REQUEST FOR PROPOSALS

RFP#009-19

CITY OF KEY WEST

CODE COMPLIANCE SPECIAL MAGISTRATE

LEGAL NOTICE

Pursuant to approval by the City Clerk, Sealed Proposals to provide Code Compliance Special Magistrate Services will be received until July 17, 2019,at 3:00 PM by the City Clerk's Office, located at 1300 White Street, Key West, Florida 33040.

RFP# 009-19

"Code Compliance Special Magistrate"

Services to be provided shall include, but not be limited to the following:

Special Magistrate Services in accordance with the terms, conditions, and specifications stated herein.

City of Key West does not discriminate based on age, race, color, sex, religion, national origin, disability or marital status.

This Public Notice has been posted on the City of Key West website: www.cityofkeywest-fl.gov, and www.demandstar.com.

Request for Proposals
RFP# 009-19
"Code Compliance Special Magistrate"

1) Introduction/Overview

(A) Purpose/Objective

The City of Key West (herein after, "City") has issued this Request for Proposals (hereinafter, "RFP") with the purpose and intent of obtaining Proposals from interested and qualified individuals offering to provide Code Compliance Special Magistrate Services in accordance with the specifications stated and/or attached herein/hereto.

The City is seeking the services of qualified individuals interested in providing Special Magistrate Services for the City. It is anticipated that one or more individuals will be selected for a contract period of two (2) years, with the possibility of one (1) two-year extension at City's option.

Inquiries

Direct questions related to this RFP shall be submitted in writing to Jim Young, jjyoung@cityofkeywest-fl.gov. Please include the page and paragraph number for each question in order to ensure that questions asked are responded to correctly.

Proposers must clearly understand that the only official answer or position of the City will be the one stated in writing to jjyoung@cityofkeywest-fl.gov. All questions asked, along with the answers rendered electronically distributed as addendum(s) to individuals registered for this solicitation and additionally posted on this site.

A) Method of Source Selection

The City is using the Request for Proposals methodology of source selection for this procurement, as authorized by Section 2-769 of Code of Ordinances.

The City may, as it deems necessary, conduct discussions with responsible proposers determined to be in contention for being selected for award for the purpose of clarification to assure full understanding of, and responsiveness to solicitation requirements.

C) Projected Timetable

The following projected timetable should be used as a working guide for planning purposes only. The City reserves the right to adjust this timetable as required during the course of the RFP process.

Event	Date
Issue RFP Notice	June 14, 2019
Last Date for Receipt of Written Questions	July 10, 2019
Proposal Close Date	July 17, 2019
Evalution by Staff	July 19, 2019
Commission Meeting	August 6, 2019

Scope of Work

The City invites proposals from qualified individuals to provide the following services:

- The special magistrate shall conduct monthly hearings relating to the enforcement and violation of the business tax receipt, fire, building, zoning, sign and other related codes in force in the City of Key West pursuant to Chapter 162 of the Florida Statutes and Chapter 2 of the Key West Code of Ordinances and appeals to the magistrate as dictated by the Key West Code of Ordinances.

- Special Magistrate agrees to observe all pertinent laws in the exercise of his duties, including but not limited to, the Sunshine Law, the Public Records Law, Chapter 112 of the Florida Statutes relating to conflicts of interest, and laws relating to procedures for quasi-judicial hearings.

- It is not the function of the special magistrate to initiate enforcement proceedings or to inspect for code violations.

- The special magistrate shall sit as an impartial hearing officer to determine, based on evidence presented during the hearing, if a violation exists.The special magistrate shall serve at the pleasure of the City Commission, and shall not be deemed a City employee.

- The special magistrate will review and understand all relevant codes, ordinances, and Florida Statutes relative to the service provided.

- The City shall provide such clerical and administrative personnel as deemed reasonably necessary to support the special magistrate's activities and assist in the proper performance of duties. The special magistrate shall not be authorized to engage, hire, or use any person, except those provided by the City to assist in the performance of duties.

- All hearings before the special magistrate shall be conducted so as to ensure fundamental due process.

- The special magistrate shall take testimony from any witness having knowledge concerning a hearing on a case. All testimony shall be under oath. The special magistrate shall have the power to administer an oath to any witness.

- As soon as practicable after the conclusion of the hearing, the special magistrate shall issue findings of fact based on evidence of record, and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted within City code and consistent with chapter 162 of the Florida Statutes no later than 5 days after the hearing.

Qualifications

- Must be a member in good standing of the Florida Bar;

- Must have five (5) years of experience in the practice of law in Florida; preferably with experience in government law, quasi-judicial proceedings,criminal law and/or administrative law.

- Attorneys with experience in local government law, quasi-judicial proceedings, code compliance, zoning and real property law, and those with previous special magistrate or judicial experience are preferred. Board certification by the Florida Bar in an appropriate field is preferred.

- Proposers must have a valid business tax receipt and meet all licensing requirements to work in the City of Key West

- Proposers shall carry and provide proof of $1,000,000.00 professional/malpractice insurance

Indemnification

Proposer agrees to indemnify and hold harmless the City, its officers, employees, and agents from all actions, claims, penalties, and judgments for damages at law or equity of any nature whatsoever arising, or alleged to arise solely out of proposer's negligence in the exercise of rights or obligations conferred by this Agreement. Proposer shall defend the City, and shall pay all reasonable expenses incurred by the City in defending itself, with regard to all damages and penalties the City may legally be required to pay as a result of the negligence of Proposer as aforesaid. Expenses shall include all incidental reasonable expenses including attorney fees, and shall include a reasonable value of any services rendered by the Office of the City Attorney. Nothing in this indemnification is intended to constitute a waiver of the City's limitation on liability as set forth in section 768.28, Florida Statutes. This covenant shall survive the expiration or termination of this Agreement. This provision shall not be construed to require Proposer to indemnify the City in situations wherein his rulings are appealed in the ordinary course as provided by law.

Fee for Services

Proposals must include a proposed fee agreement. Code hearings are currently scheduled once per month. It is estimated the requirements will be 4-6 hours per month.

Licenses

The proposer is required to possess the correct licenses and/or business tax receipt(s) necessary to carry out and perform the work required by the proposal pursuant to all applicable Federal, State and Local Law, Statute, Ordinances, and rules and regulations
of any kind.

If required and/or requested, copies of the required licenses must be submitted with the proposal response indicating that the individual proposing is properly licensed to perform the activities or work included in the contract documents. If you have questions regarding required professional licenses and

Business Tax Receipt and Certificate of Use, contact the Licnesing Offical, (305) 809-3959.

Principals/Collusion

By submission of this Proposal, the undersigned, as Proposer, does declare that the only person or persons interested in this Proposal as principal or principals is/are named therein and that no person other than therein mentioned has any interest in this Proposal or in the contract to be entered into; that this Proposal is made without connection with any person, company or parties making a Proposal, and that it is in all respects fair and in good faith without collusion or fraud.

Relationship with City

It is the intent of both parties that the Special Magistrate be legally considered an independent contractor and shall not be deemed as acting as an officer, employee, or agent of the City of Key West, nor shall he accrue any of the rights or benefits of a City employee. The parties expressly acknowledge it is not their intent to create any rights or obligations in any third person or entity.

Termination

The City may terminate the Special Magistrate at any time for cause. "Cause" shall be defined as a failure to adhere to the provisions pertaining to the conduct of code compliance procedures contained in Chapter 162 of the Florida Statutes and Chapter 2 of the Key West Code of Ordinances, or a violation of ordinance or law, or upon a majority vote of the City Commission as provided for in the Code of Ordinances.

The City may terminate without cause upon no less than 30 days written notice to the Special Magistrate.

The Special Magistrate shall have the right to resign with no less than 30 days written notice to the City.

Special Magistrate shall be entitled only to compensation for services rendered up to the date of termination or resignation.

Assignment

The Special Magistrate shall not assign, transfer, convey, sublet or otherwise dispose of this contract, or of any or all of its rights, title or interest therein, or his or its power

to execute such contract to any person, company or corporation without prior written consent

of the City. Such consent may be withheld for any reason in the sole discretion of the City Commission.

Cone of Silence

All individuals must comply with and sign attached attachment in regards to the City of Key West Ordinance Section 2-773 Cone of Silence. Failure to abide by this provision may serve as grounds for ineligibility for award of this contract to the proposer.

Equal Opportunity

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

Domestic Partnership Benefits

All firms must comply with and sign attached document in regards to the City of Key West Ordinance 2-799 equal benefits for domestic partners.

Public Entity Crime

A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit Proposals or contract with the City for construction of a public building or public works; may not submit bids for leases of real property to a public entity; may not be awarded or perform work as a Special Magistrate or consultant under a contract with any public entity; and may not transact business with any public entity in excess of the threshold amount provided for in s. 287.017 for CATEGORY TWO for a period of 36 months from the date being placed on the convicted vendor list.

Conflict of Interest

Proposer shall complete the Conflict of Interest Affidavit included as an attachment to this RFP document. Disclosure of any potential or actual conflict of interest is subject to City staff review and does not in and of itself disqualify a firm from consideration.

These disclosures are intended to identify and or preclude conflict of interest situations during contract selection and execution.

Prohibition of Gifts to City Employees

No organization or individual shall offer or give, either directly or indirectly, any favor, gift, loan, fee, service or other item of value to any City employee, as set forth in Chapter 1 12, Part Ill, Florida Statutes, the current City Ethics Ordinance, and City Administrative Policy. Violation of this provision may result in one or more of the following consequences: a. Prohibition by the individual, firm, and/or any employee of the firm from contact with City staff for a specified period of time; b. Prohibition by the individual and/or firm from doing business with the City for a specified period of time, including but not limited to: submitting bids, RFP, and/or quotes; and, c. immediate termination of any contract held by the individual and/or firm for cause.

Instructions for Statement of Proposals

All proposals shall include the following information, numbered and divided in this order:

- Title Page. This shall show the individuals name, address, telephone number, email and date.
- Brief (2 page max) Profile and Statement. Provide a history of your experience and expertise as it relates to this position. Describe in detail any disbarments or disciplinary actions.
- Professional Resume
- Proposed Fee arrangement. This should represent requested compensation for scheduled hearings, research for hearings and preparation of orders. Also include an hourly wage should additional hearings be required by the City.
- Anti-Kickback Affidavit
- Local Vendor Certification
- Public Entity Crimes Affidavit
- Conflict of Interest Form
- Cone of Silence Acknowledgement
- Domestic Partner Benefit Form

Delivery of Proposals

All Proposals are to be delivered before 3:00 p.m. local time, on or before (DATE,)to:

City of Key West City Clerk
1300 White Street
Key West, Florida 33040

The City shall not bear the responsibility for Proposals delivered to the City Clerk past the stated date and/or time indicated, or to an incorrect address by proposer's personnel or by the proposer's outside carrier. However, the City Clerk, or designee, shall reserve the right to accept Proposals received after the posted close time only under the following condition:

The tardy submission of the proposal is due to the following circumstances, which shall include but not be limited to: late delivery by commercial carrier such as Fed Ex, UPS, DHL, or courier where delivery was scheduled before the deadline.

The Proposer is required to submit one (1) original and seven (7) copies of the proposal. In addition, one (1) electronic copy of all submitted documents shall be submitted on a flash drive. The use of Adobe (PDF) is highly recommended but not mandatory. All electronic copies shall be compatible with Microsoft Office and Microsoft Windows applications.

List the Proposal Number on the outside of the box or envelope and note "Request for Proposal enclosed.»

Evaluation of Proposals (Procedure)

1. Proposal Evaluation

Proposals submitted will be ranked by a selection committee as to each proposer's experience and ability to perform the functions of Special Magistrate. Rankings will be based on a 100-point criterion as noted below.

2. Review of Proposals

In a publicly noticed meeting, the committee will meet to review and discuss the proposals. Interviews may be conducted during the evaluation process if needed. Based on the possible interviews and the evaluation criteria below; the committee will submit a ranking to the City Commission, who shall have final decision making authority.

3. Evaluation Criteria

Proposals will be evaluated using the following criteria:

A. Qualification and Experience in litigation or quasi-judicial proceedings **max.30 points**

B. Prior Experience as judicial or quasi-judicial officer
max. 20 points

C. Training and Experience in Florida local government
max. 20 points

D. Proposed fee arrangement
max.25 points

E. Demonstrated positive community relations

max.5 points

4. Oral Presentations

The City Commission may, at its discretion, request any one or all proposers to make oral presentations. Such presentations will provide proposers with an opportunity to answer any questions regarding their proposal. Not all proposers may be asked to make such oral presentations. All presentations shall be at the proposer's expense.

5. Final Selection

Final award will be made by the City Commission, based solely on that response which, in their opinion, is in the best interest of the City of Key West, all factors considered. The final selection will likely be on the agenda of the City Commission Meeting scheduled to be held at 5:00 p.m. August 6, 2019. All individuals to be considered should plan to attend at their own expense and be prepared to give an oral presentation.

The City Commission will authorize the City Manager to execute a contract with the chosen proposer(s). Following notification of the individual selected, the negotiation process will begin. It is anticipated a contract will be executed between both parties by September 1, 2019.

E) Ambiguity, Conflict, or Other Errors in the RFP

If a Proposer discovers any ambiguity, conflict, discrepancy, omission, or other error in the RFP, Proposer shall immediately notify Jim Young, noted herein, of such error in writing and request modification or clarification of the document. Jim Young will make modifications by issuing a written revision and will give written notice to all parties who have received this RFP.

The Proposer is responsible for clarifying any ambiguity, conflict, discrepancy, omission, or other error in the RFP prior to submitting the proposal or it shall be waived.

F) Proposal, Presentation, and Protest Costs

The City will not be liable in any way for any costs incurred by any proposer in the preparation of its proposal in response to this RFP, nor for the presentation of its proposal and/or participation in any discussions, negotiations, or, if applicable, any protest procedures.

G) Acceptance or Rejection of Proposals

The right is reserved by the City to waive any irregularities in any proposal, to reject any or all Proposals, to re-solicit for Proposals, if desired, and upon recommendation and justification by the City to accept the proposal which in the judgment of the City is deemed the most advantageous for the public and the City.

Any proposal which is incomplete, conditional, and obscure or which contains irregularities of any kind may be cause for rejection. In the event of default of the successful proposer, or their refusal to enter into the City contract, the City reserves the right to accept the proposal of any other proposer or to re-advertise using the same or revised documentation, at its sole discretion.

H) Requests for Clarification of Proposals

Requests by Jim Young to a proposer(s) for clarification shall be in writing. Proposer's failure to respond to request for clarification may deem proposer to be non-responsive, and may be just cause to reject its proposal.

I) Validity of Proposals

No proposal can be withdrawn after it is filed unless the Proposer makes their request in writing to the City prior to the time set for the closing of Proposals.

All Proposals shall be valid for a period of one hundred eighty (180) days from the submission date to accommodate evaluation and selection process.

J) Response Format

The proposal shall be deemed an offer to provide services to the City. In submitting a proposal, the Proposer declares that he/she understands and agrees to abide by all specifications, provisions, terms and conditions of same, and all ordinances and policies of the City. The Proposer agrees that if the contract is awarded to him/her, he/she will perform the work in accordance with the provisions, terms and conditions of the contract.

To facilitate the fair evaluation and comparison of Proposals, all Proposals must conform to the guidelines set forth in this RFP.

Any portions of the proposal that do not comply with these guidelines must be so noted and explained the Acceptance of Conditions section of the proposal. However, any proposal that contains such variances may be considered non-responsive.

Proposals should be prepared simply and economically, providing a straightforward concise description of the Proposer's approach and ability to meet the City's needs, as stated in the RFP. The utilization of recycled paper for proposal submission is strongly encouraged.

The items listed below shall be submitted with each proposal and should be submitted in the order shown. Each section should be clearly labeled, with pages numbered and separated.

(THIS PAGE INTENTIONALLY LEFT BLANK)

ANTI – KICKBACK AFFIDAVIT

STATE OF _____)
: SS
COUNTY OF _____)

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 _____, 2019.

NOTARY PUBLIC, State of _____ at Large

My Commission Expires:

LOCAL VENDOR CERTIFICATION PURSUANT TO CKW ORDINANCE 09-22 SECTION 2-798

The undersigned, as a duly authorized representative of the vendor listed herein, certifies to the best of his/her knowledge and belief, that the vendor meets the definition of a "Local Business." For purposes of this section, "local business" shall mean a business which:

a. Principle address as registered with the FL Department of State located within 30 miles of the boundaries of the city, listed with the chief licensing official as having a business tax receipt with its principle address within 30 miles of the boundaries of the city for at least one year immediately prior to the issuance of the solicitation.

b. Maintains a workforce of at least 50 percent of its employees from the city or within 30 miles of its boundaries.

c. Having paid all current license taxes and any other fees due the city at least 24 hours prior to the publication of the call for bids or request for Bids.

- Not a local vendor pursuant to Ordinance 09-22 Section 2-798
- Qualifies as a local vendor pursuant to Ordinance 09-22 Section 2-798

If you qualify, please complete the following in support of the self-certification & submit copies of your County and City business licenses. Failure to provide the information requested will result in denial of certification as a local business.

Business Name _____ Phone: _____

Current Local Address: _____ Fax: _____
(P.O Box numbers may not be used to establish status)

Length of time at this address: _____

_____ Date: _____
Signature of Authorized Representative

STATE OF _____ COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 2019.

By _____, of _____
(Name of officer or agent, title of officer or agent) (Name of corporation acknowledging)

or has produced identification _____ as identification
(Type of identification)

_____
Signature of Notary

_____
Print, Type or Stamp Name of Notary

_____
Title or Rank

Return Completed form with
Supporting documents to:
City of Key West Purchasing

SWORN STATEMENT UNDER SECTION 287.133(3)(A)
FLORIDA STATUTES, ON **PUBLIC ENTITY CRIMES**

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

1. This sworn statement is submitted with Bid or Bid for _____

   _____

2. This sworn statement is submitted by _____
   (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 _____

3. My name is _____
   (Please print name of individual signing)

   and my relationship to the entity named above is _____

4. 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 with the United States, including but not limited to, any bid or contract for goods or services to be provided to any public or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, material misrepresentation.

5. 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 guilt, in any federal or state trial court of record relating to charges brought by indictment information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

6. 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 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.

7. I understand that a "person" as defined in Paragraph 287.133(1)(8), 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 public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.

8. Based on information and belief, the statement which I have marked below is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies).

____Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

_____There has been a proceeding concerning the conviction before a hearing of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_____The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

_____The person or affiliate has not been put on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services.)

_____
(Signature)

_____
(Date)

STATE OF_____

COUNTY OF_____

PERSONALLY, APPEARED BEFORE ME, the undersigned authority,

_____who, after first being sworn by me, affixed his/her
(Name of individual signing)

Signature in the space provided above on this_____day of _____ , 2019.

My commission expires:

_____
NOTARY PUBLIC

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.

Sworn and subscribed before me this

_____ Day of _____, 2019.

_____

NOTARY PUBLIC, State of _____ at Large

My Commission Expires: _____

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 publicly 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.

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 _____, 2019.

_____

NOTARY PUBLIC, State of _____ at Large

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.

(1) 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.

(2) 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.

(3) 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).

(4) 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.

(5) 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.

(6) 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.

(7) 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.

(8) 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.

(9) 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.

(10) 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 the purpose of evading the requirements of this section.

(11) 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.

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

(b) 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.

1 Enforcement. If the contractor fails to comply with the provisions of this section:

(13) The failure to comply may be deemed to be a material breach of the covered contract; or

(14) The city may terminate the covered contract; or

(15) Monies due or to become due under the covered contract may be retained by the city until compliance is achieved; or

(16) The city may also pursue any and all other remedies at law or in equity for any breach;

(17) 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:

The contractor does not provide benefits to employees' spouses.

(1) 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.

(2) The contractor is a governmental entity

(3) The sale or lease of city property.

(4) 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").

(5) 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

(6) 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.

NON-COLLUSION AFFIDAVIT

STATE OF FLORIDA)
:
SS COUNTY OF MONROE)

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

By: _____

Sworn and subscribed before me this

_____ day of _____, 2019.

_____

NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

INDEMNIFICATION

To the fullest extent permitted by law, the CONTRACTOR 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 CONTRACTOR, its Subcontractors 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 CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR or of any third party to whom CONTRACTOR may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the work.

CONTRACTOR: _____ SEAL:

_____
Address

_____
Signature

_____
Print Name

_____
Title

DATE: _____

Conflict of Interest Affidavit

By the signature below,the firm (employees, officers and/or agents) certifies, and hereby discloses, that, to the best of their knowledge and belief, all relevant facts concerning past, present or currently planned interest or activity (financial, contractual, organtizational, or otherwise)which relates to the proposed work; and bear on whether the firm(employees,officers and/or agents)has a conflict has been fully disclosed.

Additonaly the firm, (employees, officers and/or agents)agrees to immediately notify in writeing the Finance Director or designee, if any actual or potential conflict of interest arises during the contarct and/or project duration.

_____
Firm

_____ _____
Signature Date

_____
Name Printed

_____
Title of Person Signing Affidavit

State of _____,

County Of _____,

SUBSCRIBED AND SWORN to before me this _____day of

_____,2019 by _____ who is personally

known to me to be the _____ for the Firm, OR

who produced the following identification _____

_____
Notary Public My Commision expires _____