

AGREEMENT

This Agreement effective September 30, 2019, by and between the City of Key West, Florida, a Florida municipal corporation, 1300 White Street, Key West, Florida 33040 (hereinafter "City") and the Law Offices of Donald E. Yates, P.A. a Florida corporation (hereinafter "Yates"), 611 Eaton Street, Key West, Florida 33040.

WHEREAS, THE City and Yates mutually desire to enter into an agreement whereby Yates will serve as the Code Compliance Special Magistrate for the City.

NOW, THEREFORE, the parties agree as follows:

I. SCOPE OF WORK.

The City hereby offers to engage Yates, and Yates hereby accepts such offer of engagement to serve as the Code Compliance Special Magistrate for the City. Yates expressly agrees herein to exercise his authority as Special Magistrate in accordance with Chapter 162 of the Florida Statutes and Chapter 2 of the Key West Code of Ordinances. In addition, Yates expressly agrees herein to observe all pertinent laws in the exercise of his functions, including but not limited to, the Sunshine Law, the Public Records Law, Chapter 112 of the Florida Statutes relating to conflicts of interest, and laws relating to the procedures of quasi-judicial hearings.

II. TERM AND TERMINATION.

- a. The term of this Agreement shall be for a period beginning on the 1ST day of October, 2019, and shall terminate on the 30TH day of September, 2021, with an additional two year option to extend on behalf of the City.
- b. The City may terminate this Agreement at any time for cause. "Cause" shall be defined as a failure to adhere to the provisions pertaining to the conduct of code compliance procedures contained in Chapter 162 of the Florida Statutes and Chapter 2 of the Key West Code of Ordinances, or a violation of ordinance or law, upon a majority vote of the City Commission as provided in the Code of Ordinances.
- c. The City may terminate this Agreement without cause upon no less than 30 days written notice to Yates.
- d. Yates shall have the right to terminate this Agreement with no less than 30 days written notice to City.
- e. Yates shall be entitled to compensation only for services rendered to the date of termination or resignation

III. COMPENSATION AND MEETINGS.

Except as provided herein, the City shall compensate Yates at the rate of \$1,400.00 for each month that Yates conducts Code Compliance hearings pursuant to this Agreement. The dates scheduled for 2019 and 2020 are attached hereto and incorporated herein. The meeting dates may be modified by mutual agreement of the City Code Compliance Director or Designee and Yates. The City will timely supply dates for meetings in succeeding years to Yates. In the event Yates determines he is unavailable for a scheduled meeting, he shall provide City written notice of no less than 60 days to allow for an opportunity to reschedule the conflicted meeting to a mutually agreed upon new date. If a date cannot be agreed upon, the City may elect to engage an alternate Special Magistrate or postpone the meeting to the following month, in which case Yates shall receive no compensation for that month or months. The compensation provided herein shall represent payment for Yates's preparation for and attendance at the City's Code Compliance case hearings, as well as the preparation and execution of Code Compliance orders. Should the City need additional hearing sessions on other dates, in excess of the one scheduled date per month contemplated under this agreement, then Yates shall be compensated at the pro-rated amount of \$400.00 per hour with a one hour minimum or \$350.00 per hour in excess of two hours and a maximum compensation of 6 hours per meeting unless approved in advance by the City Manager or Designee for exceptional circumstances. As additional compensation, the City shall furnish Yates a parking pass sufficient to enable him to secure parking necessary to carry out the duties specified herein.

IV. INDEPENDENT CONTRACTOR.

Yates is an independent contractor pursuant to this Agreement, and shall not be acting and shall not be deemed as acting as an officer, employee, or agent of the CITY, nor shall he 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.

V. INDEMNIFICATION AND INSURANCE.

Yates shall indemnify and hold harmless the City, its officers, employees, and agents from all actions, claims, penalties, and judgements for damages at law or equity of any nature whatsoever arising, or alleged to arise solely out of Yates negligence in the exercise of rights or obligations conferred by this Agreement. Yates shall defend the City, and shall pay all reasonable expenses incurred by the City in defending itself, with regard to all damages and penalties the City may legally be required to pay as a result of the negligence of Yates as aforesaid. Expenses shall include all incidental reasonable expenses including attorney fees, and shall include a reasonable value of any services rendered by the Office of the City Attorney. Nothing herein is intended to constitute a waiver of the City's limitation on liability as set forth in section 768.28, Florida Statute. This covenant shall survive the expiration or termination of this Agreement for actions taken during the term of this Agreement. This provision shall not be construed to require Yates to indemnify the City in situations wherein his rulings are

appealed in the ordinary course as provided by law. Yates shall obtain and maintain during the pendency of this Agreement professional/malpractice insurance in the minimum amount of \$1,000,000.00.

VI. GENERAL PROVISIONS.

This Agreement is the entire understanding of the parties. It shall be binding upon the parties and may not be amended except by a writing signed by the parties. If any provision or portion of this Agreement is held unconstitutional, invalid or unenforceable, the remainder of this Agreement shall be deemed severable, shall not be affected by such ruling, and shall remain in full force and effect. The laws of Florida shall govern this Agreement and venue for any action hereunder shall be in Monroe County.

IN WITNESS WHEREOF, the parties hereto have made their agreement this 11 day of Sept, 2019.

LAW OFFICES OF DONALD E. YATES, P.A.

By: [Signature]
Donald E. Yates, President 09 Sept 19

Witnesses:

CITY OF KEY WEST

By: [Signature]
Greg Veliz, City Manager



By: [Signature]
Cheri Smith, City Clerk