

CITY OF MARATHON, FLORIDA
RESOLUTION 2005-054

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AUTHORIZING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE FOUR GATES COMPANY, INC., FOR THE COMPLETION OF THE MARINA SITING PLAN IN AN AMOUNT NOT TO EXCEED \$69,567

WHEREAS, the City of Marathon, Florida (the "City") and The Curtis & Kimball Company ("C & K") have entered into a certain Professional Services Agreement to provide for development and preparation of a marina siting plan (the "Project") dated January 27, 2004 (the "Agreement"); and

WHEREAS, C & K has dissolved and is unable to complete the Project; and

WHEREAS, the City desires to engage the Four Gates Company, Inc., as the successor entity to C & K, to complete the Project in an amount not to exceed \$69,567. and

WHEREAS, the procurement of the Project is exempt from the City's procurement policies as a purchase of consulting services.

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

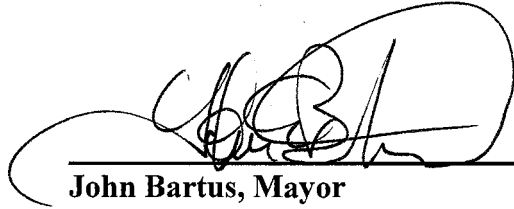
Section 1. The above recitals are true and correct and are incorporated herein.

Section 2. The Professional Services Agreement between the City of Marathon and the Four Gates Company, Inc., for the completion of a marina siting plan, in an amount not to exceed \$69,567., a copy of which is attached as Exhibit "A" together with such non-material changes as may be acceptable to the City Manager and approved as to form and legality by the City Attorney, is approved. This Agreement is exempt from the City's procurement policies as a purchase of consulting services.

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 10th day of May, 2005.

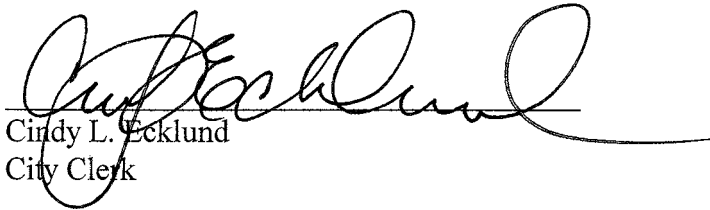
THE CITY OF MARATHON, FLORIDA



John Bartus, Mayor

AYES: Bull, Mearns, Miller, Pinkus, Bartus
NOES: None
ABSENT: None
ABSTAIN: None

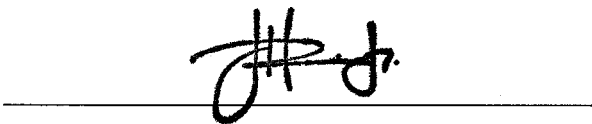
ATTEST:



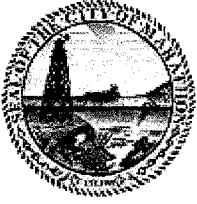
Cindy L. Ecklund
City Clerk

(City Seal)

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



CITY ATTORNEY



CITY OF MARATHON, FLORIDA

10045-55 Overseas Highway, Marathon, Florida 33050
Phone: (305) 743-0033 Fax: (305) 743-3667

May 11, 2005

Four Gates Company, Inc.
1890 SW 21st. Street
Miami, Florida 33145

Dear Ms. Amy Kimball-Murlee:

It is my understanding that the Four Gates Company, Inc. is the successor entity to Curtis and Kimball Company for the completion of the City of Marathon Marina Siting Plan. In accordance with the Professional Services Agreement between the City of Marathon and The Four Gates Company, Inc., and specifically Section 4.2 Sub-consultants, all sub-contractors or consultants used on the project must have prior written approval of the City Manager. This letter represents that approval for Ms. Patricia McNeese to continue working as a sub-consultant with this successor entity on the City's Marina Siting Plan.

If you have any questions or concerns, please contact Harry DeLashmutt of my staff at (305) 289-8877.

Sincerely,

Michael H. Puto
City Manager

cc: City Attorney
City Clerk
Ports Manager



FOUR GATES
THE FOUR GATES COMPANY

Received
MAY 09 2005
City Clerk
Street, Miami FL 33145
phone 305 285 2336
www.fourgatesco.com

May 5, 2005

Mr. Harry DeLashmutt
Boot Key Harbor City Marina
800-35th Street - Ocean
Marathon, Florida 33050

VIA FEDERAL EXPRESS

RE: Marina Siting Plan
New Contract

Dear Mr. DeLashmutt:

Please find attached two executed copies of the Professional Services Agreement between The City of Marathon and The Four Gates Company, Inc. Also attached is a copy of our Certificate of Professional Liability Insurance. Proof of General Liability Insurance has previously been provided to Ms. Bergh.

Please note that per Section 9.1 of the contract that The Four Gates Company does not employ four or more individuals and therefore is not required under Florida Law to provide Worker's Compensation and Employer's Insurance. Further, please note that the Company does not own any automobiles; therefore, our General Liability Insurance addresses non-Company owned vehicles.

As a final note, per Section 4 of the Contract, Four Gates hopes to use the services of Patricia McNeese as a subconsultant on this contract. Ms. McNeese provided services under the former contract and is an invaluable member of the team.

Thank you for your efforts regarding these contractual issues. We are very pleased that we will be able to see the project through completion.

Sincerely,

Amy Kimball-Murley, AICP
President

Xc: Contract File

PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF MARATHON
AND
THE FOUR GATES COMPANY, INC.

THIS AGREEMENT is made between THE FOUR GATES COMPANY, INC., a Florida corporation, (hereinafter the "Consultant"), and the CITY OF MARATHON, FLORIDA, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, City and The Curtis & Kimball Company ("C & K ") have entered into that certain Professional Services Agreement to provide for development and preparation of a marina DRI/siting plan (the "Project") dated January 27,2004; and

WHEREAS, C & K has dissolved and is unable to complete the Project; and

WHEREAS, the City desires to engage the Consultant to complete the services specified herein; and

WHEREAS, the Consultant is willing and able to perform such professional services for the City within the basic terms and conditions set forth in this agreement (hereinafter referred to as "Professional Services Agreement" or "Agreement")

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the City agree as follows.

1. **Scope of Services/Deliverables**

- 1.1 The Consultant shall furnish professional planning services to the City as set forth in the Scope of Services for the Project as specified in Exhibit "A," attached to this Agreement.
- 1.2 The "Scope of Services" includes the Project Schedule as specified on Exhibit "B" for the Project which includes a breakdown of tasks, timeline and deliverables to the City.
- 1.3 The professional services to be rendered by the Consultant shall commence subsequent to the execution of this Agreement (the "Commencement Date"). Performance of work by Consultant prior to execution of this Agreement shall be at Consultant's sole risk.
- 1.4 Changes in the Scope of Services other than changes to the Project Schedule consisting of additions, deletions, revisions, or any combination thereof, may be ordered by the City by Change Order without invalidating

the Agreement. Changes to the Project Schedule may be made upon written consent from the City.

- 1.5 Change Order shall mean a written order to the Consultant executed by the City, issued after execution of this Agreement, authorizing and directing a change in the Scope of Services or an adjustment in the contract price or the contract time, or any combination thereof. The contract price may be changed only by Change Order.
- 1.6 The execution of a Change Order by the City and the Consultant shall constitute conclusive evidence of the Consultant's agreement to the ordered changes in the Scope of Services or an adjustment in the contract price or the contract time, or any combination thereof. The Consultant, by executing the Change Order, waives and forever releases any claim against the City for additional time or compensation for matters relating to or arising out of or resulting from the services included within or affected by the executed Change Order.
- 1.7 The City Manager is authorized to negotiate and execute Change Orders, in an amount not to exceed \$20,000.00 per charge. Changes, which exceed \$20,000.00, shall be approved by the City Council.

2. **Term/Commencement Date.**

- 2.1 This Agreement shall become effective upon execution by both parties and shall remain and continue in effect for one (1) year unless extended in accordance with Paragraph 1, or earlier terminated in accordance with Paragraph 8 of this Agreement.
- 2.2 Consultant agrees that time is of the essence and Consultant shall complete each deliverable and the Project within the timeframes mutually agreed to by Consultant and the City Manager as set forth in the "Project Schedule" attached as Exhibit "B". The timeframes set forth in the Project Schedule may only be modified through written consent by the City.
- 2.3 Unless otherwise excused by the City in writing, in the event that the Consultant fails to meet the contract time for completion of services as determined by the Project Schedule, the Consultant shall pay to the City the sum of \$100.00 per day for each and every calendar day of unexcused delay beyond the completion date, plus approved time extensions, until completion of the Project. 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. 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. **Compensation and Payment**

- 3.1 The Consultant shall receive a total fee of \$52,567.00 (the "Contract Price") for all services set forth in Exhibit "A," relative to the Marina Siting Plan. The Contract Price shall constitute full payment and includes all sub-consultant fees, labor, overhead, reproduction costs, review fees, travel, mileage, telephone expenses, other costs, and profit.
- 3.2 At the sole option of the City Manager, the City will pay Consultant up to \$17,000.00 for additional time and materials necessary in preparation of a comprehensive plan amendment, as approved by City Manager.
- 3.3 The Consultant shall invoice the City upon the completion of each task or deliverable in accordance with the Project Schedule. Invoices for each phase of the Project shall not exceed the amount allocated to each phase of work and deliverable. The invoice shall show a summary of fees which accrual of the total credits for portions previously paid by the City.
- 3.4 The City shall pay Consultant in accordance with the Florida Prompt Payment Act. 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. If a dispute should occur regarding an invoice submitted, 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.
- 3.5 The City reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due to the Consultant until the project is completed. Said retainage may be withheld at the sole discretion of the City Manager and as security for the successful completion of the Consultant's duties and responsibilities under this Agreement.
- 3.6 Consultant shall not be entitled to an increase in the Contract Price or payment or compensation of any kind from the City for direct, indirect, consequential, impact of other costs, expenses or damages including but not limited to costs of acceleration or inefficiency or extended overhead, arising because of delay, disruption, interference or hindrance from any

cause whatsoever, whether such delay, disruption, interference be reasonable or unreasonable, foreseeable or unforeseeable, or avoidable or unavoidable. Consultant shall be entitled only to an extension of the contract time as the sole and exclusive remedy for delay. All extensions of time must be approved in writing by the City Manager by Change Order.

4. **Sub consultants.**

- 4.1 The Consultant shall be responsible for all payments to any sub-consultants and shall maintain responsibility for all work related to the Project.
- 4.2 Any sub-consultants used on the Project must have the prior written approval of the City Manager.

5. **City's Responsibilities**

- 5.1 Assist Consultant by placing at its disposal all available information as may be requested in writing by the Consultant and allow reasonable access to all pertinent information relating to the services to be performed by Consultant.
- 5.2 Furnish to Consultant, at the Consultant's written request, all available maps, plans, existing studies, reports and other data pertinent to the services to be provided by Consultant, in possession of the City.
- 5.3 Arrange for access to and make all provisions for Consultant to enter upon real property as required for Consultant to perform services as may be requested in writing by the Consultant.

6. **Consultant's Responsibilities**

- 6.1 The Consultant shall exercise the same degree of care, skill and diligence in the performance of the Project as is ordinarily provided by a professional planner, engineer, architect, surveyor or mapper under similar circumstances. If at any time during the term of this Agreement for which the Consultant has provided planning, engineering, architectural surveying or mapping services, it is determined that the Consultant's documents are incorrect, defective or fail to conform to the Scope of Services of the Project, upon written notification from the City, the Consultant shall immediately proceed to correct the work, re-perform services which failed to satisfy the foregoing standard of care, and shall pay all costs and expenses associated with correcting said incorrect or defective work, including any additional testing, inspections, and construction and reimbursements to the City for any other services and expenses made

necessary thereby, save and except any costs and expenses which the City would have otherwise paid absent the Consultant's error or omission. Furthermore, all final plans submitted by Consultant shall be permissible. The City's rights and remedies under this section are in addition to, and are cumulative of, any and all other rights and remedies provided by this Agreement, by law, equity or otherwise.

6.2 The Consultant's obligations under Paragraph 6.1 of this Agreement shall survive termination of this Agreement.

7. **Conflict of Interest.**

7.1 To avoid any conflict of interest or any appearance thereof, Consultant shall not, for the term of this Agreement, represent any private sector entities (developers, corporations, real estate investors, etc.), with regard to any adversarial issues in the City. For the purposes of this section "adversarial" shall mean any development application where staff is recommending denial or denied the application; administrative appeal or court action wherein the City is a party.

8. **Termination.**

8.1 The City Manager without cause may terminate this Agreement upon thirty (30) days written notice to the Consultant, or immediately with cause.

8.2 Upon receipt of the City's written notice of termination, Consultant shall stop work on the Project unless directed otherwise by the City Manager.

8.3 In the event of termination by the City, the Consultant shall be paid for all work accepted by the City Manager up to the date of termination, provided that the Consultant has first complied with the provisions of Paragraph 8.4.

8.4 The Consultant shall transfer all plans, drawings, books, records, reports, working drafts, documents, maps, and data pertaining to the Project to the City, in a hard copy and electronic format within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

9. **Insurance.**

The Consultant shall secure and maintain throughout the duration of this Agreement insurance of such type and in such amounts as required by the City Manager. The underwriter of such insurance shall be qualified to do business in the State of Florida and have agents upon whom service of process may be made

in the State of Florida. If requested by the City Manager, the insurance coverage shall be primary insurance with respect to the City, its officials, employees, agents and volunteers. The insurance coverages shall include a minimum of:

- 9.1 Worker's Compensation and Employer's Liability Insurance. If applicable, coverage to apply for all employees at minimum statutory limits as required by Florida Law.
- .2 Comprehensive Automobile and Vehicle Liability Insurance. Motor vehicle liability insurance, including applicable no-fault coverage, with limits of liability of not less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability. Coverage shall include all owned vehicles, all non-owned vehicles, and all hired vehicles.
- 9.3 Commercial General Liability. If applicable, this insurance shall be written in comprehensive form and shall protect the Consultant and the City against claims arising from injuries to members of the public or damage to property of others arising out of any act or omission to act of the Consultant or any of its agents, employees, or sub-consultants. The limit of liability shall not be less than \$1,000,000.00 per occurrence, combined single limit for Bodily Injury Liability and Property Damage Liability.
 - (a) Coverage must be afforded on a form no more restrictive than the latest edition of the Commercial General Liability Policy, without restrictive endorsements, as filed by the Insurance Services Office, and must include: (1) Premises and/or Operations; (2) Independent Consultants and Products and/or completed Operations; (3) Broad Form Property Damage, Personal Injury and a Contractual Liability Endorsement, including any hold harmless and/or indemnification agreement.
 - (b) The City is to be specifically included as an Additional Insured for the liability of the City resulting from operations performed by or on behalf of Consultant in performance of this Agreement. Consultant's insurance, including that applicable to the City as an Additional Insured, shall apply on a primary basis and any other insurance maintained by the City shall be in excess of and shall not contribute to Consultant's insurance. Consultant's insurance shall contain a severability of interest provision providing that, except with respect to the total limits of liability, the insurance shall apply to each Insured or Additional Insured in the same manner as if separate policies had been issued to each.

- 9.4 Professional Liability: The Consultant shall furnish professional liability errors and omissions insurance coverage in an amount not less than \$1,000,000.00, with a deductible of no more than \$100,000.00 per claim. The Consultant shall be responsible for maintaining this professional liability insurance for a minimum of five (5) years from the date of execution of this Agreement. Upon request of the City, the Consultant shall make available for inspection copies of any claims filed or made against the policy during the policy term. The Consultant shall additionally notify the City, in writing, within thirty (30) calendar days of any claims filed or made against this policy in excess of \$50,000.00 during the policy term.
- 9.5 Certificates of Insurance shall be provided to the City at the time of execution of this Agreement and certified copies provided if requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the City before any policy or coverage is cancelled or restricted.
- 9.6 All deductibles or self-insured retentions must be declared to and be approved by the City Manager. The Consultant shall be responsible for the payment of any deductible or self-insured retentions in the event of any claim. The City Manager may at any time require the Consultant, to provide a bond or other monetary consideration to cover the Consultant's deductible for Professional Liability Insurance.

10. **Nondiscrimination.**

- 10.1 During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination

11. **Attorneys Fees and Waiver of Jury Trial**

- 11.1 In the event of any litigation arising out of this Agreement, the prevailing party shall be entitled to recover its attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.
- 11.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to trial by jury.

12. **Indemnification.**

12.1 Consultant shall indemnify and hold harmless the City and its officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorneys' fees, to the extent such liabilities, damages, losses, and costs are caused by the negligence, recklessness, or intentionally wrongful conduct of the Consultant or any persons employed or utilized by the Consultant in the performance of this Agreement or any Project Agreement. This provision shall be subject to the limitations set forth in Section 725.08, Florida Statutes, to the extent applicable to the performance of this Agreement or any Project Agreement.

12.2 The provisions of this section shall survive termination of this Agreement.

13. **Notices/Authorized Representatives.**

13.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City:

Michael H. Puto, City Manager
City of Marathon, Florida
10045-55 Overseas Highway
Marathon, Florida 33050

With a copy to:

John R. Herin, Esq.
Steams Weaver Miller
Weissler Alhadeff & Sitterson, P.A.
150 West Flagler Street
Suite 2200
Miami, FL 33130

For The Consultant:

Amy Kimball-Murley
The Four Gates Company, Inc.
1890 SW 21st Street
Miami, Florida 33145
Telephone: (305)285-2336
Facsimile: (866)836-7810

14. **Governing Law**

14.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, Middle Keys Division of the Circuit Court or the Southern District of Florida.

15. **Entire Agreement/Modification/Amendment.**

15.1 This writing contains the entire Agreement of the parties and supercedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

15.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this document.

16. **Ownership and Access to Records and Audits**

16.1 All plans, drawings, records, books, documents, maps, data, deliverables, papers and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City.

16.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Consultant involving transactions related to this Agreement.

16.3 The City may cancel this Agreement for refusal by the Consultant to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

17. **Nonassignability**

17.1 The City is relying upon the apparent qualifications and personal expertise of the Consultant, and such firm's familiarity with the City's area, circumstances and desires. This Agreement shall not be assignable by Consultant unless such assignment is first approved by the City Manager.

18. **Severability**

18.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

19. **Independent Consultant.**

19.1 The Consultant and its employees, volunteers and agents shall be and remain independent Consultant and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.

20. **Compliance with Laws.**

20.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.

21. **Waiver**

21.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

22. **Survival of Provisions**

22.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

23. **Prohibition Of Contingency Fees.**

23.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

24. **Counterparts**

24.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

[THE REMAINDER OF THIS PAGE IS INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by Consultant by and through its Principal, whose representative has been duly authorized to execute same.

Attest:



Cindy L. Ecklund, City Clerk

CITY OF MARATHON

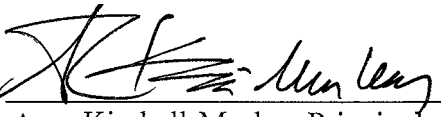
By: 
Michael H. Puto, City Manager

Date: 05/11/05

Approved as to form and legality for the use and reliance of the City of Marathon, Florida only:


City Attorney

THE FOUR GATES COMPANY, INC.

By: 
Amy Kimball-Murley, Principal

Date: May 5, 2005

EXHIBIT "A"

SCOPE OF SERVICES

Background

Florida Statutes require any proposed marina construction since 1973 with wet storage or moorings of 150 or more; or dry storage of 200 or more water craft used exclusively for sport, pleasure, or commercial are subject to undergo development-of-regional-impact review (DRI).

AN ALTERNATIVE TO THE DRI PROCESS WAS INTRODUCED ON MAY 31, 2002 WITH THE PASSAGE OF SB 1906, "LEGISLATURE HAS ESTABLISHED A PROCESS FOR AN OPTIONAL EXEMPTION OF MARINAS FROM THE DRI REVIEW PROCESS. MARINAS MAY BE EXEMPT FROM DRI REVIEW PROVIDED THE LOCAL GOVERNMENT HAS ADOPTED A "BOATING FACILITY PLAN OR POLICY" AS PART OF ITS COMPREHENSIVE PLAN. THE SITING PLAN OR POLICY MUST ESTABLISH CRITERIA TO PROTECT MANATEES AND OTHER NATURAL RESOURCES AND ADDRESS RECREATION AND ECONOMIC DEMANDS.

In 2003 the City of Marathon (the "City"), Florida Department of Community Affairs (DCA) and the Florida Department of Environmental Protection (DEP) entered into a section 380.032, Florida Statutes, Preliminary Development Agreement (PDA) for Boot Key Managed Harbor (the "Harbor"). In the agreement the City agreed not to exceed the 100 percent DRI threshold for the Harbor until the City had an effective DRI development order in place for the Harbor.

The scope of services presented below is designed to eliminate the DRI requirement for the Harbor through development and approval of a marina siting plan for the City. This process will require data gathering, analysis, assembly of information into reports and presentations, drafting of the marina siting plan, public workshops, agency negotiations, modifications to the PDA, adoption and approval of the Marina Siting Plan

Task 1 **DRI/Siting Plan Follow-Up with DCA**

Coordinate with the DCA and obtain written assurances and support for using the Marina Siting Plan in lieu of the DRI, vacating the existing Development Agreement, and using a Chapter 380.032 Agreement approach to completing the mooring field if necessary.

Deliverable: Written statement from DCA supporting the process described above.

Task 2 Application Process/Permitting Model

Develop a detailed description of the proposed application process including submittal requirements and processing procedures. A model summarizing the permitting process for new and expanding marinas will also be developed including illustrative flow charts where appropriate. One complete draft of the application process and permitting model will be transmitted to City staff for comment before these items are incorporated into the final draft marina siting plan.

Deliverable: One complete draft of the application process and permitting model submitted to City staff.

Task 3 Preliminary Draft Plan

Prepare preliminary draft of plan for staff review and comment. Meet with staff to review and discuss comments.

Deliverable: Complete draft of preliminary draft Marina Siting Plan, electronic version is acceptable.

Task 4 First Draft Plan

Revise preliminary draft plan to accommodate staff comments and produce the final draft plan. Deliver 10 hard copies and one Adobe Acrobat electronic version on CD for posting on the City website.

Deliverable: Ten (10) hard copies and one (1) electronic copy on CD (Adobe Acrobat) of Marina Siting Plan.

Task 5 Second Public Workshop

Conduct a second public workshop as a follow-up to the first visioning workshop to present the draft plan and obtain public response. Coordinate with agencies on first draft via phone as needed. A summary of public comments will be prepared. The City will advertise the workshop and send letters inviting the marina representatives, agencies, attendees from the prior meeting, and others.

Deliverable: Written summary of meeting and public comments.

Task 6 Final Draft Plan

Meet with staff to discuss changes to plan generating from the public meeting. Produce final draft for Planning Commission and City Council review within 30 days of the meeting. 10 hard copies and an electronic copy suitable for posting on the City's website will be provided.

Deliverable: Ten (10) hard copies and one (1) electronic copy on CD of revised Marina Siting Plan.

Task 7 Planning Commission Meeting

Attend one Planning Commission Meeting for the transmittal of the Comprehensive Plan Amendments and related regulations pertaining to the document.

Deliverable: Written summary of meeting.

Task 8 City Council Meeting

Attend one City Council Meeting for the transmittal of the Comprehensive Plan Amendments and related regulations to the DCA for comment.

Deliverable: Written meeting summary.

Task 9 Council Directed Modifications

Modify the Plan as necessary for transmittal as directed by the City Council. Provide 10 hard copies and one electronic copy of the final plan.

Deliverable: Ten (10) hard copies and one (1) electronic copy of revised Marina Siting Plan.

If, at this point, the Marina Siting Plan cannot be adopted as a comprehensive plan amendment due to challenges to the City's proposed comprehensive plan, then Task 10 and Task 11 shall be the next steps. If the Marina Siting Plan can be adopted as a comprehensive plan amendment, then Task 10 and 11 may be skipped and the process moves forward to Task 12.

Task 10 New Agreement – Draft Agreement

Work with City staff and City attorney to draft a new agreement focusing on the Marina Siting Plan as the vehicle to approve marina development within the City. The draft agreement may also be required to expedite mooring field completion in the event of delays in Marina Siting Plan adoption due to the overall status of the Comprehensive Plan.

Deliverable: Draft Agreement

Task 11 New Agreement – Execution

Participate as needed in presentation of draft to City Council; Coordinate with DCA and City staff on agreement approval by the City Council and the DCA Secretary.

Deliverable: Executed Agreement

Task 12 Coordinate with Agencies

Coordinate via telephone with the DCA, SFRPC and other agency staff as needed during the transmittal review stage. Attend SFRPC meeting at which the SFRPC transmits their comments to the DCA.

Deliverable: Written summaries of discussions and meetings.

Task 13 Respond to DCA ORC Report

Prepare responses to the DCA's Objections, Recommendations and Comments (ORC) Report and prepare recommended modifications to the components of the Plan proposed for adoption.

Deliverable: Written response to ORC Report and proposed modifications to the Plan.

Task 14 Adoption Hearings

Attend Planning Commission and first and second City Council adoption hearings on proposed Plan.

Deliverable: Written summaries of all hearings / meetings.

Task 15 Final Coordination with SFRPC and DCA

Attend SFRPC meeting on adopted plan and coordinate by phone with the DCA.

Deliverable: Written summaries of meetings / discussions.

Task 16 Vacate existing Preliminary Development Agreement with DCA and DEP.

EXHIBIT "B"

PROJECT SCHEDULE

The Consultant shall adhere to the following schedule unless the City provides written authorization to deviate from this schedule due to unforeseen circumstances.

April 11, 2005 : Consultant to submit preliminary first draft plan for staff review (Task 3).

- April 22, 2005: City staff to complete review of draft and meet with Consultant to discuss comments.

May 9,2005: Consultant to submit revised draft plan (Task 4).

- May 19, 2005: Consultant shall conduct second public meeting to present draft plan (Task 5).
- May 23, 2005: Consultant shall meet with City staff to discuss changes to plan culminating out of public hearing. At this point the City staff and the Consultant will determine if final draft plan can be provided by June 13,2005.
- June 13,2005 (see above): Consultant shall submit final draft plan (Task 6).

June 20,2005: Consultant to present final draft plan to Planning Commission (Task 7).

July 12,2005: Consultant to present final draft plan to City Council (Task 8).

Remaining scheduled events will depend upon specific timeframes required by 9J-5 as developed in concert with the Planning Department.

PRODUCER

Leatzow & Associates, Inc.
415 Taft Avenue, 2nd Floor
Glen Ellyn, IL 60137

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICY BELOW.

COMPANIES AFFORDING COVERAGE

COMPANY
A New Hampshire Insurance Company

INSURED

The Four Gates Company, Inc.
1890 SW 21st Street
Miami, FL 33145

COMPANY

COMPANY
C

COMPANY
D

COPY

COVERAGES

THIS IS TO CERTIFY THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED NOTWITHSTANDING ANY REQUIREMENT TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN. THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS

CO LTR	TYPE OF INSURANCE	POLICY NUMBER	POLICY EFFECTIVE DATE (MM/DD/YY)	POLICY EXPIRATION DATE (MM/DD/YY)	LIMITS												
	GENERAL LIABILITY <input type="checkbox"/> COMPREHENSIVE FORM <input type="checkbox"/> PREMISES/OPERATIONS UNDERGROUND <input type="checkbox"/> EXPLOSION COLLAPSE HAZARD <input type="checkbox"/> PRODUCTS/COMPLETED OPER <input type="checkbox"/> CONTRACTUAL <input type="checkbox"/> INDEPENDENT CONTRACTORS <input type="checkbox"/> BROAD FORM PROPERTY DAMAGE <input type="checkbox"/> PERSONAL INJURY	DOES NOT APPLY			BODILY INJURY OCC \$ BODILY INJURY AGG \$ PROPERTY DAMAGE OCC \$ PROPERTY DAMAGE AGG \$ BI & PD COMBINED OCC \$ BI & PD COMBINED AGG \$ PERSONAL INJURY AGG \$												
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS(Private Pass) <input type="checkbox"/> ALL OWNED AUTOS (Other than Private Passenger) <input type="checkbox"/> HIRED AUTOS <input type="checkbox"/> NON-OWNED AUTOS <input type="checkbox"/> GARAGE LIABILITY	DOES NOT APPLY			BODILY INJURY (Per Person) \$ BODILY INJURY (Per Accident) \$ PROPERTY DAMAGE \$ BODILY INJURY PROPERTY DAMAGE COMBINED \$												
	EXCESS LIABILITY <input type="checkbox"/> UMBRELLA FORM <input type="checkbox"/> OTHER THAN UMBRELLA FORM	DOES NOT APPLY			EACH OCCURENCE \$ AGGREGATE \$												
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY THE PROPRIETOR/PARTNERS/EXECUTIVE OFFICERS ARE: <input type="checkbox"/> INCL <input type="checkbox"/> EXCL	DOES NOT APPLY			<table border="1"> <tr> <td>WC STATU-TORY LIMITS</td> <td>OTH ER</td> <td></td> </tr> <tr> <td>EL EACH ACCIDENT</td> <td></td> <td>\$</td> </tr> <tr> <td>EL DISEASE - POLICY LIMIT</td> <td></td> <td>\$</td> </tr> <tr> <td>EL DISEASE - EA EMPLOYEE</td> <td></td> <td>\$</td> </tr> </table>	WC STATU-TORY LIMITS	OTH ER		EL EACH ACCIDENT		\$	EL DISEASE - POLICY LIMIT		\$	EL DISEASE - EA EMPLOYEE		\$
WC STATU-TORY LIMITS	OTH ER																
EL EACH ACCIDENT		\$															
EL DISEASE - POLICY LIMIT		\$															
EL DISEASE - EA EMPLOYEE		\$															
A	OTHER Professional Liability	000396149	3/3/2005	3/3/2006	1,000,000 each claim 1,000,000 aggregate												

DESCRIPTION OF OPERATIONS/LOCATIONS/VEHICLES/SPECIAL ITEMS

Re: Marathon Marina Siting Plan

CERTIFICATE HOLDER

City of Marathon
Attn: Beth Bergh
10045-55 Overseas Highway
Marathon, FL 33050

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING COMPANY WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE COMPANY, ITS AGENTS OR REPRESENTATIVES

AUTHORIZED REPRESENTATIVE

LEATZOW & ASSOCIATES, INC

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESSOWNERS POLICY CHANGES

THIS ENDORSEMENT FORMS A PART OF THE POLICY NUMBERED BELOW.

POLICY NUMBER 77 BO 770-680-3001	POLICY CHANGES EFFECTIVE APRIL 11, 2005
NAMED INSURED THE FOUR GATES CO INC 1890 SW 21ST ST MIAMI FL 33145	AUTHORIZED REPRESENTATIVE DEAN CHRISTO FULTON AGENCY I 1100629-09

COMPANY
 NATIONWIDE MUTUAL FIRE INSURANCE COMPANY

CHANGES

SUBJECT TO ALL TERMS AND CONDITIONS OF THE POLICY, IT IS UNDERSTOOD AND AGREED THAT:
 THE FOLLOWING ADDITIONAL INSURED HAS BEEN ADDED:
CITY OF MARATHON
 10045-55 OVERSEAS HWY
 MARATHON, FL 33050
 INTEREST 01 HAS BEEN ADDED FOR THE PRECEDING ADDITIONAL INSURED
 AS RESPECTS TO LOCATION 001 BUILDING 01
 1890 SW 21ST ST
 MIAMI, FL 33145
 HIRED AUTO COVERAGE HAS BEEN ADDED.

POLICY AMOUNT AND PREMIUM ADJUSTMENT

		Limits of Insurance			Premiums		
Prem. No.	Bldg. No.	Coverage Description	Previous Limit of Insurance	New Limit of Insurance	Previous Premium	New Premium	<input checked="" type="checkbox"/> Add'l Prem. <input type="checkbox"/> Return Prem.
001	01	AI - VENDORS		1	\$	\$ 22	\$ 22

The Annual Premium Includes The Following Surcharge, Assessment And/Or Tax For The 2005 To 2006 Coverage Period:

FLORIDA DOR SURCHARGE	\$.38
F.M.A.P. SURCHARGE	\$4.00

IMPORTANT MESSAGES:

Due to the fact that this **Billing** Statement refers to date, sensitive financial transactions, it is being sent to you separately from any other material relating to your Insurance coverage.

BUSINESS LIFE INSURANCE, ESTATE AND RETIREMENT PLANS ARE ALSO AVAILABLE AT OUR AGENCY. MAY WE SERVE YOUR NEEDS?

**For Questions About Your Billing Or To Be Sure Your Needs Are Met,
Call Your Nationwide Agent: CAROL L WIGGIN
954 351-9896**

Thank You For Your Business.

00625 0 *

+10777706803001





Home Office:
One Nationwide Plaza
Columbus, OH 43215-2220

CERTIFICATE OF INSURANCE

On Your Side®

The company indicated below certifies that the insurance afforded by the policy or policies numbered and described below is in force as of the effective date of this certificate. This Certificate of Insurance does not amend, extend, or otherwise alter the Terms and Conditions of Insurance coverage contained in any policy numbered and described below.

CERTIFICATE HOLDER:
CITY OF MARATHON
ATTN ELIZABETH BERGH
10045-55 OVERSEAS HWY
MARATHON, FL 33050

INSURED:
THE FOUR GATES CO INC
1890 SW 21ST ST
MIAMI, FL 33145-2723

TYPE OF INSURANCE	POLICYNUMBER & ISSUING CO.	POLICY EFF. DATE	POLICY EXP. DATE	LIMITS OF LIABILITY (*LIMITS AT INCEPTION)
LIABILITY	77-80-770680-3001	03-03-05	03-03-06	
<input checked="" type="checkbox"/> Liability and Medical Expense	NATIONWIDE MUTUAL FIRE INSURANCE CO.			Any One Occurrence..... \$ 1,000,000
<input checked="" type="checkbox"/> Personal and Advertising Injury				Included in Above - Any One Person or Organization
<input checked="" type="checkbox"/> Medical Expenses				ANY ONE PERSON \$ 5,000
<input checked="" type="checkbox"/> Fire Legal Liability				Any One Fire or Explosion \$ 100,000
<input type="checkbox"/> Other Liability				General Aggregate* \$ 2,000,000 Prod/Comp Ops Aggregate* . \$ 1,000,000
AUTOMOBILE LIABILITY	77-BA-770680-3001	03-03-05	03-03-06	
<input checked="" type="checkbox"/> BUSINESS AUTO	NATIONWIDE MUTUAL FIRE INSURANCE CO.			Bodily Injury (Each Person) \$ (Each Accident) \$
<input type="checkbox"/> Owned				Property Damage (Each Accident) \$
<input checked="" type="checkbox"/> Hired				Combined Single Limit \$ 1,000,000
<input checked="" type="checkbox"/> Non-Owned				
EXCESSLIABILITY				Each Occurrence \$ Prod/Comp Ops/Disease Aggregate* \$
<input type="checkbox"/> Umbrella Form				
				STATUTORY LIMITS
<input type="checkbox"/> Workers' Compensation and Employers' Liability				BODILY INJURY/ACCIDENT ... \$ Bodily Injury by Disease EACH EMPLOYEE \$ Bodily Injury by Disease POLICY LIMIT \$

DESCRIPTION OF OPERATIONS/LOCATIONS
VEHICLES/RESTRICTIONS/SPECIAL ITEMS
CERTIFICATE HOLDER INCLUDED AS
ADDITIONAL INSURED ON PRIMARY
BASIS

Effective Date of Certificate: 03-03-2005
Date Certificate Issued: 04-11-2005

Authorized Representative: CAROL L. WIGGIN
Countersigned at: 1500 NW 62 ST, STE 304
FT LAUDERDALE, FL 33309

insured for me today