

RESOLUTION NO. 02-05-64

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE PROJECT AGREEMENT BETWEEN THE CITY OF MARATHON AND CALVIN, GIORDANO & ASSOCIATES, INC. FOR PROFESSIONAL ENGINEERING AND PLANNING SERVICES RELATED TO THE CITY OF MARATHON TRIP GENERATION STUDY – PHASE I, IN THE AMOUNT OF \$7,950.00 PLUS EXPENSES; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF SAID AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE SAID AGREEMENT AND PROVIDING AN EFFECTIVE DATE. AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Council hereby approves the Project Agreement between the City of Marathon and Calvin, Giordano & Associates for Engineering Services relating to the City of Marathon Trip Generation Study methodology reviewed and approved by Monroe County, Florida Department of Transportation, and/or other pertinent agencies.

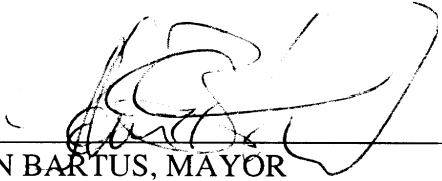
NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:

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

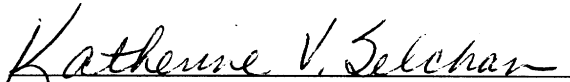
Section 2.     Proposal.   The Project Agreement for services to be provided under Calvin, Giordano & Associates, Inc. in the amount of \$7,950.00 plus expenses, attached hereto as Exhibit "A", is hereby approved.

Section 3.     Effective Date.   This resolution shall take effect immediately upon adoption.


PASSED AND ADOPTED this 22nd day of May, 2002.

  
\_\_\_\_\_  
JOHN BARTUS, MAYOR

ATTEST:

  
\_\_\_\_\_  
Katherine V. Selchan  
CITY CLERK

APPROVED AS TO LEGAL SUFFICIENCY:

  
\_\_\_\_\_  
CITY ATTORNEY

#5606v1.ks

EXHIBIT "A"

**PROJECT AGREEMENT**

Between

**THE CITY OF MARATHON**

And

**CALVIN, GIORDANO & ASSOCIATES, INC.**

for

Work Authorization No. \_\_\_\_\_

**CITY OF MARATHON TRIP GENERATION STUDY - PHASE I**  
**(CGA Project No. 02-2704)**

EXHIBIT "A"

PROJECT AGREEMENT

Between

THE CITY OF MARATHON, FLORIDA

And

CALVIN. GIORDANO & ASSOCIATES, INC.

For

Work Authorization No. \_\_\_\_\_

CITY OF MARATHON TRIP GENERATION STUDY – PHASE I  
(CGA Project No. 02-2704)

Pursuant to the provisions contained in the "Project Services Agreement for Planning and Professional Architectural Services" (hereinafter referred to as "CONTINUING SERVICES AGREEMENT") between THE CITY OF MARATHON (hereinafter referred to as "CITY") and CALVIN, GIORDANO & ASSOCIATES, INC., (hereinafter referred to as "CONSULTANT"), dated \_\_\_\_\_ 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

As part of the Scope of Services and Project Schedule, the CONSULTANT shall provide to the CITY the following Deliverables:

*City of Marathon Trip Generation Stud? methodology reviewed and approved by Florida Department of Transportation.*

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 until receipt of City of Marathon Trip Generation Study methodology. 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 30 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 compose 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: \$0.00. 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 Lump Sum Compensation. CITY agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "2" \$7,950.00.

4.2 Reimbursable Expenses. The following expenses are reimbursable and will be billed at 1.1 x actual cost to cover administrative processing: 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 Compensation and Reimbursable Expenses. 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 phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule as shown on Exhibit "3", attached hereto and made part of this Agreement. Invoices for each phase shall not exceed amounts allocated to said phase plus reimbursable expenses accrued during each phase. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously.

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 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 Owner's reasonable satisfaction.

5.4 Retainage. The CITY reserves the right to withhold retainage in the amount of 10 percent of any payment due to the CONSULTANT until the project is completed. Said retainage may be withheld at the sole discretion of the CITY and as security for the successful completion of the CONSULTANT'S duties and responsibilities under the Project Agreement.

5.5 Final Payment. Submission to 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 all claims against the CITY by the CONSULTANT.

## SECTION 6. TERMINATION/SUSPENSION

6.1 For Cause. This Agreement may be terminated by either party upon five (5) calendar days written notice to the other should such 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 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 of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 and the provision of Section 6.2 shall apply.

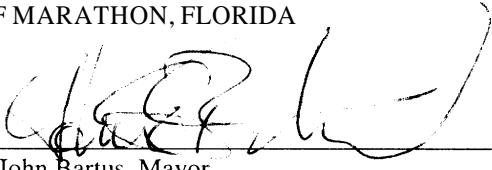
6.2 For Convenience. This Agreement may be terminated by the CITY for convenience upon 14 calendar days' written notice to the CONSULTANT. In the event of such termination a termination, the CONSULTANT shall incur no further obligations in connections with the Project and shall, to the extent possible terminate any outstanding subconsultant obligation. The CONSULTANT shall be compensated for all services performed to the satisfaction of the CITY and reimbursable expenses incurred prior the date of termination. In such event, the CONSULTANT shall promptly submit to the CITY its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 5.1. Under no circumstances shall the CITY make payment of profit to the CONSULTANT for services which have not been preformed.

6.3 Assignment upon Termination. Upon termination of this Project Agreement, a copy of all work product of the CONSULTANT shall become the property of the CITY and the CONSULTANT shall within 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. Upon the CITY'S request, the CONSULTANT shall additionally 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 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 herein, through no fault of the CONSULTANT, the CITY shall pay the CONSULTANT as full compensation for such suspension the CONSULTANT'S reasonable cost, actually incurred and paid, of demobilization and remobilization.

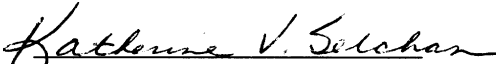
CITY

CITY OF MARATHON, FLORIDA

By:   
John Bartus, Mayor


The 22nd day of May, 2002.

AUTHENTICATION:

  
Katherine V. Selchan  
City Clerk


(SEAL)

APPROVED AS TO FORM

  
CITY Attorney

CONSULTANT

CALVIN, GIORDANO & ASSOCIATES, INC.

By:   
Print Name: John P. Downes  
Title: EXEC. VICE PRESIDENT

The 30<sup>th</sup> day of MAY, 2002

AUTHENTICATE:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Please type name of Secretary

(CORPORATE SEAL)

WITNESSES:

\_\_\_\_\_  
Print Name: \_\_\_\_\_

\_\_\_\_\_  
Print Name: \_\_\_\_\_



## Exhibit "1"

### **Project Description**

Calvin. Giordano & Associates (CGA) is pleased to submit this proposal for Professional Traffic Engineering and Planning Services for a Trip Generation Rate Study of various land uses currently existing or planned for in the future. The goal of this study is to more accurately identify the trip-generating characteristics of current and future development that is unique to the City of Marathon.

Since US-1 (Overseas Highway) extends through Marathon and the Florida Keys, representing the only significant arterial. Monroe County created the US-1 Level of Service Task Force to develop a methodology to assess and maintain a sufficient level of service for the roadway. The resulting methodology is based on travel speed to determine the level of service on US-1. Proposed development and re-development must submit a traffic impact study, per the methodology established by the task force. to assess the impact to US-1.

With future development and re-development plans rapidly occurring within the City, it is imperative to accurately assess their traffic impact to US-1. Consequently, it is necessary to accurately assess their trip-generating characteristics. Because US-1 represents the only arterial linking the Florida Keys with the mainland, several governmental agencies have active interests in maintaining sufficient level of service on US-1. In addition, these agencies actively participate in the review of submitted traffic studies. Therefore, it is vitally important to receive their input and support at the onset of this study.

This proposal is the first phase of a two-phase process to perform a trip generation study of various land uses in the City of Marathon. Phase I will include services to research and prepare a draft methodology for the trip generation study. This draft methodology will be presented to the Florida Department of Transportation – District VI for review. Based upon an acceptable study methodology, Phase II will outline in detail the various land uses to be studied, their location, the duration of the study, and other specifics under a separate proposal.

Exhibit "2"

**Scope of Services and Project Schedule**

Calvin, Giordano & Associates, Inc. will provide a proposed study methodology to perform a Trip Generation Study of various land uses currently existing and proposed in the City of Marathon. This proposed methodology will be submitted to Florida Department of Transportation – District VI for review. These initial tasks shall include the following based on our understanding of the project requirements:

**Traffic Engineering Services**

1. Identify Specific Land Uses To Study  
Perform preliminary research to identify land uses in the City of Marathon (or other locations in neighboring locales resembling desired future development in Marathon) that likely have differing trip-generating characteristics from those reported in the Institute of Transportation Engineers' *Trip Generation Manual, 6<sup>th</sup> Edition* and other accepted traffic engineering sources. Examples include Resorts, Hotels, and tourist-based retail centers. *To be completed 30 days after receiving Notification of Commencement.*
2. Preliminary Traffic Data Gathering  
Gather existing traffic data for US-1 in Marathon and other locations, where necessary, to ascertain the peak hours of operation for US-1 during a typical weekday, Saturday and Sunday. To minimize expense to the City, no direct data collection is anticipated for this task. *To be completed 14 days after receiving Notification of Commencement.*
3. Identify Trip-Generation Variables To Study  
Review and identify the variables (such as gross floor area, seats, rooms, etc.) to be studied for each land use. In addition, parameters such as internal capture, pass-by, pedestrian trips, bicycle trips, etc. should be reviewed and included in the proposed methodology, particularly given the tourist atmosphere and Marathon's desire to promote a more pedestrian, bicycle, and alternative transportation mode environment. *To be completed 45 days after receiving Notification of Commencement.*
4. Prepare Draft Methodology  
Compile and finalize the draft methodology of the Trip Generation Study. It will then be submitted to the Florida Department of Transportation – District VI for review. It is anticipated that two (2) meetings with these agencies will be required to receive feedback to finalize an acceptable study methodology for all stakeholders. CGA will be responsible for scheduling and coordinating these meetings.

*Submission of methodology for review to be completed 60 days after receiving Notification of Commencement.*

*Prepare/attend meetings with agencies to be completed 90 days after receiving Notification of Commencement.*

*Submission of final methodology to the City to be completed 100 days after receiving Notification of Commencement.*

EXHIBIT "3"

**Payment Schedule**

Upon receipt of notification of commencement the Consultant will invoice the City according to the following schedule:

First payment at the end of 30 days after Notification of Commencement	\$ 1,987.50+ reimbursable
Second payment at the end of 60 days after Notification of Commencement	\$ 1,987.50+ reimbursable
Third payment at the end of 90 days after Notification of Commencement	\$ 1,987.50 + reimbursable
Final payment at the end of 120 days after Notification of Commencement	\$ 1,987.50 + reimbursable