

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST,
FLORIDA, AMENDING CHAPTER 2 OF THE CODE
OF ORDINANCES, TITLED "ADMINISTRATION",
BY AMENDING ARTICLE VII TITLED
"FINANCIAL MATTERS"; BY AMENDING
DIVISION 3 TITLED "PERSONAL PROPERTY
PURCHASING AND PROCUREMENT"; BY AMENDING
SUBDIVISION II TITLED COMPETITIVE
BIDDING, SECTION 2-797, PROVIDING FOR
SEVERABILITY; PROVIDING FOR REPEAL OF
INCONSISTENT PROVISIONS; PROVIDING FOR
AN EFFECTIVE DATE

WHEREAS, Florida Statute 287.057(3)(e) allows for contractual services and commodities, including legal services, to be exempt from competitive solicitation requirements; and

WHEREAS, the City of Key West Code of Ordinances, Section 2-797(4)(a) provides for legal services to be exempt from competitive solicitation requirements; and

WHEREAS, the City desires to develop greater internal control, transparency, accountability, and fiscal responsibility in its procurement of legal services without hampering the procurement of these services; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY
WEST, FLORIDA:

Section 1: That Chapter 2, Article VII, Section 2-797

of the Code of Ordinances is hereby amended as follows*:

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.

* (Coding: Added language is underlined; deleted language is struck through at first reading. Added language is double underlined and double struck through at second reading.)

c. All sole source procurement where the cost of the commodities or contractual services exceeds \$50,000.00 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 \$50,000.00 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 or commodity 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. An emergency procurement in excess of \$50,000.00 shall be ratified by the city commission at the next scheduled city commission meeting.

(3) *Purchases and acquisitions under contracts of federal government, the state or its political subdivisions, and governmental purchasing cooperative programs.* All purchases of commodities or contractual services under the provisions of local, state, federal or governmental purchasing cooperative 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 \$50,000.00.

(4) *Exempt contractual services and commodities.* Exempt contractual services and commodities not subject to the competitive procurement requirement are as follows:

- a. Legal services including paralegal, expert witnesses, appraisal services and court reporters. A written and signed contract/agreement is required prior to the engagement of outside counsel. Contracts/agreements should include basic provisions, including the basis of procurement, scope and duration of engagement/service. The City Attorney shall provide the City Manager and/or a designated representative with a fully executed copy of the contract/agreement.
Prior to engaging legal services estimated to have a

cost in excess of \$50,000.00, 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, the city manager shall place a resolution before the city commission for approval of such exemption.

Section 3: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of this Ordinance.

Section 4: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 5: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

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Read and passed on first reading at a regular meeting
held this _____ day of _____, 2025.

Read and passed on final reading at a regular meeting
held this _____ day of _____, 2025.

Authenticated by the presiding officer and Clerk of
the Commission on _____ day of _____, 2025.

Filed with the Clerk _____, 2025.

Mayor Danise Henriquez _____

Vice Mayor Donald "Donie" Lee _____

Commissioner Lissette Carey _____

Commissioner Aaron Castillo _____

Commissioner Monica Haskell _____

Commissioner Mary Lou Hoover _____

Commissioner Sam Kaufman _____

DANISE HENRIQUEZ, MAYOR

ATTEST:

KERI O'BRIEN, CITY CLERK