

CITY OF KEY WEST



REQUEST FOR QUALIFICATIONS

RFQ # 25-002

FOR

Environmental Engineering Services

Mayor: Danise Henriquez

Commissioners:

Monica Haskell; District 1
Donald Lee; District 3
Mary Lou Hoover; District 5

Sam Kaufman; District 2
Lissette Carey; District 4
Aaron Castillo; District 6



REQUEST FOR QUALIFICATIONS
CITY OF KEY WEST - PURCHASING OFFICE
1300 White Street, Key West, Florida 33040

Solicitation Data

Request Number: RFQ 25-002

Title: Environmental Engineering Services

Description: The City of Key West is requesting proposals from experienced and qualified parties, persons, or firms, to perform Environmental Engineering Services for the City of Key West.

Contact: Lucas Torres-Bull, Procurement Manager
Phone: (305) 809-3807
Email: lucas.torresbull@cityofkeywest-fl.gov

Issue Date: March 27, 2025

Mail or Deliver Responses To: City Clerk
City of Key West
1300 White Street
Key West, FL 33040

Clarification Submittal Deadline: March 18, 2025, 3 P.M. LOCAL TIME

Clarification Response Deadline: March 19, 2025, 3 P.M. LOCAL TIME

Proposal Due Date: April 10, 2025, 3 P.M. LOCAL TIME

Estimated Award Date: May 6, 2025

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City of Key West

Request for Qualifications

Environmental Engineering Services

RFQ No. 25-002

NOTICE: Pursuant to Sec. 2-768 of the City's Code of Ordinance, sealed proposals for consideration to provide the services detailed in the scope of services listed below, shall be received until **3:00 P.M. on April 10, 2025**. The submittals shall be clearly marked **"RFQ No. 25-002 – Environmental Engineering Services"**.

All submittals shall be publicly opened and recorded on April 10, 2025, at 3:00 P.M.** Late submittals shall **not** be accepted or considered.

Please submit one (1) original and (2) two flash drives with one single PDF file of the entire proposal package on each flash drive. Proposal packages are to be enclosed in sealed envelopes, clearly marked on the outside **"SEALED PROPOSAL FOR RFQ No. 25-002 Environmental Engineering Services"** addressed and delivered to the City Clerk at the address noted above.

Solicitations may be found via the City of Key West website (www.cityofkeywest-fl.gov) under Finance and via [Onvia DemandStar](#), central notification systems which provide bid notification services to interested vendors. To obtain the solicitation, interested parties must follow the link and register to be able to download the document.

The City of Key West reserves the right to accept any proposal deemed to be in the best interest of the City or to waive any irregularity in any submittal. The City may reject any or all proposals and re-advertise, if in the best interest of the city.

PROJECT OVERVIEW

By way of this Request for Qualifications ("hereinafter referred to as "RFQ"), the City of Key West ("hereinafter referred to as the "City") is soliciting Qualification Packages from qualified and interested parties, persons, or firms, to perform Environmental Engineering Services for City. Through the process described herein, persons and/or firms interested in assisting the City with the provision of the services must prepare and submit a Qualifications Package in accordance with the procedure and schedule in this RFQ. The City will review submittals only from those persons and/or firms that submit a Qualifications Package that includes all the information required to be included as described herein.

The City intends to use the Qualifications Package submitted in response to this RFQ to rank the Proposers according to the most qualified and to then initiate contract negotiations with the top ranked Proposer(s). The City, on an as needed basis, may periodically issue additional specific projects and assignments to the selected Proposer(s). The selected Proposer(s) shall demonstrate specific experience and capabilities and must have personnel qualified through education and experience in the specified disciplines.

All inquiries must reference **RFQ No. 25-002 – Environmental Engineering Services** in the subject line and should be directed to the following email at lucas.torresbull@cityofkeywest-fl.gov. No phone calls will be accepted in reference to this solicitation. Any communication regarding matters of clarification must be made in writing to the email address listed above. If it becomes necessary to provide additional clarifying data or information that revises any part of this RFQ, supplements or revisions will be made available via written Addendum.

The City's tentative schedule for this RFQ is as follows:

Cut-off Date for Questions: **March 18, 2025, at 3:00 P.M.**

Deadline for Submittals and Opening of Proposals: **April 10, 2025, at 3:00 P.M.**

The City reserves the right to delay or modify scheduled dates and will notify Proposers of all changes in scheduled dates. It should be noted that any proposals received after the response deadline will not be considered.

GENERAL TERMS AND CONDITIONS

1.1 DEFINITIONS

(i) We/Us/Our/City

These terms refer to the City of Key West, Florida, a Florida municipal corporation. They may also be used as pronouns for various subsets of the City organization as content will indicate.

Finance-Division

The Division responsible for handling procurement related issues within the City.

Departments

The City Department(s) and offices for which this solicitation is prepared, which will be the end user of the goods and/or services sought, including, without limitation.

Authorized Representative

The user Department's contacts for interaction regarding contract administration.

(ii) You/Your

The term refers to the person(s) or entity(ies) submitting a proposal in response to this RFQ/RFP/ITB, inclusive of corresponding subsidiaries, affiliates offices, employees, volunteers, representatives, agents or subconsultants. The term may apply differently to different classes of entities, as the context will indicate. For instance, "you" as a Proposer will have different obligations than "you" as a Successful Proposer will have upon awarding of this contract.

Proposer/Consultant/Submitter

Any person(s) and/or business entity(ies) submitting a response to this solicitation.

Successful Proposer/Consultant/Submitter

The Proposer whose Proposal to this solicitation is deemed to be the most advantageous to the City. A Proposer will be approved for award by the City Commission, and a contract will be executed for the provisions of the goods and/or services specified in this RFQ/RFP/ITB.

(iii) Proposals/ Submittals

The written, sealed document submitted by the Proposer in response to this RFQ/RFP/ITB. Any verbal interactions with the City apart from submittal of a formal written submittal shall not be considered a part of any submittal.

1.2 CLARIFICATION/ QUESTIONS

The City reserves the right to request clarification on information submitted by any Proposer after the deadline for

receipt of submittals. Questions from potential and/or actual Proposers regarding this RFQ/RFP/ITB shall be directed in writing by email, to the Procurement Contact email address specified on the title page.

Answers, citing the question but not identifying the questioner, will be publicly noticed, and distributed simultaneously to all known prospective Proposers.

(i) Written Addenda

If it becomes evident that this RFQ/RFP/ITB must be amended, we will issue a formal written addendum to all registered prospective Proposers via Demand Star. Addendum will be uploaded to Demand Star, available via link on the City's webpage. If necessary, a new RFQ/RFP/ITB opening date may be established by addendum.

1.3 COST OF PREPARATION

The City will not be responsible for any expenses incurred by Proposers for the preparation of a Proposal related to this procurement, or for any negotiations related to potential award of the Contract.

1.4 EXAMINATION OF DOCUMENTS

The Proposer must thoroughly examine each section of this RFQ/RFP/ITB. If there is any doubt or obscurity as to the meaning of any part of these conditions, the Proposer may request clarification by written request to the Procurement Contact. Interpretations or clarification in response to such questions will be issued in the form of a written addendum, emailed to all parties recorded by the City's Finance Division as having received the RFQ/RFP/ITB documents. No person is authorized to give oral interpretations of or make oral changes to the RFQ/RFP/ITB. The issuance of a written addendum shall be the only official method whereby such an interpretation or clarification is made.

1.5 PUBLIC RECORDS

Upon award recommendation or thirty (30) days after the RFQ opening, whichever is earlier, any material submitted in response to this RFQ/RFP/ITB will become a "Public Record" and shall be subject to public disclosure pursuant to Chapter 119, Florida Statutes (Public Records Law). Proposers must claim the applicable statutory exemptions to protect submittals, stating the reasons why exclusion from public disclosure is necessary and legal. The City reserves the right to make any final determination on the applicability of the Public Records Law.

1.6 WITHDRAWAL OF PROPOSAL

A Proposer may, without prejudice, withdraw, modify, or correct the Proposal after it has been deposited with the City, provided the request and any subsequent modifications and/or corrections are filed with the City in

writing before the time for opening the submittals. No oral modifications will be considered.

1.7 RIGHT TO REJECT

The City reserves the right to reject any and/or all submittals or sections thereof, and/or waive any irregularities, informalities, and/or technical deficiencies. The City shall not be required to accept the minimum specifications stated herein or provided but reserves the right to accept any submittal that, in the judgment of the City, will best serve the needs and interests of the City. The offering of this RFQ/RFP/ITB does not, itself, in any way constitute a contractual agreement between the City of Key West and any Proposer. However, the contents of the offered document, as well as the proposed documents may be used for details of the actual agreement between the Proposer and the City of Key West. Furthermore, the City reserves the right to award without further discussion.

1.8 GOVERNMENTAL RESTRICTIONS

In the event that any governmental restrictions are imposed which would necessitate alteration of the performance to the services offered in this Proposal prior to delivery, it shall be the responsibility of the Proposer to notify the City at once. The City reserves the right to accept the alteration or cancel the Contract at no expense to the City.

1.9 SUBMISSION OF PROPOSAL

(i) Incurred Expenses

The City is not responsible for any expenses which Proposers may incur for preparing and submitting Proposals called for in this RFQ/RFP/ITB.

(ii) Interviews

The City reserves the right to conduct personal interviews or require presentations prior to selection. The City will not be liable for any costs whatsoever incurred by the Proposer in connection with such interviews/presentations, including, but not limited to travel and accommodations.

(iii) Request for Modifications

The City reserves the right to request that the Proposers(s) modify a submittal to more fully meet the needs of the City.

(iv) Bid Acknowledgment

By submitting a Proposal, the Proposer/Proposer certifies that he/she/it has fully read and understood the solicitation method and has full knowledge of the scope, nature, and quality of work to be performed.

(v) Acceptance/Rejection/Modification To Submittals

The City reserves the right to negotiate modifications to this RFQ/RFP/ITB that it deems acceptable, reject any and all Proposals for any reason whatsoever, and waive minor

irregularities in any submittal.

(vi) Submittals Binding

All Proposals submitted shall be binding for three hundred sixty-five (365) calendar days following opening.

(vii) Alternate Proposals/ Statement/ Proposals

Alternate Proposals and/or statements will not be considered or accepted by the City.

(viii) Economy of Preparation

Proposals should be prepared simply and economically, providing a straightforward, concise description of the Proposers' ability to fulfill the requirements of the Proposal.

(ix) Proprietary Information

In accordance with Chapter 119 of the Florida Statutes (Public Records Law) and except as may be provided by other applicable State and Federal Law, all Proposers should be aware that RFQ/RFP/ITB and the corresponding responses are in the public domain and subject to disclosure. However, the Proposers are required to identify with specificity any information contained in their Proposals which are considered confidential and/or proprietary and which are believed to be exempt from disclosure, citing the applicable exempting law.

All Proposals received from Proposers in response to this RFQ/RFP/ITB shall become the property of the City of Key West and shall not be returned to the Proposer. In the event of contract award, all documentation produced as part of the contract will become the exclusive property of the City.

1.10 COMPLIANCE WITH ORDERS AND LAWS

Successful Proposers shall comply with all local, state, and federal directives, ordinances, rules, orders, and laws as applicable to this RFQ/RFP/ITB and subsequent contracting including, but not limited to:

Executive Order 11246 (which prohibits discrimination against any employee, applicant, or client because of race, creed, color, national origin, sex, or age with regard to, but not limited to, employment practices, rate of pay or other compensation methods, and training.)

Occupational, Safety and Health Act (OSHA)

The State of Florida Statutes Section 287.133(3)(A) on Public Entity Crimes

Environment Protection Agency (EPA)

Uniform Commercial Code (FL Statutes, Chapter 672)

American with Disabilities Act of 1990, as amended.

**National Institute of Occupational Safety Hazards
(NIOSH)**

National Forest Products Association (NFPA)

**State of Florida Department of Transportation- Rule 14-90,
Florida Admin. Code**

U.S. Department of Transportation

**City of Key West, City Ordinance Sec 2-766-2-845
Cone of Silence, City of Key West Code of Ordinances**

**The State of Florida Statutes Sections 218.73 and 218.74
on Prompt Payment**

Proposer hereby recognizes and certifies that no elected official, board member, or employee of the City shall have a financial interest directly or indirectly in this transaction or any compensation to be paid under or through this transaction, and further, that no City employee, nor any elected or appointed officer, including, but not limited to, City Commission members, of the City, nor any spouse, parent or child of such employee or elected or appointed officer of the City, may be a partner, officer, director or proprietor of Proposer or Proposer, and further, that no such City employee or elected or appointed officer, or the spouse, parent or child of any of them, alone or in combination, may have a material interest in the Vendor or Proposer. Material interest means direct or indirect ownership of more than 5% of the total assets or capital stock of the Proposer. Any exception to these above-described restrictions must be expressly provided by applicable law or ordinance and be confirmed in writing by City. Further, Proposer recognizes that with respect to this transaction, if any Proposer violates or is a party to a violation of the ethics ordinances or rules of the City, or the provisions of Chapter 112, part III, Fla. Stat., the Code of Ethics for Public Officers and Employees, such Proposer may be disqualified from furnishing the goods or services for which the Proposal is submitted and may be further disqualified from submitting any future Proposals for goods or services to City. The term "Proposer," as used in this section specifically includes any person or entity making and submitting a Proposal to the City for the provision of goods and/or services to City.

Lack of knowledge by the Proposer will in no way be a cause for relief from responsibility. Non-compliance with all local, state, and federal directives, orders, and laws may be considered grounds for termination of contract(s).

1.11 CONE OF SILENCE

Notwithstanding any other provision in the specifications, the provisions of Section 2-773 Cone of Silence, 2-289 Conflict of Interest and 4.10 Disclosure of Financial Interest by Officers and Employees are applicable to this transaction.

The Cone of Silence shall be imposed on this RFQ/RFP/ITB upon its advertisement. The Cone of Silence prohibits the following activities:

- (1) Any communication regarding this RFQ/RFP/ITB between a potential vendor, service provider, Proposer, lobbyist or consultant and the City's professional staff;
- (2) Any communication regarding this RFQ/RFP/ITB between the Mayor, Commission members and any member of the Mayor and Commission's professional staff;
- (3) Any communication regarding this RFQ/RFP/ITB between potential vendor, service provider, Proposer, lobbyist or consultant and any member of a selection committee;
- (4) Any communication regarding this RFQ/RFP/ITB between the Mayor, Commission members and any member of the selection committee therefore;
- (5) Any communication regarding this RFQ/RFP/ITB between any member of the City's professional staff and any member of the selection committee; and
- (6) Any communication regarding this RFQ/RFP/ITB between a potential vendor, service provider, Proposer, lobbyist or consultant and the Mayor or Commission.

Pursuant to Section 2-773 (d)(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. Or, at the deadline for submission of responses to the solicitation, if only one vendor has responded.

The Cone of Silence shall not apply to:

- (1) oral communications at pre-proposal meetings and/or conferences;
- (2) oral presentations before selection of evaluation committees;
- (3) public presentations made to the City Commission during any duly noticed public meeting;
- (4) written communications regarding a particular RFQ, RFQ, or proposal between a potential vendor, service provider, Proposer, proposer, lobbyist or consultant and the City's Purchasing Agent or City employee designated responsible for administering the procurement process of such RFQ, RFQ, or proposal, provided the communication is limited strictly

to matters of process or procedure already contained in the corresponding solicitation document;

- (5) communications with the City Attorney and his or her staff;
- (6) duly noticed site visits to determine the competency of Proposer/Proposers regarding a particular proposal/Proposal during the time period between the opening of proposals and the time the City Manager makes his or her written recommendation;
- (7) any emergency procurement of goods or services pursuant to City Code;
- (8) responses to the City's request for clarification or additional information pursuant to section 1.10 of this RFQ/RFP/ITB;
- (9) contract negotiations during any duly noticed public meeting;
- (10) communications to enable City staff to seek and obtain industry comment or perform market research, provided all communications related thereto between a potential vendor, service provider, Proposer, Proposer, lobbyist, or consultant and any member of the City's professional staff including, but not limited to, the City Manager and his or her staff are in writing or are made at a duly noticed public meeting.

Violation of the Cone of Silence by a particular Proposer or Proposer shall render the RFQ/RFP/ITB award or proposal award to said Proposer or Proposer voidable by the City Commission and/or City Manager. Please contact the City Attorney for any questions regarding Cone of Silence compliance.

1.12 SUNSHINE LAW

As a Florida municipal corporation, the City is subject to the Florida Sunshine Act and Public Records Law. By submitting a Proposal, Proposer acknowledges that the materials submitted with the Proposal and the results of the City of Key West evaluations are open to public inspection upon proper request. Proposer should take special note of this as it relates to proprietary information that might be included in its Proposal.

1.13 CANCELLATION

In the event any of the provisions of this RFQ/RFP/ITB are violated by the Awarded Proposer, the City Manager shall give written notice to the Awarded Proposer stating the deficiencies and, unless deficiencies are corrected within ten (10) days, recommendation will be made to the City Commission for immediate cancellation. The City reserves the right to terminate any contract resulting from this invitation at any time and for any reason, upon giving thirty (30) days prior written notice to the other party. No consideration will be given for anticipated loss of revenue on the canceled portion

of the Contract.

1.14 ASSIGNMENT

The Awarded Proposer shall not assign, transfer, convey, sublet or otherwise dispose of this contract, including any or all of its right, title or interest therein, or his or its power to execute such contract to any person, company or corporation without prior written consent of the City of Key West.

1.15 PROPERTY

Property owned by the City of Key West is the responsibility of the City of Key West. Such property furnished for repair, modification, study, etc., shall remain the property of the City of Key West. Damages to such property occurring while in the possession of the Awarded Proposer shall be the responsibility of the Awarded Proposer.

1.16 TERMINATION FOR DEFAULT

If the Awarded Proposer defaults in its performance under this Contract and does not cure the default within thirty (30) days after written notice of default, the City may terminate this Contract, in whole or in part, upon written notice without penalty to the City. In such event, the Awarded Proposer shall be liable for damages, including, but not limited to, the excess cost of procuring similar supplies or services: provided that if, (1) it is determined for any reason that the Awarded Proposer was not in default or (2) the Awarded Proposer's failure to perform is without his control, fault or negligence, the termination will be deemed to be a termination for the convenience of the City.

1.17 TERMINATION FOR CONVENIENCE

The City Manager may terminate the Contract that may result from this RFQ/RFP/ITB, in whole or in part, upon thirty (30) days prior written notice when it is in the best interests of the City. If so terminated, the City shall be liable only for payment in accordance with the payment provisions of the Contract for those services rendered prior to termination.

1.18 ANTI-TRUST PROVISION

At such times, as may serve its best interest, the City reserves the right to advertise for, receive, and award additional contracts for these herein items, and to make use of other competitively proposal (government) contracts for the purchase of these goods and/ or services as may be available.

1.19 PUBLIC RECORDS, AUDIT RIGHTS AND RECORDS RETENTION

The Upon award recommendation or thirty (30) days after the opening of RFQ/RFP/ITB responses, whichever is earlier, any material submitted in response to this Request for Proposals will become a "Public Record" and shall be subject to public disclosure consistent with Chapter 119, Florida Statutes (Public Record Law). Proposers must claim the applicable exemptions to disclosure provided by

law in their response to the Request for Proposals by identifying materials to be protected and must state the reasons why exclusions from public disclosure is necessary and legal. The City reserves the right to make any final determination on the applicability of the Public Records Law. The Awarded Proposer agrees to provide access to the City, or any of their duly authorized representatives, to any books, documents, papers, and records of the Awarded Proposer which are directly pertinent to the contract, for the purposes of audit, examination, excerpts, and transcriptions. The Awarded Proposer shall maintain and retain any and all of the aforementioned records after the expiration and/or termination of the agreement, as provided by Chapter 119, Florida Statutes.

1.20 CAPITAL EXPENDITURES

Awarded Proposer understands that any capital expenditures that the Awarded Proposer makes, or prepares to make, in order to perform the services required by the City of Key West, is a business risk which the Awarded Proposer must assume. The City of Key West will not be obligated to reimburse amortized or unamortized capital expenditures, any other expenses, or to maintain the approved status of the Awarded Proposer. If Awarded Proposer has been unable to recoup its capital expenditures during the time it is rendering such services, it shall not have any claim upon the City of Key West.

1.21 GOVERNING LAW AND VENUE

The validity and effect of the Contract shall be governed by the laws of the State of Florida. The parties agree that any administrative or legal action, mediation, or arbitration arising out of this Contract shall take place in Monroe County, Florida.

1.22 ATTORNEY FEES

In connection with any litigation, mediation, or arbitration arising out of this Contract, each party will pay its' attorney's fees.

1.23 NO PARTNERSHIP OR JOINT VENTURE

Nothing contained in this Contract will be deemed or construed to create a partnership or joint venture between the City of Key West and Awarded Proposer/Proposer, or to create any other similar relationship between the parties.

1.24 TERMS AND CONDITIONS OF AGREEMENT

The Agreement to be entered into with the Awarded Proposer, in substantially the form attached hereto as Exhibit "A", shall include, but not be limited to, the following terms and conditions:

- A. The Awarded Proposer agrees to indemnify, defend and hold harmless the City, its officers, elected officials, agents, volunteers and employees,

from and against any and all liability, claims, demands, damages, fines, fees, expenses, penalties, suits, proceedings, actions and cost of action, including attorney's fees for trial and on appeal, and of any kind and nature arising or growing out of or in any way connected with the performance of the Agreement whether by act or omission of the Awarded Proposer, its agents, servants, employees or others, or because of or due to the mere existence of the Agreement between the parties; unless said claim for liability is caused solely by the negligence of the City or its agents or employees.

The Awarded Proposer shall further indemnify, defend and hold harmless the City, its elected officials, its Officers, employees, agents and volunteers (collectively referred to as "Indemnitees") against all loss, costs, penalties, fines, damages, claims, expenses, including attorney's fees, or liabilities ("collectively referred to as "liabilities") by reason of any injury to, or death of any person, or damage to, or destruction, or loss of any property arising out of, resulting from, or in connection with the performance, or non-performance of the services contemplated by this agreement which is, or is alleged to be directly, or indirectly caused, in whole, or in part by any act of omission, default, or negligence of the Awarded Proposer, its employees, agents, or subconsultants.

- B. The Awarded Proposer shall pay all royalties and assume all costs arising from the use of any invention, design, process materials, equipment, product, or device which is the subject of patent rights or copyrights. Awarded Proposer shall, at its own expense, hold harmless and defend the City against any claim, suit or proceeding brought against the City, which is based upon a claim, whether rightful or otherwise, that the goods or services, or any part thereof, furnished under the contract, constitute an infringement of any patent or copyright of the United States. The Awarded Proposer shall pay all damages and costs awarded against the City.
- C. An understanding and agreement, by and between the Awarded Proposer and the City, that the completion time as specified in Awarded Proposer's submission will be met and that all work shall be executed regularly, diligently, and uninterrupted at such rate of progress as will ensure full completion thereof within the time specified.

1.25 EQUAL BENEFITS FOR DOMESTIC PARTNERS FOR PROCURED PROJECTS

Awarded Proposer will be required to comply with Ordinance Sec 2-799 –Provide Equal Benefits for Domestic Partners.

1.26 LIMITATION ON USE OF OFFICIAL SEAL

It shall be unlawful and a violation of this section for any person, firm, corporation or other legal entity to print for the purpose of sale or distribution or circulate,

manufacture, publish, use, display, or offer for sale any letters, papers, documents, or items of merchandise which simulate the official seal of the City or the stationery or a real or fictitious agency, department or instrumentality of the city without the expressed written authority of the City Commission or its designee. The unauthorized use shall be punishable as provided in F.S. §§ 775.082 and 775.083.

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END OF SECTION 1

SPECIAL CONDITION

PURPOSE

The City of Key West requires the services of a qualified firm(s) to provide Environmental Engineering Services. The services may include but are not limited to site investigation, remedial services planning services, design services, permitting assistance, bid and proposal development services and services during construction/remediation. The City intends to retain one or more qualified firms to provide the services for a period of three years with an additional two-year renewal option. Completion of the scope of services may extend beyond the agreement's three-year term, but no minimum amount of service or compensation will be assured to the retained firm(s). The selected Proposer(s) will be required to abide by all applicable federal, state and local laws and ordinances.

GENERAL QUALIFICATION REQUIREMENTS

The City of Key West is seeking Environmental Engineering Services. Proposers should clearly outline in their Qualification Package the specific Environmental and Coastal Engineering disciplines they can provide to the City.

The qualification criteria applied to the selections of firms for further consideration are the following:

- Specialized experience and technical competence of the firm in the listed disciplines.
- Professional qualifications and certifications of staff personnel/capacity of assigned and identified staff to accomplish work.
- Past work experience.
- Ability to perform the services expeditiously at the request of the City. Location and availability of technical support people and assigned project manager to the City.
- Other Certificates

LICENSING

Pursuant to section 607.1503(1), Florida Statutes, corporations, out-of-state corporations are required to obtain a Florida Certificate of Authorization from the Florida Department of State, Division of Corporations, to transact business in the State of Florida. Successful Proposer(s) must provide a copy of their occupational/business license and State registration at time of award. Florida state registration can be downloaded and printed via www.sunbiz.org. Proposers must have the proper license(s) and/or certification(s) to perform what is being requested in this solicitation. Failure to possess the proper license(s) and/or certification(s) may result in disqualification of Qualification Packages. Copies of the Proposer's license(s) and/or certification(s) which are applicable to this solicitation shall be submitted as part of their

Qualification Package.

EXECUTION AND TERM OF CONTRACT

The City and the Awarded Proposer(s) shall execute a contract ("Agreement") within thirty (30) days after Notification of Award based upon the requirements set forth in the RFQ through action taken by the City Commission at a fully authorized meeting. If the Proposer(s) awarded the contract fails to enter into a contract as herein provided, the award may be declared null and void, and the contract may be awarded to the next most responsible and responsive Proposer(s), or re-advertised, as determined by the City.

The initial contract resulting from this solicitation will be effective for a three (3) year period, starting from the contract's initial effective date. Upon completion of the initial term, or prior to its expiration, the City may choose to renew the contract for one (1) additional two (2) year period, extending the total contract duration to a maximum of five (5) years. The Awarded Proposer(s) must maintain the same terms and conditions, including all insurance requirements, throughout the entire duration of the contract and any renewal period. Continuation of the contract beyond the initial term, and any subsequent renewals, is at the sole discretion of the City and is not an entitlement of the Awarded Proposer(s).

This prerogative may be exercised only when such continuation is clearly in the best interest of the City.

PROPOSAL FORMAT AND SIGNATURES

To receive consideration, the Qualifications Package must be submitted as provided by the City. This Request for Qualifications must be resubmitted in its entirety, with all forms executed, each section signed as read and understood, and the response forms completely filled out. Qualification Packages must be typewritten or printed in black or blue ink only. Use of erasable ink is not permitted. All corrections must be initialed. Qualification Packages by corporations must be executed in the corporate name by the President or other corporate officer accompanied by evidence of authority to sign. The corporate address and state of incorporation must be shown below the signature.

Qualification Packages by partnerships must be executed in the Partnership name and signed by a partner, whose title must appear under the signature and the official address of the partnership must be shown below the signature.

METHOD OF AWARD

The City will open all submittals received prior to the stated deadline in a public forum and will announce the name of the Proposers. In order to be deemed responsive the Qualifications Package

must meet or exceed the qualification requirements and contain all the required forms listed in this solicitation. The City of Key West shall be the sole judge in determining the Proposer's qualifications.

The City anticipates awarding one contract but reserves the right to award more than one if it is in the best interests of the City to do so.

The Proposer(s) acknowledges that this RFQ does not constitute an offer or a contract with the City. A contract will not be considered binding until the Qualifications Packages are reviewed and accepted by the designated staff, the best Qualifications Package is selected, negotiations with the selected firm(s)/individual(s) are authorized by the appropriate City authority, and an agreement is executed and approved by the appropriate level of authority within the City.

The City, at its sole discretion, reserves the right to inspect any/all Proposer's facilities to determine their capability of meeting the requirements for the contract. Also, hourly rates, responsibility, and responsiveness of the Proposer, the financial position, experience, staffing, equipment, materials, references, and past history of service to the City and/or with other units of state, and/or local governments in Florida, or comparable private entities, will be taken into consideration in the Award of the Agreement.

The City reserves the right to reject all Qualification Packages, to waive non-material, technical variances, or informalities in the Qualification Packages, to abandon the project or to solicit and re-advertise for other Qualification Packages. The City may in its discretion waive any informalities and irregularities contained in a Qualification Packages or in the manner of its submittal and award a contract thereafter.

The City's Selection Committee will evaluate the proposals and select the Proposer(s) deemed most qualified and in the best interest of the City. The City will be the sole judge of its own best interests, the Qualification Packages, and any resulting negotiated agreement. The City's decisions will be final. The purpose of the Evaluation Process is to assess the Qualification Packages submitted in response to this Request for Qualification

PHASE I – EVALUATION

In a publicly noticed meeting, a Selection Committee, will meet to evaluate all responsive submittals received in accordance with the requirements set forth in the solicitation. The City may request additional information of a clarifying nature if deemed necessary for this evaluation. Additional information may be requested via written submissions or oral presentations to the Selection Committee to allow each firm/individual an opportunity to provide the Selection Committee with additional insight regarding their Qualification Packages and that of the qualifications of the firm(s)/individual(s).

Each Selection Committee member shall evaluate and award points in accordance with the Scoring Criteria specified for each of the categories listed below. The points awarded for each Category will be totaled, ranked, and tabulated to determine the top ranked firm(s)/individual(s) and provided to the City Commission for consideration.

PHASE II – SELECTION

The Selection Committee will submit their tabulated scores and firm(s)/individual(s) ranking to the City Commission for their consideration to award the contract. The City Commission may accept the ranking recommendations of the Selection Committee and may request firms to give a presentation and/or answer questions, amend rankings, or reject all Qualification Packages. The City Commission will make the final selection. The City shall not be responsible for any costs of preparation or costs incurred in relation to any opportunities for an interview.

Upon approval of the City Commission, a contract shall be awarded to one or more Proposer(s) selected as the most responsible, responsive Proposer(s) meeting all selection criteria. Any award made shall be subject to execution of contract in a form and substance, which is approved by the City Attorney. The City of Key West reserves the right not to award or reject Qualification Packages from vendors that are currently in litigation with the City of Key West or as a result of any prior lawsuit with the City of Key West.

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EVALUATION CATEGORIES — PHASE I & II

Evaluation Criteria - Qualification Packages will be scored and ranked by the Committee, based on the following criteria and points:

Category	Points
1. Specialized experience and technical competence of the firm in the listed disciplines.	40
2. Professional qualifications of staff personnel/capacity of assigned and identified staff to accomplish work.	20
3. References and Past Performance	20
4. Ability to perform the services expeditiously at the request of the City. Location and availability of technical support people and assigned project manager to the City.	10
5. Hourly Price Proposal	5
6. Other certifications	5
Total Points	100

DUE DATE

All Qualification Packages are due no later than **Thursday, April 10, 2025, at 3:00 P.M. EST**. Qualification Packages received will be publicly opened on the date and the time specified. All Qualification Packages received after that time shall be returned unopened.

Qualification Packages must include qualifications, experience, and other pertinent information for consideration, as indicated in this Request for Qualifications. Qualification Packages received after the closing time and date, for any reason whatsoever, will not be considered. Any disputes regarding timely receipt of Qualification Packages shall be decided in the favor of the City. The City cannot be responsible for Qualification Packages received after opening time and encourage early submittal.

All information required by the Request for Qualifications must be supplied to constitute a responsive submittal.

INSURANCE REQUIREMENTS

All Proposers wishing to perform work for the City of Key West, Florida, will be required to comply with the following minimum insurance requirements:

Commercial General Liability Limits:

\$2,000,000 Aggregate

\$1,000,000 Each Occurrence

\$2,000,000 Products-Comp / Op Aggregate

\$1,000,000 Personal & Advertising Injury

\$300,000 Fire Damage / Legal

Coverage must include the following:

- Contractual Liability - Commercial Form
- CG2010 (1185) or Equivalent - Broad Form Property Damage
- No exclusion for XCU - Premises / Operations
- Products / Completed Operations - Independent Contractors (if any part of the work is
- Personal Injury to be subcontracted out)

Automobile Liability:

\$1,000,000 Combined Single Limit

(Include Hired & Non-Owned Liability)

Professional Liability:

\$1,000,000 per Claim / Aggregate

Worker's Compensation Employer's Liability:

Statutory

\$1,000,000 Each Accident

\$1,000,000 Disease-Policy Limit

\$1,000,000 Disease-Each Employee

The above reflects the minimum requirements for working with the City of Key West. Any requirements found in a particular Task Order that are of a higher standard will prevail.

The City of Key West must be named as an additional insured under all policies other than worker's compensation and professional liability. Design professional's general liability shall be written on a primary and non-contributory basis. Certificates of insurance must be accompanied by a copy of the additional insured endorsement (CG 20101185 or combination of CG20100704 and CG20370704 will be accepted).

Proposers must obtain an endorsement from their carrier that waives and relinquishes any right of subrogation against the City of Key West and its agents, representatives, employees, and affiliates they might possess for any policy of insurance provided under this requirement or under any state or federal worker's compensation or employer's liability act.

Consultant's policies must be endorsed to give no less than thirty (30) days' notice to the City in the event of material change or cancellation.

The City of Key West must be given a certificate of insurance showing that the above requirements have been met. The certificate of insurance must remain current and must include copies of the requested endorsements (additional insured, cancellation notice, and waiver of subrogation) in order

for the City to issue payments to the contractor or subcontractor.

Consultants will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA. Consultant will notify City of Key West Risk Management immediately by telephone at (305) 809-3812 any accident or injury to anyone that occurs on the jobsite and is related to any of the work being performed by the Consultant.

EXCEPTIONS TO SPECIFICATIONS

Exceptions to the specifications shall be listed on the Qualification Package. Any exceptions to these Sections may cause the Qualification Packages to be considered non-responsive.

INQUIRIES

Any questions regarding this solicitation shall be directed in writing to the Procurement Manager Contacted via email at lucas.torresbull@cityofkeywest-fl.gov. All inquiries must have in the subject line the following: **RFQ No. 25-002 – Environmental Engineering Services**. If your request is seeking a public record, such as a Proposer(s) list or award list, it must be submitted to the City Clerk and not to the e-mail stated above.

Proposers requiring clarification or interpretation of the RFQ must submit them via email **on or before 3:00 P.M. on Tuesday, March 18, 2025**. The person or firm submitting the request shall be responsible for its timely delivery. Written responses will be compiled and shall be issued only in addendum format and distributed to all potential Proposers on Demand Star, also available via link on the City's website.

ATTACHED FORMS

- 2.1.1 Anti-kickback Affidavit
- 2.11.2 Non-Collusion Affidavit
- 2.11.3 Sworn Statement Pursuant to Section 287.133(3)(A), on Public Entity Crimes
- 2.11.4 Equal Benefits for Domestic Partners Affidavit
- 2.11.5 Cone of Silence Affidavit
- 2.11.6 Affidavit Attesting to Noncoercive Conduct for Labor or Services
- 2.11.7 Vendor Certification Regarding Scrutinized Companies Lists
- 2.11.8 Indemnification Form
- 2.11.9 Local Vendor Certification
- 2.11.10 E-Verify Affidavit

The above referenced forms are included in 'Affidavits/Certifications', Section 4 of this solicitation. Please ensure that you read these forms, and all others contained within Section 4 thoroughly, and return them signed and notarized where required. Qualification Packages received with incomplete forms may be deemed unresponsive.

VERIFICATION OF INFORMATION

The City may verify the information submitted by the Proposer(s) and may obtain and evaluate additional information, as it deems necessary to ascertain the submitter's ability to perform under this solicitation. The City shall be the sole judge of a submitter's ability to perform, and its decision shall be final.

GOODS/ SERVICES MAY BE ADDED OR DELETED

It is hereby agreed and understood that goods or additional services may be added to this contract at the City's option. It is also agreed and understood that the City may add or delete goods/services on this contract at the City's option. The Awarded Proposer(s) shall be invited to submit price quotes for these additional goods/services. If these quotes are determined to be fair and reasonable, then the additional goods/services will be awarded to the Awarded Proposer(s).

ACCEPTANCE OF PROPOSALS / MINOR IRREGULARITIES

The City reserves the right to accept or reject any or all Qualification Packages, or any part thereof, and to waive minor irregularities or deviations from the specifications in the Qualification Packages, provided such deviations do not make the Qualification Packages conditional in nature. The City may also waive minor irregularities in the solicitation process. A minor irregularity is defined as a variation from the solicitation that does not affect the price of the contract, does not provide a Proposer with an advantage or benefit not available to other Proposers, does not adversely impact the interests of other firms or individuals, and does not undermine the fundamental fairness of the solicitation process.

The City reserves the right to disqualify Proposer(s) during any phase of the competitive solicitation process and terminate for cause any resulting contract upon evidence of collusion with intent to defraud or other illegal practices on the part of the Proposer.

BACKGROUND INFORMATION

The City reserves the right, before awarding the contract to require Proposer(s) to submit such evidence of their qualifications as it may deem necessary and may consider any evidence available to it as to the financial, technical, and other qualifications and abilities of the Proposer(s), including past performance (experience) with the City.

METHOD OF ORDERING

Services will be requested through individual Task Orders. Invoices must be submitted for each Task Order separately. Please note that work may not begin until the Proposer has received a Purchase

Order from the City.

PAYMENT/ INVOICES

Payment terms will be considered to be net-forty-five (45) days after the date of satisfactory delivery at the place of acceptance and receipt of the correct invoice at the office specified, whichever occurs last, in accordance with the Florida Local Government Prompt Payment Act. Invoices must reflect sufficient details to demonstrate compliance with the terms and conditions of the contract. After services have been performed, the user department will evaluate services provided in accordance with the specifications. Failure in the awarded Proposer(s) responsibility as outlined may result in either one or any of the following as determined by the City:

- Payment withholding of partial or entire amount.
- Compensation as deemed acceptable by the City due to non-performance.

REFERENCES

As part of the RFQ evaluation process, the City may conduct an investigation of references including a record check of consumer affairs complaints. The Proposer's submission of an RFQ constitutes acknowledgment of the process and consent to investigate.

RELATED EXPENSES/TRAVEL EXPENSES

All costs including travel are to be included in your Qualification Packages. The City will not accept any additional costs.

AUTHORIZED SIGNATURE

The initial response must contain the signature of a duly authorized officer or agent of the proposer's company empowered with the right to bind the respondent to the RFQ. The respondent must provide evidence of the authority of the officer or agent to bind the respondent.

END OF SECTION 2

SCOPE OF SERVICES

BACKGROUND

Key West is an island city some 4 miles long by 1.5 miles wide. The island is located at the southern end of U. S. Highway 1, 153 miles southwest of Miami, Florida and 93 miles northwest of Havana, Cuba. Key West is the county seat of Monroe County. The city occupies the entire island as well as a portion of neighboring Stock Island to the northeast. The principal industry is tourism and Commercial/Charter boat fishing. Thus, a large portion of the workforce is in the service industry in addition to governmental agencies and schools. The U. S. Navy and Coast Guard maintain a presence here as well.

The City's estimated permanent population in 2023 was 25,000. In addition to the permanent population, the City is a world-renowned tourist destination and a popular location for second homes. The total number of people in Key West on an average day, including permanent residents, seasonal residents, the maritime population, overnight tourists, day-trippers, cruise ship visitors, commuters, and shoppers, is estimated to be over 50,000. This number would spike significantly during special events such as Fantasy Fest or New Year's Eve.

The City operates under the commission-manager form of government with six district Commissioners and one Mayor at large. The City Commission appoints the members of several volunteer boards and commissions who carry out responsibilities specified by State law, the City Charter, and local ordinances. These boards and commissions include the Planning Board, the Historic Preservation Committee, Tree Commission, Special Advisory Committees are also appointed by the City Commission to provide community input on issues and projects as needed. Currently, these boards include, Key West Bight Management District Board, Parks & Recreation Advisory, Bahama Village Redevelopment Advisory Committee, Arts in Public Places Advisory Board, Contractors Examining Board and the Environmental Sustainability Board.

SCOPE OF SERVICES

The scope of services requested may include, but is not limited to, the following tasks:

- A. Provide comprehensive Environmental Engineering Services for full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified consultants for work, environmental assessments, sampling, analysis and monitoring, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofit of lands and facilities. Services may include, but not be limited to:
 - Contaminated Site Investigation and Remediation Services, including site history reviews, hydrogeological investigations, engineering evaluation and cost

assessment of remedial options, engineering design of remedial systems, permitting, remedial system construction oversight, and Resident Project Representative (RPR) services.

- Industrial Hygiene Services, including industrial monitoring, health and safety compliance, laboratory compliance, asbestos and lead based paint management services.
- Underground Storage Tank Site Services, including hydrogeological investigations, monitoring well system design and installation oversight, UST removal/replacement oversight and assessments, contamination assessments, remedial system design/installation, remedial system management, permitting, and Spill Prevention, Control, and Countermeasure (SPCC) plans.
- Real Estate Development Support Services, covering a broad array of environmental and engineering services, including local permit applications, Completion of Phase I and Phase II Environmental Site Assessments (ESA), contamination assessment, remediation design and management.

B. Provide comprehensive Coastal Engineering Services, full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified consultants for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofit of Coastal Facilities including but not limited to docks, marinas, seawalls, bridges, erosion control, beach design and beach re-nourishment.

PROPOSAL SUBMITTAL INSTRUCTIONS

Response Content

The City requires Proposer(s) to submit a concise narrative clearly addressing all the requirements outlined in this RFQ. Responses must include, at a minimum, the following sections in the order indicated. Total proposal length (not including required forms, addendums, resumes, Sworn Statements, or Affidavits) will not exceed 10 double (20 single) side pages.

A. Cover Page - No more than one page. [included in page limit]

B. Letter of Transmittal – This letter will summarize in a brief and concise manner, the Proposer’s understanding of the Scope of Work and make a positive commitment to provide Environmental Engineering Services on behalf of the

City of Key West. Include project name, name of vendor submitting the response, name of contact person and contact information for the person who has authority to make representations for the applicant/firm, including name, title, address, telephone and fax numbers and email addresses. [included in page limit]

C. Firm Background - Details on the qualifications of the applicant/firm, including documentation of the Proposers' experience with similar work, for local governments during the past five (5) years. The examples should include the name of client, client's representative, client's address and telephone number, key personnel involved, awarded project contract, award amount, consultant's representative, consultant's address and telephone number. [included in page limit]

- 1.) Provide a complete company profile
- 2.) Provide any information on the firm if it has ever been sanctioned, fined or any other legal or license related action has been taken upon it.
- 3.) List all memberships in trade associations and member involvement.

Note: Confidential and Proprietary Information. Trade secrets or proprietary information submitted by an Applicant in connection with this pre-qualification process shall not be subject to the disclosure under Chapter 119, F.S., only whenever such information is specifically excluded in that Chapter or another section of the Florida Statutes. However, pursuant to any statutory requirements, Applicant must invoke the protections of any such section(s) prior to or upon submission of the data or other materials to be protected and state the specific statutory citation and the reasons why protection is necessary. Failure to abide by this procedure may result in disclosure of the Applicant's information.

D. Personnel - Provide details on the qualifications of the applicant's key individual(s) including the project manager who will perform the work, including education, experience and specialized knowledge and expertise. Describe your firm's = relevant past experience. [included in page limit]

- 1.) Provide a summary organizational chart showing your team. Identify the primary contacts and describe the roles of each key person.
- 2.) Names, job classifications, and qualifications of engineering personnel who will be assigned to perform the services of this contract.
- 3.) Qualifications and experience of the individual(s) who will provide the services shall be shown on Resumes. Each resume shall be no more than one page. Members of the selection committee shall be instructed to disregard any information provided on additional pages.

The resume portion of the submittal shall not count toward the 20-page limit.

E. Experience, Qualifications, and References - Provide five client references (public references preferred) including client name, contact personnel, address, phone number, length of time you provided services, and a list of any other related services provided. [included in page limit]

1.) Provide at least five (5) examples of your firm's relevant experience providing support to municipalities (if applicable). Include name of agency, address, project budget, firm's duties under this project, firm's compensation for this project, and completion date.

F. Approach and Methodology Proposed management approach to be taken on any service rendered. A description of the firm's procedure for quality control for small, medium, and large projects should be provided.

G. Sworn Statements and Affidavits – The Proposer shall have signed and returned all forms attached herein as Section 4 (Anti-Kickback, Non-Collusion, Public Entities Crimes, Equal Benefits for Domestic Partners, Cone of Silence, Affidavit Attesting to Noncoercive Conduct for Labor or Services, Scrutinized Companies List, Indemnification, Local Vendor certification, Addendum Acknowledgement)

ASSIGNMENT

The awarded Proposer(s) shall not assign, transfer, convey, sublet or otherwise dispose of this contract, or of any or all of its rights, title or interest therein, or its power to execute such contract to any person, company or corporation without prior written consent of the City. Such consent may be withheld for any reason in the sole discretion of the City Commission.

CONTRACT CANCELLATION

The City of Key West reserves the right to cancel this contract for any reason without cause upon thirty (30) days written notice to Awarded Proposer, and Awarded Proposer reserves the right to cancel this contract for any reason with cause and documentation supporting such on a schedule acceptable to the City and upon one-hundred and twenty (120) days written notice to the City Manager.

END OF SECTION 3

AFFIDAVITS AND CERTIFICATIONS

THE FOLLOWING MATERIALS ARE CONSIDERED ESSENTIAL AND NON-WAIVABLE FOR ANY RESPONSE TO THE RFQ.

PROPOSERS SHALL SUBMIT THE SUBSEQUENT FORMS.

LIST OF ATTACHED FORMS:

1. Anti-kickback Affidavit
2. Non-Collusion Affidavit
3. Sworn Statement Pursuant to Section 287.133(3)(A), on Public Entity Crimes
4. Equal Benefits for Domestic Partners Affidavit
5. Cone of Silence Affidavit
6. Affidavit Attesting to Noncoercive Conduct for Labor or Services
7. Vendor Certification Regarding Scrutinized Companies Lists
8. Indemnification Form
9. Local Vendor Certification
10. E-Verify Affidavit

ANTI-KICKBACK AFFIDAVIT

STATE OF _____)

: SS

COUNTY OF _____)

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

By:_____

Sworn to (or affirmed) and subscribed before me by means of [___] physical presence or [___] online notarization, this day of, 20____, by_____.

(Signature of Notary Public- State of Florida)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced_____

NON-COLLUSION AFFIDAVIT

STATE OF

: SS

COUNTY OF

I, the undersigned hereby declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the City, and that the Proposal is made without any connection or collusion with any person submitting another Proposal on this contract.

BY: _____

Sworn to (or affirmed) and subscribed before me by means of [___] physical presence or [___] online notarization, this day of, 20____, by_____.

(Signature of Notary Public- State of Florida)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

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

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

1. This sworn statement is submitted with Bid or Proposal for _____

2. This sworn statement is submitted by: _____
(Name of entity submitting sworn statement)

whose business address is:

and (if applicable) its Federal Employer Identification Number (FEIN) is: _____

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement)

3. My name is _____
(Please print name of individual signing)

and my relationship to the entity named above is: _____

4. I understand that a “public entity crime” as defined in Paragraph 287.133(1)(g), Florida Statutes, means a violation of any state or federal law by a person with respect to and directly related to the transaction of business with any public entity or with an agency or political subdivision of any other state or with the United States, including but not limited to, any bid or contract for goods or services to be provided to any public or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, material misrepresentation.

5. I understand that “convicted” or “conviction” as defined in Paragraph 287.133(1)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication 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 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 (indicate which statement applies).

_____ Neither the entity submitting this sworn statement, or any of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the management of the entity, nor any affiliate of the entity has 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 its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the 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.

_____ The entity submitting this sworn statement, or one or more of its officers, directors, executives, partners, shareholders, employees, members, or agents who are active in the 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. However, there has been a subsequent proceeding before a Hearing Officer of the State of Florida, Division of Administrative Hearings and the Final Order entered by the Hearing Officer determined that it was not in the public interest to place the entity submitting this sworn statement on the convicted vendor list (attach a copy of the final order).

I UNDERSTAND THAT THE SUBMISSION OF THIS FORM TO THE CONTRACTING OFFICER FOR THE PUBLIC ENTITY IDENTIFIED IN PARAGRAPH ONE (1) ABOVE IS FOR THAT PUBLIC ENTITY ONLY AND, THAT THIS FORM IS VALID THROUGH DECEMBER OF THE CALENDAR YEAR IN WHICH IT IS FILED. I ALSO UNDERSTAND THAT I AM REQUIRED TO INFORM THE PUBLIC ENTITY PRIOR TO ENTERING INTO A CONTRACT IN EXCESS OF THE THRESHOLD AMOUNT PROVIDED IN SECTION 287.017, FLORIDA STATUTES, FOR THE CATEGORY TWO OF ANY CHANGE IN THE INFORMATION CONTAINED IN THIS FORM.

(Signature)_____

(Date)_____

STATE OF _____

COUNTY OF _____

Sworn to (or affirmed) and subscribed before me by means of [___] physical presence or [___] online notarization, this day of, 20____, by_____.

(Signature of Notary Public- State of Florida)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

EQUAL BENEFITS FOR DOMESTIC PARTNERS AFFIDAVIT

STATE OF

: SS

COUNTY OF

I, the undersigned hereby duly sworn, depose and say that the firm of _____ provides benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses, per City of Key West Code of Ordinances Sec. 2-799.

By:_____

Sworn to (or affirmed) and subscribed before me by means of [___] physical presence or [___] online notarization, this day of, 20____, by_____.

(Signature of Notary Public- State of Florida)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

**AFFIDAVIT ATTESTING TO NONCOERCIVE CONDUCT
FOR LABOR OR SERVICES**

Entity/Vendor Name: _____
Vendor FEIN: _____
Vendor's Authorized Representative: _____
Address: _____
City: _____ State: _____ Zip: _____
Phone Number: _____
Email Address: _____

As a nongovernmental entity executing, renewing, or extending a contract with a government entity, Vendor is required to provide an affidavit under penalty of perjury attesting that Vendor does not use coercion for labor or services in accordance with Section 787.06, Florida Statutes.

As defined in Section 787.06(2)(a), coercion means:

- (1) Using or threatening to use physical force against any person;
- (2) Restraining, isolating, or confining or threatening to restrain, isolate, or confine any person without lawful authority and against her or his will;
- (3) Using lending or other credit methods to establish a debt by any person when labor or services are pledged as a security for the debt, if the value of the labor or services as reasonably assessed is not applied toward the liquidation of the debt, the length and nature of the labor or service are not respectively limited and defined;
- (4) Destroying, concealing, removing, confiscating, withholding, or possessing any actual or purported passport, visa, or other immigration document, or any other actual or purported government identification document, of any person;
- (5) Causing or threatening to cause financial harm to any person;
- (6) Enticing or luring any person by fraud or deceit; or
- (7) Providing a controlled substance as outlined in Schedule I or Schedule II of Section 893.03 to any person for the purpose of exploitation of that person.

As a person authorized to sign on behalf of Vendor, I certify under penalties of perjury that Vendor does not use coercion for labor or services in accordance with Section 787.06. Additionally, Vendor has reviewed Section 787.06, Florida Statutes, and agrees to abide by same.

Certified By: _____, who is authorized to sign on behalf of the above referenced company.

Authorized Signature: _____
Print Name: _____
Title: _____

CONE OF SILENCE AFFIDAVIT

Pursuant to City of Key West Code of Ordinances Section 2-773 (attached below)

STATE OF

: SS

COUNTY OF

I, the undersigned hereby duly sworn, depose and say that all owner(s), partners, officers, directors, employees, and agents representing the firm of _____ have read and understand the limitations and procedures regarding communications concerning City of Key West Code of Ordinances Sec. 2-773 Cone of Silence (attached).

By: _____

Sworn to (or affirmed) and subscribed before me by means of [___] physical presence or [___] online notarization, this day of, 20____, by _____.

(Signature of Notary Public- State of Florida)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

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 publicly noticed evaluation and/or selection committees;

(5) Contract discussions during any duly noticed public meeting;

(6) Public presentations made to the city commission or advisory body thereof during any duly noticed public meeting;

(7) Contract negotiations with city staff following the award of a competitive solicitation by the city commission; or

(8) Purchases exempt from the competitive process pursuant to section 2-797 of these Code of Ordinances;

d. Procedure.

(1) The cone of silence shall be imposed upon each competitive solicitation at the time of public notice of such solicitation as provided by section 2-826 of this Code. Public notice of the cone of silence shall be included in the notice of the competitive solicitation. The city manager shall issue a written notice of the release of each competitive solicitation to the affected departments, with a copy thereof to each commission member, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.

(2) The cone of silence shall terminate at the time the city commission or other authorized body makes final award or gives final approval of a contract, rejects all bids or responses to the competitive solicitation or takes other action which ends the competitive solicitation.

(3) Any city employee, official or member of the city commission that is approached concerning a competitive solicitation while the cone of silence is in effect shall notify such individual of the prohibitions contained in this section. While the cone of silence is in effect, any city employee, official or member of the city commission who is the recipient of any oral communication by a potential vendor or vendor's representative in violation of this section shall create a written record of the event. The record shall indicate the date of such communication, the persons with whom such communication occurred, and a general summation of the communication.

e. Violations/penalties and procedures.

(1) A sworn complaint alleging a violation of this ordinance may be filed with the city attorney's office. In each such instance, an initial investigation shall be performed to determine the existence of a violation. If a violation is found to exist, the penalties and process shall be as provided in section 1-15 of this Code.

(2) In addition to the penalties described herein and otherwise provided by law, a violation of this ordinance shall render the competitive solicitation void at the discretion of the city commission.

(3) Any person who violates a provision of this section shall be prohibited from serving on a City of Key West advisory board, evaluation and/or selection committee.

(4) In addition to any other penalty provided by law, violation of any provision of this ordinance by a City of Key West employee shall subject said employee to disciplinary action up to and including dismissal.

(5) If a vendor is determined to have violated the provisions of this section on two more occasions it shall constitute evidence under City Code section 2- 834 that the vendor is not properly qualified to carry out the obligations or to complete the work contemplated by any new competitive solicitation. The city's purchasing agent shall also commence any available debarment from city work proceeding that may be available upon a finding of two or more violations by a vendor of this section. (Ord. No. 13-11, § 1, 6-18-2013)

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**VENDOR CERTIFICATION REGARDING
SCRUTINIZED COMPANIES LISTS**

Proposer Vendor Name: _____

Vendor FEIN: _____

Vendor's Authorized Representative Name and Title: _____

Address: _____

City: _____ State: _____ Zip: _____

Phone Number: _____

Email Address: _____

Section 287.135(2)(a), Florida Statutes, prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services of any amount if, at the time of contracting or renewal, the company is on the Scrutinized Companies that Boycott Israel List, created pursuant to section 215.4725, Florida Statutes, or is engaged in a boycott of Israel. Section 287.135(2)(b), Florida Statutes, further prohibits a company from bidding on, submitting a proposal for, or entering into or renewing a contract for goods or services over one million dollars (\$1,000,000) if, at the time of contracting or renewal, the company is on either the Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, both created pursuant to section 215.473, Florida Statutes, or the company is engaged in business operations in Cuba or Syria.

As the person authorized to sign on behalf of Proposer, I hereby certify that the company identified above in the section entitled "Proposer Vendor Name" is not listed on either the Scrutinized Companies that Boycott Israel List, Scrutinized Companies with Activities in Sudan List or the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List I understand that pursuant to section 287.135, Florida Statutes, the submission of a false certification may subject such company to civil penalties, attorney's fees, and/or costs and termination of the contract at the option of the awarding governmental entity.

Certified By: _____

Print Name

Print Title

who is authorized to sign on behalf of the above referenced company.

Authorized Signature: _____.

CITY OF KEY WEST INDEMNIFICATION FORM

Proposer agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, City's Consultant, 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 or destruction of any property which may occur or in any way grow out of any act or omission of the Proposer, 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 Proposer 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. Proposer understands and agrees that any and all liabilities regarding the use of any subcontractor or subconsultant for services related to this agreement shall be borne solely by the Proposer. Ten dollars of the consideration paid by the City is acknowledged by Proposer as separate, good and sufficient consideration for this indemnification. This indemnification shall be interpreted to comply with Section 725.06 and 725.08, 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, Proposer 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 Proposer 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 Proposer, or persons employed or utilized by Proposer.

The Proposer'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 Proposer's limit of or lack of sufficient insurance protection.

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COMPANY SEAL

PROPOSER: _____

Address _____

Signature _____

Print Name

Date

Title

NOTARY FOR THE PROPOSER

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me by means [___] physical presence or [___] online notarization, this day of, 20____, by_____.

(Signature of Notary Public- State of Florida)

(NOTARY SEAL)

(Name of Notary Typed, Printed, or Stamped)

Personally Known _____ OR Produced Identification _____

Type of Identification Produced _____

LOCAL VENDOR CERTIFICATION

PURSUANT TO CITY OF KEY WEST CODE OF ORDINANCES 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 Code of Ordinances Section 2-798

Qualifies as a local vendor pursuant to Code of Ordinances Section 2-798

If you qualify, please complete the following in support of the self-certification & submit copies of your County and City business licenses. Failure to provide the information requested will result in denial of certification as a local business.

Business Name

Phone:

Current Local Address:

Fax:

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

Length of time at this address

Signature of Authorized Representative

Date

STATE OF _____

COUNTY OF _____

The foregoing instrument was acknowledged before me this _____ day of _____, 20__.

By _____, of _____

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

Name of corporation acknowledging)

or has produced _____ as identification

(type of identification)

Signature of Notary

Return Completed form with

Supporting documents to:

City of Key West Purchasing

Print, Type or Stamp Name of Notary

Title or Rank

THE CITY OF KEY WEST E-VERIFY AFFIDAVIT

Beginning January 1, 2021, Florida law requires all contractors doing business with The City of Key West to register with and use the E-Verify System in order to verify the work authorization status of all newly hired employees. The City of Key West requires all vendors who are awarded contracts with the City to verify employee eligibility using the E-Verify System. As before, vendors are also required to maintain all I-9 Forms of their employees for the duration of the contract term. To enroll in the E-Verify System, vendors should visit the E-Verify Website located at www.e-verify.gov.

In accordance with Florida Statute § 448.095, it is the responsibility of the Awarded Vendor to ensure compliance with all applicable E-Verify requirements.

By executing this affidavit, the undersigned contractor verifies it compliance with Florida Statute § 448.095, stating affirmatively that the individual, firm, or corporation which is engaged in the performance of services on behalf of the City of Key West, has registered with, is authorized to use, and uses the U.S. Department of Homeland Security's E-Verify system.

Furthermore, the undersigned contractor agrees that it will continue to use E-Verify throughout the contract period, and should it employ or contract with any subcontractor(s) in connection with the performance of services pursuant to this Agreement with The City of Key West, contractor will secure from such subcontractor(s) similar verification of compliance with Florida Statute § 448.095, by requiring the subcontractor(s) to provide an affidavit attesting that the subcontractor does not employ, or subcontract with, an unauthorized alien. Contractor further agrees to maintain records of such compliance during the duration of the Agreement and provide a copy of each such verification to The City of Key West within five (5) business days of receipt.

Failure to comply with this provision is a material breach of the Agreement and shall result in immediate termination of the Agreement without penalty to the City of Key West. Contractor shall be liable for all costs incurred by the City of Key West to secure replacement Agreement, including but not limited to, any increased costs for the same services, and costs due to delay, and rebidding costs, if applicable.

Date (Signature of Authorized Representative)

State of _____
County of _____

Personally Appeared Before Me, the undersigned authority, _____ who, ☐ being personally know or having produced his/her signature in the space provided above on this _____ day of _____, 20_____.

Signature, Notary Public

Commission Expires

Stamp/Seal:

**THE FOLLOWING AGREEMENT IS A DRAFT AGREEMENT AND SHOULD NOT BE FILLED OUT AS
PART OF THE QUALIFICATION PACKAGE. FINAL AGREEMENT WILL BE IN SUBSTANTIAL
CONFORMANCE WITH THE ATTACHED.**

AGREEMENT BETWEEN CITY OF KEY WEST

And

For

ENVIRONMENTAL ENGINEERING SERVICES

KEY WEST, FLORIDA

This is an Agreement between: The City of Key West, its successors and assigns, hereinafter referred to as the "City," and _____, a corporation organized under the laws of the State of _____, its successors and assigns, hereinafter referred to as "Consultant".

"WITNESSETH, in consideration of the mutual terms and conditions, promises, covenants and payments hereinafter set forth, City and Consultant agree as follows:

ARTICLE 1

DEFINITIONS AND IDENTIFICATIONS

For the purposes of this Agreement and the various covenants, conditions, terms and provisions which follow, the definitions and identifications set forth below are assumed to be true and correct and are agreed upon by the parties.

- 1.1. Agreement: This document, Articles 1 through 8, inclusive. Other terms and conditions are included in the City's RFQ 25-002, Consultant's Response to RFQ dated, _____, exhibits, Task Orders, and supplemental documents that are by this provision expressly incorporated herein by reference.
- 1.2. Commissioners: Members of the city commission with all legislative powers of the City vested therein. The city commission shall consist of seven (7) commissioners, six (6) of whom shall be elected from single member districts numbered I, II, III, IV, V and VI. The mayor shall be elected by the people at large for a term of two (2) years. Commissioners from districts numbered I, II, III, IV, V and VI shall be elected for a term of four (4) years.
- 1.3. Consultant: The architect or engineer selected to perform the services pursuant to this Agreement.
- 1.3. Contract Administrator: The ranking managerial employee of the City or some other employee expressly designated as Contract Administrator by the City Manager, who is the representative of the City. In the administration of this Agreement, as contrasted with matters of policy, all parties may rely upon instructions or determinations made by the Contract Administrator; provided, however, that such instructions and determinations do not change the Scope of Services.
- 1.4. Consultant: The person, firm, corporation or other entity that enters into an Agreement with City to perform the engineering work for the Task Order.
- 1.5. City: City of Key West.
- 1.6. Task Order: A detailed description of a particular service or services to be performed by Consultant under this Agreement.

ARTICLE 2

PREAMBLE

In order to establish the background, context and frame of reference for this Agreement and environmentally to express the objectives and intentions of the respective parties hereto, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

- 2.1. The Consultant is not entitled to receive, and the City is not obligated to pay, any fees or

expenses in excess of the amount budgeted for each Task Order authorized under this Agreement in each fiscal year (October 1-September 30) by the City. The budgeted amount may only be modified by City Ordinance(s).

- 2.2. The City has met the requirements of the Consultants' Competitive Negotiation Act, as set forth in Section 287.055, Florida Statutes, and has selected Consultants to perform the services hereunder based on the Request for Qualifications 25-002 incorporated by reference and made a part hereof and the Response to the Request for Qualifications from Consultant dated _____, incorporated by reference and made a part hereof.
- 2.3. Negotiations pertaining to the services to be performed by the Consultant were undertaken between the Consultant and staff selected by the Commission, and this Agreement incorporates the results of such negotiations.

ARTICLE 3

SCOPE OF SERVICES AND STANDARD OF CARE

- 3.1. Consultant's services may include but are not limited to the following in regard to the Agreement:
 - 3.1.1. Environmental Engineering Services
- 3.2. Consultant's services shall include comprehensive full-scale engineering, design, surveying, permit preparation, preparing contract specifications, preparing bid and proposal documents and assisting the City with technical review and ranking of the same to attain qualified contractors for work, environmental assessments, construction administration and owner project representation services relating to operation, new construction, permit modification, construction improvements, rehabilitation and or retrofits, and any other lawful professional engineering services that the Consultant is qualified to provide and that the City authorizes the Consultant to undertake in connection with this Agreement. The Consultant shall provide all necessary, incidental and related activities and services as required.
- 3.3. The Consultant and the City acknowledge that the Scope of Services does not delineate every detail and minor work required to be performed by the Consultant to complete any particular Task Order. If, during the course of the performance of the services included in this Agreement, the Consultant determines that work should be performed to complete the Task Order which is, in the Consultant's opinion, outside the level of effort originally anticipated, whether or not the Scope of Services identifies the work items, the Consultant shall notify the Contract Administrator in writing in a timely manner before proceeding with the work. If the Consultant proceeds with such work without notifying the Contract Administrator, the work shall be deemed to be within the original level of effort, whether or not specifically addressed in the Scope of Services. Notice to the Contract Administrator does not constitute authorization or approval by the City to perform the work. Performance of work by the Consultant outside the originally anticipated level of effort without prior written City approval or modification of Task Order is at Consultant's sole risk.
- 3.4. The specific services to be provided by the Consultant shall be as mutually agreed to in separate Task Orders to this Agreement. Each Task Order when fully executed shall become a supplement to and a part of this Agreement.

- 3.4.1. Each Task Order shall be supported by appropriate cost and pricing data and such other documentation as required by the City.
- 3.4.2. Task Orders shall be numbered consecutively as specified by the City. Each Task Order shall include a description of the Scope of Services and specified deliverables, time of completion, total estimated costs of services. Additional information shall be provided to the City, if required. Amended Task Orders shall include substantially the same information and be submitted to the City for approval.
- 3.4.3. The City may make or approve changes within the Scope of Services in any Task Order. If such changes affect the Consultant's cost or time required for the performance of the services, an equitable adjustment shall be made through an amendment to the Task Order.
- 3.4.4. A Task Order may be terminated at any time, with or without cause, by the City upon written notice to the Consultant. The Consultant shall perform no further work upon receipt of this notice unless specifically authorized by the City Manager of the City of Key West. Upon termination, the Consultant shall be paid for all authorized services performed up to the termination date plus, if terminated for the convenience of the City, reasonable expenses incurred during the close-out of the Task Order. The City shall not pay for anticipatory profits. The termination of this Agreement pursuant to Paragraph 7.2, hereof, shall constitute the termination of any and all outstanding Task Orders.
- 3.4.5. The Consultant shall begin services under any Task Order when authorized by a Purchase Order issued by the City and delivered to Consultant.
- 3.5. The City and the Consultant may negotiate additional scopes of services, time of performance and other related matters for each Task Order as allowed by this Agreement. If the City and the Consultant cannot contractually agree, the City shall have the right to immediately terminate negotiations at no cost to the City and procure services from another Proposer.
- 3.6. The Consultant shall perform the professional services under this Agreement at the level customary for competent and prudent professionals in the Consultant's field/industry performing such services at the time and place where the services are provided. In the event the Consultant does not comply with this standard, and omissions or errors are made by Consultant, the Consultant will correct such work that contains errors or omissions.
- 3.7. The Consultant is required to perform the Task Orders consistent with current applicable Federal, State and City laws, codes and regulations that pertain to the Task Order. In all Task Orders, where changes to any laws, codes or regulations affecting the Task Order have a Task Ordered effective date or are anticipated to be effective at a future date, or if knowledge of anticipated changes is available to Consultant or any Subconsultant, Consultant shall present options for their use or implementation.
- 3.8. Construction Responsibility - Notwithstanding anything in this Agreement, Consultant shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety measures, precautions and programs including enforcement of Federal and State safety requirements, in connection with construction

work performed by City's construction contractors.

- 3.9. Estimates - Since the Consultant has no control over local conditions, the cost of labor, materials, equipment or services furnished by others, or over competitive bidding or market conditions, the Consultant does not guarantee the accuracy of any opinions of probable construction cost as compared to construction contractor's bids or the actual cost to the City.

ARTICLE 4

TERM OF AGREEMENT; TIME FOR PERFORMANCE; CONSULTANT DAMAGES;

The term of this Agreement shall be for a period of three (3) years from the effective date of the Agreement with the option of one (1) two (2) year renewal. Hourly rate adjustments may be requested in writing and negotiated no later than three months before the contract renewal date. The Agreement will be in effect upon execution by both parties. The Agreement may be renewed at the discretion of the City.

- 4.1. The Consultant shall perform the services described in each Task Order within the time periods specified. Each such period shall commence from the date of the purchase order issued for such services.
- 4.2. The Consultant must receive written approval from the Contract Administrator prior to beginning the performance of services in any subsequent Task Order. Prior to granting approval for the Consultant to proceed to a subsequent Task Order, the Contract Administrator may, at their sole option, require the Consultant to submit any deliverables/documents for the Contract Administrator's review.
- 4.3. In the event the Consultant is unable to complete the above services because of delays resulting from untimely review by City or other governmental authorities having jurisdiction over the Task Order, and such delays are not the fault of the Consultant, or because of delays which were caused by factors outside the control of the Consultant, the City shall grant a reasonable extension of time for completion of the services and shall provide reasonable compensation, if appropriate. It shall be the responsibility of the Consultant to notify City within ten (10) days in writing whenever a delay in approval by a governmental agency, including City, is anticipated or experienced, and to inform the Contract Administrator of all facts and details related to the delay.
- 4.4. In the event the Consultant fails to substantially complete the Task Order on or before the substantial completion date specified in its Agreement with the City or if the Consultant is granted an extension of time beyond said substantial completion date, and Consultant's services are extended beyond the substantial completion date, through no fault of the Consultant, the Consultant shall be compensated in accordance with Article 5 for all services rendered by Consultant beyond the substantial completion date.
- 4.5. In the event the Consultant fails to substantially complete the Task Order on or before the substantial completion date specified in its Agreement with the City, and the failure to substantially complete is caused in whole or in part by a negligent act, error or omission of the Consultant, then the Consultant shall pay to the City its proportional share of any claim for damages to the Consultant or the City arising out of the delay. This provision shall not affect the rights and obligations of either party as set forth in Paragraph 7.8, *Indemnification of City*.

ARTICLE 5

COMPENSATION AND METHOD OF PAYMENT

5.1. AMOUNT AND METHOD OF COMPENSATION

The types of compensation methods which shall be used to pay for the Consultant's services are limited to the following:

- 5.1.1. Lump sum payment/Not-to-Exceed, which includes compensation for all the Consultant's salaries, Environmental overhead costs, direct expenses, and profit.
 - 5.1.1.1. If the Task Order timeline deviates from the assumed schedule due to factors beyond the Consultant's control, either the Consultant or the City may request renegotiation of the affected portions of the lump sum. During construction contract administration, if the Consultant is tasked with overseeing the project, both parties agree that any change in the completion time – whether earlier or later – will result in a proportional adjustment to the compensation. This adjustment will either increase the amount owed to the Consultant for additional work or decrease it if less time is required..
 - 5.1.1.2. In the event of a change of scope, the City shall authorize in writing an appropriate decrease or increase in compensation.
 - 5.1.1.3. Monthly invoices will be based on an estimate of the percent of work completed at the end of the preceding month.
 - 5.1.1.4. The Consultant shall submit wage rates and other actual unit costs supporting the requested compensation. The Consultant shall submit a Truth in Negotiation Certificate stating that all data supporting the compensation is accurate, complete, and current at the time of contracting.
- 5.1.2. Cost Reimbursable-Per Diem (Time and Expenses)
 - 5.1.2.1. Per-diem rates are those hourly or daily rates charged for work performed on the Task Order by Consultant's employees of the indicated classifications and include all salaries, overheads, and profit, but do not include allowances for Direct Expenses. These rates are subject to annual adjustments based on the Consumer Price Index Urban U.S. City Average All Items U.S. Department of Labor Bureau of Labor Statistics.
 - 5.1.2.2. Hourly rates provided for the first three years of the contract (Consultant AND Subconsultants): See attached Exhibit A.
 - 5.1.2.3. Consultant and Subconsultants allowed annual wage adjustment shall not exceed the Data Resource Institute (DRI) forecast of wage and price escalation (the U.S. Bureau of Labor Statistics [BLS] Employment Cost Index [ECI] for Private Industry)
 - 5.1.2.4. A budgetary amount will be established for each Task Order, and this amount shall not be exceeded without prior written approval from the City. The Consultant is expected to make reasonable efforts to complete the work within

the established budget and shall keep the City informed of progress. If necessary, adjustments to the budget or scope of work may be made to ensure successful completion of the task.

- 5.1.2.5. Consultant is not obligated to incur costs beyond the indicated budgets, as may be adjusted, nor is City obligated to pay Consultant beyond these limits.
- 5.1.2.6. When any budget has been increased, the Consultant's excess costs expended prior to such increase will be allowable to the same extent as if such costs had been incurred after the approved increase.

5.2. REIMBURSABLES

- 5.2.1. Direct non-salary expenses, entitled Reimbursables, directly attributable to the Task Order shall be charged at actual cost, and shall be limited to the following:

- 5.2.1.1. Identifiable transportation expenses in connection with the Task Order, subject to the limitations of Section 112.061, Florida Statutes. There shall be no mileage reimbursement for travel within the City of Key West. Transportation expenses to locations outside the City area or from locations outside the City will not be reimbursed unless specifically pre-authorized in writing by the Contract Administrator.
- 5.2.1.2. Identifiable per diem, meals and lodgings, taxi fares, automobile rental, and miscellaneous travel-connected expenses for Consultant's personnel subject to the limitations of Section 112.061 Florida Statutes. Meals for class C travel inside the City of Key West will not be reimbursed. Lodging will be reimbursed only for room rates equivalent to Holiday Inn, Hampton Inn, or Best Western.
- 5.2.1.3. Identifiable communication expenses approved by Contract Administrator, long distance telephone, courier and express mail utilized to render the services required by this Agreement.
- 5.2.1.4. Cost of printing, reproduction or photography that is required by or of the Consultant to deliver services set forth in this Agreement. Unit costs must be specified in the Task Order.
- 5.2.1.5. Identifiable testing costs approved by Contract Administrator. Unit costs must be specified in the Task Order.
- 5.2.1.6. All permit fees are paid to regulatory agencies for approvals directly attributable to the Task Order. These permit fees do not include those permits required for the Contractor.

- 5.2.2. It is acknowledged and agreed to by the Consultant that the dollar limitation set forth in Paragraph 5.2.1 is a limitation upon, and describes the maximum extent of the City's obligation to reimburse Consultant for direct, non-salary expenses. If the City or Contract Administrator requests the Consultant to incur expenses not contemplated in the amount for Reimbursables, the Consultant shall notify the Contract Administrator in writing before incurring such expenses. Any such expenses shall be reviewed and approved by City prior to incurring such expenses.

- 5.2.3. "Subconsultants' hourly rates shall be invoiced at the actual amounts paid by the Consultant. These rates may not increase in any fiscal year by more than the percentage change in the Consumer Price Index for All Urban Consumers (CPI-U), U.S. City Average, as published by the U.S. Department of Labor, Bureau of Labor Statistics. Reimbursable expenses for Subconsultants shall be limited to those specified in Paragraph 5.2.1, provided that the Subconsultant's agreement includes provisions for reimbursable expenses."

5.3. METHOD OF BILLING

- 5.3.1. Lump Sum Compensation – The Consultant shall submit billings that are identified by the specific Task Order number if applicable on a monthly basis in a timely manner. These billings shall identify the nature of the work performed and the estimated percentage of work accomplished. The statement shall show a summary of fees with accrual of the total and credits for portions paid previously. When requested, the Consultant shall provide backup for past and current invoices that record hours, personnel, and expense costs on a task basis, so that total hours and costs by task may be determined.
- 5.3.2. Cost Reimbursable-Per Diem (Time and Expenses) Compensation - The Consultant shall submit invoices that are identified by the specific numbered Task Order on a monthly basis in a timely manner for all personnel hours and Reimbursements attributable to the Task Order. These invoices shall identify the nature of the work performed, the total hours of work performed and the employee category and name of the individuals performing the requested work. Invoices shall be itemized and summarized as Reimbursables by category and identify the personnel incurring the expense and the nature of the work with which such expense was associated. Where prior written approval by the Contract Administrator is required for Reimbursables, a copy of the approval shall accompany the billing for such reimbursable. The statement shall show a summary of Salary Costs and Reimbursables with an accrual of the total and credits for portions paid previously. External Reimbursables and subconsultant fees must be documented by copies of invoices or receipts that describe the nature of the expenses and contain a Task Order number or other identifier that clearly indicates the expense is identifiable to the Task Order. Subsequent addition of the identifier to the invoice or receipt by the Consultant is not acceptable except for meals and travel expenses. Appropriate Consultant's cost accounting forms with a summary of charges must document internal expenses by category. When requested, the Consultant shall provide backup for past and current invoices that records hours and rates by employee category, Reimbursables by category, and subcontractor fees on a task basis, so that total hours and costs by task may be determined.
- 5.3.3. If requested, the Consultant shall provide copies of past paid invoices to any Subcontractor or Subconsultant prior to receiving payment. The City reserves the right to pay any Subcontractor or Subconsultant if the Consultant has not paid them in a timely manner and the services of the Subcontractor or Subconsultant are necessary to

complete any Task Order.

5.4. METHOD OF PAYMENT

- 5.4.1. The City shall pay the Consultant within forty-five- (45) calendar days from receipt of Consultant's proper invoice with documentation as provided above.
- 5.4.2. In the event the Consultant has utilized a Subconsultant or Subcontractor in order to perform the Task Order, the Consultant will be required to provide documentation that the Subconsultants and Subcontractors of Subconsultants have been paid prior to payment being made to Consultant.
- 5.4.3. Payment will be made to Consultant at: _____

ARTICLE 6

CITY 'S RESPONSIBILITIES

- 6.1. The City shall assist the Consultant by placing at the Consultant's disposal all information the City has available pertinent to the Task Order including previous reports and any other data relative to design or construction of the Task Order.
- 6.2. The City shall arrange for access to, and make all provisions for, the Consultant to enter upon public and private property as required for the Consultant to perform its services.
- 6.3. The City shall review the Consultant's itemized deliverables/documents identified in the Task Orders and respond in writing with any comment within the time set forth in the Task Order or within a reasonable time.
- 6.4. The City shall give prompt written notice to the Consultant whenever the City observes or otherwise becomes aware of any development that affects the scope or timing of the Consultant's services or any defect in the work of any Contractor.

ARTICLE 7

MISCELLANEOUS

7.1. OWNERSHIP OF DOCUMENTS

All finished or unfinished documents, data, data matrices and calculations generated and used to evaluate and compute the construction or material requirements for the Task Order, studies, surveys, drawings, maps, models, photographs and reports prepared or provided by Consultant in connection with this Agreement, whether in hard copy or electronic form, shall become the property of City, whether the Task Order for which they are made is completed or not. If applicable, the City may withhold any payments then due to the Consultant until the Consultant complies with the provisions of this Article. The Consultant is not responsible for damages caused by the unauthorized re-use by others of any of the materials for another Task Order.

7.2. TERMINATION

- 7.2.1. This Agreement may be terminated with or without cause by the City at any time.
- 7.2.2. Notice of Termination shall be provided in accordance with 7.2 Termination.
- 7.2.3. The City of Key West reserves the right to terminate this Agreement, in whole or in part, at any time, without cause, by providing the other party with thirty (30) days' written

notice of its intention to terminate.

- 7.2.4. In the event this Agreement is terminated, Consultant shall be paid for any services performed to the date the Agreement is terminated. Compensation shall be withheld until all documents of this Agreement are provided to the City. Upon being notified of City's election to terminate, Consultant shall refrain from performing further services or incurring additional expenses under the terms of this Agreement. Under no circumstances shall City make payment of profit for services that have not been performed.

7.3. AUDIT RIGHT AND RETENTION OF RECORDS

- 7.3.1. The City shall have the right to audit the books, records, and accounts of the Consultant that are related to this Task Order. The Consultant shall keep such books, records, and accounts as may be necessary in order to record complete and correct entries related to the Task Order.
- 7.3.2. The Consultant shall preserve and make available, at reasonable times for examination and audit by City, all financial records, supporting documents, statistical records, and any other documents pertinent to this Agreement for the required retention period of the Florida Public Records Act (Chapter 119, Fla. Stat.), if applicable, or, if the Florida Public Records Act is not applicable, for a minimum period of three (3) years after termination of this Agreement. If any audit has been initiated and audit findings have not been resolved at the end of the retention period or three (3) years, whichever is longer, the books, records, and accounts shall be retained until resolution of the audit findings. If the Florida Public Records Act is determined by the City to be applicable to the Consultant's records, Consultant shall comply with all requirements thereof; however, Consultant shall violate no confidentiality or non-disclosure requirement of either federal or state law. Any incomplete or incorrect entry in such books, records, and accounts shall be a basis for the City's disallowance and recovery of any payment upon such entry.

7.4. NONDISCRIMINATION, EQUAL EMPLOYMENT OPPORTUNITY, AMERICANS WITH DISABILITIES ACT, AND EQUAL BENEFITS FOR DOMESTIC PARTNERS

- 7.4.1. Consultant shall not unlawfully discriminate against any person in its operations and activities in its use or expenditure of the funds or any portion of the funds provided by this Agreement and shall affirmatively comply with all applicable provisions of the Americans with Disabilities Act (ADA) in the course of providing any services funded in whole or in part by City, including Titles I and II of the ADA (regarding nondiscrimination on the basis of disability), and all applicable regulations, guidelines, and standards.
- 7.4.2. Consultant's decisions regarding the delivery of services under this Agreement shall be made without regard to or consideration of race, age, religion, color, gender, sexual orientation, gender identity or expression, national origin, marital status, physical or mental disability, political affiliation, or any other factor that cannot be lawfully or appropriately used as a basis for service delivery. Consultant shall comply with Title I of the Americans with Disabilities Act regarding

nondiscrimination on the basis of disability in employment and further shall not discriminate against any employee or applicant for employment because of race, age, religion, color, gender, sexual orientation, national origin, gender identity or expression, marital status, political affiliation, or physical or mental disability. Such actions shall include, but not be limited to, the following: employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, termination, rates of pay, other forms of compensation, terms and conditions of employment, training (including apprenticeship), and accessibility. Consultant shall comply with City Ordinance Sec. 2-799 Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

7.5. PUBLIC ENTITY CRIMES ACT

- 7.5.1. Consultant represents that the execution of this Agreement shall not violate the Public Entity Crimes Act (Section 287.133, Florida Statutes), which essentially provides that a person or affiliate who is a contractor, Consultant or other provider and 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 City, may not submit a bid on a contract with City for the construction or repair of a public building or public work, may not submit bids on leases of real property to City, may not be awarded or perform work as a contractor, supplier, subcontractor, or Consultant under a contract with City, and may not transact any business with City in excess of the threshold amount provided in Section 287.017, Florida Statutes, for category two purchases for a period of 36 months from the date of being placed on the convicted vendor list. Violation of this section shall result in termination of this Agreement and recovery of all monies paid hereto, and may result in being barred from City's competitive procurement activities.
- 7.5.2. In addition to the foregoing, Consultant further represents that there has been no determination, based on an audit, that it or any Subconsultant, has committed an act defined by Section 287.133, Florida Statutes, as a "public entity crime" and that it has not been formally charged with committing an act defined as a "public entity crime" regardless of the amount of money involved or whether Consultant has been placed on the convicted vendor list.
- 7.5.3. Consultant shall promptly notify City if it or any Subcontractor or Subconsultant is formally charged with an act defined as a "public entity crime" or has been placed on the convicted vendor list.

7.6. SUBCONSULTANTS

- 7.6.1 The Consultant may use the subconsultants identified in the proposal that was a material part of the selection of the Consultant to provide the services under this Agreement. The City reserves the right to accept the use of a Subcontractor or to reject the selection of a particular Subcontractor and to inspect all facilities of any Subcontractors in order to make determination as to the capability of the subcontractor to perform properly under this contract. The City's acceptance of a Subcontractor shall not be unreasonably withheld. The Consultant shall obtain written approval from the Contract Administrator prior to changing or adding to the list of Subconsultants. The list of Subconsultants submitted and currently approved is as follows:

Hourly rates are as on attached Exhibit A.

7.7. ASSIGNMENT AND PERFORMANCE

- 7.7.1. Neither this Agreement nor any interest herein shall be assigned, transferred, or encumbered by either party and the Consultant shall not Subcontract any portion of the work required by this Agreement except as authorized pursuant to Section 7.6.
- 7.7.2. Consultant represents that all persons delivering the services required by this Agreement have the knowledge and skills, either by training, experience, education, or a combination thereof, to adequately and competently perform the duties, obligations, and services set forth in the Scope of Services and to provide and perform such services to City's satisfaction for the agreed compensation.
- 7.7.3. Consultant shall perform its duties, obligations, and services under this Agreement in a skillful and respectable manner. The quality of Consultant's performance and all interim and final product(s) provided to or on behalf of the City shall be in accordance with the standard of care set forth in Paragraph 3.6.
- 7.7.4. Consultant shall not change or replace the Project Manager identified in the Consultant's response to the RFQ without the Contract Administrator's prior written approval.
- 7.7.5. The Consultant agrees that it shall perform no less than seventy (70) percent (%) of the total service outlined in this agreement directly. The Consultant shall not Subcontract or pass through work that exceeds this percentage without prior written approval from the City.
- 7.7.6. Any Subcontractor or Subconsultant or delegation of work shall be subject to the prior written approval by the City. The Consultant shall remain fully responsible for the work, performance, and quality of all subcontracted tasks.
- 7.7.7. In the event the Subcontractors or Subconsultants are utilized, the Consultant shall submit the names, qualifications, and scope of work for each proposed Subcontractor/Subconsultant to the City for approval prior to engagement. The Consultant shall ensure that all Subcontracted work meets the same standards and quality as would be expected from direct performance by the Consultant.

7.8. INDEMNIFICATION OF CITY

- 7.8.1. Consultant agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees, including volunteers, from and against any and all claims, demands, expense and liability arising out of injury or death to any person or the damage, loss or destruction of any property which may occur or in any way grow out of any act or omission of the Consultant, its agents, servants, and employees, or any and all costs, expense and/or attorney fees incurred by the Consultant 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 Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees. The Consultant 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.

7.9. INSURANCE

- 7.9.1. The Consultant shall provide, pay for and maintain in force at all times during the services to be performed suitable insurance, including, but not limited to, Professional Liability Insurance, Workers' Compensation Insurance, Comprehensive Environmental or Commercial Liability Insurance, Business Automobile Liability Insurance and Employer's Liability Insurance, etc. as is required in the RFQ.

7.10. REPRESENTATIVE OF CITY AND CONSULTANT

- 7.10.1. The parties recognize that questions in the day-to-day conduct of the Task Order will arise. The Contract Administrator, upon Consultant's request, shall advise Consultant in writing of one (1) or more City employees to whom all communications pertaining to the day-to-day conduct of the Task Order shall be addressed.
- 7.10.2. Consultant shall inform the Contract Administrator in writing of Consultant's representative to whom matters involving the conduct of the Task Order shall be addressed.

7.11. ALL PRIOR AGREEMENTS SUPERSEDED

- 7.11.1. This document incorporates and includes all prior negotiations, correspondence, conversations, Agreements or understandings applicable to the matters contained herein; and the parties agree that there are no commitments, Agreements or understandings concerning the subject matter of this Agreement that are not contained in this document and the exhibits attached. Accordingly, the parties agree that no deviation from the terms hereof shall be predicated upon any prior representations or Agreements whether oral or written.
- 7.11.2. It is further agreed that no modification, amendment or alteration in the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith.

7.12. CONSULTING TEAM

- 7.12.1. The City reserves the right to approve the members of the Consulting Team and the roles they will undertake in the assignment. The City's acceptance of a team member shall not be unreasonably withheld.
- 7.12.2. Each assignment issued under this Agreement by the City to the Consultant, the Consultant will at the City's request, disclose the role, qualifications and hourly rate of each individual working on the assignment.
- 7.12.3. The City reserves the right to require replacement of any of the members of the Consulting Team. Any proposed addition or change of members of the Consulting Team initiated by the Consultant must obtain the City Representative's prior written approval.
- 7.12.4. In the event of death, incapacity or termination of employment of any member of the Consulting Team before completion of the services, the Consultant shall, at its own expense and as soon as reasonably practicable, arrange to substitute or replace the individual member concerned.
- 7.12.5. The Consultant shall ensure that the substitute or replacement is no less qualified in terms of relevant experience and qualifications than the outgoing individual and is available at the relevant time to act as such replacement or substitute. The Consultant shall without delay

forward the curriculum vitae of the proposed substitute or replacement to the City. The deployment of such substitutes or replacement shall be subject to the City's consent.

7.12.6. The Consultant shall solely be responsible for all direct, indirect and consequential costs or losses that may arise from the substitution or replacement of members of the Consulting Team.

7.13. NOTICES

Whenever either party desires to give notice unto the other, such notice must be in writing, sent by certified United States mail, return receipt requested, addressed to the party for whom it is intended at the place last specified; and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph. For the present, the parties designate the following as the respective places for giving of notice:

FOR CITY OF KEY WEST:

City of Key West

1300 White Street

Key West, FL 33040

FOR CONSULTANT:

7.14. TRUTH-IN-NEGOTIATION CERTIFICATE

Signature of this Agreement by the Consultant shall act as the execution of a truth-in-negotiation certificate stating that wage rates and other factual unit costs supporting the compensation of this Agreement are accurate, complete, and current at the time of contracting. The original contract price for any Task Order and any additions thereto shall be adjusted to exclude any significant sums by which City determines the contract price was increased due to inaccurate, incomplete, or non-current wage rates and other factual unit costs. All such contract adjustments shall be made within one (1) year following the end of this Agreement.

7.15. INTERPRETATION

The language of this Agreement has been agreed to by both parties to express their mutual intent and no rule of strict construction shall be applied against either party hereto. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement. All personal pronouns used in this Agreement shall include the other gender, and the singular shall include the plural, and vice versa, unless the context otherwise requires. Terms such as "herein," "hereof," "hereunder," and "hereinafter" refer to this Agreement as a whole and not to any particular sentence or paragraph where they appear, unless the context otherwise requires. Whenever reference is made to a Paragraph or Article of this Agreement, such reference is to the Paragraph or Article as a whole, including all of the subsections of such Paragraph, unless the reference is made to a

particular subsection or subparagraph of such Paragraph or Article.

7.16. CONSULTANT'S STAFF

- 7.16.1. The Consultant agrees to provide the key personnel identified in their proposal for each Task Order, provided that such personnel remain employed by the Consultant throughout the duration of the Task Order.
- 7.16.2. The Consultant shall obtain prior written approval from the Contract Administrator to change key staff. The Consultant shall provide the Contract Administrator with such information as necessary to determine the suitability of proposed new key staff. The Contract Administrator shall be reasonable in evaluating key staff qualifications.
- 7.16.3. If the Contract Administrator desires to request removal of any of Consultant's staff, the Contract Administrator shall first meet with Consultant and provide reasonable justification for said removal.

7.17. INDEPENDENT CONTRACTOR

The Consultant is an independent contractor under this Agreement. Services provided by the Consultant shall be subject to the supervision of the Consultant. In providing the services, the Consultant or its agents shall not be acting and shall not be deemed as acting as officers, employees, or agents of the City, nor shall they accrue any of the rights or benefits of a City employee. The parties expressly acknowledge that it is not their intent to create any rights or obligations in any third person or entity under this Agreement.

7.18. THIRD PARTY BENEFICIARIES

Neither the Consultant nor the City intend directly or substantially to benefit a third party by this Agreement. Therefore, the parties agree that there are no third-party beneficiaries to this Agreement and that no third party shall be entitled to assert a claim against either of them based upon this Agreement. No subcontractor or subconsultant, whether named or unnamed, shall be a third party beneficiary of this Agreement.

7.19. CONFLICTS

- 7.19.1. Neither the Consultant nor its employees shall have or hold any continuing or frequently recurring employment or contractual relationship that is substantially antagonistic or incompatible with Consultant's loyal and conscientious exercise of judgment related to its performance under this Agreement.
- 7.19.2. The Consultant agrees that none of its officers or employees shall, during the term of this Agreement, serve as an expert witness against the City in any legal or administrative proceeding in which they are not a party, unless compelled by court process, nor shall such persons give sworn testimony or issue a report or writing, as an expression of their expert opinion, which is adverse or prejudicial to the interests of the City or in connection with any such pending or threatened legal or administrative proceeding. The limitations of this section shall not preclude such persons from representing themselves in any action or in any administrative or legal proceeding.
- 7.19.3. In the event the Consultant is permitted to use Subcontractors to perform any services required

by this Agreement, the Consultant agrees to prohibit such Subcontractors from having any conflicts as within the meaning of this section, and shall so notify them in writing.

7.20. CONTINGENCY FEE

7.20.1 The Consultant warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For a breach or violation of this provision, the City shall have the right to terminate this Agreement without liability at its discretion, or to deduct from the Agreement price or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

7.21. WAIVER OF BREACH AND MATERIALITY

- 7.21.1. Failure by the City to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.
- 7.21.2. The City and the Consultant agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

7.22. COMPLIANCE WITH LAWS

7.22.1 Consultant shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this Agreement. In addition, at the time each Task Order is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

7.23. SEVERABILITY

7.23.1 In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless the City or the Consultant elects to terminate this Agreement.

7.24. PRIORITY OF PROVISIONS

7.24.1 If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in Articles 1 through 8 of this Agreement shall prevail and be given effect.

7.25. APPLICABLE LAW AND VENUE

7.25.1 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.

7.26. INCORPORATION BY REFERENCE

7.26.1 The attached exhibits are incorporated into and made a part of this Agreement: Exhibit A – Consultant /Subconsultants’ Hourly Rates.

7.27. COUNTERPARTS

7.27.1 This Agreement may be executed in three (3) counterparts, each of which shall be deemed to be original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

CITY

ATTEST:

City Clerk

Date

City Manager

Date

CONSULTANT

ATTEST:

By _____

(Print Name)

Date

By _____

(Print Name)

Date

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Federal Contract Clauses
(Applicable when Federal Funds are utilized)

Federal Contract Provisions for Non-Federal Entities:

- a) Contracts for more than the simplified acquisition threshold, which is the inflation adjusted amount determined by the Civilian Agency Acquisition Council and the Defense Acquisition Regulations Council (Councils) as authorized by [41 U.S.C. 1908](#), must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate.
- b) All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement.
- c) **Equal Employment Opportunity:** Except as otherwise provided under [41 CFR Part 60](#), all contracts that meet the definition of “federally assisted construction contract” in [41 CFR Part 60-1.3](#) must include the equal opportunity clause provided under [41 CFR 60-1.4\(b\)](#), in accordance with [Executive Order 11246](#), “Equal Employment Opportunity” ([30 FR 12319](#), [12935](#), [3 CFR Part, 1964-1965](#) Comp., p. 339), as amended by [Executive Order 11375](#), “Amending [Executive Order 11246](#) Relating to Equal Employment Opportunity,” and implementing regulations at [41 CFR part 60](#), “Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor.”
- d) **Davis-Bacon Act:** as amended ([40 U.S.C. 3141-3148](#)). When required by Federal program legislation, all prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act ([40 U.S.C. 3141-3144](#), and [3146-3148](#)) as supplemented by Department of Labor regulations ([29 CFR Part 5](#), “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”). In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency. The contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act ([40 U.S.C. 3145](#)), as supplemented by Department of Labor regulations ([29 CFR Part 3](#), “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States”). The Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e) **Contract Work Hours and Safety Standards Act ([40 U.S.C. 3701-3708](#)):** Where applicable, all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with [40 U.S.C. 3702](#) and [3704](#), as supplemented by Department of Labor regulations ([29 CFR Part 5](#)). Under [40 U.S.C. 3702](#) of the Act, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week. The requirements of [40 U.S.C. 3704](#) are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- f) **Rights to Inventions Made Under a Contract or Agreement:** If the Federal award meets the definition of “funding agreement” under [37 CFR § 401.2 \(a\)](#) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the recipient or subrecipient must comply with the requirements of [37 CFR Part 401](#), “Rights to Inventions Made by Nonprofit

Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulations issued by the awarding agency.

- g) **Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act ([33 U.S.C. 1251-1387](#)):** as amended—Contracts and subgrants of amounts in excess of \$150,000 must contain a provision that requires the non-Federal award to agree to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act ([42 U.S.C. 7401-7671q](#)) and the Federal Water Pollution Control Act as amended ([33 U.S.C. 1251-1387](#)). Violations must be reported to the Federal awarding agency and the Regional Office of the Environmental Protection Agency (EPA).
- h) **Debarment and Suspension:** (Executive Orders 12549 and 12689)—A contract award (see [2 CFR 180.220](#)) must not be made to parties listed on the governmentwide exclusions in the System for Award Management (SAM), in accordance with the OMB guidelines at [2 CFR 180](#) that implement Executive Orders 12549 (3 CFR part 1986 Comp., p. 189) and 12689 (3 CFR part 1989 Comp., p. 235), “Debarment and Suspension.” SAM Exclusions contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than [Executive Order 12549](#).
- i) **Byrd Anti-Lobbying Amendment ([31 U.S.C. 1352](#)):**—Contractors that apply or bid for an award exceeding \$100,000 must file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by [31 U.S.C. 1352](#). Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award.
- j) **Access to Records** - “The Contractor agrees to provide The City of Key west, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.

- k) **DHS SEAL, Logo, and Flags** - The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. The contractor shall include this provision in any subcontracts.
- l) **Compliance with Federal Law, Regulations, and Executive Orders and Acknowledgement of Federal Funding** - This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.
- m) **No Obligation by Federal Government** - The federal government is not a party to this contract and is not subject to any obligations or liabilities to the non-federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- n) **Program Fraud and False or Fraudulent Statements or Related Acts** - The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract.
- o) **Affirmative Socioeconomic Steps** - “If subcontracts are to be let, the prime contractor is required to take all necessary steps identified in 2 C.F.R. § 200.321(b)(1)-(5) to ensure that small and minority businesses, women’s business enterprises, and labor surplus area firms are used when possible.
- p) **Copyright and Data Rights** - The Contractor grants to the City of Key West, a paid-up, royalty-free, nonexclusive, irrevocable, worldwide license in data first produced in the performance of this contract to

reproduce, publish, or otherwise use, including prepare derivative works, distribute copies to the public, and perform publicly and display publicly such data. For data required by the contract but not first produced in the performance of this contract, the Contractor will identify such data and grant to the City of Key West or acquires on its behalf a license of the same scope as for data first produced in the performance of this contract. Data, as used herein, shall include any work subject to copyright under 17 U.S.C. § 102, for example, any written reports or literary works, software and/or source code, music, choreography, pictures or images, graphics, sculptures, videos, motion pictures or other audiovisual works, sound and/or video recordings, and architectural works. Upon or before the completion of this contract, the Contractor will deliver to the City of Key West data first produced in the performance of this contract and data required by the contract but not first produced in the performance of this contract in formats acceptable by the City of Key West.

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Exhibit A -Hourly Fee Schedule

Date: _____

[illegible]