

CONTRACT DOCUMENTS FOR:



RFP # 01-016 PENSION BENEFIT CONSULTANT CITY OF KEY WEST

SEPTEMBER 2015

MAYOR: CRAIG CATES

COMMISSIONERS:

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PART 1

GENERAL PROPOSAL

REQUIREMENTS

REQUEST FOR PROPOSAL

Notice is hereby given to prospective Proposers that sealed proposals will be received by the City of Key West until 3:00 pm on October 14, 2015 for RFP #01-016 PENSION BENEFIT CONSULTANT, and then will be publicly opened and read. Any proposals received after the time and date specified will not be considered.

Please submit one (1) original and two (2) flash drives with one single PDF file. Proposal package is to be enclosed in two (2) sealed envelope, one within the other, each clearly marked on the outside “RFP #01-016 PROPOSAL PENSION BENEFIT CONSULTANT” addressed and delivered to the City Clerk at

**City Clerk
City of Key West Florida
City Hall, 3126 Flagler Ave
Key West, FL 33040**

The City of Key West seeks the services of an independent qualified consultant, experienced with Florida law governing local government pension plans, to evaluate and review the City’s two defined benefit pension plans and provide alternatives to the current retirement benefits offered by the City, provide a cost/benefit analysis of these alternatives, and provide projections of the future costs of these alternatives.

The full Request for Proposal may be obtained from Demand Star by Onvia or the City of Key West. Please contact Demand Star at www.demandstar.com or call 1-800-711-1712 or www.cityofkeywest-fl.gov.

The Proposer will be required to furnish documentation with his proposal showing that he is in compliance with any and all licensing requirements of the State.

The Proposer shall furnish documentation showing that he is in compliance with the licensing requirements of the provisions of Chapter 66 Section 87 of the Code of Ordinances of the City of Key West; within 10 days the following the Notice of Award and must demonstrate that he holds at a minimum, the following licenses & certificates;

A. City of Key West Business Tax License Receipt

Compliance with these provisions is required before the Firm can enter into the agreement contained in the Contract Documents.

Before a Contract will be awarded for the work contemplated herein, the City will conduct such investigation as is necessary to determine the performance record and ability of the selected Proposer to perform the size and type of work specified under this Contract. Upon request, the Proposer shall submit such information as deemed necessary by the City to evaluate the Proposer's qualifications.

For information concerning the proposed work please contact Sarah Hannah-Spurlock, Assistant City Manager by email at sspurlock@cityofkeywest-fl.gov. Verbal communications, per the City’s “Cone of Silence” ordinance are not allowed.

As stated above at the time of the proposal submittal the Proposer must provide satisfactory documentation of State Licenses. The Proposer shall furnish documentation showing that he is in compliance with the licensing requirements of County, and City licenses as would be required within ten days of the award. The successful Proposer must also be able to satisfy the City Attorney as to such insurance coverage and legal requirements as may be demanded by the Proposal in question. The City may reject proposal for any and/or all of the following reasons: (1) for budgetary reasons, (2) if the proposer misstates or conceals a material fact in its proposal, (3) if the proposal does not strictly conform to the law or is non-responsive to the RFP requirements, (4) if the proposal is conditional, (5) if a change of circumstances occurs making the purpose of the proposal unnecessary to the City, or (6) if such rejection is in the best interest of the City, the City may also waive any minor formalities or irregularities in any proposal.

INSTRUCTIONS TO PROPOSER

1. CONTRACT DOCUMENTS

A. FORMAT

The Contract Documents are divided into parts, divisions, and sections for convenient organization and reference. Generally, there has been no attempt to divide the sections into work performed.

B. DOCUMENT INTERPRETATION

The separate sections contained within these Contract Documents are intended to be mutually cooperative and to provide all details reasonably required for the execution of the proposed work.

Should there be any doubt as to the meaning or intent of said Contract Documents, the Proposer should request of the Assistant City Manager, in writing (at least 10 calendar days prior to proposal opening) an interpretation thereof. Any interpretation or change in said Contract Documents will be made only in writing in the form of Addenda to the documents which will be furnished to all registered holders of Contract Documents. Proposers shall submit with their Proposals, or indicate receipt of, all Addenda. The CITY will not be responsible for any other explanation or interpretations of said Documents.

2. SCOPE OF SERVICES

A general description of the work to be done is contained in the Scope of Services section.

3. REQUIRED QUALIFICATIONS

The prospective Proposers must meet the statutorily prescribed requirements before award of Contract by the CITY. Proposers must hold or obtain all licenses and/or certificates as required by the State and Local Statutes in order to bid and perform the work specified herein. Additionally all proposers must meet the minimum qualifications as described in Required Qualifications section.

4. PROPOSERS UNDERSTANDING

Each Proposer must inform himself of the conditions relating to the execution of the work and make himself thoroughly familiar with all the Contract Documents. Failure to do so will not relieve the successful Proposer of his obligation to enter into a Contract and complete the contemplated work in strict accordance with the Contract Documents.

Each Proposer shall inform himself of, and the Proposer awarded a Contract shall comply

with, federal, state, and local laws, statutes, and ordinances relative to the execution of the work. This requirement includes, but is not limited to, applicable regulations concerning minimum wage rates, nondiscrimination in the employment of labor, protection of public and employee safety and health, environmental protection, the protection of natural resources, fire protection, permits, fees, and similar subjects.

5. PREPARATION OF PROPOSAL

A. GENERAL

All blank spaces in the PROPOSAL form must be filled in, as required, preferably in BLUE ink. No changes shall be made in the phraseology of the forms.

Any PROPOSAL shall be deemed incomplete which contains omissions, erasures, alterations, or additions of any kind, or prices uncalled for, or in which any of the prices are obviously unbalanced, or which in any manner shall fail to conform to the conditions of the published Request for Proposal.

Only one PROPOSAL from any individual, firm, partnership, or corporation, under the same or different names, will be considered. Should it appear to the CITY that any Proposer is interested in more than one Proposal for work contemplated; all Proposals in which such Proposer is interested will be rejected.

B. SIGNATURE

The Proposer shall sign his PROPOSAL in the blank space provided therefore. If Proposer is a corporation, the legal name of the corporation shall be set forth above, together with the signature of the officer or officers authorized to sign Contracts on behalf of the corporation. If Proposer is a partnership, the true name of the firm shall be set forth above, together with the signature of the partner or partners authorized to sign Contracts in behalf of the partnership. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a notarized power-of-attorney must be on file with the CITY prior to opening of Proposals or submitted with the Proposal, otherwise the Proposal will be regarded as not properly authorized.

C. ATTACHMENTS

Proposer shall complete and submit the following forms with his proposal:

- Anti-Kickback Affidavit
- Sworn Statement under section 287.133(3)(a) Florida Statutes, on public entity crimes
- Indemnification Form
- Local Vendor Form
- Domestic Partnership Affidavit

- Cone of Silence Affidavit
- All requirements listed in Proposal Submittal Requirements
- All required Insurance forms

7. STATE AND LOCAL SALES AND USE TAXES

Unless the contract documents contains a statement that the CITY is exempt from state sales tax on materials incorporated into the work due to the qualification of the work under this Contract, the Contractor, as required by the laws and statutes of the state and its political subdivisions, shall pay all state and local sales and use taxes. Prices quoted in the Proposal shall include all nonexempt sales and use taxes, unless provision is made in the Proposal form to separately itemize the tax.

8. SUBMISSION OF PROPOSALS

All PROPOSALS must be submitted not later than the time prescribed, at the place, and in the manner set forth in the Request for Proposal.

PROPOSALS must be made on the PROPOSAL forms provided herewith, **submit one (1) ORIGINAL proposal package and two (2) FLASH DRIVES containing a single PDF file of the entire proposal package.**

Each PROPOSAL must be submitted in a two (2) sealed envelopes, one within the other, each marked as to indicate the Proposer's name and its contents (project name and number) without being opened, and addressed in conformance with the instructions in the Request for Proposal.

9. MODIFICATION OR WITHDRAWAL OF PROPOSALS

Prior to the time and date designated for receipt of PROPOSALS, any PROPOSAL submitted may be withdrawn by notice to the party receiving PROPOSALS at the place designated for receipt of PROPOSALS. Such notice shall be in writing over the signature of the Proposer or by telegram. If by telegram, written confirmation over the signature of the Proposer shall be mailed and postmarked on or before the date and time set for receipt of PROPOSAL. No PROPOSAL may be withdrawn after the time scheduled for opening of PROPOSALS, unless the time specified in paragraph AWARD OF CONTRACT of these Instructions to Proposers shall have elapsed.

10. AWARD OF CONTRACT

The CITY will accept one of the Proposals or will act in accordance with the following paragraphs. The acceptance of the Proposal will be by written notice of award, mailed to the office designated in the Proposal, or delivered to the Proposer's representative. In the event of failure of the selected Proposer to sign the Contract and provide acceptable insurance certificate(s) and evidence of holding required licenses and certificates, the Owner

may award the Contract to the second ranked Proposer.

The CITY reserves the right to accept or reject any or all Proposals, and to waive any informalities and irregularities in said Proposals.

11. **BASIS OF AWARD**

An evaluation committee will evaluate all proposals that meet the minimum qualifications of this RFP. Each committee member shall complete an evaluation sheet ranking each qualified proposer against the weighted criteria set forth below. Completed evaluations shall be combined and tallied. The City reserves the right to interview one or more of the highest ranked candidates. Upon completion of its evaluation process, the evaluation committee shall provide the results of the scoring and ranking to the City Commission, along with a recommendation to award the contract to the highest ranked Proposer. Proposers may be required to make a brief presentation to the City Commission. The City Commission will evaluate all responsive written responses and will review the selection committee's recommendation, however the City Commission is not obligated to accept the recommendation of the selection committee. If the City and the first ranked firm are unable for any reason to negotiate a contract the City shall, either orally or in writing, formally terminate negotiations with the selected firm. The City may then negotiate with the next highest ranked firm. The negotiation process may continue in this manner through successive firms until an agreement is reached or the City terminates this RFP.

SELECTION CRITERIA	Maximum Points	
Qualifications and Experience/Ability of Professional Personnel/Financial Expertise of Personnel <ul style="list-style-type: none"> • Qualifications and experience of the firm relevant to Scope of Work • Availability of qualified personnel • Financial resources and capabilities/financial statement certified by a CPA • Evidence of insurance and/or bonding capacity 	20	
Quality of Services <ul style="list-style-type: none"> • Conveyance of a willingness to work with City staff to maximize resources • The ability to satisfactorily convey, via the completeness and responsiveness of their proposal, a depth of understanding of the Scope of Work and the firm's capacity to accomplish it successfully • High quality level of service to City 	20	

Technical Approach to the Project/Scope of Work	25	
Fee	25	
Other <ul style="list-style-type: none"> • Overall completeness, clarity and quality of proposal • Location of firm • Time frames and delivery dates 	10	
POINT TOTAL	100	

12. EXECUTION OF CONTRACT

The successful Proposer shall, within ten (10) working days after receiving Notice of Award, sign and deliver to the CITY two (2) original Contracts in the form hereto attached, together with the insurance certificate examples of the bonds as required in the Contract Documents and evidence of holding required licenses and certificates. Within 10 working days after receiving the signed Contract from the successful Proposer, the City’s authorized agent will sign the Contract. Signature by both parties constitutes execution of the Contract. The attached agreement is for draft purposes only.

13. TERM OF CONTRACT

It is anticipated that the City will enter into a one (1) year agreement.

14. PROPOSER'S DECLARATION AND UNDERSTANDING

The undersigned, hereinafter called the Proposer, 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.

The Proposer further declares that he has carefully examined the Contract Documents and that this Proposal is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Proposal.

15. ADDENDA

The Proposer hereby acknowledges that he has received Addenda No's. ____, ____, ____. Proposer shall insert No. of each Addendum received) and agrees that all addenda issued are hereby made part of the Contract Documents, and the Proposer further agrees that his Proposal(s) includes all impacts resulting from said addenda.

16. SALES AND USE TAXES

The Proposer agrees that all federal, state, and local sales and use taxes are included in the stated unit prices for the work.

INSURANCE REQUIREMENTS

1. **CONSULTANT** is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for Workers’ Compensation, Public Liability, and Property Damage Liability Insurance and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the **CONSULTANT** shall provide the minimum limits of liability insurance coverages as follows:

	Auto Liability	\$1,000,000	Combined Single Limit
	General Liability	\$2,000,000	Aggregate (Per Project)
		\$2,000,000	Products Aggregate
		\$1,000,000	Any One Occurrence
		\$1,000,000	Personal Injury
		\$ 300,000	Fire Damage/Legal
Professional Liability (if appl.)	\$1,000,000		Per Claim/Aggregate
Additional Umbrella Liability	\$2,000,000		Occurrence/Aggregate

2. **CONSULTANT** shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as “Additional Insured” on **PRIMARY** and **NON CONTRIBUTORY** basis utilizing an ISO standard endorsement at **least as broad as CG 2010 (11/85) or its Equivalent, (combination OF CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable)** INCLUDING A “Waiver of Subrogation” clause in favor of City of Key West on all policies. **CONSULTANT** will maintain the Professional Liability, General Liability and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the “additional insured” endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

3. Notwithstanding any other provision of the Contract, the **CONSULTANT** shall maintain complete Workers’ Compensation coverage for each and every employee, principal, officer, representative, or agent of the **CONSULTANT** who is performing any labor, services, or material under the Contract. Further, **CONSULTANT** shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$500,000
Bodily Injury by Disease Each Employee	\$500,000
Bodily Injury by Disease Policy Limit	\$500,000

4. **CONSULTANT** shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workman’s compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of workman’s compensation coverage under each policy.

5. **CONSULTANT's** insurance policies shall be endorsed to give 30 days' written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.
6. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. **PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.**
7. **CONSULTANT** will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. **CONSULTANT** will notify City of Key West immediately by telephone at (305) 809-3811 of any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the **CONSULTANT.**

PROPOSAL SUBMITTAL REQUIREMENTS

Proposals shall include, at a minimum, the following items:

1. **Cover Letter:** A one page cover letter containing:
 - The name of the person(s) authorized to represent the Proposer in negotiating and signing any agreement which may result from the proposal;
 - Entity name, address, phone, website and email address,
 - Provide a brief description of your firm, including its founding and history; number of employees; service areas; and, awards or other forms of recognition.
2. **Table of Contents:** The table of contents of the proposal should include a clear and complete identification of the materials submitted by section and page number
3. **Transmittal Letter:** This letter will summarize in a brief and concise manner the Proposer's understanding of the work to be performed, the commitment to perform the work within the anticipated time period, a statement why the firm believes itself to be best qualified to provide the services, and a statement that the proposal remains in effect for ninety (90) days. An authorized agent of the Proposer must sign the Letter of Transmittal indicating the agent's title or authority.
4. **Technical Proposal:** The purpose of the technical proposal is to demonstrate the qualifications, primary business (consulting, pension planning, actuarial, and insurance), competence, capacity and methodology of the firms seeking to provide the services in conformity with the requirements of this Request for Proposal. As such the substance of proposals will carry more weight than their form or manner of presentation. The technical proposal should demonstrate the combined qualifications of the firm and of the particular staff to be assigned to this engagement. It should also specify an approach that will meet the RFP requirements. The following subjects must be included
 - Introduction Letter – a letter introducing the Company including the corporate name, address and telephone number of principal office, number of years in business and size of staff. Indicate the primary person responsible for this project.

- Approach to the Project – Proposal shall include a description of the proposed service, with any essential exhibits or documentation, addressing the following phases of the proposed service
 - i) Overall approach and methods to achieve a fully functional project
 - ii) Involvement of City staff and pension boards
 - iii) Identification of the actuary or actuaries available for assignment. The actuary shall be a Fellow or associate of the Society of Actuaries and/or Fellow of the Conference of Actuaries in Public Practice and/or Member of the American Academy of Actuaries and/or meet standards of a qualified actuary under the provisions of the Pension Retirement Income Security Act of 1974
 - iv) Description of current work load
 - v) Estimated timeframe for completion of the report
 - vi) Methodology intended to implement and accomplish scope of work
 - vii) All fees and charges

Please provide us with your creative ideas to maintain fiscal responsibility while maintaining or modifying benefits and recommendation to provide additional services, if any

5. Past Experience: Describe experience in pension plan benefits. Provide a minimum of three (3) references for which you provided a similar service within the past five years of the scope and nature required by this RFP (preferably for government clients of a size similar to the City). For each example, provide the following information:
 - The scope and goals of the project and how success was measured.
 - A description of your role in the project and, if applicable, a description of the work of other VENDORS.
 - Provide a reference for the project – client’s name, title, email address and telephone number.

Experience as a supervising actuary including consulting services, experience analysis and valuation assignments for major retirement systems, with specific reference to involvement with public retirement systems.

Letters of Commendations or recommendations may be included in this section

6. Provide a minimum of three (3) client references.
7. Provide hourly rates or other fee structures for the services listed in Scope of Services, of this RFP.
8. Provide payment schedule for services.
9. All required attachments listed in Instructions to Proposer.

THE FOLLOWING WILL BE SUBMITTED WITH THE PROPOSAL

List items to be performed by CONSULTANT'S own forces and the estimated total cost of these items. (Use additional sheets if necessary.)

_____	_____
_____	_____
_____	_____

SUBCONTRACTORS

The Proposer further proposes that the following subcontracting firms or businesses will be awarded subcontracts for the following portions of the work in the event that the Proposer is awarded the Contract:

Name

_____, _____, _____, _____
Street City State Zip

Name

_____, _____, _____, _____
Street City State Zip

Name

_____, _____, _____, _____
Street City State Zip

PROPOSER

The name of the Proposer submitting this Proposal is

_____ doing business at

_____, _____, _____, _____
Street City State Zip

which is the address to which all communications concerned with this Proposal and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Proposal, or of the partnership, or of all persons interested in this Proposal as principals are as follows:

_____	_____
_____	_____
_____	_____

If Sole Proprietor or Partnership

IN WITNESS hereto the undersigned has set his (its) hand this _____ day of _____ 2015.

Signature of Proposer

Title

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this _____ day of _____ 2015.

(SEAL)

Name of Corporation

By _____

Title _____

Attest _____

Secretary

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 _____,
2015.

NOTARY PUBLIC, State of _____ at Large

My Commission Expires:

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 Proposal 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 of 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 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.
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 _____, 2015.

My commission expires:

NOTARY PUBLIC

CITY OF KEY WEST INDEMNIFICATION FORM

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 any and all liability for damages, including, if allowed by law, 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, caused in whole or in part by any act, omission, or default by CONSULTANT or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the CONSULTANT or its subcontractors, material men or agents of any tier or their respective employees.

Indemnification by CONSULTANT for Professional Acts. CONSULTANT hereby agrees to indemnify the City of Key West and each of its parent and subsidiary companies and the directors, officers and employees of each of them (collectively, the "indemnitees"), and hold each of the indemnitees harmless, against all losses, liabilities, penalties (civil or criminal), fines and expenses (including reasonable attorneys' fees and expenses) (collectively, "Claims") to the extent resulting from the performance of CONSULTANT'S negligent acts, errors or omissions, or intentional acts in the performance of CONSULTANT'S services, or any of their respective affiliates, under this Agreement. If claims, losses, damages, and judgments are found to be caused by the joint or concurrent negligence of the City of Key West and CONSULTANT, they shall be borne by each party in proportion to its negligence.

The indemnification obligations under this Agreement 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 of the Work. This indemnification shall continue beyond the date of completion of work.

CONSULTANT: _____

SEAL:

Address

Signature

Print Name

Title

DATE: _____

**LOCAL VENDOR CERTIFICATION PURSUANT TO
CITY OF KEY WEST 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 proposals.
 - 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 _____, 2015.

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

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 _____, 2015.

NOTARY PUBLIC, State of _____ at Large

My Commission Expires: _____

SCOPE OF SERVICES

PURPOSE

The City of Key West seeks the services of an independent qualified consultant, experienced with Florida law governing local government pension plans, to evaluate and review the City's two defined benefit pension plans, provide alternatives to the current retirement benefits offered by the City, provide a cost/benefit analysis of these alternatives, provide projections of the future costs of these alternatives and conduct a review of the local government market to measure the impact of the various options on the competitiveness of the City's benefit package. The City is requesting proposals from qualified firms and/or individuals interested in providing these services. Proposals to include references and documentation of qualification with experience evaluating general employee, police and fire pension plans for local government management, experience with pension plans governed under Chapters 112, 175 and 185 of the Florida Statutes, experience with local governments that have joined the Florida Retirement system, experience with defined contribution plans, and experience presenting reports and information to elected officials.

PROJECT HISTORY

The City has two defined benefit retirement systems: the General Employees Pension Plan for most employees; and the Firefighters' and Police Officers' Pension Plan. A separate Board of Trustees administers each System. Plan details are provided in the Code of Ordinances.

Pension benefits are one of the most important and costly fringe benefits for government employees. The operation and funding of public pension plans is subject to complex federal and state laws and regulations. The Police and Fire Pension Plan is subject to the provisions of Chapter 175 and Chapter 185, Florida Statutes. The Board of Trustees for the General Employees Pension Plan has retained the firm of Klausner and Kaufman, P.A. for legal services and the firm of Gabriel, Roeder and Smith for actuarial services. The Board of Trustees for the Police and Fire Pension Plan has retained the firm of Klausner and Kaufman, P.A. for legal services and the firm of Dulaney and Company for actuarial services.

PROJECT TIMELINE

It is the intent of the City to have all required analysis and reports complete within 100 days from award of contract.

SCOPE OF SERVICES

Firms desiring consideration for this project will submit proposals. The scope of work will include but not be limited to:

- A) Review and comment on the most recent Actuarial Valuation Reports for the two City defined benefit retirement systems.
- B) Review and evaluate the City's pension ordinance as well as plan amendments, benefits structure changes, collective bargaining agreements and any other factors affecting the costs of the plans and comment on their impact on the short and long term costs of the pension fund.
- C) Provide a five-year projection of the City's required annual contribution for the five fiscal years following the latest actuarial report, based on current benefit levels and actual experience for the most recent preceding five year period and the current assumptions and cost methods of each of the two retirement systems.
- D) Provide a future projection of the City's required annual contribution at ten years, fifteen years, and twenty years following the latest actuarial report based on current benefit levels and current assumptions and cost methods of each of the two retirement systems.
- E) Provide a five-year projection of the City's required annual contribution for various alternatives to the two current retirement systems.
- F) Provide a future projection of the City's required annual contribution at ten years, fifteen years, and twenty years for various alternatives to the two current retirement systems.
- G) Provide an analysis of the effects of changes to the Fire and Police Pension systems on state premium tax revenue received. Provide estimates of anticipated changes.
- H) Provide a projection of future costs, an analysis of labor market competitiveness, and discuss the advantages and disadvantages of defined contribution plans. The projection of future costs is to be comparable to the projections for defined benefit plans to allow for the appropriate comparison and cost benefit analysis.
- I) Provide a comparative analysis of the Florida Retirement system, the current City retirement systems, and the various alternatives studied.
- J) Include a review and comparative analysis of various alternatives to the Deferred Retirement Option Plan (DROP).
- K) Provide an impact statement and cost estimate of transition to the Florida Retirement System.
- L) When applicable, provide a comparative analysis of alternatives in a manner that considers application of benefits to (1) all eligible employees, and (2) new hires.
- M) Provide suggestions for alternative options, including "hybrid" plans consisting of a combination of defined benefits and defined contributions.
- N) Summarize all of the analysis and information in a report prepared in a manner that allows for understanding by City Commission, City staff and the public. The report shall facilitate the process of deciding the appropriate course of action in regards to retirement benefits of City employees.
- O) Selected firm should plan to meet with City staff at least twice in Key West
- P) Present the report to the City Commission at a Workshop or regular meeting.

DRAFT AGREEMENT

Between

City of Key West

And

For

PENSION BENEFIT CONSULTANT

Date

This AGREEMENT is made and entered into this ____ day of _____ 2015, by and between the City of Key West, a municipal corporation of the State of Florida, whose address is P.O Box 1409, Key West, Florida 33041, hereafter referred to as the "CITY" and _____, whose address is _____, hereafter referred to as the "CONSULTANT". This agreement shall be effective on the date of execution of the last party to sign the AGREEMENT for the term specified in Paragraph 6.1.

Article 1. Scope of Services

The CONSULTANT'S primary responsibilities include, but are not limited to, the evaluation and review of the City's two defined benefit pension plans and the recommendation for alternatives to the current retirement benefits offered by the City for the City of Key West ("Project"). Additional work may include other consulting services which the CONSULTANT is qualified to provide and which the CITY authorizes the CONSULTANT to undertake in connection with the CITY's present and planned activities in the areas identified below. The CONSULTANT is available for telephone consultation and advice related to implementing recommendations for one year following the conclusion of the contract. The CITY engages CONSULTANT to perform those Services described in the Consultant's Proposal dated _____, a copy of which is attached hereto, incorporated for reference, and more particularly described as Exhibit A. The specific task goals, task activities and key project milestones, which the CONSULTANT agrees to undertake, accomplish and furnish in approximately 90 days from execution of agreement, are set forth as follows:

Article 2. Compensation

As consideration for providing the services enumerated in Article 1, the CITY shall pay the CONSULTANT as follows:

- 2.1 Lump sum payment in the total, not-to-exceed, fixed amount of _____, which includes compensation for all tasks identified in the consultant's proposal, including, but not limited to, CONSULTANT'S travel costs (meals and lodging), transportation, fringe benefits, clerical support, salaries, general overhead costs, direct expenses, profit and all other out-of-pocket expenses.
 - A. The lump sum is based on immediate authorization to proceed and timely completion of the PROJECT. If the PROJECT timing deviates from the assumed schedule for causes beyond CONSULTANT'S control, CONSULTANT and/or the CITY reserves the right to request renegotiation of those portions of the lump sum affected by the time change.
 - B. In the event of a change of scope, an appropriate decrease or increase in compensation will be authorized in writing.
 - C. Invoicing will occur upon completion of Tasks as described in scope of work.
 - D. The CONSULTANT shall submit wage rates and other actual unit costs supporting the compensation. The CONSULTANT shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.

Article 3. Invoicing and Payment

Invoices will be issued by CONSULTANT for all work performed under this AGREEMENT, as prescribed in Article 2. Invoices are to be submitted and paid in accordance with the Florida Prompt Payment Act.

Article 4. Obligations of the Consultant

4.1. General

A. The CONSULTANT will serve as CITY’S professional representative under this AGREEMENT, preparing the Pension Benefit Study for the City of Key West.

4.2. Standard of Care

A. The standard of care applicable to CONSULTANT’S services will be the degree of skill and diligence normally employed by professionals and other related consultants performing the same or similar services at the time said services are performed. The CONSULTANT will perform any services not meeting this standard without additional compensation.

4.3 CONSULTANT’S Insurance

A. The CONSULTANT is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for Workers’ Compensation, Public Liability, and Property Damage Liability Insurance and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the CONSULTANT shall provide the minimum limits of liability insurance coverages as follows:

Auto Liability	\$1,000,000	Combined Single Limit
General Liability	\$2,000,000	Aggregate (Per Project)
	\$2,000,000	Products Aggregate
	\$1,000,000	Any One Occurrence
	\$1,000,000	Personal Injury
	\$300,000	Fire Damage/Legal
Professional Liability (if appl.)	\$1,000,000	Per Claim/Aggregate
Additional Umbrella Liability	\$2,000,000	Occurrence/Aggregate

B. CONSULTANT shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as “Additional Insured” on PRIMARY and NON CONTRIBUTORY basis utilizing an ISO standard endorsement at least as broad as CG 2010 (11/85) or its Equivalent, (combination OF CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations is acceptable) INCLUDING A “Waiver of Subrogation” clause in favor of City of Key West on all policies. CONSULTANT will maintain the Professional Liability, General Liability and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the “additional insured” endorsement until at least 3 years beyond completion and delivery of the work

contracted herein.

- C. Notwithstanding any other provision of the Contract, the **CONSULTANT** shall maintain complete Workers' Compensation coverage for each and every employee, principal, officer, representative, or agent of the **CONSULTANT** who is performing any labor, services, or material under the Contract. Further, **CONSULTANT** shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$500,000
Bodily Injury by Disease Each Employee	\$500,000
Bodily Injury by Disease Policy Limit	\$500,000

- D. **CONSULTANT** shall provide the City of Key West with a Certificate of Insurance verifying compliance with the workman's compensation coverage as set forth herein and shall provide as often as required by the City of Key West such certification which shall also show the insurance company, policy number, effective and expiration date, and the limits of workman's compensation coverage under each policy.
- E. **CONSULTANT's** insurance policies shall be endorsed to give 30 days' written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.
- F. Certificates of Insurance submitted to the City of Key West will not be accepted without copies of the endorsements being requested. This includes additional insured endorsements, cancellation/material change notice endorsements, and waivers of subrogation. **PLEASE ADVISE YOUR INSURANCE AGENT ACCORDINGLY.**
- G. **CONSULTANT** will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. **CONSULTANT** will notify City of Key West immediately by telephone at (305) 809-3811 of any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the **CONSULTANT**.

4.4 Subconsultants

- A. The **CONSULTANT** may not assign or subcontract its obligations under this AGREEMENT without the written consent of the CITY.
- B. The **CONSULTANT** is as fully responsible to the owner for the acts and omissions of his Subconsultants and of persons either directly or indirectly employed by them as he is for the acts and omissions of persons directly employed by him.

C. Nothing contained in the Contract Documents shall create any contractual relationship between any Subconsultant and the City. The Subconsultants shall have the same insurance requirements as the CONSULTANT.

4.5 Licenses

A. The CONSULTANT will be required to obtain a local required license prior to performing any work for the CITY. This license will be a Business Tax Receipt at a cost not to exceed \$103.00.

Article 5. Obligations of the City

5.1. Authorization to Proceed

Authorization to proceed will be considered to be given upon execution of this Agreement by CITY.

5.2. City-Furnished Data

The CITY will provide to the CONSULTANT all data in the CITY'S possession relating to the CONSULTANT's services on the PROJECT including, but not limited to, information on any pre-existing reports. CONSULTANT will reasonably rely upon the accuracy, timeliness, and completeness of the information provided by the CITY.

5.3. Access to Facilities and Property

The CITY will make its facilities accessible to CONSULTANT as required for CONSULTANT's performance of its services and will provide labor and safety equipment as required by CONSULTANT for such access. CITY will be responsible for all acts of CITY'S personnel.

5.4. Timely Review

The CITY will examine the CONSULTANT's studies, reports, and other documents; obtain advice of an attorney, insurance counselor, accountant, auditor, bond and financial advisors, and other consultants as CITY deems appropriate; and render in writing decisions required of CITY in a timely manner.

5.5. Prompt Notice

The CITY will give prompt written notice to CONSULTANT whenever CITY observes or becomes aware of any development that affects the scope or timing of CONSULTANT's services, or any defect in the work of the CONSULTANT.

5.6. Litigation Assistance

The Scope of Services does not include costs of CONSULTANT for required or requested assistance to support, prepare, document, bring, defend, or assist in litigation undertaken or defended by CITY. All such services required or requested of CONSULTANT by CITY, except for suits or claims between the parties to this AGREEMENT, will be reimbursed as mutually agreed in a separate agreement.

Article 6. General Legal Provisions

6.1 Agreement Period

The duration of the agreement shall be 12 months commencing from the effective date of this Agreement.

6.2. Reuse of Project Documents

Reports, documents and other deliverables of the CONSULTANT, whether in hard copy or in electronic form, are instruments of service for the project of the CITY. All documents shall be made available on re-writable CD and are the property of the City of Key West. Reuse, change, or alteration on another project, by the CITY or by others acting on behalf of the CITY of any such instruments of service without the written permission of the CONSULTANT will be at the CITY's sole risk. Nothing herein shall constitute a waiver of City's sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.

6.3 Ownership of Work Product and Inventions

All of the work product of CONSULTANT in executing a Project under this contract shall become the property of the CITY. The City may use the deliverables solely for the purpose for which they were intended.

6.4 Force Majeure

- A. The CONSULTANT is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the CONSULTANT.
- B. In the event of a delay that results in additional costs to the CONSULTANT, an appropriate increase in compensation and schedule will be authorized in writing.

6.5 Termination

- A. This agreement may be terminated at any time, with or without cause, by the CITY upon thirty (30) days written notice to CONSULTANT. No further work will be performed by CONSULTANT upon receipt of this notice unless specifically authorized by the General Services Department Director of the City of Key West.
- B. On termination, the CONSULTANT will be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the CITY, reasonable expenses incurred during the close-out of the AGREEMENT. The CITY will not pay for anticipatory profits.

6.6 Suspension, Delay, or Interruption of Work

- A. The CITY may suspend, delay, or interrupt the services of the CONSULTANT for the convenience of the CITY. In the event of such suspension, delay, or interruption, or any other act or neglect of CITY or CITY's subcontractors, CITY will pay CONSULTANT for work performed to date. An equitable adjustment in the PROJECT'S schedule and CONSULTANT's compensation will be made as agreed to by both parties.

- B. In the event delays to the project are encountered for any reason, the parties agree to undertake reasonable steps to mitigate the effect of such delays.

6.7 Third Party Beneficiaries

This Agreement gives no rights or benefits to anyone other than the CITY and CONSULTANT and has no third party beneficiaries. CONSULTANT's services are defined solely by this proposed scope of services, and not by any other contract or agreement that may be associated with the Project. All work products will be prepared for the exclusive use of CITY for specific application as described in the proposed scope of services. No warranty, expressed or implied, is made. There are no beneficiaries of the work products other than CITY, and no other person or entity is entitled to rely upon the work products without the written consent of CONSULTANT. Any unauthorized assignment of related work product shall be void and unenforceable.

6.8 Indemnification

- A. 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 any and all liability for damages, including, if allowed by law, 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, caused in whole or in part by any act, omission, or default by CONSULTANT or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the CONSULTANT or its subcontractors, material men or agents of any tier or their respective employees.

- B. Indemnification by CONSULTANT for Professional Acts. CONSULTANT hereby agrees to indemnify the City of Key West and each of its parent and subsidiary companies and the directors, officers and employees of each of them (collectively, the "indemnitees"), and hold each of the indemnitees harmless, against all losses, liabilities, penalties (civil or criminal), fines and expenses (including reasonable attorneys' fees and expenses) (collectively, "Claims") to the extent resulting from the performance of CONSULTANT'S negligent acts, errors or omissions, or intentional acts in the performance of CONSULTANT'S services, or any of their respective affiliates, under this Agreement. If claims, losses, damages, and judgments are found to be caused by the joint or concurrent negligence of the City of Key West and CONSULTANT, they shall be borne by each party in proportion to its negligence.

- C. The indemnification obligations under this Agreement 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 of the Work. This indemnification shall continue beyond the date of completion of work.

6.9 Limitation of Liability

- A. CONSULTANT's services shall be governed by the negligence standard for professional services, measured as of the time those services are performed.
- B. This Provision takes precedence over any conflicting Provision of this Agreement or any document incorporated into it or referenced by it.
- C. This limitation of liability will apply whether CONSULTANT'S liability arises under breach of contract or warranty; tort; including negligence; strict liability; statutory liability; or any other cause of action, and shall include CONSULTANT's officers, affiliated corporations, employees, and subcontractors.

6.10 Assignment

- A. Consultant shall not assign all or any part of this Agreement without the prior consent of the CITY by Resolution of the Key West City Commission.

6.11 Jurisdiction

- A. The law of the state of Florida and Monroe County will govern the validity of this AGREEMENT, its interpretation and performance, and any other claims related to it.

6.12 Severability and Survival

- A. If any of the provisions contained in this AGREEMENT are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will affect any other provision, and this AGREEMENT will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
- B. ARTICLES 4, 5, and 6 will survive termination of this AGREEMENT for any cause.

6.13 Dispute Resolution

- A. The parties will use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options.
- B. Unless otherwise agreed in writing, the CONSULTANT shall continue the Work and maintain the approved schedules during any arbitration proceedings. If the CONSULTANT continues to perform, CITY shall continue to make payments in accordance with this Agreement.

6.14 Post Contractual Restriction

A. This Agreement is contingent upon the execution of Post Contractual Restrictions by Consultant, those subconsultants referred to in Article 4.4(B) above, and those subconsultants approved by the City pursuant to Article 4.4(A) above restricting those persons and entities, as well as the employees of those persons and entities, from representing themselves or clients before the City Commission of the City Key West, the City's agents, boards, and committees on all planning related matters during the period of performance of this Agreement and for the period of one year following final approval of the Evaluation and Appraisal Report Amendments to the Comprehensive Plan. The Post Contractual Restrictions shall be executed simultaneously with this Agreement and shall be in a form acceptable to City.

6.15 Attorney's Fees

A. In the event of litigation affecting the rights of either party under this Agreement, the losing party shall pay the prevailing party's costs, expenses, and Attorney's Fees incurred in the enforcement of the prevailing party's rights hereunder, including those pertaining to appeals.

Article 7. Schedules, and Signatures

This AGREEMENT, including its Schedules, constitutes the entire AGREEMENT, supersedes all prior written or oral understandings, and may only be changed by a written amendment executed by both parties.

IN WITNESS WHEREOF, the parties execute below:

THE CITY OF KEY WEST

By: _____
Jim Scholl, City Manager

Attest: _____
Name Title

Dated this _____ day of _____, 2015.

By: _____

Dated this _____ day of _____, 2015.

Exhibit A
Fee Schedule
Date

SEE ATTACHED

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. Competitive 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)