

December 7, 2011

To: All Prospective Bidders

City of Key West Bid No. 12-013, Cemetery Landscaping Services, contains the following documents:

- a. Cover letter one (1) page in length
- b. General Conditions of Invitation to Bid five (5) pages in length
- c. Statement of No Bid one (1) page in length
- d. Specifications six (6) pages in length
- e. Sample Agreement six (6) pages in length
- f. Bid Response Form one (1) page in length
- g. Required permit/license one (1) page in length
- h. Anti-Kickback Affidavit one (1) page in length
- i. Public Entity Crimes Certification three (3) pages in length
- j. Call for Bids one (1) page in length
- k. Local Vendor Certification two (2) page in length

Please review your bid package to ensure it contains all of these documents. If not, contact Sue Snider, City of Key West Purchasing Agent at (305) 809-3815, immediately, to obtain copies of any missing document(s).

If your firm determines that a "No Bid" response is required, please complete and return the "Statement of No Bid". Firms/corporations submitting to bid should ensure that the following documents are completed, certified, and returned as instructed: Bid Response Forms, Anti-Kickback Affidavit, Public Entity Crimes Certification, copy of current Occupational License.

COVER LETTER

SUBJECT: BID NO. 12-013 Cemetery Landscaping Services

ISSUE DATE: December 08, 2011

MANDATORY
PRE BID
MEETING : December 21, 2011, 0900 Historic Cemetery Sexton's Office

MAIL BIDS TO: CITY CLERK
CITYOF KEY WEST
3126 FLAGLER AVE
KEY WEST, FL 33040

DELIVER
BIDS TO: SAME AS ABOVE

BIDS MUST BE
RECEIVED: December 28, 2011

NOT LATER
THAN: 3:00 PM December 28, 2011

SUE SNIDER
PURCHASING AGENT
CITY OF KEY WEST

ses

Enclosures

**GENERAL CONDITIONS
CITY OF KEY WEST**

1. PREPARATION OF BIDS:

Bids will be prepared in accordance with the following:

- (a) The enclosed Bid Response Form is to be used, other forms may be rejected.
- (b) All information required by the BID form shall be furnished. The bidder shall print or type his/her name and manually sign the Bid Response Form plus each continuation sheet on which an entry is made.
- (c) Proposed delivery time must be shown and shall include Sundays and holidays.
- (d) Bidder shall thoroughly examine the specifications, drawings, schedule, instructions, and all other contract documents.
- (e) All bids shall be submitted with two (2) originals hard copies and three (3) USB flash drives or three (3) CD ROMs each with one PDF file.
- (f) Bidders are advised that all City contracts are subject to all legal requirements provided for in City ordinances and/or State and Federal Statutes.

2. **BID GUARANTY:** A certified or cashiers check drawn on a national or state bank, or bid bond, in a sum not less than five percent (5%) of the total amount of the bid, shall accompany each bid response as a guarantee that the Respondent will, if award is made, execute a Contract to do the Work for the amount proposed and furnish any required certificates of insurance and bond documents. The proposal bond shall be from a surety with an A-rating or better under Best's Guidelines, made payable to: The City of Key West. All Proposal Guarantees of unsuccessful bidders will be returned after the contracts are awarded and executed.

3. SUBMISSION OF BIDS:

- (a) Bids and changes thereto shall be enclosed in sealed envelopes addressed to the City Clerk, City of Key West. The name and address of the bidder, the date and hour of the bid opening and the bid number shall be placed on the outside of the envelope.
- (b) Bids must be submitted on the form furnished. Telecopier bids will not be considered.
- (c) The bidder shall sign the bid response as follows: If the bid is made by an individual, the Respondent's name and address shall be shown. If made by a firm or partnership, the name and address of each member of the firm or partnership shall be shown. If made by a corporation, the person signing the proposal shall show the name of the state under the laws of which the corporation is chartered, also the names and business addresses of its corporate officers. The bid shall bear the seal of the corporation attested by the secretary. Anyone signing the proposal as agent shall include in the proposal legal evidence of his/her authority to do so.
- (d) Unless otherwise indicated, all City of Key West Bids may be awarded on a line-item basis.

4. **REJECTION OF BIDS:**

- (a) The City may reject bids:
 - 1. For budgetary reasons, or
 - 2. The bidder misstates or conceals a material fact in its bid, or
 - 3. The bid does not strictly conform to the law or is non-responsive to bid requirements, or
 - 4. The bid is conditional, or
 - 5. A change of circumstances occurs making the purpose of the bid unnecessary to the City.
- (b) The City may also waive any minor informalities or irregularities in any bid.

5. **WITHDRAWAL OF BIDS:**

- (a) Bids may not be withdrawn after the time set for the bid opening for a period of time as specified in the Instruction to Bidders.
- (b) Bids may be withdrawn prior to the time set for bid opening. Such request must be in writing.

6. **LATE BIDS OR MODIFICATION:**

- (a) Bids and modifications received after the time set for the bid opening will not be considered.
- (b) Modifications in writing received prior to the time set for the bid opening will be accepted.

7. **LOCAL, STATE, AND FEDERAL COMPLIANCE REQUIREMENTS:**

Bidders shall comply with all local, state and federal directives, orders and laws as applicable to this bid and subsequent contract(s) including, but not limited to:

- 1. Equal Employment Opportunity (EEO), in compliance with Executive Order 11246, as applicable to this contract.
- 2. Minority Business Enterprises (MBE), as applicable to this contract.
- 3. Occupational Safety and Health Act (OSHA), as applicable to this

contract.

8. **COLLUSION:** The bidder by affixing his signature to this Invitation to Bid, agrees to the following: "Bidder certifies that his/her bid is made without previous understanding, agreement, or connection with any person, firm, or corporation making a bid for the same items and is in all respects fair, without outside control, collusion, fraud, or otherwise illegal action.

9. **VARIANCE IN CONDITIONS:** Any and all special conditions and specifications

attached hereto which vary from General Conditions shall have precedence.

10. **APPROPRIATIONS CLAUSE:** If the contract or delivery extends beyond the current fiscal year, which ends on September 30, the contract shall be contingent upon the availability of funds appropriated for such purposes in the City's annual budget for the next succeeding fiscal year.

11. **CLARIFICATION OR OBJECTION TO BID SPECIFICATIONS:** If any person contemplating submitting a bid for this contract is in doubt as to the true meaning of the specifications or other bid documents or any part thereof, he may submit to the Purchasing Agent on or before seven (7) days prior to scheduled opening a request for clarification. All such requests for information shall be made in writing and the person submitting the request will be responsible for prompt delivery. Any interpretation of the bid, if made, will be made only by Addendum duly issued. A copy of such Addendum will be mailed or delivered to each person receiving an Invitation to Bid. The City will not be responsible for any other explanation or interpretation of the proposed bid made or given prior to the award of the contract. Any objection to the specification and requirements as set forth in the bid must be filed in writing with the Purchasing Agent on or before five (5) days prior to the scheduled opening.

12. **DISCOUNTS:**

- (a) Bidders may offer a cash discount for prompt payment; however, such discount shall not be considered in determining the lowest net cost for bid evaluation proposed. Bidders are encouraged to reflect cash discounts in the unit price quoted.
- (b) In connection with any discount offered, time will be computed from the date of receipt of supplies or services or from the date a correct invoice is received, whichever is the later date. Payment is deemed to be made on the date of mailing of the check.

13. **AWARD OF CONTRACT:**

- (a) The contract will be awarded to the lowest responsive and responsible bidder whose bid, conforming to the Invitation to Bid, is most advantageous to the City, prices and other factors considered.
- (b) The City reserves the right to accept and award item by item, and/or by group or in the aggregate, unless the bidder qualifies his bid by specified limitations as provided in 4 (a) (3).
- (c) If two or more bids received are for the same total amount or unit price, quality and service being equal, the contract will be awarded to the bidder that maintains an office inside the city limits of Key West. Monroe County will be the determining factor. When neither of these conditions exists, bids for identical amounts will be determined by the drawing of lots in public by the Purchasing Agent.

- (d) Successful Bidder will enter into a contract in accordance with the bid document in a form sufficient to the City Attorney.

14. **EXECUTION OF CONTRACT**- The successful bidder(s) shall, within five (05) days of receipt of a written notice of the Award of the contract, deliver to the City a fully executed contract and all requested certificates of insurance and bonds.

15. **FAILURE TO EXECUTE THE CONTRACT**- The failure of the successful bidder(s) to execute a contract and submit required insurance certificates and bonds as specified in subsection 14 will result in forfeit of the Award. Each Bidder agrees in advance that the City will sustain certain damages too difficult to accurately ascertain. Accordingly, if the Award is forfeited under this Section, the amount of the Bid Guaranty of the forfeiting Bidder(s) will be retained by the City, not as a forfeiture or a penalty, but as liquidated damages.

16. **TIME AND AWARD**- The bidder(s) agrees to abide by the unit prices quoted in the bid for 90 days from the date of bid opening.

17. **INTERPRETATION AND CLARIFICATION**- All questions about the meaning or intent of the Bid Documents and specifications shall be directed in writing to:

Sue Snider, Purchasing Agent
P.O. Box 1409, Key West, FL 33040
Telephone: (305) 809-3815
ssnider@keywestcity.com

Interpretation or Clarifications considered necessary by the City in response to such questions will be issued by means of addenda. Written questions must be received no less than seven (7) calendar days prior to proposal opening. **Only questions answered by written addenda shall be binding. Oral and other interpretation or clarifications shall be without legal effect.**

18. **LOCAL PREFERENCE**:

Sec. 2-798. - Local business enterprise preference.

- (a) Definition. A business shall be considered a local business enterprise if it meets all of the following requirements: a business with its principle address as registered with the Florida 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; maintains a workforce of at least 50 percent of its employees from the city or

within 30 miles of its boundaries, and having paid all current license taxes, and any other fees due the city at least 24 hours prior to the publication (construed as 7:00 a.m. of the date of publication in the relevant newspaper) of the call for bids or request for proposals. Post office box numbers may not be used to establish status as a local business enterprise.

- (b) Local preference is applied to bids submitted by qualified local businesses. Under a competitive bid solicitation, when a responsive nonlocal business submits the lowest price bid, and the bid submitted by one or more responsive, responsible local businesses is within five percent of the price submitted by the nonlocal business, then the local business with the apparent lowest bid offer (ie., lowest local bidder) may have the opportunity to submit an offer to match the price(s) offered by the lowest, qualified and responsive bidder within three working days of a notice of intent to award. If the lowest local bidder submits a bid that fully matches the lowest bid from the lowest nonlocal bidder tendered previously, then the award shall be made to such local bidder. If the lowest local bidder declines or is unable to match the lowest nonlocal bid price(s), then the award shall be made to the nonlocal business.

IF A TABULATION OF BIDS IS DESIRED, PLEASE ENCLOSE A SELF-ADDRESSED STAMPED ENVELOPE WHEN SUBMITTING YOUR PROPOSAL.

STATEMENT OF NO BID # 12-013

NOTE:IF YOU DO NOT INTEND TO BID, PLEASE RETURN THIS FORM ONLY

CITY OF KEY WEST
FINANCE DEPARTMENT
P.O. BOX 1409
KEY WEST, FLORIDA 33040
ATTN: S. SNIDER

We, the undersigned have declined to bid on the above-noted Invitation to Bid for the following reason(s)

- Insufficient time to respond to Invitation to Bid
- Do not offer this product
- Our schedule will not permit us to perform
- Unable to meet specifications
- Specifications unclear (please explain below)
- Remove us from your "Bidder Mailing List"
- Other (Please specify below)

We understand that if a "No Bid" statement is not returned, our name may be removed from the Bidder's list of the City of Key West.

COMPANY NAME: _____

AUTHORIZED AGENT: _____

COMPANY
ADDRESS: _____

DATE: _____ TELEPHONE: _____

BID SPECIFICATIONS

I. **GENERAL:** It is the intent of these specifications to describe the goods and services in sufficient detail to secure comparable bids for the performance of this service. This service shall not be subcontracted without written approval. All prospective bidders must have proper licenses, insurance, bonds, and workman’s compensation coverage.

II. **SCOPE OF WORK**

Pursuant to City Ordinance, notice is hereby given that the City of Key West, Florida is seeking bids to provide landscaping services at City of Key West Historic Cemetery for a period of five (5) years. Sample Agreement (Page 15) provides the detail of the scope of work to include but not limited to terms, termination, and payment. Contractor must provide at least three business references.

- a) CONTRACTOR shall provide a daily crew of four workers along with one professional onsite supervisor. All work must start at 08:00 a.m. during the week and end no later than 7:00 p.m. No weekend work is allowed.
- b) Contracted crew will assist the cemetery staff of the Community Services Department with grounds maintenance, landscaping, and other cemetery functions. The following is a table listing the normal maintenance metrics :

CEMETERY LANDSCAPING MAINTENANCE METRICS

Maintain grass levels no higher than two (2) inches high.

Cut all shrubs to ground level.

Blow debris off of vaults after cutting grass, debris.

SECTIONS	TIME ALLOCATION	DAYS
CATHOLIC CEMETERY	CATHOLIC CEMETERY	2
SECTIONS A,B,C	BORDERS: PALM AVE/ ANGELA ST. FENCE/CATHOLIC CEMETERY	2.5
SECTION D	BORDERS: PASSOVER LANE FENCE/1ST AVE AND MAIN ENTRANCE ROAD	1.5
SECTION E	BORDERS:FRANCES/OLIVIA JEWISH CEMETERY FENCE	1
SECTION F	BORDERS: SECTION E/ 837 OLIVIA FENCE/7TH AVE	2

SECTION G	BORDERS:SECTION F/WINDSOR LANE/4TH AVE	3
SECTION H	BORDERS: 1ST AVE/4TH AVE/WINDSOR FENCE/MAGNOLIA	3
SECTION I	BORDERS:PALM AVE/4TH AVE/MAGNOLIA/VIOLET	2
SECTION J	BORDERS:PALM AVE/4TH AVE/VIOLET/LAUREL	2
SECTION K	BORDERS:2ND ST/4TH/LAUREL/FRANCES FENCE	2
SECTION L	BORDERS:4TH AVE/7TH AVE/LAUREL/FRANCES FENCE	2.5
SECTION M	BORDERS:5TH AVE/7TH AVE/LAUREL/VIOLET	2
SECTION N	BORDERS:5TH AVE/7TH AVE/VIOLET TO SECTION G	2

- c) Contracted crew shall cut grass, clear overgrowth, prune, trim and cut trees as directed by cemetery staff. CONTRACTOR shall remove all trash and cuttings to the appropriate disposal area.
- d) CONTRACTOR shall provide vehicular transportation and all tools, work clothing, training and on-site supervision for the crew. Contractor shall provide off site toilet facilities for crew.
- e) CONTRACTOR shall ensure that workers comply with cemetery regulations regarding conduct.
- f) On days that rain prevents regular cemetery and landscaping functions, the CONTRACTOR will assist the cemetery staff with other tasks. The CONTRACTOR will be compensated at the same rate for these alternate tasks.

III. ADDITIONAL INFORMATION

A. **MANDATORY PRE-BID MEETING:** A walk-through of areas of the Historic Cemetery will be conducted during the mandatory pre-bid meeting to identify the unique grounds maintenance and landscaping requirements. The mandatory pre-bid meeting is on December 21, 2011 at 0900 a.m. at the Historic Cemetery Sexton's Office.

B. **CONTRACTOR'S DUTY TO INSPECT-** The Contractor has carefully examined the areas for the Work contemplated in the Bid Specifications section and has made sufficient tests and other investigations to fully satisfy himself as to site conditions, and he assumes full responsibility therefore. No variation in price or conditions shall be permitted based upon a claim of ignorance. Submission of bid will be considered evidence that the bidder has familiarized himself or herself with the nature and extent of the work, and the equipment, materials, and labor required. To arrange additional site visits, call Russell Brittain at 305-292-8177. The Contractor shall be responsible for the repair or replacement of any property damaged by the Contractor.

C. **NON-WAIVER-** The approval, and/or acceptance of any part of the Work by the City shall not operate as a waiver by City of any other terms and conditions of the Contract.

D. **BID AWARD:** The City reserves the right to award to that Bid which will best serve the interests of the City as determined by the City. The City further reserves the right to waive minor variations to specifications and in the bidding process.

E. **INSURANCE:** Before commencing work as specified in the contract CONTRACTOR shall obtain at its own cost and expense the following insurance in insurance companies authorized in the State of Florida, with an A.M. Best rating of A-:VI or higher and shall provide evidence of such insurance to the City. The policies or certificates shall provide thirty (30) days prior to cancellation notices of same shall be given to the City by registered mail, return receipt requested, for all of the required insurance policies stated below. All notices shall name the CONTRACTOR and identify the agreement or contract number. The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees are to be added as "additional insureds" as respects liability arising out of activities performed by or on behalf of the CONTRACTOR.

CONTRACTOR shall maintain limits no less than those stated herein and shall include waiver of subrogation as to the City of Key West, CONTRACTOR and their respective officers, agents, employees and subcontractors. The Contractor shall provide insurance as follows:

1. **COMMERCIAL GENERAL LIABILITY:** Coverage shall have minimum limits of One Million Dollars (\$1,000,000) Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent contractors; Products and Completed Operations and Contractual Liability.
2. **BUSINESS AUTOMOBILE LIABILITY INSURANCE** with a minimum limit of liability per occurrence of One Million Dollars (\$1,000,000.00) Combined Single Limit and no annual aggregate. This insurance shall include for bodily injury and property damage the following coverage:
 - a. Owned automobiles

- b. Hired automobiles
 - c. Non-owned automobiles
 - d. Location of operation shall be "All Locations."
3. EXCESS/UMBRELLA LIABILITY shall have a minimum limit of Two Million (\$2,000,000.00) per occurrence with an annual aggregate of Two Million (\$2,000,000.00.) This coverage is to be following form and include the Commercial General Liability and Automobile Liability Policies.
4. WORKERS' COMPENSATION: Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The coverage must include Employers' Liability with a minimum limit of \$500,000 for each accident.
5. SCOPE OF INSURANCE AND SPECIAL HAZARDS: The insurance required under Paragraphs 1, 2, 3, and 4 hereof is a minimum to provide adequate protection for the Contractor, respectively, against damage claims which may arise from operations under this contract, whether such operation be by the insured or by anyone directly or indirectly employed by the insured and, also against any of the special hazards which may be encountered in the entity's operation under this contract. The insurance required herein and approval of Contractor's insurance by the City of Key West shall not relieve or decrease the liability of the Contractor hereunder.
6. CERTIFICATES OF INSURANCE: Certificates of Insurance shall be filed and maintained throughout the life of this Contract with the City Clerk evidencing the minimum limits of insurance cited above. All policies shall provide they may not be terminated or modified without insurer providing the City of Key West at least thirty (30) days advance notice. Additionally, the Contractor shall immediately notify the City of any cancellation of such insurance.

7. INDEMNIFICATION AGREEMENT

Contractor agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, 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 of destruction of any property which may occur or in any way grow out of any act or omission of the Contractor, 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 Contractor 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.

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, Contractor 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 Contractor 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 Contractor, or persons employed or utilized by Contractor.

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

F. CONTRACT DOCUMENTS- The following documents shall, by this reference, be considered part of this Contract:

- Instructions to Bidders;
- All Addendums;
- Contract Agreement;
- Bid;
- Scope of Work/Specifications;
- Insurance Certificates; and
- Bonds.

G. CONTRACTOR'S EMPLOYEES-

1. The Contractor shall at all times have a competent supervisor on site who thoroughly understands the Work, who shall, as the Contractor's agent, supervise, direct and otherwise conduct the Work. Contractor's employees shall serve the public in a courteous, helpful, and impartial manner.
2. Contractor's employees shall wear a clean uniform that provides identification of both the Contractor's company and the name of the employee.
3. Contractor shall, upon receipt of a written request from the City Manager, immediately exclude any employee of Contractor from providing Work under this Contract.
4. The Work contemplated in this Contract is on public property, accordingly no alcoholic beverages shall be allowed.
5. The same care shall be exercised by all Contractor's and subcontractor's employees.

H. VEHICLES AND EQUIPMENT- Contractor shall have on hand at all times and in good working order such vehicles, machinery, tools, accessories, and other items necessary to perform the Work under this Contract. All vehicles used by Contractor to provide services under this Contract shall be painted uniformly with the name of Contractor, business telephone number, and the number of the vehicle (as applicable) in letters/numbers legible by the public. The City Manager may require the repair or replacement of equipment as reasonably necessary. No other advertising shall be permitted on the vehicles.

I. CHOICE OF LAW- This Contract shall be governed by the laws of the State of Florida. Venue shall lie in Monroe County.

J. ATTORNEY'S FEES- In the event either party to this Contract is required to retain legal counsel to enforce any of its rights under this Contract, the prevailing party shall be entitled to recover its reasonable attorney's fees and costs from the non-prevailing party together with court costs incurred in any litigation at any trial and appellate proceedings.

O. ACCESS TO PUBLIC RECORDS- The Contractor shall comply with the applicable provisions of Chapter 119, Florida Statutes. The City shall have the right to immediately terminate this contract for the refusal by the Contractor to comply with Chapter 119, Florida Statutes. The Contractor shall retain all records associated with this Contract for a period of three (3) years from the date of Termination.

P. INSPECTION AND AUDIT- During the term of this Contract and for three (3) years from the date of Termination the Contractor shall allow City representatives access during reasonable business hours to Contractor's records related to this Contract for the purposes of inspection or audit of such records. If upon audit of such records, the City determines the Contractor was paid for services not performed, upon receipt of written demand by the City, the Contractor shall remit such payments to the City.

Q. SEVERABILITY- If a term, provision, covenant, contract or condition of this contract is held to be void, invalid, or unenforceable, the same shall not affect any other portion of this contract and the remainder shall be effective as though every term, provision, covenant, contract or condition had not been contained herein.

R. WAIVER OF JURY TRIAL. The parties irrevocably, knowingly agree to waive their rights to a trial by jury in any action to enforce the terms or conditions of this Contract.

S. COUNTERPARTS- This Contract may be signed in one or more counterparts, each of which when executed shall be deemed an original and together shall constitute one and the same instrument.

T. NOTICES- Whenever any party is required to give or deliver any notice to any other party, or desires to do so, such notices shall be sent via certified mail or hand delivery to:

For City:

City Manager
City of Key West
Po Box 1409
Key West, Florida 33041
Telephone: (305) 809-3881

SAMPLE AGREEMENT

This Agreement is between the City of Key West, Florida (hereinafter “CITY”) and _____(hereinafter “CONTRACTOR”). This agreement shall be effective on the date of execution of the last party to sign the AGREEMENT for the term and conditions specified in Paragraph 6.1.

Article 1. Scope of Services

- 1.1 CONTRACTOR shall provide a daily crew of four workers along with one professional onsite supervisor. All work must start at 08:00 a.m. during the week and end no later than 7:00 p.m. No weekend work is allowed.
- 1.2 Contracted crew will assist the cemetery staff of the Community Services Department with grounds maintenance, landscaping, and other cemetery functions. The following is a table listing the normal maintenance metrics :

CEMETERY LANDSCAPING MAINTENANCE METRICS

Maintain grass levels no higher then two (2) inches high.

Cut all shrubs to ground level.

Blow debris off of vaults after cutting grass, debris.

SECTIONS	TIME ALLOCATION	DAYS
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SECTION M	BORDERS:5TH AVE/7TH AVE/LAUREL/VIOLET	2
SECTION N	BORDERS:5TH AVE/7TH AVE/VIOLET TO SECTION G	2

- 1.3 Contracted crew shall cut grass, clear overgrowth, prune, trim and cut trees as directed by cemetery staff. CONTRACTOR shall remove all trash and cuttings to the appropriate disposal area.
- 1.4 CONTRACTOR shall provide vehicular transportation and all tools, work clothing, training and on-site supervision for the crew. Contractor shall provide off site toilet facilities for crew.
- 1.5 CONTRACTOR shall ensure that workers comply with cemetery regulations regarding conduct.
- 1.6 On days that rain prevents regular cemetery and landscaping functions, the CONTRACTOR will assist the cemetery staff with other tasks. The CONTRACTOR will be compensated at the same rate for these alternate tasks.

Article 2. Compensation

As consideration for providing the services enumerated in Article 1, the CITY shall pay the CONTRACTOR fees as per the following:

- 2.1 Lump sum payment, which includes compensation for all the CONTRACTOR'S salaries, general overhead costs, direct expenses, and profit.
- 2.2 Work Contingent on Funding of Contract: Compensation for work performed under this AGREEMENT is contingent on available funds being budgeted each fiscal year by the CITY. If the City Commission approved city budget does not allocate funds to cover the cost of work performed under this AGREEMENT, the CITY shall notify the CONTRACTOR immediately in writing providing the CONTRACTOR not less than thirty (30) days to notice prior to the end of the fiscal year end that funds will not be available to compensate the CONTRACTOR for any work the next fiscal year.

Article 3. Invoicing and Payment

Monthly invoices will be issued by the CONTRACTOR for all work performed during the preceding month under this AGREEMENT, as prescribed in Article 2. Invoices are to be submitted and paid in accordance the Florida Prompt Payment Act.

Article 4. Obligations of the Contractor

- 4.1 General: The CONTRACTOR will serve as a CITY'S professional landscaping maintenance service provider under this AGREEMENT, providing professional grounds maintenance and landscaping and furnishing customary services incidental thereto. The CONTRACTOR shall perform the work described in this AGREEMENT as directed by the Director of Community Services or their designee.
- 4.2 Standard of Care: The standard of care applicable to the CONTRACTOR'S services will be the degree of skill and diligence normally employed by professional contractors performing the same or similar services at the time said services are performed. The CONTRACTOR will perform any services not meeting this standard without additional compensation.
 - a. Contractor's Personnel at the Work Site: The CONTRACTOR'S crews shall always perform their duties in a professional manner and appearance.
 - b. Safety: The CONTRACTOR'S crew shall always perform their duties in a safe manner taking special care to be aware of their surroundings and any potential safety hazard that could cause harm to persons or personal property resulting from the CONTRACTOR'S work.
- 4.3 Damages: The CONTRACTOR shall report any damages or accidents while performing services within the City Cemetery to the cemetery staff and then to the Director of Community Services immediately. The CONTRACTOR shall be responsible for any damages to City Property or private property caused by the CONTRACTOR, the CONTRACTOR'S employees or its agents during the performance of work under this AGREEMENT.
- 4.4 Subcontractors: The CONTRACTOR may not assign or subcontract its obligations under this AGREEMENT without the written consent of the CITY.

4.5 Permits, Licenses and Fees: The CONTRACTOR is responsible for and shall maintain all permits, licenses, and fees necessary to legally perform the work described in this AGREEMENT.

Article 5. Obligations of the City

5.1 Authorization to Proceed: Considered to be given upon issuance of written “Notice to Proceed” by the CITY to the CONTRACTOR.

5.2 Access to Facilities and Property: The CITY will make its facilities accessible to the CONTRACTOR as required for CONTRACTOR’S performance of its services.

5.3 Prompt Notice: The CITY will give prompt written notice to CONTRACTOR whenever CITY observes or becomes aware of any development that affects the scope or timing of CONTRACTOR’S services, or any defect in the work of the CONTRACTOR.

Article 6. General Legal Provisions

6.1 Agreement Period: The duration of the AGREEMENT shall be five (5) years commencing from the date this AGREEMENT was entered into and approved by Resolution of the City Commission.

6.2 Force Majeure:

- a. The CONTRACTOR is not responsible for damages or delay in performance caused by acts of God, strikes, lockouts, accidents, or other events beyond the control of the CONTRACTOR.
- b. In the event of a delay that results in additional costs to the CONTRACTOR, an appropriate increase in compensation and schedule will be authorized in writing.

6.3 Termination:

- a. This agreement may be terminated at any time, with or without cause, by the CITY upon sixty (60) days written notice to the CONTRACTOR. No further work will be performed by the CONTRACTOR upon receipt of this notice unless specifically authorized by the Director of Community Services of the City of Key West. This agreement may also be terminated at any time, with or without cause, by the CONTRACTOR upon ninety (90) days written notice to the CITY.
- b. On termination, the CONTRACTOR will 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 AGREEMENT. The CITY will not pay for anticipatory profits.

6.4 Suspension, Delay, or Interruption of Work: The CITY may suspend, delay, or interrupt the services of the CONTRACTOR for the convenience of the CITY. In the event of such suspension, delay, or interruption, or any other act or neglect of CITY OR CITY’S subcontractors, the CITY will pay CONTRACTOR for worked performed to date. An

equitable adjustment in the work schedule and CONTRACTOR'S compensation will be made as agreed to by both parties.

6.5 Indemnification: Contractor agrees to protect, defend, indemnify, save and hold harmless The City of Key West, all its Departments, Agencies, Boards, Commissions, officers, 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 of destruction of any property which may occur or in any way grow out of any act or omission of the Contractor, 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 Contractor 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.

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, Contractor 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 Contractor 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 Contractor, or persons employed or utilized by Contractor.

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

6.6 Insurance: INSURANCE: Before commencing work as specified in the contract CONTRACTOR shall obtain at its own cost and expense the following insurance in insurance companies authorized in the State of Florida, with an A.M. Best rating of A-:VI or higher and shall provide evidence of such insurance to the City. The policies or certificates shall provide thirty (30) days prior to cancellation notices of same shall be given to the City by registered mail, return receipt requested, for all of the required insurance policies stated below. All notices shall name the CONTRACTOR and identify the agreement or contract number. The City of Key West, all Departments, Agencies, Boards and Commissions, its officers, agents, servants and employees are to be added as

“additional insureds” as respects liability arising out of activities performed by or on behalf of the CONTRACTOR.

CONTRACTOR shall maintain limits no less than those stated herein and shall include waiver of subrogation as to the City of Key West, CONTRACTOR and their respective officers, agents, employees and subcontractors. The Contractor shall provide insurance as follows:

1. **COMMERCIAL GENERAL LIABILITY:** Coverage shall have minimum limits of One Million Dollars (\$1,000,000) Per Occurrence, Combined Single Limit for Bodily Injury Liability and Property Damage Liability. This shall include Premises and Operations; Independent contractors; Products and Completed Operations and Contractual Liability.
2. **BUSINESS AUTOMOBILE LIABILITY INSURANCE** with a minimum limit of liability per occurrence of One Million Dollars (\$1,000,000.00) Combined Single Limit and no annual aggregate. This insurance shall include for bodily injury and property damage the following coverage:
 - a. Owned automobiles
 - b. Hired automobiles
 - c. Non-owned automobiles
 - d. Location of operation shall be “All Locations.”
3. **EXCESS/UMBRELLA LIABILITY** shall have a minimum limit of Two Million (\$2,000,000.00) per occurrence with an annual aggregate of Two Million (\$2,000,000.00.) This coverage is to be following form and include the Commercial General Liability and Automobile Liability Policies.
4. **WORKERS’ COMPENSATION:** Insurance covering all employees meeting Statutory Limits in compliance with the applicable state and federal laws. The coverage must include Employers’ Liability with a minimum limit of \$500,000 for each accident.
5. **SCOPE OF INSURANCE AND SPECIAL HAZARDS:** The insurance required under Paragraphs 1, 2, 3, and 4 hereof is a minimum to provide adequate protection for the Contractor, respectively, against damage claims which may arise from operations under this contract, whether such operation be by the insured or by anyone directly or indirectly employed by the insured and, also against any of the special hazards which may be encountered in the entity’s operation under this contract. The insurance required herein and approval of Contractor's insurance by the City of Key West shall not relieve or decrease the liability of the Contractor hereunder.
6. **WAIVER OF SUBROGATION:** The insurance required under Paragraphs 1, 2, 3, and 4 hereof shall contain a “waiver of subrogation” provision whereas the Contractor insurer waives any claim against the City of Key West.

CERTIFICATES OF INSURANCE: Certificates of Insurance shall be filed and maintained throughout the life of this Contract with the City Clerk evidencing the minimum limits of insurance cited above. All policies shall provide they may not be terminated or modified

without insurer providing the City of Key West at least thirty (30) days advance notice. Additionally, the Contractor shall immediately notify the City of any cancellation of such insurance.

6.7 Independent Contractor: CONTRACTOR clients/workers shall not be deemed to be employees of CITY and shall not accrue any of the rights of the CITY's employees under CITY ordinances or personnel policies and procedures.

6.8 Jurisdiction and Severability: The laws of the State of Florida govern the validity of this to it. The venue for mediation, arbitration or any other legal proceeding shall be in Monroe County, Florida. If any other provisions contained in this Agreement are held for any reason to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality, or unenforceability will not affect any other provision, and this Agreement will be construed as if such invalid, illegal, or unenforceable provision had never been contained within.

6.9 Dispute Resolution:

- a. The parties will use their best efforts to resolve amicably any dispute, including the use of alternative dispute resolution options.
- b. Unless otherwise agreed in writing, the CONTRACTOR shall continue the Work and maintain the approved schedules during any arbitration proceedings. If the CONTRACTOR continues to perform, the CITY shall continue to make payments in accordance with the AGREEMENT.

6.10 Entire Agreement: This agreement sets forth all the covenants, promises, agreements and understanding between CITY and CONTRACTOR. No subsequent alteration, amendment, change or addition to this agreement shall be binding upon CITY or CONTRACTOR unless reduced to writing and duly executed by both parties.

ADDRESSES FOR NOTICES:

FOR CITY

City Manager
City of Key West
P.O. Box 1409
Key West, FL 33041-1409

FOR CONTRACTOR

Copy to:
Director of Community Services
Address as above

THIS PART INTENTIONALLY LEFT BLANK. SIGNATURE PAGE FOLLOWS.

ATTEST

CITY OF KEY WEST

Cheryl Smith, City Clerk

Jim Scholl, City Manager

Date

Date

CONTRACTOR

President/ Authorized Agent

Date

Print Name of President/ Authorized Agent

Witness Signature

Date

Print Name of Witness

BID RESPONSE

The Bidder further Proposer to accept as full payment for the work Proposer herein the amounts computed under the Provisions of the Contract Documents and based on the following unit Price amounts, it being expressly understood that the unit Prices are independent of the exact quantities involved. The Bidder agrees that the unit Prices represent a measure of the labor and materials required to perform the work, including all allowances for overhead and Profit for each type and unit of work called for in these Contract Documents. The amounts shall be shown in both words and figures. In case of discrepancy, the amount shown in words shall govern. Unit price line items may be deleted, reduced or increased as needed by the City. The City reserves the right to modify phase scheduling as required.

<u>Item</u>	<u>Unit</u>	<u>Unit Price (Numerals) Per Annum</u>
1	Key West Historic Cemetery Landscaping	\$.

Total price (per annum) in words _____

PAYMENT TERMS: 45 days after City of Key West acceptance of work completion

BIDDER REPRESENTATION

I represent that this bid is submitted in compliance with all terms, conditions and specifications of the Call for Bid and that I am authorized by the owners/principals to execute and submit this proposal on behalf of the business identified below:

BUSINESS NAME: _____

STREET ADDRESS: _____

CITY/STATE/ZIP: _____

PRINT NAME OF AUTHORIZED REPRESENTATIVE: _____

TITLE/POSITION OF AUTHORIZED REPRESENTATIVE: _____

DATE SUBMITTED: _____ TELEPHONE: _____

LICENSE REQUIRED & COSTS

General Service License (\$98.70)

or

Specialty Contractor: Landscaping License (\$98.70) and Competency Card (\$75)

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA

SS:

COUNTY OF MONROE

I the undersigned hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employee 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 and prescribed before me this _____ day of _____, 2011

NOTARY PUBLIC, State of Florida

My commission expires: _____

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

THIS FORM MUST BE SIGNED AND SWORN TO IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICIAL AUTHORIZED TO ADMINISTER OATHS,

1. This sworn statement is submitted to _____
by _____
(print individual's name and title)
for _____
(print 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): _____

2. 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 of the United States, including, but not limited to, any bid or contract for goods or services to be provided to any public entity or an agency or political subdivision of any other state or of the United States and involving antitrust, fraud, theft, bribery, collusion, racketeering, conspiracy, or material misrepresentation.
3. I understand that "conviction" as defined in Paragraph 287.133(1)(g), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication of guilt, in any federal or state trial court of record relating to charges brought by indictment or information after July 01, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.
4. 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 agent who are active in the management of an affiliate. The ownership by one person of shares constituting a controlling interest in another person, or a pooling of equipment of 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.
5. I understand that a "person" as defined in Paragraph 287.133(1)(e), Florida Statute 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 a public entity. The term "person" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in management of an entity.
6. 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, 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 01, 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 01, 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 31 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 _____

PERSONALLY APPEARED BEFORE ME, the undersigned authority
_____ who, after first being sworn by me,
(name of individual)
affixed his/her signature in the space provided above on this
_____ day of _____, 2011

NOTARY PUBLIC

My commission expires: _____

CALL FOR BIDS

NOTICE is hereby given to prospective bidders that sealed bids will be received by the CITY of KEY WEST, FLORIDA by the office of the City Clerk, 3126 Flagler Avenue, Key West, Florida 33040 until 3:00 P.M., December 28, 2011 for Bid, ITB 12-013 Cemetery Landscaping Services. Bids will be opened in the Office of the City Clerk then and there and publicly read aloud. Any bid received after the time announced will not be considered. SPECIFICATIONS AND BID DOCUMENTS may be obtained from DemandStar by Onvia at www.demandstar.com/supplier or call toll-free at 1-800-711-1712. All bids shall be submitted with two (2) originals hard copies and three (3) USB flash drives or three (3) CD ROMs each with one PDF file of the bids are to be enclosed in two (2) sealed envelopes, one within the other, each clearly marked on the outside:

BID # 12-013 for CEMETERY LANDSCAPING SERVICES,
addressed and delivered to:

CITY CLERK, CITY OF KEY WEST, FLORIDA
CITY HALL, 3126 FLAGLER AVENUE
KEY WEST, FLORIDA 33040

At the time of the award, the successful Bidder must show satisfactory document of such State, County and City licenses as would be required. Any permit and/or license requirement and subsequent costs are located within the bid documents. The successful Bidder must also be able to satisfy the City Attorney as to such insurance coverage and legal requirements as may be demanded by the bid in question. The City may reject bids: (1) for budgetary reasons, (2) if the bidder misstates or conceals a material fact in its bid, (3) if the bidder does not strictly conform to the law or is non-responsive to bid requirements, (4) if the bid is conditional, (5) if a change of circumstances occurs making the purpose of the bid unnecessary or (6) if such rejection is in the best interest of the City. The City may also waive any minor informalities or irregularities in any bid.

Sue Snider, Purchasing Agent

Published: _____

**LOCAL VENDOR CERTIFICATION PURSUANT TO CKW ORDINANCE 09-22
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.
 - o Not a local vendor pursuant to Ordinance 09-22 Section 2-798
 - o Qualifies as a local vendor pursuant to Ordinance 09-22 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)

Return Completed form with
Supporting documents to:
City of Key West Purchasing

Signature of Notary

Print, Type or Stamp Name of Notary

Title or Rank