

Proposal from  
Tropical Soup Corporation

# Tropical Soup Corporation

509 1/2 Duval Street

Key West, Florida 33040

305-293-2876

Copy

March 1, 2010

## **PROPOSAL**

To: The City of Key West  
Address: 525 Angela Street, P.O. Box 1409  
Key West, Florida 33041

Project Title: **Mallory Square Cable House and Hospitality House**  
Project Date: Published on January 24, 2010

Bidder's person to contact for additional information on this Proposal:  
Name: Joseph Walsh  
Telephone: 305 293-2876

The undersigned, hereinafter called the Bidder, 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.

This bid includes: the Public notice offered by the City on January 24, 2010, The Survey of parcels 1 through 5 by Island Surveyors Inc. dated January 28, 2010, bidder's public entities statement, bidder's anti collusion affidavit, bidder's conceptual drawings titled Mallory Square by Florida Building Consultants dated February 1, 2010 and bidder's narrative summary.

The Bidder further declares that he has carefully examined the Contract Documents, that he has attended the mandatory pre-bid conference meeting and walk-through held on January 29, 2010, has personally inspected the Project, that he has satisfied himself as to the work involved.

The Bidder is experienced in restaurant ownership and management. Principals of the bidder are majority owners of Caroline's Cafe, Fogarty's Restaurant, Jack Flats, Redfish Bluefish and Mangoes Restaurant in Key West, and Fogarty's Grill in Coral Springs, Florida. Combined these restaurants have approximately 350 employees. The bidder has been able to turn unprofitable restaurant locations into successful ones.

The bidder has adequate financial resources to undertake this project, and will provide bonds or letters of credit to guarantee the construction, and as security for the leasehold. The bidder will seek no loans, nor is financing of the proposed construction a contingency of this proposal.

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This proposal is in response to the notice by the City of Key West on January 24, 2010 seeking a lease proposal for Mallory Square Cable House Property Parcel ID #0072082-001100, Hospitality House Property Parcel ID #00072082-001400 and shown on the survey drawn by Island Surveying Inc. Number 10-108 on January 28, 2010.

Tropical Soup Corporation, a Florida corporation offers to lease the 4 parcels as described in the City's offer of January 24, 2010, and shown on the survey done by Island Surveying Inc drawing number 10-108 on January 28, 2010. The bidder, would build a new structure to house a full service restaurant and would offer outside cafe style seating with umbrellas. The bidder anticipates a small retail component along with the restaurant. The bidder would replace the damaged dock area. The bidder would create a park and green space and would offer an ADA accessible attraction and museum featuring an interactive historical perspective on Mallory Square and the Key West waterfront. The bidder would strive to create a destination restaurant as well as recreational and cultural elements that could stand alone, or become an additional positive point of interest in an integrated waterfront promenade.

The bidder believes that the interests of the City have been poorly served by the benign neglect of Mallory Square. The construction of black "prison style" bars around buildings, the location of OMI equipment and electrical transformers in public view, the lack of resources dedicated to the City's only public restrooms as well as the underutilization of high profile locations are all massive areas of opportunity for Key West to become more friendly and inviting for tourists as well as residents. The sporadic use of Mallory Square by city residents, typically when out of town guests are visiting, or for special events is a shame. The revitalization of this waterfront park (ing lot) should be a focal point in making the City a more desirable place to live and visit.

The bidder has included conceptual architectural renderings with this proposal, and anticipates ongoing discussions with the City concerning design and landscape elements. The bidder anticipates the need to create some form of landscaping, fountain, or fencing elements to block off parcel five from Mallory Square. the bidder anticipates meetings with City Staff in the planning, building, landscaping and HARC offices as well as the boards for all of those organizations. The bidder is cognizant of some of the concerns regarding this area and would work to address any issues while retaining a need to be able to pay its rental obligations. The bidder would attempt to retain as much landscaping as possible and would work with the city on park design ideas be they a fountain, bronze statuary, or landscaping and park seating. The bidder may seek rent credits to offset some of the preservation and construction costs of this project. The bidder has discussed the historic character of Mallory Square with city staff and believes that it can complete its plan within HARC guidelines. The Hospitality House, occupying a portion of Parcel 4 would be repaired and made ADA compliant. The frame construction on parcel 2 would be removed, and further discussions would be held regarding the use of the concrete structure on Parcel 2. This building is not included in the Sanborn maps of 1948, and is not included in the Key West Historic Resources Survey.

The area is zoned, Historic Public and Semipublic Services District (HPS) Compared to the City's other commercial zoning districts, this has relatively limited permitted uses. As such, the existing restaurants, food service vendors, animal acts, retail stores, retail stands and other uses offering goods for sale are all non-conforming. Many of the special events that Mallory Square is used for are also non-conforming uses. The City asserts that there is an existing non-conforming use for the proposed lease space. Bidder

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anticipates the continuation of the non-conformity, but hopes that the City addresses the obvious discrepancies in this zoning district.

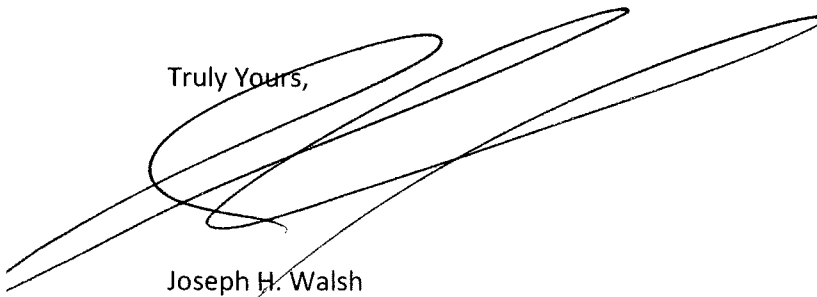
The Bidder has read the most recent examples of leases that the city has executed with some of its other tenants and is generally comfortable with the form and language. In the event that the initial lease is valued at market, however, the bidder has serious reservations about large annual increases in rent not tied to the bidder's sales.

The bidder offers \$303,000.00 in annual rent for the combined parcels. Bidder further believes that it could offer more in annual rent if the inappropriate zoning were addressed. Bidder believes that in both gross dollars, and per square foot that this offer is considerably higher than the City receives from its other tenants at Mallory Square. The bidder would expect the lease term to be 10 years. The bidder further offers additional rent determined by 7 percent of sales above a reasonable break point. Bidder is aware of no City leases offering this level of participation on the upside of its leases. The percentage rent offer anticipates the possibility of revisiting the zoning issues and allows for the City to participate in the event that modified zoning allows bidder to maximize its potential sales.

There appears to be inadequate licensed seating to operate a full service restaurant on these parcels. The bidder anticipates working with the city to an equitable solution to secure adequate seating to operate the business profitably, but that would remain an asset of the property owner. Bidder further anticipates reasonable accommodations from both bidder and the City with regard to easements, ingress and egress as well as setbacks. There are several likely ongoing areas of cooperation including: access to parcel 5, homeland security issues related to cruise ship or port traffic, Mallory square special events be they bidder's or another vendor, utility access, drainage issues for Mallory Square, foot bridge and dock access, restroom access and maintenance. Bidder is interested in exploring parking validation or other options like the City has with some of its other tenants.

Bidder will be pleased to provide any additional information that the City would deem helpful in evaluating its bid. Please direct any inquiries to Joseph Walsh at 305-293-2876. Email: [tropicalsoup1@gmail.com](mailto:tropicalsoup1@gmail.com)

Truly Yours,



Joseph H. Walsh

President

Tropical Soup Corporation

# MALLORY SQUARE

KEY WEST, FLORIDA

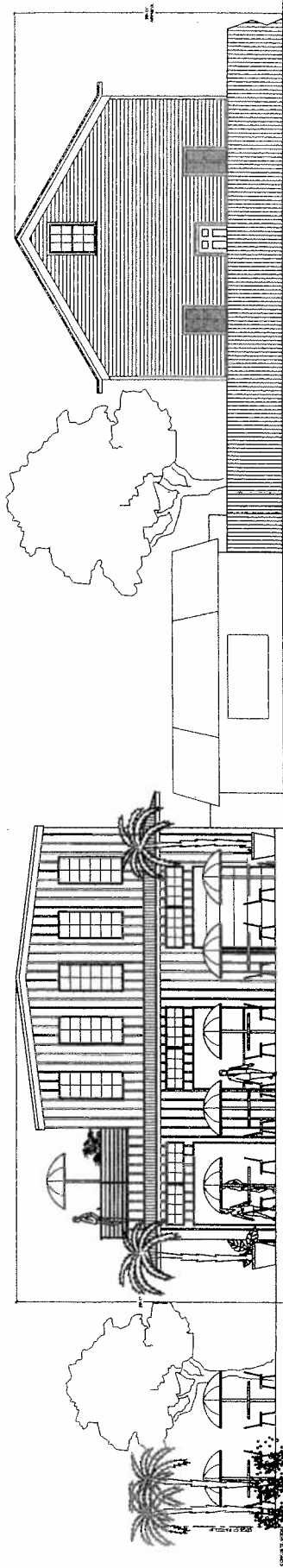
PAUL R. SHERMAN  
ARCHITECT

FLORIDA BUILDING  
CONSULTANTS, INC.  
402 APPENOUTH LANE, SUITE 1-F  
KEY WEST, FLORIDA 33040  
(305) 854-1850  
C.A. #29045

JOB: \_\_\_\_\_  
START DATE: 02-01-10  
ISSUE DATE: \_\_\_\_\_  
DRAWN: ERM

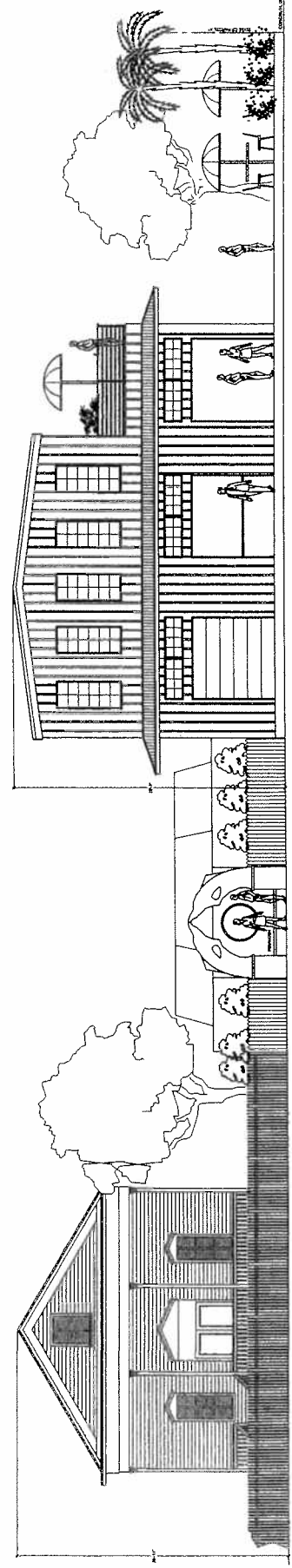
REVISIONS

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SOUTHWEST ELEVATION

SCALE: 1/4" = 1'-0"



NORTHEAST ELEVATION

SCALE: 1/4" = 1'-0"

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**PUBLIC NOTICE**

**AVAILABLE FOR LEASE  
MALLORY SQUARE**

**CABLE HOUSE PROPERTY PARCEL ID # 00072082-001100  
HOSPITALITY HOUSE PROPERTY PARCEL ID # 00072082-001400**

Pursuant to City Ordinance Section 2-941, notice is hereby given that the City of Key West, Florida is seeking proposals to conform with section 2-941(c) for the market rate, highest and best use, lease of either one or both properties which may have a contiguous area joining the two parcels.

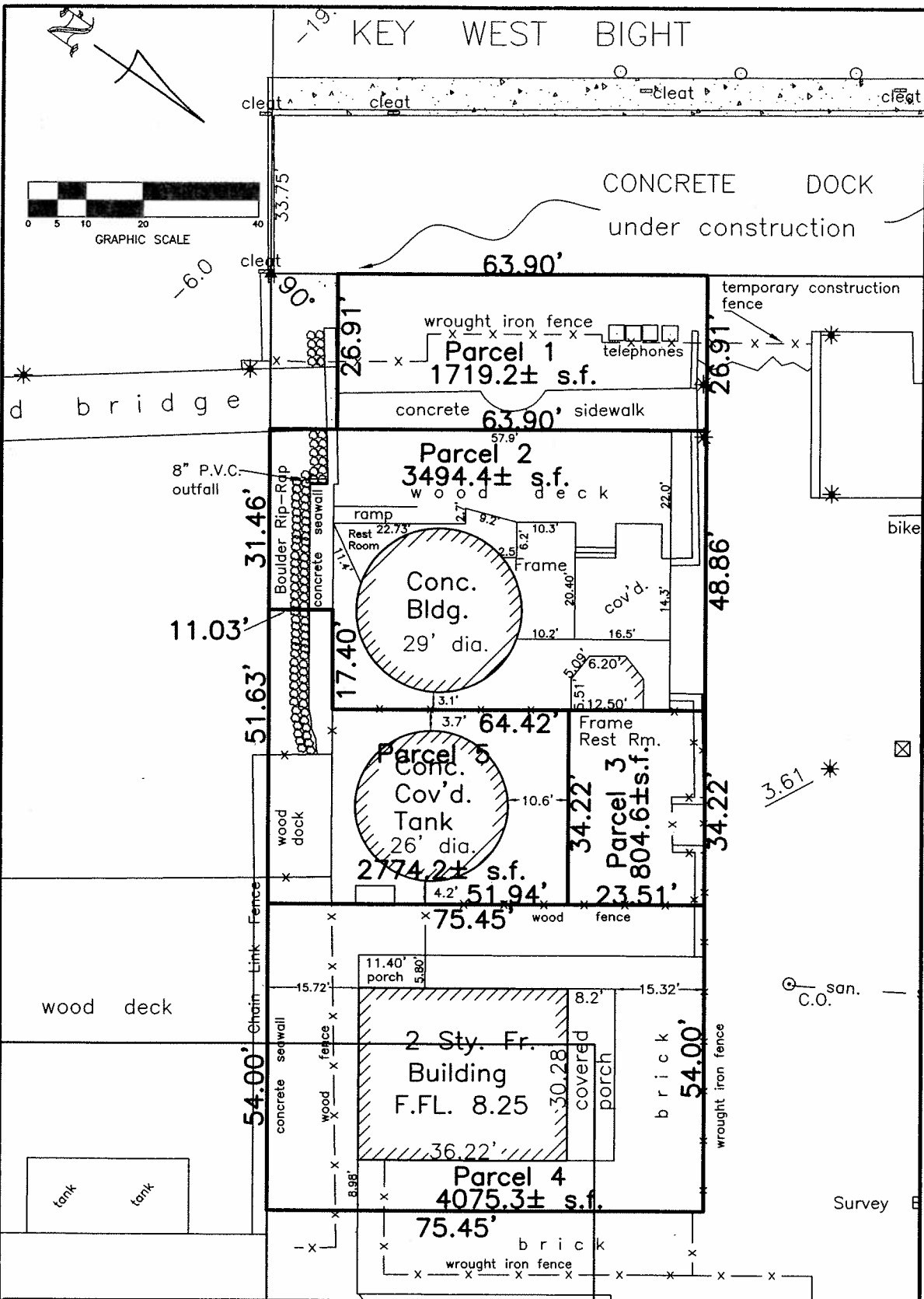
The parcels are located at Mallory Square and are known as the Cable Hut and as the Hospitality House. The parcels are zoned Historic Public Service. There are existing non-conforming uses for the Cable House parcel that may be continued. A listing of the existing and allowable uses is available upon request.

At a minimum, proposals should address the proposed use of the property which must comply with all regulatory and statutory requirements governing the use of the properties, any proposed improvements and the proposed income to the City of Key West. A mandatory pre-proposal meeting and walk-through of the properties will be held on January 29, 2010 at 9:00AM, additional property specific information will be distributed at that time. Sealed proposals shall be clearly identified as a proposal on the exterior of the envelope and delivered to the office of the City Clerk, City of Key West, 525 Angela Street, Key West, FL 33040 and must be received no later than March 2, 2010 at 3:00 PM. All proposals must contain a non-collusive affidavit and a public entity crimes form sworn and executed by the offeror and acknowledged before a notary public with the notary seal affixed to the document.

All proposals will be opened by the City Clerk at 525 Angela on March 3, 2010 3:00PM. City management will analyze and summarize proposals for presentation to the City Commission.

For additional information, interested parties should contact Marilyn Wilbarger, 305-809-3794, Fax: 305-809-3806, E-mail: [mwilbarg@keywestcity.com](mailto:mwilbarg@keywestcity.com)

Published, January 24, 2010



City of Key West Mallory Square			
Lease Areas			Dwn No.: 10-108
Scale: 1"=20'	Ref. file	Flood panel No. 1516K	Dwn. By: F.H.H.
Date: 1/28/10		Flood Zone:	Flood Elev.
REVISIONS AND/OR ADDITIONS			
f:\datafred\dwg\cityofkeywest\lease2			

**ISLAND SURVEYING INC.**  
**ENGINEERS PLANNERS SURVEYORS**

3152 Northside Drive  
 Suite \2101  
 Key West, Fl. 33040  
 (305) 293-0466  
 Fax: (305) 293-0237  
 fhildeb1@bellsouth.net

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

**PROJECT REQUEST FOR LEASE PROPOSALS FOR MALLORY SQUARE  
PARCELS 1,2,3,4 CABLE HOUSE, HOSPITALITY HOUSE and MALLORY  
SQUARE NOTICE DATED JANUARY 24, 2010**

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

1. This sworn statement is submitted with an accompanying Proposal, in response to the City of Key West's request dated January 24, 2010, to Lease a portion of MALLORY consisting 4 parcels.
2. This sworn statement is submitted by Tropical Soup Corporation, whose business address is 509 Duval Street Key West Florida 33040 and its Federal Employer Identification Number (FEIN) is 27-1952267.
3. My name is Joseph Walsh, and I am the President of Tropical Soup Corporation
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 Proposal 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, 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 of guilt, in any federal or state 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
1. A predecessor or successor of a person convicted of a public entity crime: or
  2. 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



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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 Proposals or applies to Proposal 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.

8. Based on information and belief, the following statement is true in relation to the entity submitting this sworn statement:

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 either been charged with, or convicted of a public entity crime.

(Signature) \_\_\_\_\_

(Date) \_\_\_\_\_

*[Handwritten signature]*

*MARCH 2, 2010*

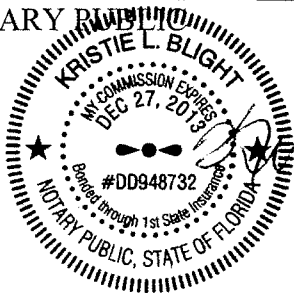
STATE OF Florida  
COUNTY OF Monroe

Joseph Walsh PERSONALLY APPEARED  
BEFORE ME, the undersigned authority, who, after first being sworn by me, affixed his/her signature in the

space provided above on this day of March 2, 2010.

My commission expires: December 27, 2013

NOTARY PUBLIC



*Kristie L Blight*

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**ANTI-KICKBACK AFFIDAVIT**

PROJECT: REQUEST FOR LEASE PROPOSAL at Mallory Square Cable House and Hospitality House, parcels 1 to 4 Key West, Florida  
Project dated: JANUARY 24, 2010:

STATE OF FLORIDA )

COUNTY OF MONROE )

I, the undersigned hereby duly sworn, depose and say that no portion of the sum herein Proposal 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: \_\_\_\_\_

Joseph H. Walsh (President)

STATE OF Florida

COUNTY OF Monroe

Joseph Walsh PERSONALLY APPEARED BEFORE ME, the undersigned authority, who, after first being sworn by me, affixed his/her signature in the space provided above, on this 2<sup>nd</sup> day of ~~February~~, 2010.

March  
RUB



Kristie Blythe  
NOTARY PUBLIC, State of Florida at Large

Commission Expires: December 27, 2013