wishes to install a sludge treatment facility at which all the residuals generated by the City's WWTPs will be treated. The facility will consist, in general, of an enclosed metal building with chemical tanks and reactors for sludge treatment and a centrifuge dewatering area. A sludge holding tank and a centrate/influent equalization tank will be required as well. A disc filtration system, including foundation and structural platform design and disc filter design including hydraulic, electrical and control designs, is included in the scope. The City wishes to include plans for corrosion control work on the existing metal tanks and structures as part of the project and to investigate causes and mitigation for the settlement of the existing operation building. The City also wishes to install a larger potable water main and to coordinate with the fire marshal for a potential fire hydrant.

WEC proposes to provide Construction Engineering Services for the Project. Specific tasks are detailed below:

Construction Phase

After issuance of the Notice of Award and the Notice to Proceed to the Contractor, Weiler Engineering will receive and review shop drawings from the Contractor. The shop drawings will be reviewed to ensure compliance with the construction drawings and technical specifications. Upon determining that the proposed materials and products conform to the requirements of the contract documents, the shop drawings will be stamped and signed as approved. The approved shop drawings will be returned to the Contractor, with copies retained by Weiler Engineering and copies provided to the City. Any proposed substitutions of materials or products will be evaluated as described in the General Conditions.

Upon mobilization by the Contractor to the work site, Weiler Engineering will provide daily construction inspections to verify that the materials and products being used are consistent with the approved shop drawings and that the work being performed is compliant with the requirements of the contract documents and with industry standards. Inspection reports will be produced to document each work day's activities, including a summary of Contractor personnel and equipment, work being performed that day, any visitors present at the site, weather conditions and any other pertinent information. Photographs of the work progress will be taken to supplement the written documentation.

Weiler Engineering will attend bi-weekly construction progress meetings conducted by the Contractor. The Contractor will provide an agenda for each meeting as well as minutes of the previous meeting. Weiler Engineering will review and mark up the minutes as needed to ensure accuracy before final acceptance of the minutes. Any requests from the Contractor for

clarifications or additional information will be submitted in writing by the Contractor to Weiler Engineering for review and response.

In the event that any changes to the work are needed or proposed, the Contractor will submit a proposed change order to Weiler Engineering in accordance with the requirements of the General Conditions. Weiler Engineering will review the proposals and make a recommendation to the City. If the City determines that a change is appropriate and in its best interest, Weiler Engineering will prepare a Change Order for execution by the Contractor and the City.

Weiler Engineering will receive applications for progress payments from the Contractor and will review the applications for completeness and accuracy. Any discrepancies will be resolved with the contractor prior to transmitting the application to the City along with a recommendation of approval.

Upon receipt of notification that the Contractor believes that substantial completion of the work has been achieved, Weiler Engineering will perform an inspection of the work and, if it is determined that the work is substantially complete, will prepare the Final Punch List and the Certification of Substantial Completion for execution by all parties. At that point, the Notification of Completion of Construction for Wastewater Facilities form will be completed and submitted to FDEP.

Upon completion of all work listed on the Final Punch List and upon acceptance of the Record Drawings and Final Operation and Maintenance Manuals, Weiler Engineering will prepare the Certification of Final Completion for execution by the Contractor and the City. The FDEP Notice of Availability of Record Drawings and Final Operation and Maintenance Manuals form will be prepared and submitted to FDEP. At this point, the Contractor may submit the application for Final Payment and release of retainage. Weiler Engineering will review the application is acceptable and that Consent of Surety to Final Payment, Contractor's Affidavit and Final Release of Lien and other documents required for closure of the contract have been provided prior to recommending processing of the Final Payment and release of retainage by the City.

Deliverables will include:

- Notice to Proceed
- Approved preliminary schedules, schedule of values and other preliminary matters
- Approved shop drawings and submittals
- Copies of daily construction inspection reports
- Monthly construction status reports
- Recommendations to process Contractor progress payments
- Certification of Substantial Completion and Final Punch List to Contractor
- Notification of Completion of Construction for Wastewater Facilities to FDEP
- Certification of Final Completion to Contractor
- Approved Record Drawings (produced by Contractor)

- Approved Final Operation and Maintenance Manuals (produced by Contractor)
- Recommendation for Final Payment to Contractor
- Notice of Availability of Record Drawings and Final Operation and Maintenance Manuals to FDEP

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Exhibit "2"

Scope of Services and Project Schedule

Description

See Exhibit 1

Anticipated Project Schedule

CONSULTANT will begin work upon execution of this Work Authorization.

Task Description	Estimated Time
Approval of Initial CPM Schedule and Schedule of Values	Begin on Notice to Proceed, Start date dependent on City approval
Approval of Shop Drawings	Begin on Notice to Proceed
Daily Construction Inspections	Begin on NTP, estimated duration 9 months
Attend Construction Progress Meetings	Throughout Construction, estimated duration 9 months
Certify Contract Substantial Completion	Estimated 8 months after NTP
Certify completions to FDEP, FCAA	Estimated 8 months after NTP
Approval of Record Drawings, O&M Manuals	Estimated 9 months after NTP
Final Payment and Project Closeout	Estimated 9 months after NTP

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EXHIBIT "3"

Payment Schedule

Area 6 WWTP Sludge Treatment Facility

*All work to be performed and paid according to the percentage completion of the Work.
Applications for Payment will be submitted with a detailed account of tasks performed.*

Design, Permitting and Bidding Lump Sum Fee	\$ 280,887.50
Estimated Reimbursable Expenses	\$ <u>0.00</u>
TOTAL NOT TO EXCEED FEE	\$280,887.50

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EXHIBIT "B"

PAGE 1 OF 2

CONSULTANT'S BILLING RATE

Company: The Weiler Engineering Corporation	
Job Position Title	Total Hourly Rate \$/Hour
Principal in Charge	\$195.00
Expert Witness	\$250.00
Registered Professional Engineer (P.E.)	\$145.00
Environmental Scientist	\$145.00
Registered Structural Professional Engineer (P.E.)	\$145.00
Project Manager	\$145.00
Senior Planner	\$125.00
Registered Engineer Intern (E.I.)	\$115.00
Plans Examiner	\$115.00
Senior Construction Inspector	\$105.00
Senior Engineering Designer	\$100.00
Engineering Designer	\$90.00
Construction Inspector	\$90.00
Engineering Technician	\$80.00
Field Technician	\$80.00
Clerical	\$55.00
Reimbursable Expenses - Cost plus 15%	

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EXHIBIT "B"

PAGE 2 OF 2

GENERAL DESCRIPTION OF EMPLOYEE CATEGORIES

Principal in Charge – The Principal in Charge will be an owner and officer of the Company. This position may include R. Jeffery Weiler, PE, President of The Weiler Engineering Corporation and Edward R. Castle, PE, Vice President of The Weiler Engineering Corporation.

Registered Professional Engineer – Registered Professional Engineer will be a Professional Engineer licensed to provide Engineering Services in the State of Florida.

Project Manager – Project Manager will be a qualified senior staff member with appropriate skills and experience to oversee and manage Weiler Engineering staff. The Project Manager will have primary responsibility of the day to day functions of the project and will perform QA/QC reviews of the work product.

Registered Engineering Intern – Registered Engineering Intern will be a graduate of an accredited Engineering program and will be licensed in the State of Florida as an Engineering Intern.

Engineering Designer – Engineering Designer will be a senior staff member with education and experience sufficient to perform the work. Skills will include drafting in AutoCAD, proficiency in use of computerized word processing programs and spreadsheets, with a thorough understanding of engineering principals.

Senior Construction Inspector – Senior Construction Inspector will be a senior staff member with education and experience sufficient to perform the work. Skills will include ability to read and interpret plans and technical specifications, understanding of and experience with industrial and underground construction methods and materials, good organizational and record-keeping skills and a thorough understanding of general engineering principles.

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