

**CITY OF MARATHON, FLORIDA
RESOLUTION 2006-143**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, APPROVING THE FIRST AMENDMENT TO PROJECT AGREEMENT WITH KEITH AND SCHNARS, P.A. TO PREPARE THE NEW LAND DEVELOPMENT REGULATIONS; AUTHORIZING THE CITY MANAGER AND CITY ATTORNEY TO FINALIZE THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MANAGER TO EXECUTE THE FIRST AMENDMENT; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, on June 11, 2002, the City of Marathon (the “City”) and Keith and Schnars, P.A. (the “Consultant”) entered into a Project Agreement (the “Agreement”) pursuant to which the Consultant would prepare a conceptual master plan for the City and draft new land development regulations; and

WHEREAS, the City and the Consultant desire to amend the Agreement to provide a complete scope of work and accurate project schedule for the drafting of the land development regulations; and

WHEREAS, the City and the Consultant have negotiated and agreed to a First Amendment of Project Agreement (the “First Amendment”) that sets forth a scope of work and schedule for preparation of the land development regulations that is satisfactory to both parties.

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 Council approves the First Amendment of Project Agreement between the City and Keith and Schnars, P.A., a copy of which is attached hereto 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.

Section 3. The City Manager is authorized to sign the First Amendment.

Section 4. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 12 day of September, 2006.


THE CITY OF MARATHON, FLORIDA



Christopher M. Bull, Mayor

AYES: Mearns, Pinkus, Tempest, Worthington, Bull
NOES: None
ABSENT: None
ABSTAIN: None

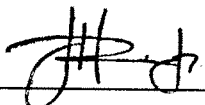
ATTEST:



Diane Clavier
City Clerk

(City Seal)

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



City Attorney

FIRST AMENDMENT OF PROJECT AGREEMENT

This First Amendment of Project Agreement (this "Amendment") is made as of this 12th day of September 2006 by and between the City of Marathon, a Florida Municipal Corporation (the "City") and Keith and Schnars, P.A. ("K&S").

WHEREAS, the City and K&S have entered into that certain Project Agreement, dated as of June 11, 2002, to provide for the preparation of the Marathon Conceptual Master Plan and new Land Development Regulations (the "Agreement"); and

WHEREAS, the City and K&S desire to amend the Agreement upon the terms and conditions hereinafter set forth.

All capitalized terms used herein but not defined herein shall have the meaning ascribed to them in the Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, the City and K&S covenant and agree as follows:

1. Section 4 of the Agreement is hereby amended by adding the following new Sections 4.3 and 4.4 thereto:

4.3 **LDR Payments.** Notwithstanding anything in this Agreement to the contrary, the parties hereby acknowledge that, subject to performance by CONSULTANT hereunder, the remaining compensation under this Agreement is only \$66,000, to be paid as follows:

- a. \$30,000 upon execution of the First Amendment to Project Agreement, dated as of September 12, 2006, between the CITY and CONSULTANT;
- b. \$10,000 upon delivery to the CITY of a complete set of LDRs in form and substance ready for submission to the City's Planning Commission, which submission shall in no event be later than December 11, 2006;
- c. \$10,000 upon submission of the LDRs for approval to the Florida Department of Community Affairs; and
- d. \$16,000 upon final approval of the LDRs by the Florida Department of Community Affairs.

4.4 **City Review and Comments.** The City acknowledges that completing the LDRs within the agreed upon schedule requires timely review and comments on Consultant's work products. As such the City agrees to

complete its review of the LDRs in as timely manner as practical.

2. The Scope of Services and Project Schedule attached to the Agreement as Exhibit 2 is hereby amended by deleting the section entitled "Land Development Regulations" and substituting therefor the schedule attached as Exhibit A hereto.

3. This Amendment may be executed in any number of counterparts and by the different parties hereto on separate counterparts, each of which when so executed and delivered shall be an original and all of which shall together constitute one and the same agreement. Signature pages may be detached from the various counterparts and attached to a single copy of this document to physically form one document.

4. The foregoing terms and conditions are hereby incorporated into the Agreement. Except as modified herein, the Agreement remains in full force and effect. In the event of any conflict or ambiguity between the Agreement and this Amendment, this Amendment shall control.

[SIGNATURES APPEAR ON NEXT PAGE]

IN WITNESS WHEREOF, the parties hereto have executed this Amendment on the date first above written.

KEITH AND SCHNARS, P.A.,

By: Michael J. Davis
Print Name: Michael L. Davis, Vice President

THE CITY OF MARATHON, a Florida Municipal Corporation

By: Michael H. Puto
Michael H. Puto, City Manager

ATTEST:

Diane Clavier
Diane Clavier
City Clerk

(City Seal)

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

BY: [Signature]
CITY ATTORNEY

**City of Marathon
LDR Scope of Work**

OVERVIEW

The goal of the project is to provide the City of Marathon with a Unified Land Development Code that includes all the necessary components to address development and redevelopment. The Code should be appropriate for the City of Marathon and be consistent with policy direction as embodied in the City's Comprehensive Plan (effective July 8, 2005), ordinances and resolutions guiding development passed since the City's incorporation, and City Council and Planning Commission direction as obtained in public hearings and workshops.

A. Prepare draft Land Development Regulations and a Zoning Map in GIS format based on a base map provided by the City. To successfully meet deadlines in this scope, the City and the Consultant acknowledge that the review process must be efficient and effective.

1. Provide for implementation of the Comprehensive Plan (see attached Annex 1 - list of relevant Comprehensive Plan policies); and

2. Include and update, as necessary, existing Ordinances and Resolutions relevant to land development as adopted by the City since its incorporation. The City will provide the Consultant a complete copy of relevant ordinances and resolutions adopted since the City's incorporation.

B. The Consultant shall provide deliverables to the City in accordance with the following schedule:

- Draft Land Development Regulations and Zoning Map for staff review by October 13, 2006;
- Staff comments due back to the Consultant by October 27, 2006;
- Revised draft Land Development Regulations and Zoning Map for Council review by November 10, 2006;
- Special Call or other Council meetings, for draft review, as set by Council between November 13-30, 2006;
- Delivery of final draft incorporating Council-directed changes, suitable for adoption hearings, by December 11, 2006;
- Planning Commission meeting on December 18, 2006;
- City Council first reading on January 23, 2007; and
- City Council second reading in February 2007.

C. All drafts will be complete and relevant to the City of Marathon. While regulations may be derived from other sources and models, all drafts must be modified to be appropriate for the City by experts in each applicable field. Experts will be available to City staff for discussions of the draft.

D. Presentations to the City Council will be provided which highlight key points of the document. The Consultant will staff the public meetings and adoption hearings, as well as meetings with the Florida Department of Community Affairs.

E. The City and the Consultant shall work together with the goal of submitting duly enacted LDRs to the Florida Department of Community Affairs by not later than February 15, 2007.