City of Key West

1300 White Street • Key West • Florida 33040

REQUEST FOR PROPSAL #008-18

INDEPENDENT AUDITING SERVICES

The City of Key West, Key West, Florida is soliciting qualified Certified Public Accounting firms to negotiate for the audit of the City's financial statements for the fiscal years 2018 through 2022 in accordance with the requirements of Section 218.39, Florida Statutes, that each local government entity shall have an annual financial audit of its accounts and records completed within nine (9) months of each fiscal year-end. This agreement will be awarded for an initial three (3) year period with the possibility of one (1) additional two - year contract extension.

A complete Request for Proposal (RFP) package can be requested from Onvia DemandStar at http://www.demandstar.com, or the City of Key West website. The City of Key West is not responsible for the content of any RFP package received through any 3rd party service or any source other than DemandStar by Onvia or the City website. Contact David Sermak, City Purchasing Agent, at 305-809-3819 for inquiries on obtaining a copy of the RFP.

It is the policy of the City of Key West to comply with all requirements of the Americans with Disabilities Act (ADA). Please call the TTY number 1-800-955-8771 or for voice 1-800-955-8770 or the ADA Coordinator at 305-809-3811 at least five business days in advance for sign language interpreters, assistive listening devices, or materials in accessible format.

Firms desiring to provide the services described above shall submit one (1) original and four (4) copies with **one (1) electronic copy (PDF format preferred) on a CD or flash drive** of their proposals, containing all of the required information **no later than 3:00 pm, May 23 2018.** Submittals will be accepted by hand delivery, overnight delivery or by U.S. Mail to City Clerk, 1300 White Street, Key West, Florida 33040. Submittals received after that date and time will not be accepted or considered and will be retained unopened. Submittals will be opened at 3:00 pm, May 23, 2018.

Mail/Overnight/Hand Deliver Submittal Responses to:
City of Key West
City Clerk's Office
1300 White Street
Key West, Florida
33040

Mark outside of envelope: RFP #008-18 "Independent Auditing Services"

Publish Date: April 25, 2018

City of Key West
Key West, Florida

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PART I GENERAL INFORMATION

1.1 OVERVIEW

This Request for Proposal (RFP) provides guidelines for the submission of proposals in response to this solicitation for the City of Key West, a Florida municipality located in Key West, Florida, for qualified Certified Public Accounting firms, hereinafter referred to as the auditor, to express an opinion on the fair presentation of its financial statements for the fiscal years 2018 through 2022 in accordance with the requirements of Section 218.39, Florida Statutes, which requires each local government entity to have completed within nine (9) months of each fiscal year-end, an annual financial audit of its accounts and records. The audit shall be conducted for the purpose of forming an opinion on the basic financial statements taken as a whole and to determine whether operations were conducted in accordance with legal and regulatory requirements, and as described herein.

1.2 DEFINITIONS

"Proposer" shall mean Contractors, consultants, respondents, organizations, firms, or other persons submitting a response to this Request for Proposal.

1.3 ISSUING OFFICE AND LOCATION OF PROPOSAL OPENING

Finance Department (Issuing Office)
Commission Conference Room #113 (Opening Location)
1300 White Street
Key West, Florida 33040

1.4 CONTRACT AWARD

The City of Key West anticipates entering into a contract with the proposer who submits the proposal judged by the City to be most advantageous. The City anticipates awarding one contract, but reserves the right to award to more than one, if it's in the City's best interests to do so. The proposer understands that this RFP does not constitute an offer or a contract with the City. A contract shall not be deemed to exist, and is not binding, until proposals are reviewed and accepted by the City and executed by all parties. A sample Contract is attached to this RFP. The City anticipates that the final contract will be in substantial conformance with the Sample Contract; nevertheless, proposers are advised that any contract which may result from the RFP is subject to negotiation and may deviate from the Sample Contract, if in the City's opinion, such deviation is reasonable, justifiable, and serves the best interest of this procurement and the City.

In the event the parties are unable to negotiate terms acceptable to the City, the City may determine to enter negotiations with the second, most responsive and responsible proposer determined by the selection committee, or it may re-solicit proposals.

The City reserves the right to reject all proposals, to waive non-material, technical variances in the proposal, to abandon the project or to solicit and re-advertise for other proposals. The City may in its discretion waive any informalities and irregularities contained in a proposal or in the manner of its submittal and award a contract thereafter.

1.5 DEVELOPMENT COSTS

Neither the City, nor its' representatives shall be liable for any expenses incurred in connection with preparation of a response to this RFP. Proposers should prepare their proposals simply and economically, providing a straightforward and concise description of the proposer's ability to meet the requirements of the RFP.

1.6 INQUIRIES

The City will not respond to oral inquiries. Interested proposers may contact the City Purchasing Agent, David Sermak, regarding questions about the proposal at email: dsermak@cityofkeywest-fl.gov. Written requests for clarification concerning the meaning or interpretation of this RFP will be accepted until May 16, 2018. Questions shall be emailed with reference to the RFP number. All proposers are expected to carefully examine the proposal documents. Any ambiguities or inconsistencies should be brought to the attention of the City through written communication with the City prior to opening of the proposals.

Respondents may not contact any member of the selection committee, City employee or City elected official during this solicitation process. All questions or requests for clarification must be routed through the Purchasing Agent, David Sermak.

1.7 TIMETABLES

The City and proposers shall adhere to the following schedule in all actions concerning this RFP:

A. April 25, 2018 the City issues the RFP.

B. April 25, 2018 to May 16, 2018, the City will receive and answer written inquiries received by email.

C. The City must receive the proposals by the closing time and date of 3:00 PM on May 23, 2018.

D. The City will review and evaluate the proposals in a publicly advertised meeting on June 13, 2018 at 1300 White Street, Key West Florida (tentative).

E. Short listed firms may be scheduled for presentations/clarifications as detailed in 4.1 below.

F. The City may enter into a contract after obtaining appropriate City Commission approval and conducting negotiations. The City will notify all unsuccessful proposers.

G. Anticipate effective date of the Contract for these services is intended on or about August 14, 2018.

1.8 DELAYS

The City may delay scheduled due dates, if it is to the advantage of the City to do so. The City will notify proposers of all changes in scheduled due dates by written addenda submitted to the City.

1.9 PROPOSAL SUBMISSION AND WITHDRAWAL

The City will receive all proposals at the following addresses:

Key West City Hall
City Clerk's Office
1300 White Street
Key West, Florida 33040

To facilitate processing, please mark the outside of the envelope as follows: **RFP #008-18** "Independent Auditing Services" The envelope shall also include the proposer's return address.

Respondents shall submit one (1) original and four (4) copies of the proposal submittal with each marked **"COPY"**, and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** in a sealed

envelope marked as noted above. A proposer may submit the proposal by personal delivery, mail, or express shipping service.

THE CITY MUST RECEIVE ALL PROPOSALS BY
3:00 P.M. MAY 9, 2018.

Each proposal shall be prepared simply and economically, providing a straightforward, concise delineation of the firm's capabilities to satisfy the requirements of the Request for Proposal. The emphasis in each proposal must be on completeness and clarity of content. In order to expedite the evaluation of proposals, it is essential that firms follow the format and instructions contained herein. If the firm so wishes, the proposal may be accompanied by brochures, promotional materials or displays properly identified.

Due to the irregularity of mail service, the City cautions proposers to assure actual delivery of mailed or hand-delivered proposals directly to the City Clerk's Office, as specified above, prior to the deadline set for receiving proposals. Telephone confirmation of timely receipt of the proposal may be made by calling he City Clerk at (305) 809-3835, before proposal closing time. A proposal received by the City Clerk's Office after the established deadline will be retained unopened.

Proposers may withdraw their proposal submissions by notifying the City in writing at any time prior to the deadline for proposal submittal. Proposers may withdraw their submissions in person or by an authorized representative. Proposers and authorized representatives must provide the letter of withdrawal, picture identification, proof of authorization (in the case of authorized representatives), and provide the City with a signed receipt for the withdrawn proposal. After the deadline, proposals once opened, become a public record of the City and are subject to the provisions of the Florida Public Records Law. As such they are subject to public disclosure in accordance with Chapter 119, Florida Statutes.

1.10 ADDENDA

If revisions become necessary, the City will provide written addenda to all respondents who received the Request for Proposals. All addenda issued by the City of Key West in regard to this RFP shall be acknowledged. Failure to acknowledge all addenda may result in disqualification.

The City will make every effort to notify registered Proposers by email that an addendum has been made to the RFP. The City shall not be responsible for providing notice of addenda to potential proposers who receive a RFP package from sources other than DemandStar by Onvia.

All addenda issued by the City must be acknowledged within the proposal at the time it is submitted to the City.

1.11 EQUAL OPPORTUNITY

The City recognizes fair and open competition as a basic tenet of public procurement and encourages participation by minority and women owned business enterprises.

1.12 INSURANCE

The respondent, if awarded a contract, shall maintain insurance coverage (Item 5.2) reflecting the minimum amounts and coverages as required by the City.

1.13 FORMS AND AFFIDAVITS

NON-COLLUSION AFFIDAVIT
FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

INDEMNIFICATION FORM
EQUAL BENEFITS FOR DOMESTIC PARTNERSHIP AFFIDAVIT
CONE OF SILENCE AFFIDAVIT
ANTI – KICKBACK AFFIDAVIT
(Item 5.4)

1.14 SUSPENDED VENDOR

An entity or affiliate who has been placed on the State of Florida Suspended Vendor List will not be considered for award. The Suspended Vendor List is available on the State's website at:

http://dms.myflorida.com/business_operations/state_purchasing/vendor_information

1.15 ASSIGNMENT & SUBCONTRACTING

The successful proposer will not be permitted to assign its contract with the City, in whole or in part, without obtaining prior written approval of the City of Key West. If a vendor subcontracts or subleases employees for any portion of this contract **for any reason**, the proposer must include, in writing the **name and address of the Subcontractor or leased employee/firm, and must obtain all the same insurance requirements, licensing, and certification requirements with prior approval by the City.** Name of the person to be contacted, include telephone number and extent of work to be performed. This information is to be submitted with RFP response (Tab 1). If vendor should need to change subcontractor information, changes are subject to the approval by the City. The City reserves the right to reject a proposal of any proposer if the proposal names a subcontractor or leased employee who has previously failed in the proper performance of an award or failed to deliver on time contract of a similar nature, or who is not in a position to perform properly under this award.

1.16 PROPOSAL AS PUBLIC DOMAIN

All documents and other materials made or received in conjunction with this project will be subject to public disclosure requirements of Chapter 119, Florida Statutes. The proposal will become part of the public domain upon opening. **Vendors shall not submit pages marked "proprietary" or otherwise "restricted".**

1.17 PUBLIC RECORDS: Public Records Relating to Compliance, Request for Records; Noncompliance, & Civil Action

Note: If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the office of the City Clerk as the custodian of Public Records for the City of Key West, City Clerk 1300 White Street, Key West, Fl. 33040 per F.S. 119.12.

In compliance with F.S. 119.0701 the Contractor shall:

A. Keep and maintain public records required by the public agency to perform the service.

B. Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

C. Ensure that public records that are exempt or confidential and exempt from public records

disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

D. Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

E. A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

F. If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

G. A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.

H. If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

1. The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and

2. At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

I. A notice complies with subparagraph 2 above, if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

J. A contractor who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

1.18 LICENSES

Proposers, both corporate and individual, must be fully licensed and certified for the type of work to be performed in the State of Florida at the time of RFP receipt.

1.19 BUSINESS TAX RECEIPT

Proposer shall comply with Business Tax Receipt requirements for their business location. A copy of the business tax receipt or proof of exemption shall be included with submittal.

1.20 CONTRACT TERM

At all times during the term of the contract, the successful Contractor shall act as an independent Contractor and at no time shall be considered an agent or partner of the City.

A. **Contract Period:** A multiple year contract shall be awarded for an initial term of three (3) years subsequent to approval by the proper City authorities. The contract may be renewed for one (1) additional two year period provided both the successful proposer and the City agree and all terms and conditions remain the same. Any contract or amendment resulting from this solicitation shall be subject to fund availability and mutual written agreement between the City and the successful proposer.

B. **Option to Extend:** The contract may be renewed for one (1) additional two-year period, provided both parties are in agreement. Total contract length, including individual two-year extension, shall not exceed five (5) years.

1.21 CONTRACT AMENDMENT

This extends only to those services specifically described herein. If upon the request of the City, the Contractor agrees to perform additional services such as verification of data used in Official Statements, assistance with special financial projects, tax services, pension assistance and management advisory services, the City shall pay the Contractor for the performance of such additional services a schedule of compensation rates for these various types of additional work shall be included reflecting hourly rates applicable to projects which may be requested and negotiated with the City.

The City of Key West reserves the right to order, in writing, changes in the work required by GASB or other regulatory/professional entities. The contractor has the right to request an equitable price adjustment in cases where modifications to the contract under the authority of this clause result in increased costs to the contractor. This agreement may be modified upon the written and mutual consent of both parties, and approval by appropriate legal bodies in the City of Key West.

1.22 TERMINATION CLAUSES

A. **Termination for Convenience:** The City upon a thirty (30) day written notice to the other party may terminate this Agreement with or without cause. In the event of any termination, the Contractor shall be paid for all services rendered to the date of termination.

B. **Termination for Cause:** The obligation to provide further services under this Agreement may be terminated by the City upon seven (7) days written notice in the event of failure by the Contractor to perform in accordance with the terms hereof through no fault of the City.

1.23 BACKGROUND INFORMATION

As part of the evaluation process, the City reserves the right, to require a Proposer to submit such evidence of his/her qualifications as it may deem necessary, and may consider any evidence available to it as to the qualifications and abilities of the Proposer, including past performance (experience) with the City by the Proposer or any of their Owners.

1.24 REFERENCES/RECORD CHECK

As part of the evaluation process, the City may conduct an investigation of references, including but not limited to, a record check of consumer affairs complaints. Proposer's submission of their RFP constitutes acknowledgment of the process and consent to investigate. City is the sole judge in determining Proposer's qualifications.

1.25 PERFORMANCE EVALUATION

Throughout the contract period the vendor(s) performance will be monitored by City staff. If vendor performance fails to meet the standards specified and receives an unacceptable rating, the City may without cause and without prejudice to any other right or remedy, terminate the contract whenever the City determines that such termination is in the best interest of the City. Vendor's receiving an unacceptable rating will be notified by certified mail. Contract termination shall be served by written notice by the Finance Department.

1.26 PRICING AND INVOICING

The City requires a firm price for each contract period. Invoices will be checked to confirm compliance with quoted pricing. Failure to hold prices firm through each contract term, to include the option period, may be grounds for contract termination. Payment will be paid upon completion and acceptance of the work, net 30 days.

PART II STATEMENT OF WORK

2.1 ELIGIBILITY AND MANDATORY REQUIREMENTS

The proposer should submit the minimum qualifications with their proposal response package to be considered responsive in order for the City to fully evaluate the firm's qualifications. Failure to fully submit the requested information may result in the proposal response being considered non-responsive

A. In order to be eligible to respond to this Request for Proposal, the interested firm must have successfully completed entity wide financial audits of at least five (5) municipal governmental entities. These audits shall have been of similar complexity to the technical specifications and scope, as an independent external financial auditor to a municipality or other governmental organization in this Request for Proposal. This experience shall be reflected in the proposal along with contact names and telephone numbers for those municipalities. Each respondent shall meet all legal, technical and professional requirements for expressing an audit opinion on the annual financial statements of the City of Key West.

B. Proposers must meet the following minimum qualifications; failure to meet the minimum qualifications may result in rejection of the Proposal. Proposers shall submit written documentation such as letters of references and a list of clients who are public entities, as evidence that they meet the requirement stated above. Letters of references shall not be older than three (3) years.

C. The principals of the firm(s) have performed continuous certified public accounting (CPA) services for a minimum of five (5) years.

D. The Proposer must be a member of the American Institute of Certified Public Accountants and the Florida Institute of Certified Public Accountants.

E. The assigned professional personnel of the Proposer must have received adequate continuing professional education as stipulated by Government Auditing Standards issued by the Comptroller General of the United States.

F. The Proposer is independent of the City of Key West, as defined by generally accepted auditing standards and Government Auditing Standards.

G. The Proposer must submit a copy of the two most recent external quality control review reports and letters of comment, along with a statement indicating whether the reviews included a review of specific governmental engagements.

H. The manager and senior auditor must have experience auditing one or more similar governments, specifically as to size and services provided, where all applicable Governmental Accounting Standards Board Statements have been implemented.

I. The manager and senior auditor must have experience performing a Single Audit in accordance with generally accepted auditing standards, Government Auditing Standards issued by the Comptroller General of the United States, the Single Audit Act Amendments of 1996, the provisions of OMB Circular A-133, Audits of State and Local Governments; and the Rules of the Auditor General of the State of Florida.

J. To meet the requirements of this RFP, the audit must be performed in accordance with the following standards:

1. Generally Accepted Auditing Standards as issued by the American Institute of Certified Public Accountants (AICPA)
2. Government Auditing Standards issued by the Comptroller General of the United States
3. OMB Circular No. A-133, Audits of States, Local Governments, and Non-Profit Organizations and/or Uniform Guidance
4. Federal Single Audit Act, as amended
5. Florida Single Audit Act
6. Rules of the Auditor General, State of Florida
7. Rules of the Florida Department of Financial Services
8. Section 218.39, Florida Statutes and any other applicable Florida Statutes.

2.2 WORK OBJECTIVE

A. The City desires the auditor to express an opinion on the fair presentation of its financial statements in conformity with accounting principles generally accepted in the United States. This RFP describes Financial Audits as required under Florida Statutes Chapter 11.45, F.S. Chapter 218.39, F.S. Chapter 163.387 (8), the Florida Single Audit Act and the City of Key West Municipal Ordinances and Charter.

B. The auditor shall also prepare required management reports and any other reports as may be required. The auditor shall also perform certain limited procedures involving required supplementary information as may be required by Florida State Statutes, the Florida Auditor General, the Governmental Accounting Standards Board and/or the AICPA, as mandated by accounting principles generally accepted in the United States.

C. Auditing Standards

1. To meet the requirements of this Request for Proposal and any resulting agreement, the

audit shall be performed in accordance with auditing standards generally accepted as set forth by the American Institute of Certified Public Accountants and auditing standards generally accepted as promulgated by the General Accounting Office and the Rules of the Auditor General of the State of Florida, the standards for financial audits. The audit will be a financial audit.

2. Irregularities and illegal acts: Auditors shall be required to make an immediate, written report of all irregularities and illegal acts of which they become aware to the City Manager and the City Commission.

D. Working Papers Retention and Access to Working Papers: All working papers and reports must be retained at the auditor's office and at the auditor's expense, for a minimum of five (5) years, unless the firm is notified in writing by the City of the need to extend the retention period. The auditor will be required to make working papers available upon request by the City.

E. Special Consideration:

1. The City submits its Comprehensive Annual Financial Report (CAFR) to the Government Finance Officers Association of the United States and Canada for review in its Certificate of Achievement for Excellence in Financial Reporting program. The City desires the auditor to publish the CAFR and provide (10) bound copies for distribution and a .pdf file that can be used for electronic submission. The auditor shall be responsible for all schedules, statements and footnotes, as well as any special assistance needed to guarantee that the CAFR will meet the requirements of that program. The time requirements articulated in Section 1.9 will necessitate a degree of advance planning and audit methodology. Audit firms are required to consider these time requirements and disclose the means by which their audit approach will adhere to these schedules.

2. The City of Key West provides two single employer, defined benefit pension plans. One is for Police Officers and Firemen; the other covers general employees. The proposer will be responsible for auditing the General Employee Pension Plan. The Police and Firemen's plan is audited annually by the plan auditors.

F. Other Reports to be Issued

1. Agreed Upon Procedures Report as required by the Florida Department of Transportation for Section 5311 Program Procedures and for Public Transportation Joint Participation Agreements.

2. Schedule of Revenues and Expenditures for the U.S. Department of Navy (Fund 602). Fiscal year-end report due by January 31st.

2.3 BACKGROUND INFORMATION

A. **Type of Government:** The City of Key West was incorporated in 1828. The City operates under a commission-manager form of government. The City provides services authorized by its charter, including public safety, public welfare, public improvements, planning and zoning, transportation, recreation and general administrative services.

B. The City's fiscal year is October 1 through September 30.

C. Fund Structure

Fund Type	Number of Funds
General	1
Special Revenue	10
Capital Project	2
Enterprise	6
Internal Service	1
Fiduciary	2

D. The City has a biweekly gross payroll of $1,200,000 covering approximately 500 full-time employees.

E. Budgets are adopted annually in accordance with City Charter, and expenditures are controlled in accordance with written policies and procedures.

F. Prior Year CAFR's and Budget Books can be viewed on the City of Key West website – Finance/Budget Department. www.cityofkeywest-fl.gov

2.4 TIME REQUIREMENTS

A. Audit Plans: The auditor shall provide a detailed audit plan to the City for fiscal year end no later than one month after award of this RFP and execution of the agreement.

B. Fieldwork: The auditor shall complete all fieldwork on site in sufficient time to meet guidelines for filing the City's CAFR with the Governmental Financial Officers Association by March 30, each year. Fieldwork is defined as that audit work consisting of data collection, analysis and compilation of financial information to include examples of financial transactions and completing all associated inquiries required to meet audit objectives. Fieldwork will be completed on-site at Key West City Hall, 1300 White Street, Key West, Florida.

C. Issuance of Reports and Financial Statement Attestation: The auditor shall have ready for publication all reports denoted in Section 1.7 of this Request for Proposal instruction no later than March 30 each year.

D. Entrance Conferences, Progress Reporting and Exit Conferences: There shall be an entrance conference with key Finance Department personnel no later than the month of September each year. Progress conferences will be held with key Finance Department personnel throughout the engagement. An exit conference will be held within fourteen days of audit completion with key Finance Department personnel.

2.5 ASSISTANCE TO BE PROVIDED TO THE AUDITOR

A. **Work Papers and Documents:** The Finance Department will prepare the work papers for all funds. This will include trial balances and related supporting schedules. Staff of the Finance

Department and other appropriate departments will be available to answer questions as may be required.

B. **Office Space and Machines:** Copy machines, office space, fax and telephones will be made available to the successful proposer at no charge.

2.6 SPECIAL CONDITIONS

A. **Laws, Ordinances, Etc.:** The auditor shall observe and comply with all Federal, State and Local laws, ordinances, rules, regulations and professional standards that would apply to this contract.

B. **Venue:** Any contractual arrangement between the City of Key West and the successful proposer shall be consistent with, and be governed by, the ordinances of Key West, the City of Key West, the whole law of the State of Florida, both procedural and substantive, and applicable federal statutes, rules and regulations. Any and all litigation arising under any contractual arrangement shall be brought in the appropriate court in Key West, Florida.

PART III INSTRUCTIONS FOR PREPARING SUBMISSIONS

3.1 RULES FOR SUBMISSIONS

The submission must name all persons or entities interested in the submission as principals. The proposal must declare that it is made without collusion with any other person or entity submitting a proposal pursuant to the RFP. The interested firm or individual must submit one (1) original and six (4) copies of their proposal with each marked **"COPY"**, and **one (1) electronic copy (PDF format preferred) on a CD or flash drive** of the requested data for evaluation. Please tab all support documents or attachments according to the order established in the following paragraph.

3.2 PROPOSAL FORMAT

The Proposal will address all the points outlined in the request for proposals. The Proposal must be prepared simply and economically, providing a straightforward, concise description of the Proposers capabilities to satisfy the requirements of the request for proposals. In order to simplify and expedite the evaluation process, please construct the proposal in the format noted below. The response format shall have the required information indicated in each tab. All attachments as requested shall be inserted in the back of each corresponding section.

In preparing your proposal, proposer should assume that the City has no previous knowledge of their product or capabilities. Proposals should clearly describe the services, specifying where it meets, exceeds or does not comply with the general specifications.

Letter of Transmittal: The response format shall contain a letter of transmittal. The Letter of Transmittal will summarize in a brief and concise manner the Contractor's understanding of the scope of work and make a positive commitment to timely perform the work within budgetary requirements. An agent authorized to contractually bind Contractor must sign the Letter of Transmittal indicating the agent's title or authority. The transmittal letter shall not exceed two pages in length.

Tab 1 ~ Independence

The firm shall provide an affirmative statement that it is independent of the City of Key West as defined

by generally accepted auditing standards and the U.S. General Accounting Office's Government Auditing Standards (1988).

The firm should also list and describe the firm's (or its proposed subcontractors') professional relationships involving the City of Key West or any of its agencies or component units or oversight unit for the past five (5) years. If applicable, a statement explaining why such relationships do not constitute a conflict of interest relative to performing the proposed audit will be included.

In addition, the firm shall commit to giving the City of Key West written notice of any potentially conflicting professional relationships entered into during the period of this agreement.

Tab 2 ~ Firm's Qualifications, Knowledge and Experience

The proposal shall state the size of the firm, the size of the firm's governmental audit staff, the location of the office from which the work on this engagement is to be performed and the number and nature of the professional staff to be employed in this engagement on a full-time basis and the number and nature of the staff to be so employed on a part-time basis.

If the Proposer is a joint venture or consortium, the qualifications of each firm comprising the joint venture or consortium shall be separately identified and the firm that is to serve as the principal Auditor shall be noted, if applicable.

The firm is required to submit a copy of the report on its most recent external quality control review, with a statement whether that quality control review included a review of specific government engagements.

The firm shall provide information on the results of any federal or state desk reviews or field reviews of its audits during the past three (3) years. In addition, the firm shall provide information on the circumstances and status of any disciplinary action taken or pending against the firm during the past three (3) years with state or federal regulatory bodies or professional organizations

The firm shall identify the principal supervisory and management staff, including engagement partners, managers, other supervisors, specialists and the assigned "in-charge" who will be assigned to the engagement and indicate whether each such person is (registered/licensed) to practice as a certified public accountant in Florida. The firm shall provide information in the form of resumes on the government auditing experience of each person, *including information on relevant continuing professional education for the past three (3) years* and membership in professional organizations relevant to the performance of this audit.

The firm shall provide as much information as possible regarding the number, qualifications, experience and training, including relevant continuing professional education of the specific staff to be assigned to this engagement. The firm also shall indicate how the quality of staff over the term of the agreement will be assured.

The Proposer shall identify the extent to which staff to be assigned to the audit reflect the City of Key West's commitment to affirmative action.

Engagement partners, manager, consultants other supervisory staff, specialists and "in-charge" may be changed if those personnel leave the firm, are promoted or are assigned to another office. Those personnel may also be changed for other reasons with the express prior written permission of the City of Key West. However, the City of Key West retains the right to approve or reject replacements.

Other audit personnel may be changed at the discretion of the Proposer provided that replacements have

substantially the same or better qualifications or experience.

Tab 3 ~ Audit Approach

The proposal shall set forth a work plan, including an explanation of the audit methodology to be followed, to perform the services required in Section II of this request for proposals. In developing the work plan, reference shall be made to such sources of information as the City of Key West's budget and related materials, organizational charts, manuals and programs, and financial and other management information systems.

Proposers will be required to provide the following information on their audit approach:

- Describe proposed segmentation of the engagement. Specific target dates must be offered for each segment. The plan proposed must be structured to meet these proposed dates. Timing of the engagement must be planned so that the City deadlines, as noted in Section 1.9, will be met.
- Show level of staff and number of hours to be assigned to each proposed segment of the engagement. The adequacy of proposed staffing plan for various segments of the engagement will be evaluated. Commitment to continuity of the proposed audit team for following years of the agreement will be considered favorably.
- Describe sample size and the extent to which statistical sampling is to be used in the engagement. Show each segment and its part in the overall audit plan. Define the specific audit procedures to be followed and how they are applicable to each audit plan segment.
- Describe the extent of use of paperless technology in the engagement.
- Define type and extent of analytical procedures to be used in the engagement. Include specific examples of audit procedures to be used in each segment of the engagement.
- Demonstrate approach to be taken to gain and document an understanding of the City of Key West's internal control structure.
- Identify approach to be taken in determining laws and regulations that will be subject to audit test work.
- Describe approach to be taken in drawing audit samples for purposes of tests of compliance.

Tab 4 ~ Florida Engagements

For the firm's office that will be assigned responsibility for the audit, a separate list of all engagements of audit work in which the firm has participated for Florida governmental entities shall be submitted. Include the most significant engagements performed in the last five years that are similar to the engagement described in this request for proposals.

These engagements shall be ranked based on total staff hours. Indicate the scope of work, date, engagement partners, total hours, and the name and telephone number of the principal client contact.

The firm shall list separately all engagements within the last five years for the City of Key West by type of engagement. For each engagement, the firm shall indicate the scope of work, date, engagement partners, total hours by staff type, the location of the firm's office from which the engagement was performed.

Tab 5 ~ Report Format

The proposal shall include sample required reports.

Tab 6 ~ Proposal Form

Insert all requested pricing in the attached Price Proposal Form. The proposed fees shall include all overhead and expenses and as specified in Item 5.1.

The cost proposal shall contain all pricing information relative to performing the audit engagement as described in this request for proposals. The total all-inclusive maximum price to provide the service must contain all direct and indirect costs including all out-of-pocket expenses.

Rates by partner, specialist, supervisory and staff level multiplied by hours anticipated for each. The cost proposal shall include a schedule of professional fees and expenses, presented in an easily understandable format that supports the Total All-inclusive Maximum Price.

Out-of-pocket expenses for firm personnel (e.g., travel, lodging and subsistence) will be included in the Total All-inclusive Maximum Price submitted by the firm. No separate payments will be made for Out-of-Pocket expenses.

If it becomes necessary for the City of Key West to request the Auditor to render any additional services to either supplement the services requested in this request for proposal or to perform additional work as a result of the specific recommendations included in any report issued on this engagement, then such additional work shall be performed only if set forth in an addendum to the contract between the City of Key West and the firm. Any such additional work agreed to between the City of Key West and the firm shall be performed at the same rates, set forth in the schedule of fees and expenses submitted.

Progress payments will be made based on hours of work completed during the course of the engagement and out-of-pocket expenses incurred in accordance with the firm's cost proposal. Interim billing shall cover a period of not less than a calendar month. Ten percent may be withheld from each billing pending delivery of the firm's final report.

Tab 7 ~ Insurance:

Provide a statement agreeing to obtain (prior to award) Insurance with coverages as detailed in Section 5.2. Provide proof of insurance indicating that the firm has coverage in accordance with the requirements herein set forth may be furnished by the firm to the City along with their qualification data. A properly completed Accord Form is preferable. The City of Key West must be named as an additional insured for all General Liability prior to entering into a contract. The Firm shall either cover any sub-contractors on its policy or require the sub-contractors to conform to all requirements for insurance contained herein. Subcontractors must be provided in Tab 1.

Tab 8 ~ References

In order to be eligible to respond to this Request for Proposal, the interested firm must have successfully completed entity wide financial audits of at least five (5) municipal governmental entities. These audits shall have been of similar complexity to the technical specifications contained in this Request for Proposal. This experience shall be reflected in the proposal along with contact names and telephone numbers for those municipalities. Each respondent shall meet all legal, technical and professional requirements for expressing an audit opinion on the annual financial statements of the City of Key West. Letters of references shall not be older than three (3) years.

Tab 9 ~ Submittal Forms & Requested Information:

- Section 1.19 Business Tax Receipt requirements for their business location. A copy of the business tax receipt or proof of exemption shall be included with response submittal and IRS W-9 form.
- Section 5.3 Request for Information to Submit With IRS W-9 Form

➢ Section 5.4 Executed Forms and Affidavits

Tab 10 ~ Prohibition Non-Collusion/Conflict of Interest Disclosure Statements

A. Include the following Statement of Non-Collusion: "The respondent certifies, and in the case of a joint proposal, each party thereto certifies as to its own organization, that in connection with this solicitation the information provided has been arrived at independently, without consultation, communication, or agreement with any other respondent or with any competitor for the purpose of restricting competition, or in any other way influencing the competitive arena."

B. Include a disclosure statement advising the City of any potential conflict of interest, real or apparent, that the Respondent, employee, officer, or agent of the firm may have due to ownership, other clients, contracts or interests associated with this project.

C. An affirmative statement must be included indicating that the firm and all assigned key professional staff are properly registered and licensed to practice in the State of Florida. Include copies of appropriate licenses.

D. Signature on the transmittal letter shall certify the veracity of these statements.

Tab 11 ~ Optional Information: Provide any information pertinent to this project that will provide insight to the evaluators about the qualifications, fitness and abilities of the Respondent (please limit this information to two pages).

Tab 12 ~ Addenda (if applicable): All addenda issued pursuant to this solicitation must be acknowledged and submitted as part of the proposal package.

PART IV EVALUATION OF SUBMISSIONS

4.1 EVALUATION METHOD AND CRITERIA

A. **Purpose:** The purpose of the Proposal is to demonstrate compliance with the evaluative criteria established in Part IV, specifically the qualifications, competence and capacity of the firms seeking to undertake an independent audit of the City of Key West in conformity with the requirements of this request for proposals. As such, the substance of proposals will carry more weight than their form or manner of presentation. The Proposal must demonstrate the qualifications of the firm and of the particular staff to be assigned to this engagement. It must also specify an audit approach that will meet the request for proposals requirements.

B. **General:** The City's selection committee will evaluate proposals and will select the proposer which meets the best interests of the City. The City shall be the sole judge of its own best interests, the proposals, and the resulting negotiated agreement. The City's decisions will be final. This criterion shall be utilized in the evaluation of the proposals.

The City's evaluation criteria will include, but not be limited to, consideration of the following:

EVALUATION CATEGORIES	POINTS POSSIBLE
Overall qualifications, knowledge, & experience	35 pts
Audit Approach	20 pts
Reference/Past Projects of similar nature in Florida	10 pts
Proposed price for work to be accomplished.	35 pts

C. **Selection:** Proposals will be evaluated using the above criteria. The City Commission will assign this task to a Selection Committee. The City of Key West reserves the right to select the most qualified individuals/firms from review of the packages submitted and request authorization to negotiate an agreement with the highest ranked individual/firm; or to interview the most qualified Respondents prior to requesting authorization to negotiate an agreement with the highest ranked respondent. Individuals/firms will be notified in writing if they are selected for interview. Notices for interviews will contain explicit instructions concerning location, date, time and length of interviews.

D. **Presentations:** The Selection Committee may require oral and visual presentations from those firms that are ranked or short-listed. This shall be done at the City's sole discretion when it feels presentations are essential as part of the evaluation process and are in the best interests of the City. The City shall be the sole judge and final arbiter of its own best interests in this matter.

E. **Negotiations:** After the Selection Committee ranks the respondents, Selection Committee will take the proposed ranking to the City Commission for approval and authorization to start negotiations with the top ranked firm. If the Selection Committee determines that it is unable to negotiate a satisfactory contract with the respondent(s) considered to be the most qualified at a price the City determines to be fair, competitive, and reasonable, negotiations with that respondent(s) shall be formally terminated. Should the City be unable to negotiate a satisfactory contract with the selected respondent(s), the City may select additional respondent(s) in order of their original ranking by the City Commission and will continue negotiations until an agreement is reached. However, as stated in Item 1.4 above, the City Commission reserves the right to reject all proposals, to waive any irregularities, and to re-advertise and solicit for other proposals or to select a proposal different than the proposals rated by the Selection Committee.

F. **Terms and Conditions**

All prospective Contractors are hereby cautioned not to contact any member of the Key West City Commission, the City Manager, the City Attorney (except to discuss grievance matters) or any member of the selection committee. All questions and contacts must be made through David Sermak, Purchasing Agent. Attempts to lobby or persuade through other channels will result in disqualification.

The City reserves the right to reject any or all proposals without recourse, to waive technicalities and informalities or to accept the proposal which in its sole judgment best serves the interest of the City.

As required by FS Section 287.133; "A person or affiliate who has been placed on the convicted vendor list following conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or a Contractor under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount as stated in FS Section 287.017, for Category Two, for a period of thirty six months from the date of being placed on the convicted vendor list." Questions regarding this statement should be directed to the State of Florida, Bureau of State Procurement (904) 488-8131.

G. **Contact Person:** Questions or requests for additional information shall be directed to the David Sermak, City Purchasing Agent, at (305) 809-3819 email: dsermak@cityofkeywest-fl.gov between the hours of 8:00 a.m. and 5:00 p.m., local time, weekdays.

PART V RFP SUBMITTALS

5.1 PRICE PROPOSAL FORM

Respondents are to make no changes to the table below and are to fill the table out completely. Values must be provided for all categories below and must represent the total cost for each service in Group A. The Total Fee for each audit period includes all out-of-pocket expenses for firm personnel (e.g. travel, lodging, copies, etc.). As specified in Section 1.21 additional work shall be included reflecting hourly rates in Group B. The estimated (projected) hours by type of staff member for the first year (2018) of the audit must be included in Group C.

GROUP A			
ITEM #	AUDIT PERIOD ENDING	TOTAL PROJECTED HOURS	TOTAL FEE
Initial 3 Year Term			
1	September 30, 2018		$
2	September 30, 2019		$
3	September 30, 2020		$
Additional Two-Year Contract Extension			
4	September 30, 2021		$
5	September 30, 2022		$
OVERALL TOTAL (Items 1-5)			$

Company Name _____

GROUP B		
ITEM	**DESCRIPTION**	**HOURLY RATE**
8	Partner	$
9	Manager	$
10	Supervisory Staff	$
11	Staff	$

GROUP C		
ITEM	**PROJECTED 2018 AUDIT**	**ESTIMATED HOURS**
12	Partner	
13	Manager	
14	Supervisory Staff	
15	Staff	
	TOTAL	

The Respondent certifies that as a condition of proposing he will hold good his proposal prices for a minimum period of **ninety** (90) calendar days from the date proposals are opened.

Company Name _____

The undersigned Respondent hereby certifies that the terms and conditions, including but not limited to, the scope of work have not been altered or modified in any manner. Any modification to this solicitation by the proposer will result in Proposer's response being found non-responsive and thereby disqualified.

The undersigned Respondent hereby certifies that he has received all the Addenda listed below and has incorporated them into his proposal listed herein. Failure to acknowledge any and all addenda may render the proposal non-responsive and no further evaluation of the proposal will occur.

Addendum(s) #_____through #_____Respondent's Initials _____

_____ _____

(Signature) (Printed Name)

_____ _____

Name of Company, Firm (Printed Title)

_____ _____ _____

Telephone Number Facsimile Number Email Address

5.2 INSURANCE REQUIREMENTS

A. The successful professional shall not commence any work in connection with this agreement until it has obtained all of the following types of insurance and the City has approved such insurance. Nor shall the successful professional allow any subcontractor to commence work on its subcontract until all similar insurance required of the subcontractor has been so obtained and approved. All insurance policies shall be with insurers licensed and authorized to do business in the State of Florida. The successful professional shall maintain required insurance coverage for the full term of this agreement or for such longer periods as may be specifically required herein. All insurance policies shall be issued by companies authorized to do business under the laws of the State of Florida and rated no less than "B" as to management and no less than Class "VIII" as to strength in accordance with the A.M. Best Company Insurance Guide, or its equivalent as determined by the City in its sole discretion.

B. Loss Deductible Clause: The City shall be exempt from, and in no way liable for, any sums of money which may represent a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the professional and/or subcontractor providing such insurance.

C. Worker's Compensation Insurance: The professional/service provider shall maintain during the life of this Agreement, Worker's Compensation Insurance for all of its employees connected with the work of this project that complies fully with the State of Florida Worker's Compensation Law, SS 440.

D. General Liability: The Professional shall, during the life of this agreement take out and maintain broad form Commercial General Liability [including premises/operations; products/completed operations with the XCU hazards; personal /advertising injury; and fire damage (minimum $100,000)] for limits of not less than $1,000,000.00 per occurrence and $2,000,000.00 aggregate relative to any agreement resulting from a solicitation with the City of Key West.

E. Business Automobile: The professional/service provider shall during the life of this agreement take out and maintain Business Automobile Liability form with coverage for symbol I (any auto) with limits of not less than $1,000,000.00 combined single limit or $500,000.00 per person/ $1,000,000.00 per accident bodily injury and $250,000.00 per accident property damage.

F. Professional Liability: The professional shall during the life of this agreement take out and maintain Professional Liability coverage with limits of not less than $1,000,000.00 per claim /$2,000,000.00 per job, per year aggregate relative to any agreement resulting from this solicitation for the City of Key West. The professional further agrees to maintain like coverage for a minimum of five (5) years following the completion of the agreement.

G. Owner's Protective Liability Insurance: The Owner shall be responsible for purchasing and maintaining his own liability insurance and, at his option, may purchase and maintain such insurance as will protect him against claims which may arise from his operations under the Contract.

H. Certificates of Insurance: the Contractor, upon notice of award, will furnish Certificate of Insurance Forms. These shall be completed by the authorized Resident Agent and returned to the Purchasing Office. This certificate shall be dated and show:

(1) The name of the insured contractor, the specified job by name and job number, the name of insurer, the number of the policy, its effective date, and its termination date.

(2) Statement that the Insurer will mail notice to the City at least thirty (30) days prior to any material changes in provisions or cancellation of the policy.

(3) City shall be named or additional named insured on General Liability Insurance and Business Automobile Liability Insurance.

NOTE: The City can decrease or increase these limits, depending on the project, at its sole discretion.

5.3 REQUEST FOR INFORMATION TO SUBMIT WITH IRS W-9 FORM

Federal Income Tax Law requires a Form 1099 with a valid taxpayer identification number to be filed for payments made in the course of conducting a trade or business. Further, these payments may be subject to Backup Federal Income Tax Withholding for all payees who have not submitted a correct Federal Tax Identification Number at the time of payment.

Please read this form and complete the information thereon before signing and **returning with a copy of your IRS W9 Form**. If you are a corporation, we will not issue you a Form 1099 (Reference: 1.6401-3(c)). However, kindly return this form to document your corporate status.

VENDOR NAME _____

DBA: _____

CORPORATE ADDRESS: _____

CITY:_____ **STATE:**_____ **ZIP:** _____

TELEPHONE: (____)_____ **FAX:** (____)_____ **ALTERNATE PHONE:** (____)_____

"THE ABOVE INFORMATION WILL BE USED FOR PURCHASE ORDERS"

REMIT TO ADDRESS: _____

CITY:_____ **STATE:**_____ **ZIP:** _____

TELEPHONE: (____)_____ **FAX:** (____)_____ **ALTERNATE PHONE:** (____)_____

COMPANY CONTACT NAME: _____

COMPANY/CONTACT EMAIL ADDRESS: _____

TYPE OF ORGANIZATION

1. ☐ Corporation
2. ☐ Partnership
3. ☐ Sole Proprietor
4. ☐ Individual
5. ☐ Government Agency
6. ☐ Other: _____

1099 REPORTING STATUS (Check One): ☐ **Yes** ☐ **No**

TAXPAYER IDENTIFICATION NUMBER:

Employer Identification Number:_____-_____ (Or) Social Security Number:_____-_____- _____

Print name of Taxpayer if using SS#: _____

Under penalties of perjury, I certify that this statement is accurate and complete.

Signature: _____ Title: _____

Date:_____ Phone: (____)_____

5.4 FORMS AND AFFIDAVITS

SWORN STATEMENT PURSUANT TO SECTION 287.133 (3) (a), FLORIDA STATUTES, ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted to CITY OF KEY WEST, KEY WEST, FLORIDA by: ____
   (print individual's name and title)

   for: _____
   (print name of entity submitting sworn statement)

   whose business address is: _____

   and (if applicable) its Federal Employer Identification Number (FEIN) is: _____

   (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement: _____-_____-_____.)

2. I understand that a "public entity crime" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or of the United States, including but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentations.

3. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 1, 1989, as a result of a jury verdict, non-jury trial, or entry of a plea of guilty or nolo contendere.

4. I understand that an "affiliate" as defined in Paragraph 287.133(1)(a), Florida Statutes, means:
   a. A predecessor or successor of a person convicted of a public entity crime; or
   b. An entity under the control of any natural person who is active in the management of the entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment or income among persons when not for fair market value under an arm's length agreement, shall be a prima facie case that one person controls another person. A person who knowingly enters into a joint venture with a person who has been convicted of a public entity crime in Florida during the preceding 36 months shall be considered an affiliate.

5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statutes, means any natural person or entity organized under the laws of any state or of the United States with the legal power to enter into a binding contract and which bids or applies to bid on contracts for the provision of goods or services let by a public entity, or which otherwise transacts or applies to transact business with a public entity. The term "person" includes those officers, directors, executives, partners, Shareholders, employees, members, and agents who are active in management of an entity.

6. Based on information and belief, the statement which I have marked below is true in relations to the entity submitting this sworn statement. (Indicate which statement applies).

☐ Neither the entity submitting this sworn statement, nor any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has been charged with ad convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989.

☐ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida , Division of Administrative Hearings and the final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH 1 ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND THAT THIS FORM IS VALID THROUGH DECEMBER 31 OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES FOR CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

_____
Signature

Sworn to and subscribed before me this_____day of_____, 20_____.

Personally known _____ OR Produced Identification _____

_____ Notary Public – State of Florida

*Type of Identification*_____ My Commission Expires: _____

SEAL OR STAMP

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA)
: SS
COUNTY OF MONROE)

I, the undersigned hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees of the City of Key West as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: _____

Sworn and subscribed before me this

_____day of_____, 2018.

_____
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

NON-COLLUSION AFFIDAVIT

STATE OF FLORIDA)
: SS
COUNTY OF MONROE)

I, the undersigned hereby declares that the only persons or parties interested in this Request for Qualifications are those named herein, that this Request for Qualifications is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Request for Qualifications is made without any connection or collusion with any person submitting another Request for Qualifications on this Contract.

By: _____

Sworn and subscribed before me this

_____day of_____, 2018.

_____
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

INDEMNIFICATION

To the fullest extent permitted by law, the CONSULTANT expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnitees") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the CONSULTANT, its Sub-consultants or persons employed or utilized by them in the performance of the Contract. Claims by indemnitees for indemnification shall be limited to the amount of CONSULTANT's insurance or $1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.

The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the CONSULTANT under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the CONSULTANT or of any third party to whom CONSULTANT may subcontract a part or all the Work. This indemnification shall continue beyond the date of completion of the work.

CONTRACTOR: _____ SEAL:

_____
Address

_____
Signature

_____
Print Name

_____
Title

_____
Date

EQUAL BENEFITS FOR DOMESTIC PARTNERS AFFIDAVIT

STATE OF _____)
: SS
COUNTY OF _____)

I, the undersigned hereby duly sworn, depose and say that the firm of _____ provides benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses per City of Key West Ordinance Sec. 2-799.

By: _____

Sworn and subscribed before me this

____day of_____, 2018.

_____
NOTARY PUBLIC, _____ at Large
State of

My Commission Expires: _____

City Ordinance Sec. 2-799

Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

(a) Definitions. For purposes of this section only, the following definitions shall apply:

(1) ***Benefits*** means the following plan, program or policy provided or offered by a contractor to its employees as part of the employer's total compensation package: sick leave, bereavement leave, family medical leave, and health benefits.

(2) ***Bid*** shall mean a competitive bid procedure established by the city through the issuance of an invitation to bid, request for proposals, request for qualifications, or request for letters of interest.

(3) ***Cash equivalent*** means the amount of money paid to an employee with a domestic partner in lieu of providing benefits to the employee's domestic partner. The cash equivalent is equal to the employer's direct expense of providing benefits to an employee for his or her spouse.

The cash equivalents of the following benefits apply:

a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

b. For health benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself or herself.

c. For family medical leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

(4) ***Contract*** means any written agreement, purchase order, standing order or similar instrument entered into pursuant to the award of a bid whereby the city is committed to expend or does expend funds in return for work, labor, professional services, consulting services, supplies, equipment, materials, construction, construction related services or any combination of the foregoing.

(5) ***Contractor*** means any person or persons, sole proprietorship, partnership, joint venture, corporation, or other form of doing business, that is awarded a bid and enters into a covered contract with the city, and which maintains five (5) or more full-time employees.

(6) ***Covered contract*** means a contract between the city and a contractor awarded subsequent to the date when this section becomes effective valued at over twenty thousand dollars ($20,000).

(7) ***Domestic partner*** shall mean any two adults of the same or different sex, who have registered as domestic partners with a governmental body pursuant to state or local law authorizing such registration, or with an internal registry maintained by the employer of at least one of the domestic partners. A contractor may institute an internal registry to allow for the provision of equal benefits to employees with domestic partner who do not register their partnerships pursuant to a governmental body authorizing such registration, or who are located in a jurisdiction where no such governmental domestic partnership

registry exists. A contractor that institutes such registry shall not impose criteria for registration that are more stringent than those required for domestic partnership registration by the City of Key West pursuant to Chapter 38, Article V of the Key West Code of Ordinances.

(8) ***Equal benefits*** mean the equality of benefits between employees with spouses and employees with domestic partners, and/or between spouses of employees and domestic partners of employees.

(b) Equal benefits requirements.

(1) Except where otherwise exempt or prohibited by law, a Contractor awarded a covered contract pursuant to a bid process shall provide benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses.

(2) All bid requests for covered contracts which are issued on or after the effective date of this section shall include the requirement to provide equal benefits in the procurement specifications in accordance with this section.

(3) The city shall not enter into any covered contract unless the contractor certifies that such contractor does not discriminate in the provision of benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees.

(4) Such certification shall be in writing and shall be signed by an authorized officer of the contractor and delivered, along with a description of the contractor's employee benefits plan, to the city's procurement director prior to entering into such covered contract.

(5) The city manager or his/her designee shall reject a contractor's certification of compliance if he/she determines that such contractor discriminates in the provision of benefits or if the city manager or designee determines that the certification was created, or is being used for evading the requirements of this section.

(6) The contractor shall provide the city manager or his/her designee, access to its records for the purpose of audits and/or investigations to ascertain compliance with the provisions of this section, and upon request shall provide evidence that the contractor is in compliance with the provisions of this section upon each new bid, contract renewal, or when the city manager has received a complaint or has reason to believe the contractor may not be in compliance with the provisions of this section. This shall include but not be limited to providing the city manager or his/her designee with certified copies of all of the contractor's records pertaining to its benefits policies and its employment policies and practices.

(7) The contractor may not set up or use its contracting entity for the purpose of evading the requirements imposed by this section.

(c) Mandatory contract provisions pertaining to equal benefits. Unless otherwise exempt, every covered contract shall contain language that obligates the contractor to comply with the applicable provisions of this section. The language shall include provisions for the following:

(1) During the performance of the covered contract, the contractor certifies and represents that it will comply with this section.

(2) The failure of the contractor to comply with this section will be deemed to be a material breach of the covered contract.

(3) If the contractor fails to comply with this section, the city may terminate the

covered contract and all monies due or to become due under the covered contract may be retained by the city. The city may also pursue any and all other remedies at law or in equity for any breach.

(4) If the city manager or his designee determines that a contractor has set up or used its contracting entity for the purpose of evading the requirements of this section, the city may terminate the covered contract.

(d) Enforcement. If the contractor fails to comply with the provisions of this section:

(1) The failure to comply may be deemed to be a material breach of the covered contract; or
(2) The city may terminate the covered contract; or
(3) Monies due or to become due under the covered contract may be retained by the city until compliance is achieved; or
(4) The city may also pursue any and all other remedies at law or in equity for any breach;
(5) Failure to comply with this section may also subject contractor to the procedures set forth in Division 5 of this article, entitled "Debarment of contractors from city work."

(e) Exceptions and waivers.

The provisions of this section shall not apply where:

(1) The contractor does not provide benefits to employees' spouses.
(2) The contractor is a religious organization, association, society or any non- profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.
(3) The contractor is a governmental entity.
(4) The sale or lease of city property.
(5) The provision of this section would violate grant requirement, the laws, rules or regulations of federal or state law (for example, the acquisition services procured pursuant to Chapter 287.055, Florida Statutes known as the "Consultants' Competitive Negotiation Act").
(6) Provided that the contractor does not discriminate in the provision of benefits, a contractor may also comply with this section by providing an employee with the cash equivalent of such benefits, if the city manager or his/her designee determines that either:

a. The contractor has made a reasonable yet unsuccessful effort to provide equal benefits. The contractor shall provide the city manager or his/her designee with sufficient proof of such inability to provide such benefit or benefits which shall include the measures taken to provide such benefits or benefits and the cash equivalent proposed, along with its certificate of compliance, as is required under this section.

(7) The city commission waives compliance of this section in the best interest of the city, including but not limited to the following circumstances:

a. The covered contract is necessary to respond to an emergency. b.

Where only one bid response is received.

c. Where more than one bid response is received, but the bids demonstrate that none of the bidders can comply with the requirements of this section.

(f) City's authority to cancel contract. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification, or otherwise deny a person or entity city business.

(g) Timing of application. This section shall be applicable only to covered contracts awarded pursuant to bids which are after the date when this section becomes effective.

CONE OF SILENCE AFFIDAVIT

STATE OF _____)
: SS
COUNTY OF _____)

I the undersigned hereby duly sworn depose and say that all owner(s), partners, officers, directors, employees and agents representing the firm of _____ have read and understand the limitations and procedures regarding communications concerning City of Key West issued competitive solicitations pursuant to City of Key West Ordinance Section 2-773 Cone of Silence (attached).

_____
(signature)

_____
(date)

Sworn and subscribed before me this

_____Day of_____, 2018.

_____
NOTARY PUBLIC, State of _____ at Large

My Commission Expires: _____

City Ordinance Sec. 2-773. - Cone of silence.

(a) *Definitions.* For purposes of this section, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:

(1) *Competitive solicitation* means a formal process by the City of Key West relating to the acquisition of goods or services, which process is intended to provide an equal and open opportunity to qualified persons and entities to be selected to provide the goods or services. Completive solicitation shall include request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RFLI"), invitation to bid ("ITB") or any other advertised solicitation.

(2) *Cone of silence* means a period of time during which there is a prohibition on communication regarding a particular competitive solicitation.

(3) *Evaluation or selection committee* means a group of persons appointed or designated by the city to evaluate, rank, select, or make a recommendation regarding a vendor or the vendor's response to the competitive solicitation. A member of such a committee shall be deemed a city official for the purposes of subsection (c) below.

(4) *Vendor* means a person or entity that has entered into or that desires to enter into a contract with the City of Key West or that seeks an award from the city to provide goods, perform a service, render an opinion or advice, or make a recommendation related to a competitive solicitation for compensation or other consideration.

(5) *Vendor's representative* means an owner, individual, employee, partner, officer, or member of the board of directors of a vendor, or a consultant, lobbyist, or actual or potential subcontractor or sub-consultant who acts at the behest of a vendor in communicating regarding a competitive solicitation.

(b) *Prohibited communications.* A cone of silence shall be in effect during the course of a competitive solicitation and prohibit:

(1) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the city's administrative staff including, but not limited to, the city manager and his or her staff;

(2) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the mayor, city commissioners, or their respective staff;

(3) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and any member of a city evaluation and/or selection committee therefore; and

(4) Any communication regarding a particular competitive solicitation between the mayor, city commissioners, or their respective staff, and a member of a city evaluation and/or selection committee therefore.

(c) *Permitted communications.* Notwithstanding the foregoing, nothing contained herein shall prohibit:

(1) Communication between members of the public who are not vendors or a vendor's representative and any city employee, official or member of the city commission;

(2) Communications in writing at any time with any city employee, official or member of the city commission, unless specifically prohibited by the applicable competitive solicitation.

(A) However, any written communication must be filed with the city clerk. Any city employee, official or member of the city commission receiving or making any written communication must immediately file it with the city clerk.

(B) The city clerk shall include all written communication as part of the agenda item when publishing information related to a particular competitive solicitation;

(3) Oral communications at duly noticed pre-bid conferences;

(4) Oral presentations before publically noticed evaluation and/or selection committees;

(5) Contract discussions during any duly noticed public meeting;

(6) Public presentations made to the city commission or advisory body thereof during any duly noticed public meeting;

(7) Contract negotiations with city staff following the award of a competitive solicitation by the city commission; or

(8) Purchases exempt from the competitive process pursuant to section 2-797 of these Code of Ordinances;

(d) *Procedure.*

(1) The cone of silence shall be imposed upon each competitive solicitation at the time of public notice of such solicitation as provided by section 2-826 of this Code. Public notice of the cone of silence shall be included in the notice of the competitive solicitation. The city manager shall issue a written notice of the release of each competitive solicitation to the affected departments, with a copy thereof to each commission member, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.

(2) The cone of silence shall terminate at the time the city commission or other authorized body makes final award or gives final approval of a contract, rejects all bids or responses to the competitive solicitation, or takes other action which ends the competitive solicitation.

(3) Any city employee, official or member of the city commission that is approached concerning a competitive solicitation while the cone of silence is in effect shall notify such individual of the prohibitions contained in this section. While the cone of silence is in effect, any city employee, official or member of the city commission who is the recipient of any oral communication by a potential vendor or vendor's representative in violation of this section shall create a written record of the event. The record shall indicate the date of such communication, the persons with whom such communication occurred, and a general summation of the communication.

(e) *Violations/penalties and procedures.*

(1) A sworn complaint alleging a violation of this ordinance may be filed with the city attorney's office. In each such instance, an initial investigation shall be performed to determine the existence of a violation. If a violation is found to exist, the penalties and process shall be as provided in section 1-15 of this Code.

(2) In addition to the penalties described herein and otherwise provided by law, a violation of this ordinance shall render the competitive solicitation void at the discretion of the city commission.

(3) Any person who violates a provision of this section shall be prohibited from serving on a City of Key West advisory board, evaluation and/or selection committee.

(4) In addition to any other penalty provided by law, violation of any provision of this ordinance by a City of Key West employee shall subject said employee to disciplinary action up to and including dismissal.

(5) If a vendor is determined to have violated the provisions of this section on two more occasions it shall constitute evidence under City Code section 2-834 that the vendor is not properly qualified to carry out the obligations or to complete the work contemplated by any new competitive solicitation. The city's purchasing agent shall also commence any available debarment from city work proceeding that may be available upon a finding of two or more violations by a vendor of this section.

(Ord. No. 13-11, § 1, 6-18-2013)

5.5 SAMPLE CONTRACT"

CONTRACTOR: _____

PROJECT: **RFP #008-18: INDEPENDENT AUDITING SERVICES**

CONTRACT FOR SERVICES

THIS CONTRACT, hereinafter "Contract," made and entered into the_____day of_____, 2017 by and between_____hereinafter referred to as "Contractor" and the City of Key West, Florida, a municipal corporation, 1300 White Street, Key West, Florida 33040, hereinafter referred to as "City", for and in consideration of the following terms, conditions and covenants.

I. PURPOSE OF CONTRACT

City intends to enter into a contract with Contractor for provision of Independent Auditing Services by the Contractor and the payment for those services by City as set forth below.

II. STATEMENT OF WORK

The Contractor shall provide Independent Auditing Services pursuant to this Contract as hereinafter provided. These services will include all labor, equipment, and materials necessary to provide Independent Auditing Services.

Section 1. **Scope of Service**

Contractor shall work with City staff in advising the City and the City Commission regarding Independent Auditing Services as rendered. The detailed scope of services to be performed and schedule of fees for those services is described in Exhibit A (Contractor's response to RFP #008-18 as accepted by the CITY) and Exhibit B (CITY's original Request For Proposals) incorporated herein.

III. CONTRACT PROVISIONS

Section 1. **Period of Service**

1.1 Term of Contract

Upon award of this Contract, the effective date of this Contract shall be the date of execution of this Contract by both City and Contractor. Term of this contract shall be for an initial period of three (3) years with the option of one (1) additional two-year renewal period, upon the mutual written agreement of the parties.

Section 2. **Compensation and Method of Payment**

2.1 Fee Schedule

CITY will compensate Contractor for these Independent Auditing Services in accordance with Contractor's pricing schedule formalized in "Exhibit C-Price Proposal Form" to this Contract.

2.2 Invoices

Contractor shall submit invoices to the City for work accomplished and accepted by the City under this Contract. Each invoice shall be detailed and include, but not be limited to, a legible copy of the estimate approved by the City Representative, and the date work was completed and accepted by the City.

2.3 Payment

Payment for services rendered is due within thirty days of receipt and approval of invoice by City. Payment is delinquent 30 days following receipt and approval of invoice by City.

2.4 Use of Documents

All original documents that result from the Contractor's services pursuant to this Agreement shall be the sole property of the City.

Section 3. Audit

The Contractor agrees that the City or any of its duly authorized representatives shall, until the expiration of three years after expenditure of funds under this Agreement, have access to and the right to examine any directly pertinent books, documents, papers, and records of the Contractor involving transactions related to this Agreement. The Contractor agrees that payment(s) made under this Agreement shall be subject to reduction for amounts charged thereto which are found on the basis of audit examination not to constitute allowable costs under this Agreement. The Contractor shall refund by check payable to the City the amount of such reduction of payments. All required records shall be maintained until an audit is completed and all questions arising therefrom are resolved, or three years after completion of the project and issuance of the final certificate, whichever is sooner.

Section 4. Contractor Responsibility

5.1 Independent Contractor

The Contractor is an independent contractor and is not an employee or agent of the City. Nothing in this Agreement shall be interpreted to establish any relationship other than that of an independent contractor, between the City and the Contractor, its employees, agents, subcontractors, or assigns, during or after the performance of this Agreement.

5.2 Contractor's Records

As a condition precedent to Contractor filing any claim against City, Contractor shall make available to City all of Contractor's books and records (directly or indirectly related to the claim of Contractor's business) requested by City. Refusal to do so shall constitute a material breach of this contract and cause for dismissal of any litigation.

Section 6. Termination

6.1 Termination for Convenience

Either party upon a thirty (30) day written notice to the other party may terminate this Contract. In the event of any termination, Contractor shall be paid for all services rendered to the date of termination including all authorized reimbursable expenses.

6.2 Termination for Cause

The performance of the Contract may be terminated by the City of Key West in accordance with this clause, in whole or in part, in writing, whenever the City shall determine that the contractor has failed to meet performance requirement(s) of the Contract. If the successful bidder should be adjudged bankrupt, or if he should make a general assignment for the

benefit of his creditors, or if a receiver should be appointed on account of his insolvency, or if he should fail to provide properly skilled personnel or proper service in the sole discretion of the City, then the City can, after giving the successful proposer seven (7) days written notice, and without prejudice to any other right or remedy, terminate this Contract.

6.3 Performance Evaluation

Throughout the contract period the vendor(s) performance will be monitored by City staff. If vendor performance fails to meet the standards specified and receives an unacceptable rating, the City may without cause and without prejudice to any other right or remedy, terminate the contract whenever the City determines that such termination is in the best interest of the City. Vendor's receiving an unacceptable rating will be notified by certified mail. Contract termination shall be served by written notice by the Procurement Division.

Section 7. CITY's Obligations

7.1 Project Manager

The Project Manager for the City with the authority to act on the City's behalf with respect to all aspects of the Project is the Finance Director.

The Project Manager for the Contractor with authority to act on the Contractor's behalf with respect to all aspects of the Project is:

(name, title)
(mailing address)
(email address)
(phone/fax)

Section 8. Persons Bound by Contract

8.1 Parties to the Contract

The persons bound by this Contract are the Contractor and the City and their respective partners, successors, heirs, executors, administrators, assigns and other legal representative.

8.2 Assignment of Interest in Contract

This Contract and any interest or services associated with this Contract may not be assigned, sublet or transferred to another by either party without the prior written consent of the other party. Nothing contained herein shall be construed to prevent Contractor from employing such independent Contractors, associates and subcontractors as Contractor may deem appropriate to assist in the performance of the services hereunder.

8.3 Other Entity Use

The successful Contractor may be requested to convey its proposal prices, contract terms and conditions, to municipalities or other governmental agencies within the State of Florida.

8.4 Rights and Benefits

Nothing herein shall be construed to give any rights or benefits arising from this Contract to anyone other than Contractor and the City.

Section 9. Indemnification of City

Contractor assumes the entire responsibility and liability for all damages or injury to all persons, and to all property, caused by the Contractor or Contractor's employees, agents, consultants or sub-contractors, and Contractor shall to the fullest extent allowed by law, 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 caused by the negligence, omission, or intentional conduct of the Contractor and other persons employed or utilized by the Contractor in the performance of the contract. Specific consideration for this indemnity is $10.00, the receipt and sufficiency of which are hereby acknowledged by Contractor.

Contractor shall obtain, maintain and pay for general liability insurance coverage to insure the provisions of this paragraph.

Section 10. Insurance

10.1. Requirements

Contractor shall procure and maintain insurance, in the amounts noted in Item 5.2 of the Request for Proposal and included in "**Exhibit C**" of this Contract, which names the Contractor, its officers, board members, employees and agents as additional insured on General Liability and Automobile Liability insurance policies. Such certificate must contain a provision for notification of the City 30 days in advance of any material change or cancellation. The City by and through its Risk Manager, reserves the right to review, modify, reject or accept any required policies of insurance, including limits coverages or endorsements, herein from time to time throughout the term of this contract. All insurance carriers must have an A.M. Best Rating of at least A:VII or better. When a self-insured retention or deductible exceeds $5,000, the City reserves the right, but not the obligation, to review and request a copy of contractor's most recent annual report or audited financial statement. All contractors, including any independent contractors and subcontractors utilized, must comply with the insurance requirements as set forth in the documents identified and listed in "**Exhibit C**" attached hereto.

10.2 Certificate of Insurance

Certificates of all insurance required from the Contractor shall be attached to this agreement and shall be subject to the City's approval for adequacy.

Section 11. Professional Standards

All work performed by Contractor will be in accordance with the highest professional standards and in accordance with all applicable governmental regulations.

Section 12. Non-Appropriation

This Contract is deemed effective only to the extent of the annual appropriations available.

Section 13. General Conditions

13.1 Venue in Key West

Jurisdiction a venue for any lawsuit to enforce the terms and obligations of this Contract shall lie exclusively in the County Court or the Circuit Court in and for Key West, Florida.

13.2 Laws of Florida

The validity, interpretation, construction, and effect of this Contract shall be in accordance with and governed by the laws of the State of Florida.

13.3 Attorney's Fees and Costs

In the event the Contractor breaches or defaults in the performance of any of the terms, covenants and conditions of this Contract, the Contractor agrees to pay all damages and costs incurred by the CITY in the enforcement of this Contract, including reasonable attorney's fees, court costs and all expenses, even if not taxable as court costs, including, without limitation, all such fees, costs and expenses incident to appeals incurred in such action or proceeding.

13.4 Mediation as Condition Precedent to Litigation

Prior to the initiation of any litigation by the parties concerning this Contract, and as a condition precedent to initiating any litigation, the parties agree to first seek resolution of the dispute through non-binding mediation. Mediation shall be initiated by any party by serving a written request for same on the other party. The parties shall, by mutual agreement, select a mediator within 15 days of the date of the request for mediation. If the parties cannot agree on the selection of a mediator then the CITY shall select the mediator who, if selected solely by the CITY, shall be a mediator certified by the Supreme Court of Florida. The mediator's fee shall be paid in equal shares by each party to the mediation.

13.5 Contract Amendment

Agreement extends only to those services specifically described herein. If upon the request of the City, the Contractor agrees perform additional services such as verification of data used in Official Statements, assistance with special financial projects, tax services, pension assistance and management advisory services, the City shall pay the Contractor for the performance of such additional services a schedule of compensation rates for these various types of additional work shall be included reflecting hourly rates applicable to projects which may be requested and negotiated with the City.

The City of Key West reserves the right to order, in writing, changes in the work required by GASB or other regulatory/professional entities. The contractor has the right to request an equitable price adjustment in cases where modifications to the contract under the authority of this clause result in increased costs to the contractor. This agreement may be modified upon the written and mutual consent of both parties, and approval by appropriate legal bodies in the City of Key West.

No modification, amendment or alteration in the terms or conditions contained in this Contract shall be effective unless contained in a written documents executed with the same formality and of equal dignity herewith. This Contract constitutes the entire agreement between the parties, and no prior, or contemporaneous oral agreement shall be binding on either party. If either party fails to enforce a portion of all of this Contract, it shall not constitute a waiver of the same.

13.6 Contractual Authority

By signing this Contract the Contractor swears or affirms, under penalty of perjury, that this is a valid act of the Contractor, and that no later claim shall be made by the CONTRACTOR that the Contract is invalid or an *ultra vires* act, by reason of a failure to have the proper authority to execute the Contract. In the event that a court of competent jurisdiction later determines that the Contract is or would be null and void for failure of the signatory to have proper or complete authority, this Contract shall nonetheless be deemed valid under the theory of "apparent authority," or in the sole alternative of the City, shall be deemed to be the act of the signatory, as an individual, who shall be fully responsible for its complete performance.

13.7 Sovereign Immunity

Nothing contained herein shall be construed or interpreted as a waiver of the sovereign immunity liability limits established under chapter 768.20 Florida Statutes as amended.

Section 14. Public Records

If the Contractor has questions regarding the application of Chapter 119, Florida Statutes, to the Contractor's duty to provide public records relating to this contract, contact the office of the City Clerk as the custodian of Public Records for the City of Key West, and all the respective departments at City of Key West, City Clerk 1300 White Street, Key West, Fl. 33040 per F.S. 119.12.

Public Records Relating to Compliance, Request for Records; Noncompliance, & Civil Action with F.S. 119.0701 the Contractor shall:

Keep and maintain public records required by the public agency to perform the service.

Upon request from the public agency's custodian of public records, provide the public agency with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in this chapter or as otherwise provided by law.

Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the records to the public agency.

Upon completion of the contract, transfer, at no cost, to the public agency all public records in possession of the contractor or keep and maintain public records required by the public agency to perform the service. If the contractor transfers all public records to the public agency upon completion of the contract, the contractor shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the contractor keeps and maintains public records upon completion of the contract, the contractor shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the public agency, upon request from the public agency's custodian of public records, in a format that is compatible with the information technology systems of the public agency.

A request to inspect or copy public records relating to a public agency's contract for services must be made directly to the public agency. If the public agency does not possess the requested records, the public agency shall immediately notify the contractor of the request, and the contractor must provide the records to the public agency or allow the records to be inspected or copied within a reasonable time.

If a contractor does not comply with the public agency's request for records, the public agency shall enforce the contract provisions in accordance with the contract.

A contractor who fails to provide the public records to the public agency within a reasonable time may be subject to penalties under F.S. 119.10.

If a civil action is filed against a contractor to compel production of public records relating to a public agency's contract for services, the court shall assess and award against the contractor the reasonable costs of enforcement, including reasonable attorney fees, if:

- The court determines that the contractor unlawfully refused to comply with the public records request within a reasonable time; and
- At least 8 business days before filing the action, the plaintiff provided written notice of the public records request, including a statement that the contractor has not complied with the request, to the public agency and to the contractor.

A notice complies with subparagraph above, if it is sent to the public agency's custodian of public records and to the contractor at the contractor's address listed on its contract with the public agency or to the contractor's registered agent. Such notices must be sent by common carrier delivery service or by registered, Global Express Guaranteed, or certified mail, with postage or shipping paid by the sender and with evidence of delivery, which may be in an electronic format.

A contractor who complies with a public records request within eight (8) business days after the notice is sent is not liable for the reasonable costs of enforcement.

Section 15. Exhibits

The following Exhibits are attached to and made a part of this Contract:

"Exhibit A" - "Proposal as Submitted by Respondent and Accepted by City"

"Exhibit B" - "Original Request for Proposal as Issued by City, including all Addenda"

"Exhibit C" - "Insurance and Indemnification."

IN WITNESS WHEREOF, the City has hereunto subscribed and the Contractor has signed his, its, or their name, or names the date aforesaid.

CITY OF KEY WEST, FLORIDA

ATTEST:

_____
CHERYL SMITH
CITY CLERK

_____
JIM SCHOLL
CITY MANAGER

APPROVED AS TO FORM
AND CORRECTNESS:

_____
SHAWN SMITH
CITY ATTORNEY

WITNESSES:

CONTRACTOR

_____

_____
(Signature)

_____
(Signature)

_____
(Signature)

_____
Printed Name

_____
Title

CITY OF KEY WEST
ROUTING SHEET

From: **Nancy Kielman, Finance**

Date: **April 6, 2018**

Description: **Independent Auditing Services Request for Proposal RFP #008-18**

Please sign and date below that you have had the opportunity to review and comment on the referenced document.

Purchasing: Dave Sermak

Signature: _____ Date: 4/9/18

Risk Management: Todd Stoughton

Signature: _____ Date: 4-6-18

Finance Director: Mark Finigan

Signature: _____ Date: 4.9.18

Assistant City Manager: Greg Veliz

Signature _____ Date 4-9-18

City Manager: Jim Scholl

Signature: JKScholl Date: 09 APRIL 2018

Legal:

Signature: _____ Date: 4/10/18

Return to Nancy Kielman in Finance