

CITY OF KEY WEST

AGREEMENT TO FURNISH  
EMERGENCY  
MANAGEMENT  
CONSULTING  
SERVICES  
TO THE CITY OF KEY  
WEST

December 2017

**AGREEMENT**

THIS IS AN AGREEMENT, dated the 28 of February, 2018, between:

Tidal Basin Government Consulting, LLC

a for profit corporation, authorized to do business in the State of  
Florida, hereinafter "CONSULTANT."

and

CITY OF KEY WEST

a Florida municipal corporation, hereinafter "CITY,"

**WITNESSED:**

In consideration of the mutual terms and condition, promises, covenants, and payments hereinafter set forth, CITY and CONSULTANT agree as follows:

**ARTICLE 1**  
**PREAMBLE**

In order to establish the background, context and form of reference for this Agreement and to generally express the objectives, and intentions, of the respective parties herein, 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.

1.1 The CITY is in need of an independent contractor to provide professional emergency management support services to the City of Key West.

1.2 On January 10, 2018, the CITY received a proposal from CONSULTANT to provide emergency management support services to the CITY, including situational awareness, planning, training, and decision support services.

1.3 The CITY and CONSULTANT desired to enter into an Agreement for the provision of emergency management support services as set forth herein.

1.4 The CITY Manager is authorized to execute an agreement with CONSULTANT for services related to the scope of work set forth in the Proposal attached hereto as Exhibit "A", (Levels 1 and 2 if appropriate) and as more particularly described herein.

**ARTICLE 2**  
**SCOPE OF WORK**

- 2.1 The CONSULTANT shall furnish all of the materials, tools, supplies, and labor necessary to perform all of the work described in the Proposal, a copy of which is attached hereto and specifically made a part of this Agreement as Exhibit "A".
- 2.2 CONSULTANT hereby represents to CITY, with full knowledge that CITY is relying upon these representations when entering into this Agreement with CONSULTANT, that CONSULTANT has the professional expertise, experience and manpower to perform the services to be provided by CONSULTANT pursuant to the terms of this Agreement.
- 2.3 None of the work or services under this contract shall be subcontracted beyond that shown on List of Major Sub-contractors submitted to the CITY by CONSULTANT, unless CONSULTANT obtains prior written consent from the CITY. Approved subcontractors shall be subject to each provision of this contract and CONSULTANT shall be responsible and indemnify the CITY for all subcontractors' acts, errors or omissions.

**ARTICLE 3**  
**TIME FOR COMPLETION**

- 3.1 The CONSULTANT shall commence work as directed by CITY and in accordance with a project timeline to be provided to CONSULTANT by the CITY. CONSULTANT shall complete all work in a timely manner in accordance with the project timeline and as stated in Exhibit "A", , to this Agreement.
- 3.2 Anything to the contrary notwithstanding, minor adjustment to the timetable for completion approved by CITY in advance, in writing, will not constitute a delay by CONSULTANT. Furthermore, a delay due to an Act of God, fire, lockout, strike or labor dispute, riot or civil commotion, act of public enemy or other cause beyond the control of CONSULTANT shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by CONSULTANT for which liquidated damages are due.

**ARTICLE 4**  
**CONTRACT SUM**

- 4.1 The CITY hereby agrees to pay CONSULTANT for the faithful performance of this Agreement, for work contracted in accordance with the Proposal attached hereto as Exhibit "A", Incident Management Support Services, and as directed by CITY. The Annual total base contact price hereto is referred to as "Level 1" Contract Sum and shall not exceed \_\_\_\_\_ Dollars (\$\_\_\_\_\_), per year.
- 4.2 The CITY will make payments to CONSULTANT for contracted and proper work and in the amounts stated in Exhibit "B", "Level 2, Incident Management Support Team Activation" FEE

SCHEDULE and will be calculated per-project amounts according to the following time-and-expense rate table in Exhibit "B".

4.3 The CONSULTANT shall guarantee all portions of the Project against poor workmanship and faulty materials for a period of twelve (12) months after final payment and shall immediately correct any defects which may appear during this period upon notification by CITY.

4.4 The making and acceptance of the final payment shall constitute a waiver of all claims by the CONSULTANT other than those arising from requirements of the specifications.

4.5 CONSULTANT is prohibited from placing a lien on the CITY's property. This prohibition applies to; inter alia, all sub-CONSULTANTS and subcontractors, suppliers and labors.

## **ARTICLE 5** **CONSULTANT'S LIABILITY INSURANCE**

5.1 The CONSULTANT shall not commence work under this contract until he has obtained all insurance required under this paragraph and such insurance has been approved by the CITY nor shall the CONSULTANT allow any Subcontractor to commence work on his subcontract until all similar such insurance required of the subcontractor has been obtained and approved.

5.2 Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the CITY prior to the commencement of the work. These Certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the CITY. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

5.3 Insurance shall be in force until all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance by the CITY. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this contract, then in that event, the CONSULTANT shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the contract and extension thereunder is in effect. The CONSULTANT shall not continue to work pursuant to this contract unless all required insurance remains in full force and effect.

5.4 Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- a) Workers' Compensation Insurance – as required by law;
- b) Comprehensive General Liability Insurance - \$1,000,000 per occurrence;
- c) Automobile Liability Insurance - \$1,000,000 per occurrence, \$1,000,000 per Accident for bodily injury and \$1,000,000 per accident for property damage, when applicable.

5.5 The CONSULTANT shall hold the CITY, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of CONSULTANT's negligent

operations in completing this Agreement and name the CITY as an additional insured under their policy.

**ARTICLE 6**  
**PROTECTION OF PROPERTY**

6.1 At all times during the performance of this Contract, the CONSULTANT shall protect the CITY's property and properties adjoining the Project site from all damage whatsoever on account of the work being carried on pursuant to this Agreement.

**ARTICLE 7**  
**CONSULTANT'S INDEMNIFICATION**

7.1 The CONSULTANT agrees to release the CITY from and against any and all liability and responsibility in connection with the above mentioned matters. The CONSULTANT further agrees not to sue or seek any money or damages from CITY in connection with the above mentioned matters, except in the event that the CITY fails to pay to CONSULTANT the fees and costs as provided for in Article 4 herein.

7.2 The CONSULTANT agrees to indemnify and hold harmless the CITY, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the CITY or any third party arising out of, or by reason of, or resulting from the CONSULTANT's negligent acts, errors, or omissions.

7.3 If a court of competent jurisdiction holds the CITY liable for certain tortuous acts of its agents, officers, or employees, such liability shall be limited to the extent and limit provided in 768.28, Florida Statutes. This provision shall not be construed as a waiver of any right or defense that the CITY may possess. The CITY specifically reserves all rights as against any and all claims that may be brought.

**ARTICLE 8**  
**INDEPENDENT CONTRACTOR**

8.1 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONSULTANT is an independent contractor under this Agreement and not the CITY's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONSULTANT shall retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONSULTANT's activities and responsibilities hereunder provided.

This Agreement shall not be construed as creating any joint employment relationship between the CONSULTANT and the CITY and the CITY will not be liable for any obligation incurred by CONSULTANT, including but not limited to unpaid minimum wages and/or overtime premiums.

**ARTICLE 9**  
**PERFORMANCE BOND**

9.1 No performance bond shall be required under this Agreement.

**ARTICLE 10**  
**CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK**

10.1 The CITY or CONSULTANT may request changes that would increase, decrease or otherwise modify the Scope of Services/Basic Services to be provided under this Agreement as described in Article 2 of this Agreement. Such changes or additional services must be in accordance with the provisions of the Code of Ordinances of the CITY and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work. Each amendment shall at a minimum include the following information on each project:

- PROJECT NAME
- PROJECT DESCRIPTION
- ESTIMATED PROJECT COST
- ESTIMATED COST FOR ADDITION OR CHANGE TO PROJECT CONTRACT
- ESTIMATED PROJECT COMPLETION DATE

10.2 In no event will the CONSULTANT be compensated for any work which has not been described in a separate written agreement executed by the parties hereto.

**ARTICLE 11**  
**TERM AND TERMINATION**

11.1 This Agreement may be terminated by either party for cause, or the CITY for convenience, upon ten (10) days written notice by the CITY to CONSULTANT in which event the CONSULTANT shall be paid its compensation for services performed to termination date. In the event that the CONSULTANT abandons this Agreement or causes it to be terminated, he shall indemnify the CITY against any loss pertaining to this termination up to a maximum of the full contracted fee amount. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONSULTANT shall become the property of CITY and shall be delivered by CONSULTANT to CITY.

11.2 This Agreement shall take effect as of the date of execution as shown herein below and continue in effect for a period of one (1) year from the date of execution with an option to extend for additional one (1) year.

**ARTICLE 12**  
**CONTRACT DOCUMENTS**

12.1 CONSULTANT and CITY hereby agree that the following Specification and Contract Documents, which are attached hereto and made a part thereof, are fully incorporated herein and made a part of this Agreement, as if written herein word for word: this Agreement; CONSULTANT's Proposal for Emergency Management Support Services to the CITY, as set forth in and made a part of this Agreement as Exhibit "A", "Level 1 & 2"; and all other exhibits thereto.

**ARTICLE 13**  
**MISCELLANEOUS**

13.1 Legal Representation. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply due to the joint contribution of both parties.

13.2 Assignments. This Agreement, or any interest herein, shall not be assigned, transferred or otherwise encumbered, under any circumstances, by CONSULTANT without the prior written consent of CITY. For purposes of this Agreement, any change of ownership of CONSULTANT shall constitute an assignment which requires CITY approval. However, this Agreement shall run to the CITY and its successors and assigns.

13.3 Records. CONSULTANT shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONSULTANT expects to be reimbursed, if applicable. Such books and records will be available at all reasonable times for examination and audit by CITY and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by CITY of any fees or expenses based upon such entries. CITY is a public agency subject to Chapter 119, Florida Statutes. To the extent that CONSULTANT is acting on behalf of CITY pursuant to Section 119.0701, Florida Statutes, CONSULTANT shall:

- a) Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by CITY were CITY performing the services under this agreement;
- b) Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

c) Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and

d) Meet all requirements for retaining public records and transfer to CITY, at no cost, all public records in possession of the CONSULTANT upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the CITY.

13.4 Ownership of Documents. Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of CITY.

13.5 No Contingent Fees. 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 CONSULTANT, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of this provision, the CITY shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

13.6 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONSULTANT and the CITY designate the following as the respective places for giving of notice:

CITY: James Scholl, CITY Manager  
1300 White Street  
Key West, FL. 33040

Copy To: Shawn Smith, CITY Attorney  
1300 White Street  
Key West, FL 33040

CONSULTANT: Greg Raab, Vice President  
126 Business Park Dr  
Utica, NY 13502



13.7 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

13.8 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

13.9 Headings. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

13.10 Severability. If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

13.11 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Monroe County, Florida.

13.12 Disputes. Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in the Sixteenth Judicial Circuit Court in and for Monroe County.

13.13 Attorney's Fees. To the extent authorized by law, in the event that either party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorney's fees and court costs in addition to any other remedy afforded by law.

13.14 Extent of Agreement. This Agreement together with Contract Documents, attached as an Exhibit hereto, as amended herein above represents the entire and integrated agreement between the CITY and the CONSULTANT and supersedes all prior negotiations, representations or agreements, either written or oral.

13.15 Waiver. Failure of the CITY to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

#### **ARTICLE 14**

##### **BREACH**

14.1 CONSULTANT shall perform its services in compliance with all FEMA required methods and procedures in order to maximize CITY'S reimbursement by FEMA for emergency services and expenses. Failure of CONSULTANT to fulfill this obligation or any other obligation under this Agreement shall be a breach of this agreement and CITY shall be able to recover any and all of its losses or damages arising therefrom.

#### **ARTICLE 15**

## SUSPENSION AND DEBARMENT

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the CONSULTANT is required to verify that none of the CONSULTANT, its principals (defined at 2 C.F.R. §180.995), or its affiliates (defined at 2 C.F.R. §180.095) are excluded (defined at 2 C.F.R. §180.940) or disqualified (defined at 2 C.F.R. §180.935).

(2) The CONSULTANT must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by Client. If it is later determined that the CONSULTANT did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Client, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The CONSULTANT agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this Agreement is in force. The CONSULTANT further agrees to include a provision requiring such compliance in its lower tier covered transactions.

## ARTICLE 16

### BYRD ANTI-LOBBYING CLAUSE

Contractors [including CONSULTANT] who apply or bid for an award of \$100,000.00 or more shall 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 shall 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 recipient. [See Attached signed APPENDIX – 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING]

## ARTICLE 17

I. **Access by the Client, Subgrantees, Federal Grantor Agency and Comptroller General:** The CONSULTANT shall allow access by the Client, subgrantees, Federal grantor agency and Comptroller General of the United States, or any of their duly authorized representatives to any books, documents, papers, and records of the CONSULTANT which are directly pertinent to that specific Agreement for the purpose of making audit, examination, excerpts and transcriptions.

**Compliance with the Contract Work Hours and Safety Standards Act:**

(1) Overtime requirements. No CONSULTANT, contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.

(2) Violation; liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section, the CONSULTANT, and any contractor(s) or subcontractor(s), responsible therefor shall be liable for the unpaid wages. In addition, such CONSULTANT/contractor/subcontractor shall be liable for liquidated damages, if applicable.

(3) Withholding for unpaid wages and liquidated damages. The Client shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold, or cause to be withheld, from any moneys payable on account of work performed by the CONSULTANT or its subcontractor(s) under the Agreement, or any other Federal contract with the same CONSULTANT or subcontractor(s), such sums as may be determined to be necessary to satisfy any liabilities of the CONSULTANT or subcontractor(s) for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The CONSULTANT or subcontractor(s) shall insert in any subcontracts the clauses set forth in paragraphs (1) through (4) of this section, and also a clause requiring subcontractors to include these clauses in any lower tier subcontracts. The CONSULTANT shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.

**ARTICLE 18**

**Clean Air Act.**

(1) The CONSULTANT agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §7401 et seq.

(2) The CONSULTANT agrees to report each violation to any applicable agency and understands and agrees that the applicable agency may, in turn, report each violation as required to assure notification to the Client, Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The CONSULTANT agrees to include these requirements in each subcontract exceeding \$150,000 that is financed in whole or in part with Federal assistance provided by FEMA.

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IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature: The CITY, signing by and through its CITY Manager, attested to by its CITY Clerk, duly authorized to execute same, and by CONSULTANT, by and through its President \_\_\_\_\_, duly authorized officer to execute same.

CITY

THE CITY OF KEY WEST, FLORIDA

By:   
James Scholl, CITY Manager

AUTHENTICATION:

  
  
Cheryl Smith, CITY Clerk

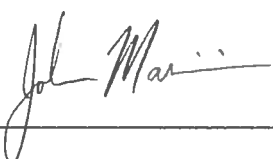
APPROVED AS TO FORM AND LEGALITY  
FOR THE USE AND BENEFIT OF CITY OF KEY WEST, FLORIDA, ONLY

  
Shawn Smith, CITY Attorney

CONSULTANT

COMPANY:

Tidal Basin Government Consulting, LLC

BY:   
75      Jon Marini, President    CO

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See attached document for **Exhibit "A"**

**Proposal**

*(Proposal for Emergency Management Support Services to the  
CITY of Key West, "Level 1 & 2 Support")*

## **Exhibit “B”**

### **Level 2 Support:**

#### **Stand-by Incident Management Support Team Activation**

In the event that a disaster escalates to a proportion where it exhausts certain City resources up to and including incident management and EOC support personnel, CONSULTANT can provide Incident Management Support Teams (IMSTs) to support and augment staffing at the Local/City/County/State Emergency Operations Center (EOC), to include but not limited to Incident Managers, Command, Operations, Logistics, Planning and Finance/Adm. Sections and other ICS/EOC unit level personnel. This service allows local jurisdictions to maintain continuity of government while effectively managing the incident.

In addition, through the Federal Emergency Management Agency's (FEMA) Public Assistance (PA) Grant Program, FEMA provides supplemental Federal disaster grant assistance for debris removal, emergency protective measures, and the repair, replacement, or restoration of disaster-damaged, publicly owned facilities and the facilities of certain Private Non-Profit (PNP) organizations. The PA Program also encourages protection of these damaged facilities from future events by providing assistance for hazard mitigation measures during the recovery process.

CONSULTANT can provide short-term and long-term recovery staff support to assist the City with the FEMA Public Assistance (PA) Grant Program to provide assistance to the City so that you can quickly respond to and recover from major disasters or emergencies declared by the President.

#### **NOTE:**

1. The initial response team will vary in number of staff based on the scope of each event. Typically, a two-person team will respond to evaluate the situation status (Phase 1). Staffing will then ramp up to address immediate needs and, should an event escalate to significant additional services proportions, CONSULTANT will have pre-staged staffing on standby for immediate response (Phase 2).
2. CONSULTANT provides the IMST and FEMA-related services on a time-and-expense basis. The overall cost of our service will be based on the number of staff and time required. Per-project amounts will be calculated according to the following time-and-expense rate table.
3. CONSULTANT reserves the right to remove all CONSULTANT staff in harm's way if an event is deemed unsafe due to improper sheltering or as conditions warrant in order to provide and protect the safety of their staff.
4. Activation fees are eligible for reimbursement, if the City is included in a declared disaster by a Presidential declaration.
5. Because of the nature of federal reimbursable funding, we can make no guarantees concerning the amount of funding the City will receive from applicable funding sources. Our fees for service are not contingent on FEMA or other reimbursements to the City.

**Fee Schedule Level 2 Support: TO BE PROPOSED BY CONSULTANT**

Position	Rate/Hour
<b>Emergency Management</b>	
Senior EM CONSULTANT	\$ 225
EM CONSULTANT	\$ 165
Senior Planner	\$ 165
Project Manager	\$ 225
Planner	\$ 155
<b>Incident Management Team Support (Level 2)</b>	
<b>[PHASE 1]</b> Initial On-site Incident Management Support Team Activation (IMST) Fee	\$ 5280 Plus expenses, per 24 hr. day
<b>[PHASE 2]</b> Emergency Management Coordinator <i>(IMST Overhead Teams; Team Leader)</i>	\$ 155
Operations Manager <i>(Any IMST Command or General Staff position)</i>	\$ 125
Operations Specialist <i>(Any non-general/command IMST position)</i>	\$ 105
<b>Hazard Mitigation Assistance</b>	
Senior Program Manager	\$ 225
Program Manager	\$ 165
Technical Specialist	\$ 155
Administrative Support	\$ 65
<b>Preliminary Damage Assessment – Public Assistance</b>	
Damage Assessment Team Lead	\$ 165
Damage Assessment Specialist (Team)	\$ 155
<b>Public Assistance Consulting</b>	
Senior CONSULTANT / Appeals Specialist	\$ 225
CONSULTANT	\$ 165
Technical Specialist I	\$ 165
Technical Specialist II	\$ 155

**Note:** The Activation fee is based on the following:

**On-site Incident Management Support Team (IMST)**

**Note:** *The Activation fee is based on the following onsite Activation, when requested by the City /City Manager and/or OEM to report to the Emergency Operation Center or other designated location.*

- *Onsite Activation: The Activation Fee Schedule is executed when requested by the City Manager and/or OEM and followed with a written "Notice to Proceed" to report to the Emergency Operation Center or other applicable location. Partial days are billed at 8 hour increments.*
- *Initial IMST Response Team will vary in number of staff based on the scope of each event. Typically a two (2) person team will respond for phase 1 to evaluate situation status and resource need. Phase 2, staffing will ramp up to address immediate needs and should an event escalate to significant proportions, CONSULTANT will have pre-staged staffing on standby for immediate response. Phase 2 hours shall be negotiated and determined based the approved fee schedule and on scope of services at time of request.*
- *Activation (Emergency Management) fees are eligible for reimbursement if the Governing Agency is included in a declared disaster by a Presidential Declaration. The amount of the recovery may vary depending on the disaster eligibility of Federal, State, and local match for the event. (i.e.: In a hurricane activation: 100% recovery for Emergency Protective Measures for initial 72 hours response, 75% Federal / 25% (divided by local and state) for other disaster recovery operations).*
- *Phase 2 Response Fees: Professional fees will be invoiced on a monthly basis. Expenses will be billed to the City at our cost. Expense reimbursement will include transportation, lodging, meals and incidentals. We will make every effort to keep expenses to a minimum. We encourage the City to assist us with this by any means available. To simplify billings, we are agreeable (and prefer) to establishing per diems that are agreeable to the both the City and our team as long as they accurately reflect the current economic conditions. Per diem not to exceed GSA limits.*

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**PART 4**  
**CONE OF SILENCE ORDINANCE**

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## CONE OF SILENCE ORDINANCE

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. No 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 subconsultant who acts at the best of a vendor in communicating regarding a competitive solicitation.
- (b) Prohibited communications. The 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

- 3 Oral communications at duly noticed prebid 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
- 8 Purchases exempt from the competitive process pursuant to section 2000 of these Code of Ordinances

4 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 2026 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.

5 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 105 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 or more occasions it shall constitute evidence under City Code section 2030 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)

Public information related to a particular competitive solicitation