



HISTORIC TOURS OF AMERICA, INC.®

"The Nation's Storyteller"®
<http://www.historictours.com>

Edwin O. Swift, III, President
Hope Casas, Executive Assistant

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June 18, 2012

Jim Fitton, Port & Transit Director
Jim Scholl, City Manager
The City of Key West
PO Box 1409
Key West, Florida 33041-1409

REF: Outer Mole Cruise Ship Passenger Shuttle Service. ITB No. 12-020

Dear Mr. Fitton and City Manager Scholl:

Narrative

Enclosed is our answer to the Bid No. 12-020.

Because of operational limitations, personal restrictions, increased liability and safety concerns, we have modified the contract as allowed to offer a bid. Thank you for your consideration.

Rather than re-write the bid we have crossed out or added to certain sections of the bid and we request that the bid be re-written as noted below. We have also, in as condensed language as possible, given our reason for the requested modification.

Qualifications and Requirements

Qualification/Requirements: First paragraph, (see document for language removed or to be replaced by the following:

Modification Request:

1. Historic Tours of America® (HTA) on behalf of Buggy Bus, Inc. (DBA Old Town Trolley Tours® of Key West) and Conch Tour Train, Inc. will transport

OLD TOWN TROLLEY TOURS®: *Boston • Key West • St. Augustine • San Diego • Savannah • Washington, DC*
CONCH TOUR TRAIN • KEY WEST AQUARIUM • KEY WEST SHIPWRECK HISTORIC MUSEUM® • FLAGLER'S STATION • MALLORY SQUARE FESTIVAL MARKETPLACE
HARRY S. TRUMAN LITTLE WHITE HOUSE • SCHOONER WESTERN UNION • BONE ISLAND SHUTTLE
YANKEE FREEDOM II • SAN DIEGO SEALS • SAN DIEGO OLD TOWN MARKET
BOSTON TEA PARTY SHIPSM & MUSEUM • DC DUCKS • GHOSTS & GRAVESTONESSM

1,700 passengers per hour from the Mole Pier into the City. We will transport approximately 50% of the passengers and staff to our property at Front and Duval Streets (via Conch Tour Train) and 50% to our leasehold in Mallory Square on Wall Street (via Old Town Trolley and Bone Island Shuttle). This property is under lease to Tropical Shell & Gifts, a Historic Tours of America® subsidiary.

Rational for Request for Above Modification:

A. Safety –

1. The Conch Train must have a controlled property from which to safely disembark passengers on both sides of the vehicle.
2. The ability to queue up 1,700 people for the return trip also requires a controlled area and personnel in the street and on property to keep an orderly situation. Any location away from our current controlled depots would naturally decrease safety and increase the number of personnel (increased costs) needed for crowd and traffic control away from our depots which we must continue to man. We believe a street drop off would require the City to provide sufficient police officers to ensure the public safety of guests as this is public property. They would be needed to keep the streets clear, ensure the sidewalks are passable for other pedestrians and to ensure that random vehicles will not park in the designated location “for just a minute.” (Note that if the drop dead date to return to the ship is 1PM then 1,700 people arrive at 12:45 PM expecting immediate transport. It is human nature and no amount of warning or pleading makes much difference in this “last minute mentality.” This creates crowd control issues.)

B. Should unloading on Duval, Southard or Fleming Streets as the suggested locations be attempted, it would increase transit times due to heavy traffic on Duval St. Should Southard Street be used, it is one way from Whitehead to Duval St. and the location would have to be reached by a circular route entering Southard at Simonton. This again would increase times.

C. Dropping people in the center of Duval Street will dramatically change the distance from Mel Fishers, Sloppy Joes, Kino Sandals, the Audubon House, Lower Duval, Key West Aquarium, the Customs House Museum, Mallory Square, The Sculpture Garden, Ripley’s Believe It or Not, Rick’s, The Shipwreck Treasure Museum etc. We do not believe the cruise ships would

welcome such a change for their passengers as their time on the island is limited.

For all of the above reasons we request a specific modification to use our existing controlled depot sites.

2. We can provide shuttle service with a minimum 12 hour notice by the City.
3. Our trains and trolleys are representative of the city and represent over 90% of our fleet; however we also use our four Bone Island Shuttle vehicles during transport when needed.
4. We have provided these services for the City of Key West and we have provided shuttle services in Balboa Park in San Diego for over 12 years and provide shuttles in Boston, Washington and other major cities.
5. Our current staff is approximately 110 and all drivers are licensed with CDL's.
6. We can provide, upon request, our safety and preventative maintenance manuals.
7. All vehicles are equipped with radio communication.
8. We will name City as additional insured.
9. We are above AM Best A VI rating.
10. We have all operating licenses, certifications and permits needed to legally operate.
11. We agree to the method of payment.
12. We have suggested a surcharge per vehicle after 8:00 PM to be agreed to.
13. We have completed the Anti-Kickback form.
14. The city may approve advertising on the shuttle with a reasonable standard of acceptance.
15. We are in possession of a valid D.H.S. I.D. and City Access Card's for each person entering NAS.
16. Modification Requested:
We are willing to pay for additional use of city buses on a per passenger basis. We cannot sign a penalty clause where the amount and circumstances and methodology are unknown to us.

Insurance

We meet and or exceed all insurance requirements called out in the bid.

Agreement for the Provision of Shuttle Services for Cruise Ship Passengers

#5 Modification Requested

The language, “plus an annual 3% increase”.

Reason for Request:

In our current contract we have an annual 3% increase. This is not shown in the new contract. We do our best to contain costs, including payroll and while there is less volatility in the past year or two we are now experiencing a tougher time in hiring. Just as city employees need raises and material, fuel and supplies costs continue to be volatile we therefore request that a 3% annual increase be included in our contract should we be chosen to provide this service. Our increased costs are very specific to transportation and the cost of island labor does not normally follow a national or regional CPI.

#7 Modification Requested

In the unlikely event that the City desires HTA to perform services “after hours” (i.e. between 8:00 PM and 6:30 AM – based on experience, a very rare occurrence) , HTA proposes to charge the city an additional \$150.00 per hour (or portion thereof) for each trolley vehicle (capacity of approximately 41 passengers) or each Bone Island Shuttle vehicle (capacity of between 22 and 31) desired during the “after hours” period between 8:00 PM and 11:00 PM; during the “after hours” period between 11:00 PM and 6:30 AM the per-vehicle “after hours” charge shall be \$200.00 for each hour (or portion thereof). These “after hours” surcharges shall be charged in addition to the per passenger/per crew member rates outlined on the bid Form.

In the unlikely event “after hours” service is requested, the City shall if possible provide seven days written notice to HTA and such notice shall specify the need for such “after hours” service and such notice shall also

include how many trolley or Bone Island Shuttle vehicles will be required, and the hours of such requested operation.

Note: Please note that, pursuant to HTA's franchise obligations (i.e. City Ordinances 95-4 and 95-5), five percent of all gross revenues paid by the City to HTA hereunder shall be "paid back" to the city in the form of franchise fees. For example, the \$150.00 per vehicle/per hour "after hours" surcharge (for services performed between 8:00 PM and 11:00 PM) shall net HTA \$142.50.

Reason for Requested Modification:

The cost of keeping people employed after hours requires overtime for management, drivers and mechanics which must remain until all vehicles are at base. Without this modest fee, which does not fully cover the additional costs involved, we would lose money. We do not have the number of personnel to put on a fresh group of people for this duty or time to schedule for this late night change without increasing our costs through overtime.

#8 Modification Requested:

Should the contractor not be able to meet their obligation and an alternative resource is needed the contractor would pay to the city or their agent the per passenger fee that the city pays the contractor under this contract.

Reason for Requested Modification:

We should not agree to an open ended cost structure and/or penalty. Another alternative would be a set fee should we need help due to unusual circumstances.

Continued Narration

We believe we have provided the city and the cruise ships a professional and hassle free service. However, much waiting in line by the passengers could be avoided if the ships would release the passengers in two or three stages or at the other end of their stay the passengers would heed our request not to wait until the last possible moment to return to the ship.

We have asked the ships to structure their release of passengers and implored the guest to come back early to no avail.


The ability to provide the shuttle at a reasonable cost is founded on having sufficient ships come to the Mole. Should this number decrease it becomes economically less feasible to keep the number of vehicles and personnel set aside for the Mole. There is a tipping point where the cost of vehicles, people and insurance per vehicle etc. will be more than revenue derived from the shuttle. Historic Tours of America®, at the request of the City previously increased its fleet and hired extra people to drive, maintain and manage a larger fleet to be able to provide this service. While we don't expect the city to guarantee the minimum number of ships to the Mole, this is ultimately the thing that will allow us or anyone else to continue this service efficiently.

We believe a reasonable increase in Port Fees is justified to offset increased costs and put aside funds for the channel widening; however, as a contractor we have no ability to make this request of the cruise lines.

Historic Tours of America® remains flexible to further negotiate the particulars of this bid. We remain dedicated to serving the City and our cruise ship guests.

Thank you for your consideration.

Sincerely,



Edwin O. Swift, III
President

Enclosures



THE CITY OF KEY WEST

Post Office Box 1409
Key West, FL 33041-1409

May 20, 2012

To: All Prospective Bidders

Pursuant to the City of Key West's Code of Ordinances Section 2-769: Invitation to Bid (ITB), the City is soliciting competitive sealed bids for OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE. ITB No. 12-020 contains the following documents.

City of Key West Bid No.12-020 contains the following documents:

- a. General Conditions of Invitation to Bid two (2) pages in length
- b. Specifications, Three (3) pages in length
- c. Required permit/license one (1) page in length
- d. Bid Response Form three (3) page in length
- e. Public Entity Crimes Certification two (2) pages in length
- f. Anti-Kickback Affidavit one (1) page in length
- g. Indemnification Form (2) pages in length
- h. Local Preference Certification one (1) page in length
- i. Requirements for Contractors to provide equal benefits to domestic partners four (4) pages in length
- j. Draft Agreement for Transportation Services
- k. Conditions of Bids four (4) page in length

Please review your package to ensure it contains all of these documents. If not, contact Sue Snider, City of Key West Purchasing Agent at (305) 809-3815, immediately, to obtain copies of any missing document(s).

Firms/corporations submitting a bid should ensure that all documents are completed, certified, and returned as instructed.

INFORMATION TO BIDDERS

SUBJECT: ITB NO. 12-020: OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE

ISSUE DATE: MAY 20, 2012

PRE BID CONFERENCE: MANDATORY
WEDNESDAY, JUNE 6, 2012 @ PORT OFFICE, 201 WILLIAM STREET, KEY WEST, FL 33040 305.809.3795

MAIL BIDS TO: CITY CLERK
CITY OF KEY WEST
3126 FLAGLER STREET
KEY WEST, FL 33040

DELIVER BIDS TO: SAME AS ABOVE

BIDS MUST BE RECEIVED: JUNE 20, 2012

NOT LATER THAN: 3:00 P.M. LOCAL TIME

SUE SNIDER
PURCHASING AGENT
CITY OF KEY WEST

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Enclosures

INVITATION TO BID

Sealed Bids addressed to the City of Key West, for the OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE (ITB No. 12-020) will be received at the office of the City Clerk, City of Key West, Florida, until 3:00 p.m., local time, on June 20, 2012, and then will be publicly opened and read. Any bids received after the time and date specified will not be considered.

The City of Key West Port is requesting bids from qualified entities to provide shuttle service for cruise ship passengers and crew arriving on vessels that moor at the Outer Mole Pier on the Truman Waterfront.

Bid Documents may be obtained from DemandStar by Onvia. Please contact DemandStar at www.demandstar.com or call 1-800-711-1712.

Applicants shall submit one response marked "Original", one copy marked "Copy", and 2 CD-ROM or flash drives, each shall contain one PDF file each of the full response enclosed in two (2) sealed envelopes, one within the other clearly marked on the outside "ITB 12-020: OUTER MOLE CRUISE SHIP PASSENGERS SHUTTLE SERVICE" and addressed to:

CITY CLERK
CITY OF KEY WEST, FLORIDA
3126 FLAGLER AVE
KEY WEST, FLORIDA 33040

A mandatory Pre-bid conference will be held at the Port Operations Conference Room on June 6, 2012 at 2:00 PM.

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

For information concerning the ITB, contact Sue Snider, City of Key West Purchasing Agent, telephone (305)-809-3815, email ssnider@keywestcity.com.

Prior to award by the CITY the successful Bidder must be able to prove that Bidder held State Licenses prior to submittal of Bid as would be required to perform work herein. Within 10-days after issuance of the Notice of Award, the successful Bidder must be able to prove that Bidder holds City Licenses as would be required to perform work herein. Any permit and/or license requirement and subsequent costs are located within the Bid document. The successful Bidder must also be able to satisfy the City Attorney as to such insurance coverage, and legal requirements as may be demanded in Bid. The CITY may reject Bids: (1) for budgetary reasons,

(2) if the Bidder misstates or conceals a material fact in its Bid, (3) if the Bidder does not strictly conform to the law or is non-responsive to Bid requirements, (4) if the Bid is conditional, (5) if a change of circumstances occurs making the purpose of the Bid unnecessary or (6) if such rejection is in the best interest of the CITY. The CITY may also waive any minor informalities or irregularities in any Bid.

**City of Key West
Port Operations
Requirements for ITB No. 12-020
Outer Mole Cruise Ship Passenger Shuttle Service**

The City of Key West Port is requesting bids from qualified entities to provide shuttle service for cruise ship passengers and crew arriving on vessels that moor at the Outer Mole Pier on the Truman Waterfront. The yearly average for passengers at the Outer Mole is between 250,000 and 300,000 and is highly seasonal. The City cannot guarantee that number will continue. Passengers are to be shuttled from the ship to specified sites in Key West as designated by the City.

Terms shall be for three (3) years with an option to renew for an additional two (2) years. The City agrees to pay to the Contractor the hourly prices, as outlined in the Bid Form. The City will allow an annual CPI-U (for Miami/Ft. Lauderdale) increase, not to exceed 3% annually, beginning on the date of the signed Agreement.

All bidders shall submit a package that identifies qualifications, experience, and ability to meet insurance requirements, description of methods for transporting passengers, description of vehicles, description of employee training programs for better safety and customer service procedures and proof of sufficient staffing and vehicles to accomplish the task.

All bids will have a validity period of 120 days from the date of the bid opening.

The City reserves the right to terminate any contract arising from the ITB with 30 days advance notification.

Qualifications/Requirements

- Operator must be able to transport a minimum of 1,700 passengers per hour from the ship to specified Key West locations and back. ~~Possible locations include the intersection of Duval St and Fleming St or the intersection of Duval St and Southard St. The City retains the right to make adjustments to these locations as needed. Should the City desire a location further from the Mole Pier than the listed locations the City will renegotiate the transportation fees accordingly.~~ **SEE NARRATIVE + MODIFICATIONS LETTER ENCLOSED.**
- Operator must be able to guarantee that shuttle service can be provided for an unscheduled ship upon a minimum 12-hour notice by the City.
- Vehicles used for transportation shall be representative of Key West, such as trains, trams, and trolleys, and be part of the overall experience for the cruise ship passengers.
- Operator must demonstrate sufficient experience in providing similar services.
- Operator must have the ability to field the required number of staff members to run the service and also provide a plan for back-up staff in the event of attrition or other unforeseen difficulties.
- Operator must have a plan for ongoing driver safety and preventative maintenance and will be made a part of the contract. A copy of those documents will be provided to the City within 90 days of the contract being awarded.
- Vehicles must be equipped with radio control from a base station.

- Operator must possess or obtain at least the following minimum insurance coverage with limits specified:
1. **Worker's Compensation – Statutory –** in compliance with the Workers' Compensation law of the State of Florida. The coverage must include Employer's Liability with a limit of One Million (\$1,000,000.00) Dollars each accident.
 2. **Contractors Commercial General Liability -** The Contractor's Commercial General Liability (CGL) shall be in an amount acceptable to the City of Key West but not less than \$1,000,000 Combined Single Limit per occurrence and \$2,000,000 annual aggregate per project. The City of Key West must be named as an Additional Insured. The coverage must include:
 - Premises/Operations
 - Broad Form Contractual Liability
 - Underground, Explosions, and Collapse Hazard (if excavation, blasting, tunneling, demolition or rebuilding of any structural support of a building is involved or explosion hazard exists).
 - Products/Completed Operations
 - Independent Contractors (if any part of the Work is to be subcontracted)
 - Broad Form Property Damage
 - Personal Injury
 3. **Commercial Automobile Liability –** Insurance with a minimum limit of liability per occurrence of One Million (\$1,000,000.00) Dollars Combined Single Limit and no annual aggregate. The City of Key West must be named as an Additional Insured. This insurance shall include for bodily injury and property damage the following coverage:
 - Owned automobiles
 - Hired automobiles
 - Non-owned automobiles
 - Location of operation shall be "All Locations."
 4. **Excess/Umbrella Liability** shall have a minimum limit of Two Million (\$2,000,000.00) per occurrence with an annual aggregate of Two Million (\$2,000,000.00.) This coverage is to be following form and include the Commercial General Liability and Automobile Liability Policies. The City of Key West must be named as an Additional Insured.
 5. **Waiver of Subrogation -** The insurance required under paragraphs B, C, & D, shall contain a "Waiver of Subrogation" clause as to the Owner, Consultant, Contractor and their respective officers, agents, employees and sub-contractors.
 6. It shall be the responsibility of the Contractor to ensure that all subcontractors comply with the same insurance requirements as is required of Contractor.
 7. Certificates of Insurance evidencing the above insurance requirements are to be forwarded to the City Clerk and Risk Management of the City of Key West.
- Certificate of Insurance should name the City of Key West as additional insured.
 - Rated Insurance Carriers through A.M. Best of not less than A-VI rating.
 - Operators must possess all required federal, state, and local license, certifications and permits for legal operation of the service.
 - Operator will be paid directly by the City on pre-established rates. The rates will be based on a per passenger/crew count as indicated by each vessel's U.S. Customs and Border Protection form #1300 (passenger/crew manifest)

- Typical operating hours are between 6:30 a.m. and 8:00 p.m. with most vessels remaining in port up to 10-hours. Vessels staying longer than 10-hours will be subject to an agreed upon surcharge per vehicle
- Operator must complete the attached bid form.
- The City of Key West has the right to approve all written advertising and verbal announcements in or on the shuttle vehicle.
- All persons entering NAS Key West property must be in possession of a valid Department Homeland Security Transportation Workers Identification Card and City of Key West Access badge. All credentials will be at the operator's expense. With prior notification exceptions will be made for maintenance employees needed to repair disabled vehicles on the Outer Mole Pier.
- ~~If the operator is unable to provide sufficient vehicles and staff to meet the requirement to move up to 1,700 passengers/crew an hour, a penalty clause will be implemented, including the cost to the City to procure sufficient vehicles to meet the requirement.~~
SEE NARRATIVE + MODIFICATIONS LETTER ENCLOSED.

CITY OF KEY WEST LICENSES, PERMITS, AND FEES

Pursuant to the Public Bid Disclosure Act, each license, permit, or fee a Contractor will have to pay the City of Key West before or during all licenses, permits, and fees **REQUIRED BY THE CITY OF KEY WEST** and payable to the City by virtue of this Contract is as follows:

- Applicant must hold City of Key West License as Passenger Vehicle for Hire (PVH) or Contract Vehicle for Hire (CVH) or Sightseeing Vehicle or must obtain franchise from City Commission and license prior to bid response.

Note: Contractor shall verify each license, permit, or fee before submitting the bid.

Notice to Bidder: Use Black Ink or Type For Completing the Form.

BID

To: CITY CLERK
CITY OF KEY WEST, FLORIDA
3126 FLAGLER AVE
KEY WEST, FLORIDA 33040

Project Title: OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE

Project No.: ITB No. 12-020

BIDDER'S INFORMATION

Name: Historic Tours of America, Inc.

Address: 201 Front Street, Suite 224
Key West, Florida 33040

Contact Name: Edwin O. Swift, III, President

Email: eswift@historictours.com

Telephone: (305) 294-4142

Fax: (305) 295-9070

BIDDER'S DECLARATION AND UNDERSTANDING

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

The Bidder further declares that he/she has carefully examined the Contract Documents for the project that he/she has personally inspected the site that he/she has satisfied himself/herself as conditions of work involved.

The Bidder further agrees that he/she has exercised his/her own judgment regarding the interpretation of job conditions and has utilized all data, which he/she believes pertinent from the Project Manager, Owner, and other sources in arriving at his/her conclusions.

CERTIFICATES OF INSURANCE

Bidder agrees to furnish the Owner, before commencing the work under this Contract, the certificates of insurance as specified in these Documents.

ADDENDA

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

SALES AND USE TAXES

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

PUBLIC ENTITY CRIMES

“A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to a public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.”

BID FORM

OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE

Per Attached Specifications Rate per passenger (80% of manifest) \$ 3.66

Rate per passenger in words Three dollars and sixty-six cents

Per Attached Specifications Rate per crew (50% of manifest) \$ 3.66

Rate per crew in words Three dollars and sixty-six cents

Surcharge per vehicle for stays exceeding 10-hours

Rate per Trolley \$ 150.00 per hour per vehicle

Rate per Train \$ 150.00 per hour per vehicle

PAYMENT TERMS: 45 days after acceptance of manifest

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

PROJECT ITB NO. 12-020: OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE

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 Bid, Bid or Contract No. Project OTB NO-12-020 for Outer Mole Cruise Ship Passenger Shuttle Service

2. This sworn statement is submitted by Historic Tours of America, Inc.
(Name of entity submitting sworn statement)
whose business address is 201 Front Street, Suite 224, Key West, Fl. 33040
and (if applicable) its Federal Employer Identification Number (FEIN) is 592512154 (If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement.)

3. My name is Edwin O. Swift, III and my relationship to
(Please print name of individual signing)
the entity named above is President.

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 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 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
 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 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 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 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.

The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with no 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)

6-18-12

(Date)

STATE OF Florida

COUNTY OF Monroe

PERSONALLY APPEARED BEFORE ME, the undersigned authority,

Edwin O. Swift, III who, after first being sworn by me, affixed his/her signature in the
(Name of individual signing)

space provided above on this 18th day of June, 2012.

My commission expires:

Marion Hope Casas
NOTARY PUBLIC




ANTI-KICKBACK AFFIDAVIT

PROJECT NO. 12-020: OUTER MOLE CRUISE SHIP PASSENGER SHUTTLE SERVICE

STATE OF FLORIDA)
 : SS
COUNTY OF MONROE)

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

By: 
Edwin O. Swift, III President

Sworn and subscribed before me this

18th day of June, 2012.

Marion Hope Casas
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____



CITY OF KEY WEST INDEMNIFICATION FORM

Contractor agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, agents, servants and employees, including volunteers, from and against any and all claims, debts, demands, expense and liability arising out of injury or death, to any person or the damage, loss of destruction of any property which may occur or in any way grow out of any act or omission of the Contractor, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the City as a result of any claim, demands, and/or causes of action except of those claims, demands, and/or causes of action arising out of the negligence of The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, agents, servants and employees. The Contractor agrees to investigate, handle, respond to, provide defense for and defend any such claims, demand, or suit at its sole expense and agrees to bear all other costs and expenses related thereto, even if it (claims, etc.) is groundless, false or fraudulent. The City of Key West does not waive any of its sovereign immunity rights, including but not limited to, those expressed in Section 768.28, Florida Statutes.

These indemnifications shall survive the term of this agreement. In the event that any action or proceeding is brought against the City of Key West by reason of such claim or demand, Contractor shall, upon written notice from the City of Key West, resist and defend such action or proceeding by counsel satisfactory to the City of Key West.

The indemnification provided above shall obligate Contractor to defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the City of Key West's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the City of Key West whether performed by Contractor, or persons employed or utilized by Contractor.

The Contractor's obligation under this provision shall not be limited in any way by the agreed upon Contract Price as shown in this agreement, or the Contractor's limit of or lack of sufficient insurance protection.

CONTRACTOR: Historic Tours of America, Inc. SEAL:

201 Front Street, Suite 224, Key West, Fl. 33040

Address



Signature

Edwin O. Swift, III

Print Name

President
Title

DATE: 6-18-12

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

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

- a. Principle address as registered with the FL Department of State located within 30 miles of the boundaries of the city, listed with the chief licensing official as having a business tax receipt with its principle address within 30 miles of the boundaries of the city for at least one year immediately prior to the issuance of the solicitation.
b. Maintains a workforce of at least 50 percent of its employees from the city or within 30 miles of its boundaries.
c. Having paid all current license taxes and any other fees due the city at least 24 hours prior to the publication of the call for bids or request for 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 Historic Tours of America, Inc. Phone: (305) 294-4142
Current Local Address: 201 Front St., Suite 224 Fax: (305) 295-9070
(P.O Box numbers may not be used to establish status) Key West, Fl. 33040

Length of time at this address 15 years

[Signature] Date 6-18-12
Signature of Authorized Representative

STATE OF Florida
COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 18th day of June, 2012,
By Edwin O. Swift, III, President, of Historic Tours of America, Inc.
(Name of officer or agent, title of officer or agent) Name of corporation acknowledging)
or has produced Personally Known as identification
(type of identification)

[Signature]
Signature of Notary
MARION HOPE CASAS
Print, Type or Stamp Name of Notary

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



Title or Rank

City Ordinance Sec. 2-799
Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

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

- (1) **Benefits** means the following plan, program or policy provided or offered by a contractor to its employees as part of the employer's total compensation package: sick leave, bereavement leave, family medical leave, and health benefits.
- (2) **Bid** shall mean a competitive bid procedure established by the city through the issuance of an invitation to bid, request for proposals, request for qualifications, or request for letters of interest.
- (3) **Cash equivalent** means the amount of money paid to an employee with a domestic partner in lieu of providing benefits to the employee's domestic partner. The cash equivalent is equal to the employer's direct expense of providing benefits to an employee for his or her spouse.

The cash equivalents of the following benefits apply:

- a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
 - b. For health benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself or herself.
 - c. For family medical leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
- (4) **Contract** means any written agreement, purchase order, standing order or similar instrument entered into pursuant to the award of a bid whereby the city is committed to expend or does expend funds in return for work, labor, professional services, consulting services, supplies, equipment, materials, construction, construction related services or any combination of the foregoing.
 - (5) **Contractor** means any person or persons, sole proprietorship, partnership, joint venture, corporation, or other form of doing business, that is awarded a bid and enters into a covered contract with the city, and which maintains five (5) or more full-time employees.
 - (6) **Covered contract** means a contract between the city and a contractor awarded subsequent to the date when this section becomes effective valued at over twenty thousand dollars (\$20,000).
 - (7) **Domestic partner** shall mean any two adults of the same or different sex, who have registered as domestic partners with a governmental body pursuant to state or local law authorizing such registration, or with an internal registry maintained

by the employer of at least one of the domestic partners. A contractor may institute an internal registry to allow for the provision of equal benefits to employees with domestic partner who do not register their partnerships pursuant to a governmental body authorizing such registration, or who are located in a jurisdiction where no such governmental domestic partnership registry exists. A contractor that institutes such registry shall not impose criteria for registration that are more stringent than those required for domestic partnership registration by the City of Key West pursuant to Chapter 38, Article V of the Key West Code of Ordinances.

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

(b) **Equal benefits requirements.**

- (1) Except where otherwise exempt or prohibited by law, a Contractor awarded a covered contract pursuant to a bid process shall provide benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses.
- (2) All bid requests for covered contracts which are issued on or after the effective date of this section shall include the requirement to provide equal benefits in the procurement specifications in accordance with this section.
- (3) The city shall not enter into any covered contract unless the contractor certifies that such contractor does not discriminate in the provision of benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees.
- (4) Such certification shall be in writing and shall be signed by an authorized officer of the contractor and delivered, along with a description of the contractor's employee benefits plan, to the city's procurement director prior to entering into such covered contract.
- (5) The city manager or his/her designee shall reject a contractor's certification of compliance if he/she determines that such contractor discriminates in the provision of benefits or if the city manager or designee determines that the certification was created, or is being used for the purpose of evading the requirements of this section.
- (6) The contractor shall provide the city manager or his/her designee, access to its records for the purpose of audits and/or investigations to ascertain compliance with the provisions of this section, and upon request shall provide evidence that the contractor is in compliance with the provisions of this section upon each new bid, contract renewal, or when the city manager has received a complaint or has reason to believe the contractor may not be in compliance with the provisions of this section. This shall include but not be limited to providing the city manager or his/her designee with certified copies of all of the contractor's records pertaining to its benefits policies and its employment policies and practices.
- (7) The contractor may not set up or use its contracting entity for the purpose of evading the requirements imposed by this section.

- (c) **Mandatory contract provisions pertaining to equal benefits. Unless otherwise exempt, every covered contract shall contain language that obligates the contractor to comply with the applicable provisions of this section. The language shall include provisions for the following:**
- (1) **During the performance of the covered contract, the contractor certifies and represents that it will comply with this section.**
 - (2) **The failure of the contractor to comply with this section will be deemed to be a material breach of the covered contract.**
 - (3) **If the contractor fails to comply with this section, the city may terminate the covered contract and all monies due or to become due under the covered contract may be retained by the city. The city may also pursue any and all other remedies at law or in equity for any breach.**
 - (4) **If the city manager or his designee determines that a contractor has set up or used its contracting entity for the purpose of evading the requirements of this section, the city may terminate the covered contract.**
- (d) **Enforcement. If the contractor fails to comply with the provisions of this section:**
- (1) **The failure to comply may be deemed to be a material breach of the covered contract; or**
 - (2) **The city may terminate the covered contract; or**
 - (3) **Monies due or to become due under the covered contract may be retained by the city until compliance is achieved; or**
 - (4) **The city may also pursue any and all other remedies at law or in equity for any breach;**
 - (5) **Failure to comply with this section may also subject contractor to the procedures set forth in Division 5 of this article, entitled "Debarment of contractors from city work."**
- (e) **Exceptions and waivers.**

The provisions of this section shall not apply where:

- (1) **The contractor does not provide benefits to employees' spouses.**
- (2) **The contractor is a religious organization, association, society or any non-profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.**
- (3) **The contractor is a governmental entity.**
- (4) **The sale or lease of city property.**
- (5) **The provision of this section would violate grant requirement, the laws, rules or regulations of federal or state law (for example, The acquisition services procured pursuant to Chapter 287.055, Florida Statutes known as the "Consultants' Competitive Negotiation Act").**

- (6) Provided that the contractor does not discriminate in the provision of benefits, a contractor may also comply with this section by providing an employee with the cash equivalent of such benefits, if the city manager or his/her designee determines that either:
 - a. The contractor has made a reasonable yet unsuccessful effort to provide equal benefits. The contractor shall provide the city manager or his/her designee with sufficient proof of such inability to provide such benefit or benefits which shall include the measures taken to provide such benefits or benefits and the cash equivalent proposed, along with its certificate of compliance, as is required under this section.
- (7) The city commission waives compliance of this section in the best interest of the city, including but not limited to the following circumstances:
 - a. The covered contract is necessary to respond to an emergency.
 - b. Where only one bid response is received.
 - c. Where more than one bid response is received, but the bids demonstrate that none of the bidders can comply with the requirements of this section.
- (f) City's authority to cancel contract. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification, or otherwise deny a person or entity city business.
- (g) Timing of application. This section shall be applicable only to covered contracts awarded pursuant to bids which are after the date when this section becomes effective.

**AGREEMENT BETWEEN THE CITY OF KEY WEST
AND**

**FOR THE PROVISION OF
SHUTTLE SERVICES FOR CRUISE SHIP PASSENGERS**

This Agreement is made and entered into by and between the City of Key West, Florida, a municipal corporation of the State of Florida, whose address is 3126 Flagler Street, Key West, Florida 33040 (hereinafter referred to as "CITY") and Historic Tours of America a Florida Corporation, whose address is 201 Front St. Suite 224, Key West, Fl. 33040 ^{Inc.} hereinafter referred to as the CONTRACTOR.)

WITNESSETH:

WHEREAS, the CITY by Resolution No. 12-___, accepted the bid of CONTRACTOR to provide cruise ship shuttle services to CITY; and

WHEREAS, the parties agree as follows:

1. CONTRACTOR shall provide shuttle transportation services to CITY of Key West from the Outer Mole Pier to designated locations as described in the bid specifications or modifications thereto contained in ITB 12-020, which is incorporated by reference hereto.
2. CONTRACTOR is an independent contractor, and at its own cost and expense, shall perform the services as authorized by Purchase Order issued by CITY, and shall provide all materials, tools, labor, appliances, machinery, vehicles, and appurtenances necessary to perform the services.
3. All services shall be performed in a professional manner and form as required by all applicable Federal, State, and local rules, regulations, laws, codes, and ordinances, and in accordance with the "Contract Documents". Transportation Workers Identification Card (TWIC) and City of Key West Port Access badging is required by all CONTRACTOR personnel who access the Outer Mole Pier.
4. CONTRACTOR shall have a Driver Safety Plan which will be presented to City upon request.
5. In consideration of the performance of the services as set forth in ITB 12-020, the City agrees to pay to the CONTRACTOR based on eighty percent (80%) of the total number of passengers and fifty percent (50%) of the crew members as evidenced on the manifest for each vessel docking at the Outer Mole Pier. The parties agree that the initial rate per passenger and crew will be \$ 3.66

6. CONTRACTOR shall have the ability, on short notice, to provide for additional transportation needs within a minimum twelve (12) hours of notification by the City. It is also understood that cruise ship schedules are subject to change and/or cancellations, which requires the CONTRACTOR to provide for flexible scheduling of personnel
7. At certain times ships may stay longer than scheduled. CONTRACTOR will provide shuttle services at the rate designated in ITB 12-020 for those additional hours with little or no notice.
8. In addition to any other remedies for failing to strictly adhere to the requirements of this Agreement, and without waiving any right to enforce any provision of this Agreement, City and CONTRACTOR agree that the following measures may be instituted by City for CONTRACTOR'S failure to meet the service requirements in ITB 12-020. Should the CONTRACTOR be unable to provide the required services as described in this contract and related bid documents, then the City may provide services using alternative resources. The cost of those services will be borne by the CONTRACTOR. CONTRACTOR shall notify City the day prior to any day when CONTRACTOR knows or has reason to believe that an insufficient number of vehicles are available to cover required security services.
9. CITY shall pay CONTRACTOR within forty-five (45) days from the date of receipt of a correct and approved written invoice for payment.
10. The CONTRACTOR shall indemnify and hold harmless the CITY, its officers and employees, from liabilities, property damage, losses, personal injuries, and costs, including, but not limited to reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of CONTRACTOR, its employees or agents, in the performance of this Agreement. This indemnification shall survive the expiration or termination of this Agreement. In the event that any action or proceeding is brought against the CITY by reason of such claim or demand, CONTRACTOR shall, upon written notice from the CITY, resist and defend such action or proceeding by counsel satisfactory to the CITY. The CONTRACTOR shall defend at its own expense to and through appellate, supplemental or bankruptcy proceeding, or to provide for such defense, at the CITY's option, any and all claims of liability and all suits and actions of every name and description covered above which may be brought against the CITY whether performed by CONTRACTOR, or by persons employed or used by CONTRACTOR.
11. The CONTRACTOR's obligation under this provision shall not be limited in any way by the agreed upon Contract Price as shown in this Agreement, or the CONTRACTOR's limit of or lack of sufficient insurance protection.
12. This Agreement is for a term of three (3) years from the date this Agreement is executed by both parties. The CONTRACTOR and City Commission may renew the Agreement on the same terms and conditions, for an additional two (2) calendar year period, with an

increase negotiated by both parties, if mutually agreed to by the parties at least sixty (60) calendar days prior to the contract expiration. If not renewed prior to the time specified, CITY may proceed to go out for bid for the services.

13. City shall have the right to terminate this contract with or without cause upon thirty (30) calendar days written notice to CONTRACTOR. CONTRACTOR shall have the right to terminate this Agreement with or without cause upon sixty (60) calendar days written notice to City.
14. CONTRACTOR may not assign this Contract, and any changes to the terms of this Contract must be contained in a written amendment, executed by the parties hereto, with the same formality and of equal dignity.
15. The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida.
15. 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 not affect any other provision, and this AGREEMENT will be construed as if such invalid, illegal, or unenforceable provision had never been contained herein.
16. 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.
16. Any notices sent shall be sent to the parties by U.S. mail as follows:

CITY OF KEY WEST
Dir. Port Operations
PO Box 6434
Key West, FL 33041-6434
305-809-3790

CONTRACTOR

With a copy to
Key West City Attorney
PO Box 1409
Key West, Fl. 33040

**SIGNATURE PAGE FOR
AGREEMENT FOR
SHUTTLE SERVICE FOR CRUISE SHIP PASSENGERS**

IN WITNESS WHEREOF, we, the parties hereto, each herewith subscribe the same, this
_____ day of _____ 2012.

Attest:

CITY OF KEY WEST, FLORIDA

Cheryl Smith, City Clerk

By: _____
Jim Scholl, City Manager

WITNESS

Historic Tours of America, Inc.
Name: Edwin O. Swift, III
Title: President

By: _____

CONDITIONS OF BID
CITY OF KEY WEST

1. PREPARATION OF BIDS:

Bids will be prepared in accordance with the following:

- a. The enclosed Bid Response Form is to be used, other forms may be rejected.
- b. All information required by the Bid form shall be furnished. The BIDDER shall print or type his/her name and manually sign the Bid Response Form plus each continuation sheet on which an entry is made.
- c. Bid delivery time must be shown and shall include Sundays and holidays.
- d. BIDDER shall thoroughly examine the specifications, drawings, schedule, instructions, and all other contract documents.
- e. All Bids shall be submitted in original plus one copy and 2 CDs or flash drives containing the complete Bid in PDF format.
- f. BIDDERS are advised that all CITY OF KEY WEST contracts are subject to all legal requirements provided for in City ordinances and/or State and Federal Statutes.

2. SUBMISSION OF BIDS:

- a. Bids and changes thereto shall be enclosed in sealed envelopes addressed to the City Clerk, City of Key West. The name and address of the BIDDER, the date and hour of the Bid opening and the Bid number shall be placed on the outside of the envelope.
- b. Bids must be submitted on the form furnished. Telecopy Bids will not be considered.
- c. Unless otherwise indicated, all City of Key West Bids may be awarded on a line-item basis.
- d. Bid prices must remain in effect for ordering up to three (3) months from Bid opening date.

3. REJECTION OF BIDS:

- a. The CITY OF KEY WEST may reject Bids for any and/or all of the following reasons: (1) for budgetary reasons, (2) if the BIDDER misstates or conceals a material fact in his/her Bid, (3) if the Bid does not strictly conform to the law or is non-responsive to the Bid requirements, (4) if the Bid is conditional, or (5) if a change of circumstances occurs making the purpose of the Bid unnecessary to the CITY OF KEY WEST. The CITY OF KEY WEST may also waive any minor informalities or irregularities in any Bid.

4. WITHDRAWAL OF BIDS:

- a. Bids may not be withdrawn after the time set for the Bid opening for a period of time as specified in the Instruction to BIDDERS.

- b. Bids may be withdrawn prior to the time set for Bids opening. Such request must be in writing addressed to the City Clerk.

5. LATE BIDS OR MODIFICATION:

- a. Bids and modifications received after the time set for the Bid opening will not be considered.
- b. Modifications in writing received prior to the time set for the Bid opening will be accepted.

6. LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:

- a. BIDDERS shall comply with all local, state and federal directives, orders and laws as applicable to this Bid and subsequent contract(s) including, but not limited to:
 - 1. Equal Employment Opportunity (EEO), in compliance with Executive Order 11246, as applicable to this contract.
 - 2. Minority Business Enterprises (MBE), as applicable to this contract.
 - 3. Occupational Safety and Health Act (OSHA), as applicable to this contract.

7. COLLUSION:

- a. The BIDDER by affixing his/her signature to this Invitation to Bid, agrees to the following: "BIDDER certifies that his/her Bid is made without previous understanding, agreement, or connection with any person, firm, or corporation making a Bid for the same items and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action".

8. VARIANCE IN CONDITIONS:

- a. Any and all special conditions and specifications attached hereto, which vary from General Conditions, shall have precedence.

9. APPROPRIATIONS CLAUSE:

- a. If the contract or delivery extends beyond the current fiscal year, which ends on September 30, the contract shall be contingent upon the availability of funds appropriated for such purposes in the City's annual budget for the next succeeding fiscal year.

10. CLARIFICATION OR OBJECTION TO BID SPECIFICATIONS:

- a. If any person contemplating submitting a Bid for this contract is in doubt as to the true meaning of the specifications or other Bid documents or any part thereof, he/she may submit to the Finance Director on or before ten calendar (10) days prior to scheduled opening a request for clarification. All such requests for information shall

be made in writing and the person submitting the request will be responsible for prompt delivery. Any interpretation of the Bid, if made, will be made only by Addendum duly issued. Such addendum will be made available through the DEMANDSTAR web site. The City will not be responsible for any other explanation or interpretation of the proposed Bid made or given prior to the award of the contract.

11. DISCOUNTS:

- a. BIDDERS may offer a cash discount for prompt payment; however, such discount shall not be considered in determining the lowest net cost for Bid evaluation proposed. BIDDERS are encouraged to reflect cash discounts in the unit price quoted.
- b. In connection with any discount offered, time will be computed from the date of receipt of supplies or services or from the date a correct invoice is received, whichever is the later date. Payment is deemed to be made on the date of mailing of the check.

12. AWARD OF CONTRACT:

- a. The contract will be awarded to the lowest responsive and responsible BIDDER whose Bid, conforming to the Request for Bid, is most advantageous to the City, prices and other factors considered.
- b. The City reserves the right to accept and award item by item, and/or by group or in the aggregate, unless the BIDDER qualifies his/her Bid by specified limitations as provided in 4 (4).
- c. If two (2) or more Bids received are for the same total amount or unit price, quality and service being equal, the contract will be awarded according to City Ordinance Section 2-835(c).
- d. Prices quoted must be f.o.b. Key West, Florida, with all transportation charges prepaid unless otherwise specified in the Invitation to Bid.
- e. A written award of acceptance (Purchase Order) and a signed contract, mailed or otherwise furnished to the successful BIDDER shall result in a binding contract without further action by either party.

13. LOCAL PREFERENCE:

- a. Pursuant to City Code Section 2-798 the City of Key West policy of local preference is applied to Bids submitted by qualified local businesses.

14. DOMESTIC PARTNER BENEFITS

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

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

If the contractor fails to comply with this section, the City may terminate the contract and all monies due or to become due under the contract may be retained by the City.

15. DAMAGE:

- a. Successful BIDDER(s) will be responsible for making any and all claims against carriers for missing or damaged items.

16. SURETY AND INSURER QUALIFICATIONS

All bonds, insurance contracts, and certificates of insurance shall be either executed by or countersigned by a licensed resident agent of the surety or insurance company, having his/her place of business in the State of Florida, and in all ways complying with the insurance laws of the State of Florida. Further, the said surety or insurance company shall be duly licensed and qualified to do business in the State of Florida.