

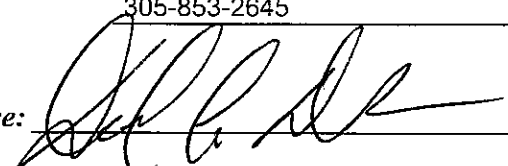
Notice to Bidder: Use Black Ink or Type For Completing the Form.

**BID**

**To:** The City of Key West  
**Address:** 3126 Flagler Ave, Key West, Florida 33040  
**Project Title:** KEY WEST BIGHT FERRY TERMINAL BOAT LIFTS  
**Project:** ITB #13-022

**BIDDER'S INFORMATION**

**Name:** Upper Keys Marine Construction, Inc  
**Address:** PO Box 372790  
Key Largo, FL 33037  
**Contact Name:** David L DeBrule  
**Email:** buildit@upperkeysmarine.com  
**Telephone:** 305-853-2644  
**Fax:** 305-853-2645

**Signature:**  **Date:** 10-22-13

**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 construction of the project, that he/she has personally inspected the site, that he/she has satisfied himself/herself as to the quantities involved, including materials and equipment, and conditions of work involved, including the fact that the description of the quantities of work and materials, as included herein, is brief and is intended only to indicate the general nature of the work and to identify the said quantities with the detailed requirements of the Contract Documents, and that

this Bid is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Bid.

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.

The intent of the Bid Documents is to describe a functionally complete project (or part thereof) to be constructed in accordance with the Contract Documents. Any work, materials, or equipment that may reasonably be inferred from the Contract Documents, as being required to produce the intended result shall be supplied whether or not specifically called for.

### **CONTRACT EXECUTION AND BONDS**

The Bidder agrees that if this BID is accepted, he/she will, within ten (10) calendar days after Notice of Award, sign the Contract in the form annexed hereto, will attach all required licenses and certificates, and will, to the extent of his BID, furnish all equipment, materials, and labor necessary to complete all work as specified or indicated in the Contract Documents. Performance and Payment Bonds will not be required as part of this contract.

### **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.

### **START OF CONSTRUCTION AND CONTRACT COMPLETION TIME**

The Bidder further agrees to begin work within twenty (20) calendar days after the date of the Notice to Proceed and to complete the construction of all items in the lump sum base Bid, in all respects, for this particular project, within sixty (60) calendar days after all permits are received .

### **LIQUIDATED DAMAGES**

In the event the Bidder is awarded the Contract and shall fail to complete the work within the time limit or extended time limit agreed upon as more particularly set forth in the Contract Documents, liquidated damages shall be paid to the Owner at the rate of five hundred dollars (\$500.00) per day for all work awarded under this contract until the work has been satisfactorily completed as provided by the Contract Documents. Sundays and legal holidays shall be included in determining days in default.

### **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 Contractor 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.”

## **LUMP SUM BASE BID**

The Bidder agrees to accept as full payment for performance of the work as herein specified and shown on the Drawings (if any), the following lump sum. The Bidder agrees that the lump sum price represents a true measure of the design, labor, materials, and equipment required to perform the work, including all allowances for overhead and profit for each type and unit of work called for in these Contract Documents. The amounts shall be shown in both words and figures. In case of a discrepancy, the amount shown in words shall govern. Final lump sum payments will be adjusted based on actual units and unit prices.

## BID FORM

### ITB #13-022: KEY WEST BIGHT FERRY TERMINAL BOAT LIFTS

**LUMP SUM BASE BID PRICE\*** for supply & installation of 2 boat lifts each with a composite boarding platform

\$ 48,164.00

#### **Bid Total in Words**

Forty eight thousand one hundred sixty four dollars and xx/100

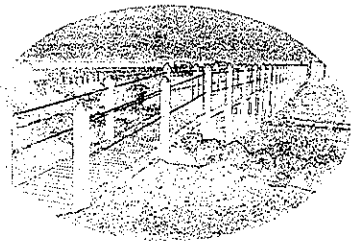
#### **BID BREAKDOWN\***

The Bidder shall provide a schedule of values for all aspects of the project including mobilization/demobilization, labor and materials, permitting, etc. required or to be used for the project. The schedule of values shall be in sufficient detail to allow the owner to understand how the Bidder arrived at said Base Bid and Alternate Bid prices and shall become part of the contract for basis of payment. The City may ask for a more detailed schedule of values if one submitted is not sufficient.

**\*FINAL PAYMENT WILL BE BASED ON ACTUAL QUANTITIES MEASURED IN THE FIELD AND APPROVED BY CITY STAFF**

Mobilization/Demobilization per lift:	PRICE: \$ 1,700.00 x 2	\$ 3,400.00
Labor and material per lift:	PRICE: \$ 21,032.00 x 2	\$ 24,064.00
Permitting per lift:	PRICE: \$ 1,350.00 x 2	\$ 2,700.00
<b>TOTAL LUMP SUM BID:</b>		<b>\$ 48,164.00</b>

# Upper Keys Marine Construction, Inc



P.O. Box 2790 • Key Largo FL 33037 • (305)853-2644 • FAX (305)853-2645

## Lift Specifications:

18,000 lb Hi-Tide X2 gear drive elevator:

Includes: Two (2) remote controls per lift  
Limit switch  
Aluminum bunks

Specifications: 2 H.P. stainless steel electric motor  
Hi-Tide exclusive gear drive system  
3/8 stainless steel lifting cables  
38" per minute lifting speed  
All aluminum marine grade 6061  
All hardware is stainless steel

• Reputation for Excellence. Family owned and operated since 1970 •  
• FL State Certified General Contractors  
CGC1512543 •

## SUBCONTRACTORS

The Bidder 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 Bidder is awarded the Contract:

Portion of Work: Electrical

Name: Wire Nuts Electric

Address: 237 La Paloma Rd, Key Largo, FL 33037

Portion of Work: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Portion of Work: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

## BIDDER

The name of the Bidder submitting this Bid is: Upper Keys Marine Construction, Inc

Doing business at PO Box 372790

City Key Largo State FL Zip 33037

Telephone No. 305-853-2644

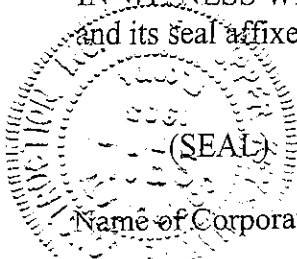
This address is where all communications concerning this Bid shall be sent.

The names of the principal officers of the Corporation submitting this Bid, or of the Partnership, or of all persons interested in this Bid as Principals are as follows:

Name	Title
<u>David L DeBrule</u>	<u>President</u>
<u>Johnny E DeBrule</u>	<u>V.P.</u>
<u>Dawn DeBrule</u>	<u>Sec/Tres</u>

**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 22 day of October, 2013.



Name of Corporation \_\_\_\_\_

By: David L DeBrule

A handwritten signature in dark ink, appearing to read "David L DeBrule", written over a horizontal line.

Title: President

Attest: Dawn DeBrule

A handwritten signature in dark ink, appearing to read "Dawn DeBrule", written over a horizontal line.

Secretary

**If Sole Proprietor or Partnership**

IN WITNESS hereto the undersigned has set his/her/its hand this 22 day of October, 2013.

Signature of Bidder \_\_\_\_\_

Title \_\_\_\_\_

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

**PROJECT ITB #13-021: MARINE SANITATION SEWER SYSTEM- WAHOO AND KINGFISH PIERS**

**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. ITB # 13-022 for  
KEY WEST BIGHT FERRY TERMINAL BOAT LIFTS
2. This sworn statement is submitted by Upper Keys Marine Construction, Inc  
(Name of entity submitting sworn statement)  
whose business address is PO Box 372790 Key Largo, FL 33037  
and (if applicable) its Federal  
Employer Identification Number (FEIN) is 59-2324574 (If the entity has no FEIN,  
include the Social Security Number of the individual signing this sworn statement.)
3. My name is David L DeBrule 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 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 t 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.)

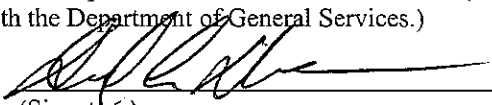
X Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to 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 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)

10-22-13  
(Date)

STATE OF Florida

COUNTY OF Monroe

PERSONALLY APPEARED BEFORE ME, the undersigned authority,

Lisa L. Miller who, after first being sworn by me, affixed his/her signature in the  
(Name of individual signing)

space provided above on this 22 day of October, 2013.

My commission expires:

  
NOTARY PUBLIC

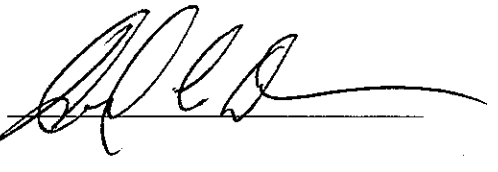


**ANTI-KICKBACK AFFIDAVIT**

PROJECT ITB #13-022: KEY WEST FERRY TERMINAL BOAT LIFTS

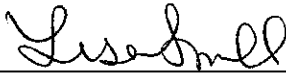
STATE OF Florida )  
: SS  
COUNTY OF Monroe )

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: 

Sworn and subscribed before me this

22 day of October, 2013.

  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: \_\_\_\_\_



## CITY OF KEY WEST INDEMNIFICATION FORM

To the fullest extent permitted by law, the Contractor expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Contractor its Subcontractors or persons employed or utilized by them in the performance of the Contract. Claims by indemnities for indemnification shall be limited to the amount of Contractor's insurance or \$1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.

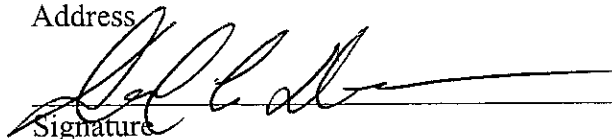
The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the Contractor under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the Contractor or of any third party to whom Contractor may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the work.

CONTRACTOR: Upper Keys Marine Construction, Inc

SEAL:

PO Box 372790 Key Largo, FL 33037

Address



Signature

David L DeBrule

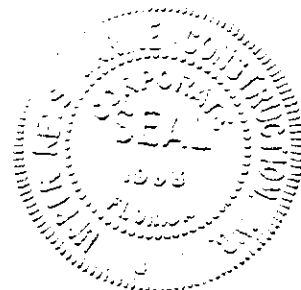
Print Name

President

Title

October 22, 2013

Date



**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 Upper Keys Marine Construction, Inc

Phone: 305-853-2644

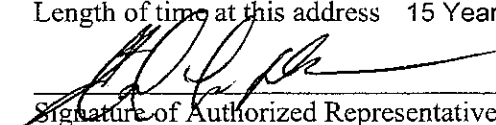
Current Local Address:

Fax: 305-853-2645

(P.O Box numbers may not be used to establish status)

97674 Overseas Hwy  
Key Largo, FL 33037

Length of time at this address 15 Years

  
Signature of Authorized Representative

October 22, 2013

Date

STATE OF Florida

COUNTY OF Monroe

The foregoing instrument was acknowledged before me this 22 day of OCT, 2013.

By LISA L. MILLER DAVID DEBRUIER Upper Keys Marine

(Name of officer or agent, title of officer or agent)

Name of corporation acknowledging)

or has produced

FL DIL  
(type of identification)

as identification





Signature of Notary

Print, Type or Stamp Name of Notary

Return Completed form with

Supporting documents to:

City of Key West Purchasing

Title or Rank

AC# 6152598

STATE OF FLORIDA

DEPARTMENT OF BUSINESS AND PROFESSIONAL REGULATION  
CONSTRUCTION INDUSTRY LICENSING BOARD

SEQ# LL2060501016

DATE	BATCH NUMBER	LICENSE NBR
06/05/2012	118198302	CGC1512543

The GENERAL CONTRACTOR

Named below IS CERTIFIED

Under the provisions of Chapter 489 FS.

Expiration date: AUG 31, 2014

DEBRULE, DAVID LEVY  
UPPER KEYS MARINE CONSTRUCTION INC  
P.O. BOX 2790  
KEY LARGO FL 33037

RICK SCOTT  
GOVERNOR

DISPLAY AS REQUIRED BY LAW

KEN LAMSON  
SECRETARY

# CITY OF KEY WEST, FLORIDA

## Business Tax Receipt

This Document is a business tax receipt

Holder must meet all City zoning and use provisions.

P.O. Box 1409, Key West, Florida 33040 (305) 809-3955

Business Name      UPPER KEYS MARINE CONSTRUCTION      CtlNbr:0005357  
Location Addr      97674 OVERSEAS HWY  
Lic NBR/Class      14-00005353 CONTRACTOR - CERT GENERAL CONTRACTOR  
Issue Date:      July 18, 2013      Expiration Date: September 30, 2014  
License Fee      \$309.75  
Add. Charges      \$0.00  
Penalty      \$0.00  
Total      \$309.75

Comments:

User: CML/KW      Type: OC      Drawer: 1  
Date: 7/24/13 51      Receipt nr: 45822  
2014      5353

This document must be prominently displayed.

UPPER KEYS MARINE CONSTRUCTION  
1.00      \$309.75  
15741      \$309.75

UPPER KEYS MARINE CONSTRUCTION  
POST OFFICE BOX 2790

Trans date: 7/24/13      Time: 15:42:33

KEY LARGO FL 33037

**2013 / 2014  
MONROE COUNTY BUSINESS TAX RECEIPT  
EXPIRES SEPTEMBER 30, 2014**

Business Name: UPPER KEYS MARINE CONSTRUCTION INC      RECEIPT# 30140-98402

Owner Name: DAVID & JOHNNY DEBRULE  
Mailing Address: PO BOX 2790  
KEY LARGO, FL 33037

Business Location: 97674 OVERSEAS HWY  
KEY LARGO, FL 33037  
Business Phone: 305-853-2644  
Business Type: CONTRACTOR (MARINE CONSTRUCTION)

Employees 13

STATE LICENSE: CGC1512543.

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
35.00	0.00	35.00	0.00	0.00	0.00	35.00

Paid 000-12-00005956 07/10/2013 35.00

**THIS RECEIPT MUST BE POSTED CONSPICUOUSLY IN YOUR PLACE OF BUSINESS**

THIS BECOMES A TAX RECEIPT  
WHEN VALIDATED

**Danise D. Henriquez, CFC, Tax Collector**  
**PO Box 1129, Key West, FL 33041**

THIS IS ONLY A TAX.  
YOU MUST MEET ALL  
COUNTY AND/OR  
MUNICIPALITY PLANNING  
AND ZONING REQUIREMENTS.

**EQUAL BENEFITS FOR DOMESTIC PARTNERS AFFIDAVIT**

PROJECT ITB #13-022: KEY WEST FERRY TERMINAL BOAT LIFTS


STATE OF Florida )  
 : SS  
COUNTY OF Monroe )

I, the undersigned hereby duly sworn, depose and say that the firm of Upper Keys Marine Construction, Inc 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

22 day of Oct, 2013.

  
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: \_\_\_\_\_





## City Ordinance Sec. 2-799

### Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

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

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

The cash equivalents of the following benefits apply:

- a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
  - b. For health benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself or herself.
  - c. For family medical leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.
- (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.

**CONE OF SILENCE AFFIDAVIT**

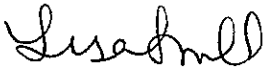
STATE OF Florida )  
 : SS  
COUNTY OF Monroe )

I the undersigned hereby duly sworn depose and say that all owner(s), partners, officers, directors, employees and agents representing the firm of Upper Keys Marine Construction, Inc have read and understand the limitations and procedures regarding communications concerning City of Key West issued competitive solicitations pursuant to City of Key West Ordinance Section 2-773 Cone of Silence (attached).



Sworn and subscribed before me this

22 day of OCTOBER, 2013.



NOTARY PUBLIC, State of FLORIDA at Large

My Commission Expires: \_\_\_\_\_



## Sec. 2-773. Cone of Silence

- (a) Definitions. For purposes of this section, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:
- 1) *Competitive Solicitation* means a formal process by the City of Key West relating to the acquisition of goods or services, which process is intended to provide an equal and open opportunity to qualified persons and entities to be selected to provide the goods or services. 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.

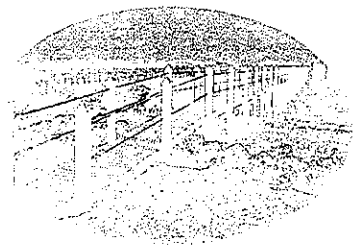
(e) Violations/penalties and procedures.

- 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.

# Upper Keys Marine Construction, Inc



P.O. Box 2790 • Key Largo FL 33037 • (305)853-2644 • FAX (305)853-2645

## 20,000 lb Boat Lift Installation Experience

1. Bill Reeves  
43 Channel Cay Rd  
Key Largo, FL 33037  
317-710-2309  
Installation: 12/17/2010
2. Bob Miskinis  
16 N. Pelican Dr  
Key Largo, FL 33037  
508-889-2691  
Installation: 10/4/2011
3. Jose Soto  
38 Island Dr  
Key Largo, FL 33037  
305-609-5784  
Installation: 12/2/11
4. Raymond Castenholtz  
137 Bayview Dr  
Islamorada, FL 33036  
561-922-7548  
Installation: 5/15/2012
5. Jorge Pinero  
101 Willow Ln  
Islamorada, FL 33036  
414-379-5066  
Installation: 5/18/2012
6. Berry Bluth  
1318 Caulder Rd  
Key Largo, FL 33037  
954-662-4580  
Installation 4/30/2012
7. Michael Neal  
72 W. Plaza Granada  
Islamorada, FL 33037  
954-684-7860  
Installation: 1/16/2013

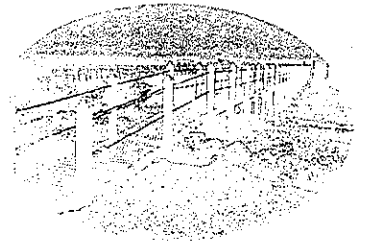
• Reputation for Excellence. Family owned and operated since 1970 •

• FL State Certified General Contractors

C G C 1 5 1 2 5 4 3 •

8. Brian Schatzberg  
140 Leoni Dr.  
Islamorada, FL 33036  
305-395-2122  
Installation: 7/13/2013
9. Phil Kates  
132 Kahiki Dr  
Tavernier, FL 33070  
904-626-3149  
Installation: 9/10/2013
10. Jose Lopez  
148 N. Indies Dr  
Marathon, FL 33050  
305-395-0068  
Installation: 10/11/2013
11. Stephen Clark  
41 Cardsound Rd  
Key Largo, FL 33037  
610-914-9983  
Installation: In Progress

# Upper Keys Marine Construction, Inc



P.O. Box 2790 • Key Largo FL 33037 • (305)853-2644 • FAX (305)853-2645

October 21, 2013

City of Key West  
3126 Flagler Ave  
Key West, FL 33040

RE: Invitation to Bid # 13-022: KEY WEST BIGHT FERRY TERMINAL BOAT LIFTS

To Whom It May Concern:

Upper Keys Marine Construction is not currently nor has it been in the past three (3) years involved in any legal action.

Sincerely,  
UPPER KEYS MARINE CONSTRUCTION, INC

David L DeBrule  
President

DLD:dmd

• Reputation for Excellence. Family owned and operated since 1970 •  
• F L S t a t e C e r t i f i e d G e n e r a l C o n t r a c t o r s  
C G C 1 5 1 2 5 4 3 •