

A-9533
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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. 570 adopted by the Council of the City on October 18, 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 **TECHNICAL REVIEW OF APPLICATIONS AND WORK COMPLETED FOR ASSESSMENT OF BROWNFIELD SITES**; 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 **TECHNICAL REVIEW OF APPLICATIONS AND WORK COMPLETED FOR ASSESSMENT OF BROWNFIELD SITES** 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 **FIFTY THOUSAND DOLLARS (\$50,000.00)** in the aggregate.

**SECTION THREE
CONTRACT PERIOD**

The contract term shall be one (1) year from October 18, 2017 and 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.

**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 awarded through a "fair and open process" pursuant to N.J.S.A. 19:44A-20.4 et seq. The undersigned does hereby attest that **MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.**, 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:

CITY OF ATLANTIC CITY

Paula Geletei
Paula Geletei, City Clerk

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

Date: 12/5/17

ATTEST:

MARATHON ENGINEERING & ENVIRONMENTAL SERVICES, INC.

Susan M. Moore

BY: Richard J. Zeman
President

The within Agreement approved as to form and execution.

Date: 12-4-17

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

STATE OF)

) ss.

COUNTY OF)

I CERTIFY that on November 28, 2017,
Robert J. Carter 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 (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.

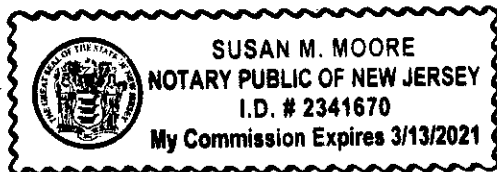
Signed and sworn to before me on

[Signature]
Secretary or Asst. Secretary

November 28, 2017

[Signature]

Notary Public of New Jersey
(Seal attached)



Resolution of the City of Atlantic City

No. 570

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 of Planning & Development, Benjamin Kaufman

Prepared by City Solicitor's Office

Council Members SHABAZZ, KURTZ & RANDOLPH present the following Resolution:

RESOLUTION AUTHORIZING ENVIRONMENTAL AND GRANT CONSULTANTS FOR BROWNFIELD ASSESSMENT PROGRAM

WHEREAS, the City of Atlantic City ("the City") has been awarded two grants totaling \$400,000 from the United States Environmental Protection Agency to funds the assessment of sites that potentially have been contaminated with petroleum and hazardous materials; and

WHEREAS, the City of Atlantic City requires the services of consultants to implement a Brownfields assessment program; and

WHEREAS, the City has advertised for and received Qualifications for Environmental Consultants and Grant Consultants under a fair and open process; and

NOW, THEREFORE, BE IT RESOLVED by the Council of the City of Atlantic City that the Mayor is hereby authorized to execute and City Clerk to attest the following for the period of the grant to be approved as to form and execution by the City Solicitor, which contract shall set forth more specifically the services to be performed:

Marathon Engineering - \$50,000 for Assessment Review

Environmental Resolutions, Inc. - \$50,000 for Environmental Site Assessments

CME Associates - \$50,000 for Environmental Site Assessments

Rutala Associates - \$50,000 for Grant Administration and Program Management

BE IT FURTHER RESOLVED, that these contracts are awarded pursuant to the Fair and Open Process in accordance with the Pay to Play Law (NJSA 19:44A-20.4 et seq.); and

BE IT FURTHER RESOLVED, that a copy of this Resolution be published in The Press at least once pursuant to the requirement of NJSA 40A:11-1 et seq., as amended; and

