



THE CITY OF KEY WEST  
3140 Flagler Ave Key West, FL 33040 (305) 809-3700

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## EXECUTIVE SUMMARY

**TO:** Jim Scholl, City Manager  
**FROM:** Janet Muccino, Project Manager  
**CC:** David Fernandez, Asst. City Manager  
Mark Finigan, Asst. City Manager  
Doug Bradshaw, Senior Project Manager  
**DATE:** April 21, 2011

**SUBJECT:** Resolution approving the award, waiving minor inconsistencies and the City Manager's execution of the contract for the Smathers Beach Renourishment Rebid to American Earth Movers in the amount of \$749,000

### ACTION STATEMENT:

This Resolution will award the Smathers Beach Renourishment Project to American Earth Movers (AEM) for the placement of 17,500 tons of sand in the amount of \$749,000 and approve the City Manager to execute the contract.

### BACKGROUND:

The City of Key West constructed Smathers Beach in the early 1960's by excavating rock out 500 feet on the waterside of the South Roosevelt Blvd Seawall and replacing with sand. The beach eroded over the years and by the 1980's it was mostly cap rock on the beach and large chunks of rocks in the water. The City and County spent over \$2 million in permitting and mitigation and finally obtained the renourishment permits in 1998. Renourishment occurred in 2000 with protective beach fill along 3,000 feet of the previously nourished Smathers Beach area. Funding for the renourishment came from the USACE, FDEP, TDC and City of Key West.

Smathers beach has continued to erode since the renourishment in 2000. The City has rebuilt the protective berms above mean high water (MHW) after most hurricane events but the beach below MHW has not been renourished and is eroding and rocky. The City has been actively working on a complete renourishment project for Smather's Beach.

The City issued ITB #11-016: Smathers Beach Renourishment Rebid and received five (5) bids on April 1, 2011.

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

1. American Earth Movers (AEM),	\$749,000
2. Charley Toppino & Sons. Inc. (CTS),	\$766,895
3. D.N. Higgins	\$808,000
4. Eastman Aggregate Enterprises, LLC	\$939,746
5. C.K.A., LLC	\$1,333,331

AEM was the low bid at \$749,000; however Charley Toppino & Sons (CTS), a local bidder, was the second lowest bidder at \$766,895 and was within 5 % of the lowest bid. In accordance with the City's Local Business Enterprise Preference, Ordinance # 09-22, CTS was given the opportunity to fully match the lowest non-local bid total and unit prices by American Earth Movers at \$749,000. CTS declined the offer and emailed a protest letter based on inconsistencies in AEM bid. Please see attached bid requirements spreadsheet, CTS letter declining local preference and bid protest letter from CTS.

The CTS protest letter indicated the following:

- AEM did not fill in the word portion of the bid and merely repeated the numerical figure,
- AEM obviously grossly unbalanced by disproportionate allocation of the bid price to mobilization,
- AEM failed to sign or seal the bid,

City Staff offers the following in response to the protest letter:

- AEM did fail to write out the individual prices in words but did write out in words the total bid price. In review of the unit price values, all are legible and staff does not need to go to the words for clarification. Staff considers this a minor inconsistency and waivable.
- Staff has discussed with AEM the issue of disproportionate allocation of the bid price to mobilization. AEM has indicated that a large portion of the mobilization charge is used to pay truck drivers upfront in order to secure their services for the project. The trucks utilize the payment for fuel and other expenses. AEM's goal is to utilize 50-60 trucks for this project. In 2009 the City awarded a task order to CTS for emergency sand placement and the rebuilding of berms on several beaches. As part of that task order the City allowed a large upfront payment of \$60,000 to be utilized for trucking (See attached Resolution 09-079).
- The original bid proposal from AEM is signed and sealed. The copies do not show the seal. On page 15 of the bid proposal AEM did fill in the name of their company where their signature should have been, but the form is unclear. The front page of the proposal is signed. Staff considers this a minor inconsistency and waivable.

#### **PURPOSE & JUSTIFICATION:**

Maintenance and enhancement of the physical environment of Key West and its near shore waters is one of the city's seven strategic priorities. Periodic renourishment of Smathers Beach will extend the useful life and maintain the integrity of the beach. Locals and tourists alike will benefit from the renourishment of the beach.

#### **OPTIONS:**

**Option # 1** Approve the award of the Smathers Beach Renourishment Rebid Project to AEM for the placement of 17,500 tons of sand in the amount of \$749,000, waive minor inconsistencies and approve the City Manager to execute the contract.

The advantage to awarding the contract to AEM is that the contractor has performed beach renourishment projects and received good reviews from their references. Also the FDEP permit will expire on July 6, 2011 which leaves no time to rebid.

**Option # 2** The City Commission can choose to award the project to another contractor. Staff considers the low bid responsive and there is not a justification for awarding to another bidder.

**Option # 3** The City Commission can choose not to move forward with the renourishment project. This is not recommended by staff. The beach is an important component of our tourism industry, home to not only swimmers, but weddings, water sports and sunbathers. The Key West beaches are promoted by the TDC and having a rocky beach and small beach is less than optimal. Smaller hotels, motels, guest house and inns all rely on beaches for guest recreation as they do not have their own beaches.

### **FINANCIAL IMPACT:**

This year's budget for the renourishment project including construction, CEI and pre, during & post monitoring is \$963,700 (001-1906-519-4600, Project GR0701). Funding sources include the City of Key West - \$430,600, TDC - \$103,900, and DEP - \$429,200. With the construction bid at \$749,000 a balance of \$214,700 will remain for the first year monitoring costs of \$186,278. Additional 3 years of monitoring will have to be budgeted in future budgets.

### **RECOMMENDATION:**

Approve the award of the Smathers Beach Renourishment Rebid Project to AEM for the placement of 17,500 tons of sand in the amount of \$749,000, waive minor inconsistencies and approve the City Manager to execute the contract.