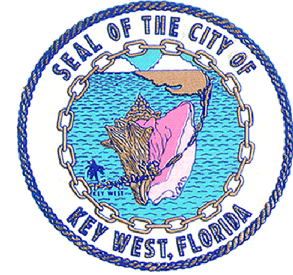


# EXECUTIVE SUMMARY



**TO:** City Commission

**CC:** Greg Veliz

**FR:** Marilyn Wilbarger, RPA, CCIM

**DT:** November 14, 2019

**RE:** The Key West Cultural Preservation Society Agreement Renewal

## **ACTION STATEMENT:**

This is a request to enter into a renewal of the agreement with the Key West Cultural Preservation Society, Inc. (CPS) a Florida Not for Profit Corporation for the purposes of providing a public “Sunset Celebration” and artisans market at Mallory Square/Dock.

## **BACKGROUND:**

The City previously entered into an agreement in 2004 Resolution 04-131 for this use, at this location, in support of the city’s arts and culture. The agreement expired on March 22, 2014 and was renewed again for another five years. That agreement has expired and a new agreement has been drafted and is presented here, for your consideration. The Board of Directors of CPS has approved the following proposed terms:

**Term:** Five years effective November 1, 2019

**Use:** CPS will provide a public Sunset Celebration for four hours daily consisting of free live performances, limited sales of edibles, and goods hand crafted by artists. CPS will operate in accordance with their Articles of Incorporation, By Laws and Standard Operating Procedures (SOPS). The SOPS are initially established as an exhibit to the agreement and are titled 2018 Amended SOPS. Thereafter, any changes will be subject to approval by the City Manager, and an affirmative vote of the participating members.

CPS shall also have the right to establish guidelines, subject to approval by the City Manager, for the extended use and occupancy of the area for the purposes of providing an artisans market on days when cruise ships are in port. The extended period will begin at 10:00AM and continue into the Sunset Celebration.

CPS will not use the property or permit the same to be used in any manner which violates any law, ordinance including but not limited to;

Ordinance 19-03 amending Chapter 26, Section 223 of the Code of Ordinances entitled “Sale of Sunscreen”;

Ordinance 19-22 amending Chapter 26, Sections 312-315 entitled “Plastics” to prohibit the distribution or sale of plastic straws or stirrers;

Resolution 19-174 that restricts the use of polystyrene

**Participants:** CPS shall control the number and the locations of participants in accordance with the SOPS and as shown on Exhibit “A” of the agreement. All participants will be subject to the daily fee of \$20.00. CPS will collect and maintain records of each participant’s sales and use tax certificate in addition to any other licenses that may be required for the participants’ particular use.

**Use Fee:** The monthly use fee will be \$6083.33 for the first year and thereafter will be adjusted annually by any increase in the Consumers Price Index over the previous year.

Additionally, in the event that inclement weather prohibits any set up whatsoever CPS shall have two inclement weather days per month, or 24 per calendar year, and the CITY shall abate the rent at \$200 per day, provided that CPS notifies the CITY of its intent to utilize an inclement weather abatement day and the CITY confirms that no use has taken place. Unused weather days shall not roll over to the next calendar year.

**Insurance:** CPS will provide commercial general liability coverage naming the city as an additional insured in the minimum amounts currently prescribed by city underwriters which are \$2,000,000 aggregate and \$1,000,000 per occurrence.

**Status:** CPS will maintain its non-profit status throughout the term of the agreement and any failure to do so will be cause for termination.

**Financial:** The agreement includes rent reduction from approximately \$85,000 to \$73,000 annually that reflects an adjustment to a rate applied to other commercial uses on public property. CPS will continue to provide the city with quarterly financial statements and will provide the city with an audit prepared by an independent certified public accountant once every three years which is consistent with the frequency required by the city audit ordinance.

**CONCLUSION:**

CPS operates the Sunset Celebration, an iconic Key West tradition, which will continue to provide visitors and locals alike with the unique gathering that celebrates visual and performing arts. The ability to extend the period of use will provide further economic opportunity to the CPS members to bring Mallory Square to life during the daytime hours while enabling cruise ship visitors to experience the art and creativity that reflects the culture of Key West.

**ATTACHMENTS:**

Draft Agreement

Exhibit “E” 2018 Amended Standard Operating Procedures

Resolution 14-092 Month to month extension  
Resolution 14- 349 Expired Agreement  
Corporate Filing