



THE CITY OF KEY WEST

Post Office Box 1409 Key West, FL 33041-1409 (305) 809-3700

EXECUTIVE SUMMARY

Date: September 29, 2017

To: Jim Scholl, City Manager

From: Kreed Howell, Senior Construction Manager

CC: Greg Veliz, Assistant City Manager
Mark Finigan, Finance Director
Jim Bouquet, Director of Engineering

Subject: **Repairs to the Pedestrian Bridge at Mallory Square Resulting from Hurricane Irma and Ratification of Emergency Procurement.**

Action Statement

Ratify emergency procurement approval of \$49,252.17 to D.L. Porter Constructors, Inc. for the repair of the pedestrian bridge at Mallory Square. Approve a purchasing exemption *Emergency Procurement* to exempt this procurement from the competitive bid requirements per Key West City Code 2-797(2). Authorize the City Manager to execute this agreement and any necessary budget transfers/amendments.

Background

Hurricane Irma made landfall in Key West on September 10, 2017 as a Category 1 hurricane. Inspection of City facilities on September 11, 2017 revealed damage to the pedestrian bridge connecting Mallory Square to Margaritaville. The damage occurred at the northern most section of the bridge (approximately 15 feet) and the 12-foot section land side. Subsequent to the damage assessment, staff issued a Request for Proposal from five (5) licensed contractors; Ebsary Foundation, Pedro Falcon, DL Porter Constructors, KeyStar Construction and D.N. Higgins Inc.

Proposals were received and tabulated from three (3) responsive bidders:

DL Porter Constructors	\$49,252.17
KeyStar Construction	\$50,300.00
D.N. Higgins Inc.	\$62,100.00

Key to the Caribbean – Average yearly temperature 77° F.

MEMORANDUM

Purpose and Justification

Expedited repair of the pedestrian bridge at Mallory Square is necessary for the safe movement of pedestrian and cruise ship traffic from Pier B to Mallory Square. That accessibility eliviates pedestrian traffic on City Streets.

This restoration/repair supports Key West Strategic Plan Infrastructure Goals 3 and 4, *Parks and recreation areas are accessible to all residents and visitors* and *Long term sustainability of the City's hard assets*

Financial Issues

Project funding is from Account .46, established for Hurricane Irma recovery. The City will issue a new purchase order to Porter under Project No. Project Number HU170101.

Recommendation

Ratify emergency procurement approval for D.L. Porter Constructors, Inc. to repair the pedestrian bridge at Mallory Square in an amount not-to-exceed \$49,252.17. Approve a purchasing exemption *Emergency Procurement* to exempt this procurement from the competitive bid requirements per Key West City Code 2-797(2). Ratify the City Manager's emergency procurement declaration, executed budget transfers/amendments, and execution of necessary contract documents.

JK Scholl
Jim Scholl, City Manager (Print)

JK Scholl 03 OCT 2017
Signature and Date

Sec. 2-797. - Exemptions.

The following are exempt from the requirements of formal competitive procurement:

- (1) *Sole source procurement.* Sole source procurement in accordance with the following:
 - a. All specifications shall be drafted so as to promote overall economy for the purposes intended, to encourage competition in satisfying the city's need, and shall not be unduly restrictive. Brand name specifications are restrictive of competition and shall be used only as specifically provided in section 2-844.
 - b. A contract may be awarded without competition when the department head makes a written determination and the purchasing agent verifies that, after conducting a good faith review of available sources, there is only one source for the required commodity or contractual service. The city manager shall conduct negotiations as appropriate as to price, delivery and terms. A record of sole source procurement shall be maintained as a public record and shall list each contractor's name, amount and type of each contract; a list of the commodity or contractual service procured under each contract; and the identification number of each contract file.
 - c. All sole source procurement where the cost of the commodities or contractual services exceeds \$20,000.00 shall be authorized by the city commission.
- (2) *Emergency procurement.* The city manager may make emergency procurement of commodities or contractual services where the cost exceeds \$20,000.00 when there exists a clear and present threat to public health, property, welfare, safety *or other substantial loss to the city, including cases where a natural disaster has occurred, is occurring, or is imminently threatening.* However, such emergency procurement shall be made with such competition as is practicable under the circumstances. A written determination of the basis for the emergency and for the selection of the particular contractor shall be included in the contract file. As soon as practicable, a record of the emergency procurement shall be made and shall set forth the contractor's name, the amount and type of the contract, a listing of the commodity or contractual service procured under the contract, and the number of the purchase order, if any. All emergency procurement in excess of \$20,000.00 shall be ratified by the city commission at the next scheduled city commission meeting.
- (3) *Purchases and acquisitions under contracts of federal government and the state or its political subdivisions.* All purchases of commodities or contractual services under the provisions of local, state and federal purchasing contracts shall be exempt from the competitive procurement requirements, provided that the following criteria are all satisfied:
 - a. The terms and conditions of the original contract by the federal, state or local government, other than the city, are satisfactory to the city and such terms and conditions are expressly extended to other municipalities pursuant to the bid documents or by the original successful bidder.
 - b. The purchasing agent has performed an informal solicitation to determine if the prices of the original contract are fair and reasonable and to ensure local vendors have an opportunity to compete.
 - c. The city commission authorizes such procurement when the cost of the commodities or contractual services exceeds \$20,000.00.
- (4) *Exempt contractual services.* Exempt contractual services not subject to the competitive procurement requirement are as follows:
 - a. Legal services including paralegal, expert witnesses, appraisal services and court reporters. Prior to engaging legal services estimated to have a cost in excess of \$20,000.00, the city attorney shall notify the city manager and the city commission.
 - b. If in the opinion of the city manager exceptional circumstances exist to exempt a purchase from the competitive bid requirements of this subdivision for the best interests of the city, he shall place a resolution before the city commission for approval of such exemption.

(Code 1986, § 1.266(b))