

A-9523  
12

**THIS AGREEMENT**, made and entered into by and between the **CITY OF ATLANTIC CITY**, a municipal corporation of the State of New Jersey, located at 1301 Bacharach Boulevard, Atlantic City, New Jersey 08401, hereinafter called "**CITY**", and **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.**, with offices located at 553 Beckett Road Suite 608, Swedesboro, New Jersey, 08085 hereinafter called "**CONSULTANT**", pursuant to Resolution No. 402 adopted by the Council of the City on September 6, 2017 a copy of which is attached hereto and made a part hereof.

**WITNESSETH:**

**WHEREAS**, the City is desirous of securing the services of a Consultant to perform **SCOPE OF WORK – EPA CLEANUP GRANT FOR DELTA BASIN HOMES, 820 WABASH AND 827 ADRIATIC AVENUES, BLOCK 542, LOTS 1,2 AND 9;** and

**WHEREAS**, the Consultant is ready, willing and able to undertake such service and provide the City with expert advice; and

**WHEREAS**, the City believes the Consultant to be well able to undertake and perform such services for the City and desires to contract with Consultant for the performance of such services.

**NOW, THEREFORE**, in consideration of the covenants and conditions set forth herein, and for other good and valuable consideration, the parties hereto agree as follows:

**SECTION ONE  
WORK TO BE PERFORMED**

The Consultant shall perform the **SCOPE OF WORK – EPA CLEANUP GRANT FOR DELTA BASIN HOMES** as set forth in their attached proposal and made part of this agreement.

**SECTION TWO  
CONTRACT PRICE**

The City shall pay to the Consultant, and the Consultant agrees to accept as full and complete compensation and payment for all of the work performed under and in **ACCORDANCE WITH AND PURSUANT TO THIS AGREEMENT, IN AMOUNT NOT TO EXCEED THE SUM OF THIRTY-TWO THOUSAND THIRTY-TWO DOLLARS (\$32,032.00)** in the aggregate.

**SECTION THREE  
CONTRACT PERIOD**

The contract shall commence upon receipt of written Notice to Proceed and will complete the work in accordance with the City's scheduling needs and the NJDEP regulatory time frames. This scope of work is estimated to take 9 months to complete.

**SECTION FOUR  
PAYMENT METHOD**

Payment to Consultant shall be made upon submission of invoices for payment to the Engineer and approval of the same by the Business Administrator.

It is expressly understood and agreed that payment of monies authorized under and by this agreement shall only be monies and funds appropriated by the Council of the City for the purpose of this agreement and paid into the treasury of the City therefore.

**SECTION FIVE  
STATUS OF CONSULTANT**

It is expressly understood and agreed by and between the parties hereto that the status of the Consultant and its employees, officers, and agents shall be that of independent CONSULTANTS. It is not intended, nor shall it be construed, that the Consultant or any of its employees, officers and agents is an employee or officer of the City for any purpose whatsoever.

**SECTION SIX  
TERMINATION, CANCELLATION, EXPIRATION**

The parties agree that either party can cancel this Agreement upon 30 days written notice. At the termination, cancellation or expiration of this Agreement in any manner, the acceptance of final payment by the Consultant shall be in full satisfaction of all claims against the City under this Agreement.

**SECTION SEVEN  
CERTIFICATE OF COMPLIANCE**

Consultant represents that it is in compliance with all laws of the State of New Jersey, all Ordinances of the City of Atlantic City, including Ordinance No. 24 of 1993, Executive Order No. 1 of 1993, and Exhibit "A" attached hereto and made a part hereof, involving Affirmative Action and minority business participation and will remain so for the term of this Agreement, and failure to continue in compliance shall be deemed a breach of this Agreement.

**SECTION EIGHT  
ASSIGNMENT**

Consultant cannot assign its rights or obligations under this Agreement without the prior written consent of the City.

**SECTION NINE  
CONFLICT OF INTEREST**

The Consultant covenants that it presently has no interest and shall not acquire any interest, directly or indirectly, which would conflict in any manner or degree with the performance of the within Agreement. The Consultant further covenants that in the performance of this Agreement no person having any such interest shall knowingly be employed by the Consultant or its SUBCONSULTANTS.

**SECTION TEN  
INTERPRETATION AND CONSTRUCTION**

Unless expressly provided otherwise herein, this agreement shall be governed by and construed in accordance with the Uniform Commercial Code of the State of New Jersey.

**SECTION ELEVEN  
EFFECT OF ILLEGALITY**

If any provision of this agreement is determined to be illegal or against public policy or to violate any provisions of law or code by a court of competent jurisdiction, the remainder of the agreement shall not be affected thereby.

**SECTION TWELVE  
CHOICE OF LAW**

This contract shall be governed and construed in accordance with the law of the State of New Jersey and the ordinances of the City of Atlantic City.

**SECTION THIRTEEN  
INSURANCE**

Without limiting the foregoing, the CONSULTANT shall at its own expense, maintain during its performance under this Agreement insurance policy or policies, written with an insurance company or joint insurance fund currently admitted in New Jersey, in at least the following types and amounts:

(a)	Workers Compensation	Statutory
(b)	Public Liability	\$500,000/\$1,000,000
(c)	Property Damage	\$500,000
(d)	Errors & Omissions	\$1,000,000

The CONSULTANT shall further provide the CITY with certificates of Insurance stating that the CITY is an "ADDITIONAL NAMED INSURED WITH RESPECT TO LIABILITY COVERAGES AFFORDED BY THE POLICY". The CONSULTANT SHALL ALSO PROVIDE TO THE CITY evidence of Worker's Compensation Insurance to cover all workers involved in any work contemplated under this agreement.

**SECTION FOURTEEN  
INDEMNIFICATION**

The CONSULTANT shall indemnify, defend and hold harmless the CITY from and against any claim (including any claim brought by employees of CONSULTANT), liability, damage or expense (including attorneys' fees) that such CITY may incur relating to, arising out of or existing by reason of (i) CONSULTANT'S performance of this Agreement or the conditions created thereby (including the use, misuse or failure of any equipment used by CONSULTANT or its SUBCONSULTANTS, servants or employees) or (ii) CONSULTANT 's breach of this Agreement or the inadequate or improper performance of this Agreement by CONSULTANT or its SUBCONSULTANTS, servants or employees.

**SECTION FIFTEEN  
WAIVER AND RENUNCIATION**

No waiver or renunciation by either party to this agreement with respect to any breach or default or of any right or remedy consequent thereon shall be deemed to constitute a continuing waiver or renunciation or a waiver or renunciation of any other breach or default or any other right or remedy consequent thereon unless such waiver or renunciation be expressed in writing, signed by the party making such waiver or renunciation and specifying the nature and extent of such waiver or renunciation.

**SECTION SIXTEEN  
STATUS OF CONSULTANT**

It is expressly understood and agreed by and between the parties hereto that the status of the consultant and its employees, officers, and agents shall be that of independent contractors. It is not intended, nor shall it be construed, that the consultant or any of its employees, officers and agents is an employee or officer of the City for any purpose whatsoever.

**SECTION SEVENTEEN  
POLITICAL CONTRIBUTION DISCLOSURE**

This contract has been awarded to **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.** based on the merits and abilities of **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.** to provide the goods or services as described herein. This contract was not awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. Nevertheless, the undersigned does hereby attest that **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.**, Attorneys at Law, their subsidiaries, assigns or principals controlling in excess of 10% of the company have neither made a contribution, that is reportable pursuant to the Election Law Enforcement Commission pursuant to N.J.S.A. 19:44A-8 or 19:44A-16, in the one (1) year period preceding the award of the contract that would, pursuant to P.L. 2004, c.19, affect its eligibility to perform this contract, nor will it make a reportable contribution during the term of the contract to any political party committee in the City Of Atlantic City if a member of that political party is serving in an elective public office of the City Of Atlantic City when the contract is awarded, or to any candidate committee of any person serving in an elective public office of the City Of Atlantic City when the contract is awarded.

**IN WITNESS WHEREOF**, the City has caused the Seal of the City of Atlantic City to be hereto affixed and this Agreement to be signed by the Mayor and attested by the City Clerk thereof, and Consultant has caused this Agreement to be executed by its President and attested by its Secretary and its corporate seal to be hereto affixed the day and year first below written.

**ATTEST:**

Paula Geletei  
Paula Geletei, City Clerk

**CITY OF ATLANTIC CITY**

BY: Donald A. Guardian  
Donald A. Guardian, Mayor

Date: 10/4/17

**ATTEST:**

Susan P. Moore

**MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.**

BY: Bill Bernard  
President

The within Agreement approved as to form and execution.

Date: 9-3-17

By: Michael J. Perugini  
Michael J. Perugini, Esquire  
Deputy City Solicitor

STATE OF \_\_\_\_\_ )  
 ) ss.  
COUNTY OF \_\_\_\_\_ )

I CERTIFY that on SEPTEMBER 28, 2017,  
ROBERT L. CARTER, JR. the Secretary or Assistant Secretary of the  
Corporation, personally came before me, and this person acknowledged under  
oath, to my satisfaction, that:

- (a) this person is the secretary or assistant secretary of  
MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.  
(the corporation named in this document);
- (b) this person is the attesting witness to the signing of this document by  
the proper corporate officer of the corporation;
- (c) this document was signed and delivered by the corporation as its  
voluntary act duly authorized by a proper resolution of its Board of  
Directors and;
- (d) this person signed this proof to attest to the truth of these facts.

Signed and sworn to before me on  
September 28, 2017

[Signature]  
Secretary or Asst. Secretary

[Signature: Susan M. Moore]  
Notary Public of New Jersey

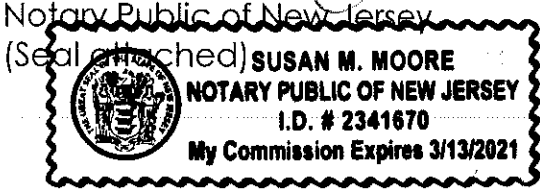


EXHIBIT A

MANDATORY EQUAL EMPLOYMENT OPPORTUNITY LANGUAGE

N.J.S.A. 10:5-31 et seq. (P.L. 1975, C. 127)

N.J.A.C. 17:27

GOODS, PROFESSIONAL SERVICE AND GENERAL SERVICE CONTRACTS

During the performance of this contract, the contractor agrees as follows:

The contractor or subcontractor, where applicable, will not discriminate against any employee or applicant for employment because of age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Except with respect to affectional or sexual orientation and gender identity or expression, the contractor will take affirmative action to ensure that such applicants are recruited and employed, and that employees are treated during employment, without regard to their age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex. Such action shall include, but not be limited to the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Public Agency Compliance Officer setting forth provisions of this nondiscrimination clause.

The contractor or subcontractor, where applicable will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to age, race, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex.

The contractor or subcontractor, where applicable, will send to each labor union or representative or workers with which it has a collective bargaining agreement or other contract or understanding, a notice, to be provided by the agency contracting officer advising the labor union or workers' representative of the contractor's commitments under this act and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

The contractor or subcontractor, where applicable, agrees to comply with any regulations promulgated by the Treasurer pursuant to N.J.S.A. 10:5-31 et seq., as amended and supplemented from time to time and the Americans with Disabilities Act.

The contractor or subcontractor agrees to make good faith efforts to employ minority and women workers consistent with the applicable county employment goals established in accordance with N.J.A.C. 17:27-5.2, or a binding determination of the applicable county employment goals determined by the Division, pursuant to N.J.A.C. 17:27-5.2.

The contractor or subcontractor agrees to inform in writing its appropriate recruitment agencies including, but not limited to, employment agencies, placement bureaus, colleges, universities, labor unions, that it does not discriminate on the basis of age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, and that it will discontinue the use of any recruitment agency which engages in direct or indirect discriminatory practices.



The contractor or subcontractor agrees to revise any of its testing procedures, if necessary, to assure that all personnel testing conforms with the principles of job-related testing, as established by the statutes and court decisions of the State of New Jersey and as established by applicable Federal law and applicable Federal court decisions.

In conforming with the applicable employment goals, the contractor or subcontractor agrees to review all procedures relating to transfer, upgrading, downgrading and layoff to ensure that all such actions are taken without regard to age, creed, color, national origin, ancestry, marital status, affectional or sexual orientation, gender identity or expression, disability, nationality or sex, consistent with the statutes and court decisions of the State of New Jersey, and applicable Federal law and applicable Federal court decisions.

The contractor shall submit to the public agency, after notification of award but prior to execution of a goods and services contract, one of the following three documents:

Letter of Federal Affirmative Action Plan Approval

Certificate of Employee Information Report

Employee Information Report Form AA302 (electronically provided by the Division and distributed to the public agency through the Division's website at [www.state.nj.us/treasury/contract\\_compliance](http://www.state.nj.us/treasury/contract_compliance))

The contractor and its subcontractors shall furnish such reports or other documents to the Division of Purchase & Property, CCAU, EEO Monitoring Program as may be requested by the office from time to time in order to carry out the purposes of these regulations, and public agencies shall furnish such information as may be requested by the Division of Purchase & Property, CCAU, EEO Monitoring Program for conducting a compliance investigation pursuant to Subchapter 10 of the Administrative Code at N.J.A.C. 17:27.

Company Name:

MARATHON ENGINEERING & ENVIRONMENTAL SERVICES

Name:

ROBERT L. CARTER, JR.

Title:

SECRETARY

Signature:

[Signature]

Date:

9/28/17

# Resolution of the City of Atlantic City

No. 402

Approved as to Form and Legality on Basis of Facts Set Forth Factual contents certified to by

Deputy City Solicitor /s/ Michael J. Perugini

Acting Director, Ben J. Kaufman, Planning & Development

Prepared by City Solicitor's Office

Council Members SHABAZZ & RANDOLPH present the following Resolution:

## **RESOLUTION TO AWARD A CONTRACT TO MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.**

**WHEREAS**, there exists a need for Environmental Consulting Services for the City of Atlantic City as a fair and open contract pursuant to the provisions of N.J.S.A. 19:44-A 20.4; and

**WHEREAS**, the anticipated term of this contract is (1) year; and

**WHEREAS**, Marathon Engineering, Inc. has submitted a proposal, indicating they will provide such services - **EPA CLEANUP GRANT FOR HDSRF FUNDING DELTA BASIN HOMES, for the FORMER MOTOR VEHICLE INSPECTION STATION, 820 Wabash Avenue and 827 Adriatic Avenue, Block 542, Lots 1, 2 and 9**; and

**WHEREAS**, **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.** has completed and submitted a Business Entity Disclosure Certification which certifies that Marathon Engineering, Inc. has not made any reportable contributions to a political or candidate committee in the City of Atlantic City and/or City Council in the previous one year, and that the contract will prohibit Marathon Engineering, Inc. from making any reportable contributions through the term of the contract; and

**WHEREAS**, the Business Disclosure Entity Certification and the Determination of Value shall be placed on file with this resolution; and

**WHEREAS**, the vendor must comply with "Local Unit Pay-to-Play Law" (P.L. 2004, c.19, as amended by P.L. 2005, c. 51) and City of Atlantic Ordinance No. 11 of 2011 establishing that business entity which makes political contributions to municipal candidates and municipal and county political parties in excess of certain thresholds shall be limited in its ability to receive public contracts from the City of Atlantic City;

**WHEREAS**, the Local Public Contracts Law (N.J.S.A 40A:11-1 et seq.) requires the passage of a resolution authorizing the award of a contract for "professional services", requires that said resolution be publicly advertised; and

**NOW, THEREFORE, BE IT RESOLVED**, the City Council of the City of Atlantic City publicly selects **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.** for **PROFESSIONAL SERVICES FOR HDSRF GRANT FOR DELTA BASIN HOMES** for a period beginning upon notification by the City and ending in (12) months, in an amount not to exceed **THIRTY-TWO THOUSAND THIRTY-TWO DOLLARS (\$32,032.00)** to be approved as to form and execution by the City Solicitor, which contract shall set forth specifically the services to be performed.

**BE IT FURTHER RESOLVED**, that a certificate from the Chief Financial Officer has been attached to this Resolution, showing the availability of funds from an account to satisfy the aforesaid award of contract.

**BE IT FURTHER RESOLVED** that award of this contract to **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.** is contingent upon state approval.

SH September 11, 2017 10:20 AM

DO NOT USE SPACE BELOW THIS LINE

RECORD OF COUNCIL VOTE ON FINAL PASSAGE

COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.	COUNCIL MEMBER	AYE	NAY	N.V.	A.B.	MOT.	SEC.
CHENG	X						MARSH	X					
DELGADO	X						RANDOLPH	X					X
GILLIAM	X						SHABAZZ	X				X	
KURTZ	X						TIBBITT	X					
							SMALL, PRESIDENT	X					

X-Indicates Vote    NV-Not Voting    AB-Absent    MOT-Motion    SEC-Second

This is a Certified True copy of the Original Resolution on file in the City Clerk's Office.

DATE OF ADOPTION: SEPTEMBER 6, 2017

/s/ Paula Geletei, City Clerk