

PROFESSIONAL SERVICES AGREEMENT BETWEEN
THE CITY OF KEY WEST
AND
T. C. ADDERLY
FOR HUMAN
RESOURCES
CONSULTING

THIS AGREEMENT is made between T. C. ADDERLY, (hereinafter the "Consultant"), and the CITY OF Key West, FLORIDA, a Florida municipal corporation, (hereinafter the "City").

WHEREAS, the Consultant and City, through mutual negotiation, have agreed upon a scope of services, schedule, and fee for rendering of Human Resources Services (the "Project"); and

WHEREAS, the City desires to engage the Consultant to perform the services specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the City agree as follows.

1. Scope of Services.

1.1 The Consultant shall furnish on-call Human Resources Department Services to the City as set forth in this Agreement. A copy of the Scope of Services is provided in Exhibit A.

2. Term/Commencement Date.

2.1 This Agreement shall become effective upon execution by both parties and shall remain in effect for a period of one (1) year unless earlier terminated in accordance with Paragraph 8.

2.2 Consultant agrees that time is of the essence and Consultant shall complete each deliverable for the Project within the timeframes set forth in the Project Schedule unless extended by the City Manager.

3. Compensation and Payment.

3.1 The Consultant shall be compensated in the following manner:

A flat rate of \$30,000 for the Consultant to complete the Scope of Services including two trips. Lodging will be coordinated by the City. Consultant shall not be entitled to any additional payment for any expenses incurred that are not identified in the Scope of Services.

The Consultant shall receive a payment of \$5,000 upon acceptance of the agreement. Upon completion of 50% of the project, the consultant shall submit an Invoice for a second payment of \$10,000. The final invoice shall be submitted upon completion of the project. All invoices shall identify the services completed and the amount charged.

3.2 If a dispute should occur regarding an invoice submitted, the City Manager may withhold payment of the disputed amount and may pay the Consultant the undisputed portion of the invoice. Upon written request of the Finance Director, the Consultant shall provide written documentation to justify the invoice. Any compensation disputes shall be decided by the City Manager after consultation with the City Attorney, whose decision shall be final.

4. Sub-consultants.

4.1 The Consultant shall be responsible for all payments to any sub-consultants and shall maintain responsibility for all work related to the services.

4.2 Any sub-consultants used on the Project must have the prior written approval of the City Manager or his designee.

5. City's Responsibilities.

5.1 Furnish to the Consultant, at the Consultant's request, all available maps, plans, existing studies, reports, and other data pertinent to the services.

5.2 Arrange for access to and make all provisions for the consultant to enter upon real property as required for the consultant to perform services as may be requested by the Consultant (if applicable).

5.3 The City will handle all printing and collation of materials and handouts needed to complete the project.

6. Consultant's Responsibilities.

6.1 The Consultant shall exercise the same degree of [or better] care, skill, and diligence in the performance of the professional **Human Resources Department Services** under similar circumstances, as is ordinarily provided by the City of Key West Human Resources Department.

7. **Conflict of Interest.**

7.1 To avoid any conflict of interest or any appearance thereof, Consultant shall not, for the term of this Agreement, represent any private sector entities (developers, corporations, real estate investors, etc.) regarding any City related matter.

8. Termination.

8.1 The City Manager without cause may terminate this Agreement upon thirty

(30) days' written notice to the Consultant, or immediately with cause.

8.2 Upon receipt of the City's written notice of termination, the Consultant shall stop work on the services.

8.3 In the event of termination by the City, the Consultant shall be paid for all work accepted by the City Manager up to the date of termination [but not less than a total of \$15,000], provided that the Consultant has first complied with the provisions of Paragraph 8.4.

8.4 The Consultant shall transfer all books, records, reports, working drafts, documents, maps, and data pertaining to the services to the City, in a hard copy or electronic format within 14 days from the date of the written notice of termination or the date of expiration of this Agreement.

9. Nondiscrimination.

9.1 During the term of this Agreement, Consultant shall not discriminate against any of its employees or applicants for employment because of their race, color, religion, sex, or national origin, and to abide by all Federal and State laws regarding nondiscrimination.

10. Attorneys' Fees and Waiver of Jury Trial.

10.1 In the event of any litigation arising out of this Agreement, each party shall be responsible for their attorneys' fees and costs, including the fees and expenses of any paralegals, law clerks, and legal assistants, and including fees and expenses charged for representation at both the trial and appellate levels.

10.2 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily, and intentionally waives its right to trial by jury.

11. Indemnification.

11.1 Consultant shall defend, indemnify and hold harmless the city, its officers, agents, and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, arising out of, related to, or in any way connected with the Consultant's performance or non-performance of any provision of this Agreement including, but not limited to, liabilities arising from contracts between the Consultant and third parties made pursuant to this Agreement.

11.2 The provisions of this section shall survive termination of this Agreement.

12. Notices/Authorized Representatives.

12.1 Any notices required by this Agreement shall be in writing and shall be

deemed to have been properly given if transmitted by hand-delivery, by registered or certified mail with postage prepaid return receipt requested, or by a private postal service, addressed to the parties (or their successors) at the following addresses:

For the City: Albert Childress, City Manager
City of Key West, FL
1300 White Street
Key West, FL

With a copy to: Ronald Ramsingh
City Attorney
1300 White Street
Key West, FL 33040

For The Consultant: T. C. Adderly
18850 N.W. 14th Ave-Road
Miami Gardens, FL 33169-3615

13. Governing Law.

13.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. The exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, or the Southern District of Florida.

14. Entire Agreement/Modification/Amendment.

14.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

14.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement unless executed with the same formality as this document.

15. Ownership and Access to Records and Audits.

15.1 All records, books, documents, maps, data, deliverables, papers, and financial information (the "Records") that result from the Consultant providing services to the City under this Agreement shall be the property of the City.

15.2 The City Manager or his designee shall, during the term of this Agreement and for a period of three (3) years from the date of termination of this Agreement, have access to and the right to examine and audit any Records of the Consultant involving transactions related to this Agreement.

- 15.3 The City may cancel this Agreement for refusal by the Consultant to allow access by the City Manager or his designee to any Records pertaining to work performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.
16. Non-assignability.
- 16.1 This Agreement shall not be assignable by the consultant unless such assignment is first approved by the City Manager. The City is relying upon the apparent qualifications and personal expertise of the Consultant, and such firm's familiarity with the City's area, circumstances, and desires.
17. Severability.
- 17.1 If any term or provision of this Agreement shall to any extent be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby, and each remaining term and provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.
18. Independent Contractor.
- 18.1 The Consultant and its employees, volunteers, and agents shall be and remain independent contractors and not agents or employees of the City with respect to all of the acts and services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association, or any other kind of joint undertaking, enterprise, or venture between the parties.
19. Compliance with Laws.
- 19.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Project.
20. Waiver
- 20.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.
21. Survival of Provisions
- 21.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed, and shall be fully enforceable by either party.

22. Prohibition Of Contingency Fees.

22.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

23. Counterparts

23.1 This Agreement may be executed in several counterparts, each of which shall be deemed an original, and such counterpart shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The City, signing by and through its City Manager, attested to by its City Clerk, duly authorized to execute same and by consultant by and through its _____ whose representative has been duly authorized to execute same.

Attest:

CITY OF KEY WEST

Keri O'Brien, City Clerk

Albert P. Childress, City Manager

Approved As to Form and Legal Sufficiency for the Use
And Reliance of the City of Key West Only:

RR

T.C. Adderly - Consultant

EXHIBIT "A"

SCOPE OF SERVICES

The purpose of this Professional Service Agreement is to use an on-as-needed-basis the professional Human Resources provided by T. C. Adderly to assist the Human Resources Department with the following assignments:

1. Discussions with the City Manager with respect to the scope of the project and direction.
2. Meet with elected officials (via Zoom) to discuss the project, timelines, and final report.
3. Interview each member of the Human Resources (HR) department.
 - a) Determine what problems they are encountering.
 - b) Determine (and conduct) what HR training is needed (core training).
 - Customer Service.
 - Decision-Making.
 - Communications.
4. Create a success “milepost” schedule, setting goals and benchmarks.
5. Conduct follow-up monitoring sessions to determine the level of improvement.
6. Review the current HR policies and procedures and revise them if necessary.
7. Interview key Department Heads to determine their needs.
8. Suggest “Best Practices” or programs that would improve the department.
9. Create (an on-call) advice system for the HR Department Director.
10. Leadership training for Human Resources Department Director.

With the proper scheduling, interviews and face-to-face meetings can be conducted within two trips to the City of Key West, with a report completion timeframe of 60 days or less.

Optional additional service and service billing:

- a) Additional trips cost \$1,000 per trip.
- b) Leadership training for key City Department Directors (\$3,000 per training session).