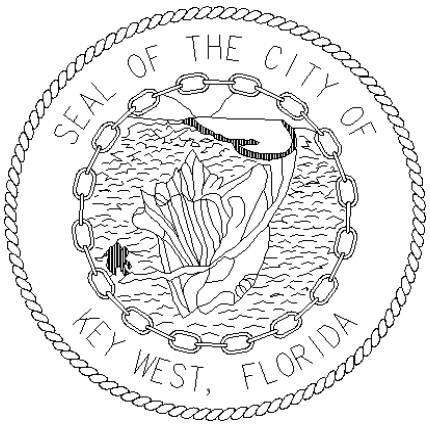
Request for Proposals



RFP# 22-004

The City of Key West, Florida
Request for Proposal
Third Party Claim Administration

July 27, 2022

MAYOR: TERI JOHNSTON

COMMISSIONERS:

GREG DAVILA
JIMMY WEEKLEY
SAMUEL KAUFMAN
BILLY WARDLOW
CLAYTON LOPEZ
MARY LOU HOOVER

INFORMATION TO RESPONDENTS

SUBJECT:	REQUEST FOR PROPOSALS RFP NO. 22-004
	Third Party Claim Administration
ISSUE DATE:	July 27, 2022

MAIL OR SPECIAL	CITY CLERK
DELIVERY RESPONSES TO:	CITY OF KEY WEST
	1300 WHITE STREET
	KEY WEST, FL 33040

DELIVER RESPONSES TO: SAME AS ABOVE

REPONSES MUST BE RECEIVED: August 10, 2022

NOT LATER THAN: 3:00 P.M. EST

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Attachment A – Resolution No. 09-246
Attachment B – EMI Base Contract, Response to RFP #09-011
Attachment C – Relation Current Contract
Attachment D – Coverage Document
Attachment E – Loss Runs
Attachment F – SI-5 Request

RESPONSE REQUIREMENTS

BACKGROUND

On September 15, 2009, the City Commission adopted Resolution No. 09-246 authorizing the acceptance of Employers Mutual, Inc. (EMI) now Relation Insurance Services (Relation) proposal to serve as the City's insurance (property casualty and workers' compensation) program Third Party Administrator (TPA) for policy year 2009/2010 with four (4) additional years. The intent of the RFP was to provide the City the opportunity to annually re-evaluate the services provided by (EMI)/Relation and to exercise its option for renewal in subsequent policy periods based on performance. See Attachment A – Resolution No. 09-246 and Attachment B – EMI Base Contract, Response to RFP #09-011.

Policy year 2013/2014 represented the final one (1) year period that could be exercised by the City pursuant to Resolution 09-246 and RFP 09-011. Subsequently, the City Commission adopted Resolution No. 14-085 approving an additional one (1) year extension for policy year 2014/2015.

In Resolution 15-184, the City Commission authorized extending the Agreement for Administrative Services with (EMI)/Relation for policy period 10/1/2015 to 9/30/2016, with an option to renew for three (3) additional one-year periods based on the same premise of exercising said option to renew based on performance.

In Resolution 19-247, the City Commission authorized extending the Agreement of Administrative Services with (EMI)/Relation for policy period 10/1/2019 to 10/1/2022. See Attachment C–Relation Current Contract.

GENERAL INFORMATION

The City of Key West, Florida is requesting proposals for the following:

- Third Party Claims Administration

The City's current insurance program is placed by World Risk Management, LLC (WRM) through the Public Risk Management of Florida (PRM) trust and contains various self-insured retentions. See Attachment D – Coverage Document. It is the desire of the City for the selected administrator to adjust all claims that fall within its retentions. Following displays the City's current retention levels.

Property*	$25,000.00 except 5% for wind related losses and $500,000.00 for flood related losses
General Liability	$100,000.00
Automobile Liability	$100,000.00
Public Officials Liability	$100,000.00
Workers Compensation	$325,000.00
Police Professional	$100,000.00

*Property claims are handled by the City's insurance carrier, though there may be certain, rare situations in which the City would call upon the administrator to handle.

The target effective date of the programs will be October 1, 2022 however, may be delayed depending on the amount of time a new claims administrator may require to convert the City's historical claim information so it is compatible with their claim system. It is the intent of the City to agree to a three (3) year term with rights to renew with successful proposer(s) for two (2) additional one-year terms at the sole option of the City. Consideration may be given to longer-term agreements based on price, terms, and conditions.

As a prerequisite of being selected, the Third-Party Administrator must be acceptable to the Insurers selected by the City.

Items Contained in this Request for Proposals (RFP) are considered to be an integral part of the proposed programs. Adherence to the items listed here is intended by the City unless specifically otherwise accepted by both the Proposer and the City. Acceptance of modification of any portion of the items contained herein will not serve to waive or modify any other portion of the proposed program.

CURRENT PROGRAM

Relation Insurance Services currently administers all claims that fall within the City's self-insured retentions. The agreement with Relation Insurance Services requires them to administer the claims for a single fee as long as a contractual relationship exists between the two organizations. Depending on the cost, the successful proposer may be requested to assume the administration of all open claims. Proposers will be requested to provide separate pricing for the assumption of all open claims.

As of May 31, 2022 the City has the following number of claims currently active.

Policy year	Lost Time (LT and BLT)	Medical Only	Police Professional	Auto (includes any claim in the Vehicle Accident Line of Business)	General Liability (includes all claims in GC Line of Business except for Police or Public Official)	Public Official	Grand Total
1998-1999	1						1
1999-2000		1					1
2000-2001	1						1
2001-2002	2	3					5
2002-2003		4					4
2003-2004		2					2
2004-2005		1					1
2005-2006	1						1
2006-2007	3	2					5
2007-2008							
2008-2009	2						2
2009-2010							
2010-2011							
2011-2012							
2012-2013							
2013-2014							
2014-2015	2				1		3
2015-2016	1				1	1	3
2016-2017					2	1	3
2017-2018	7	1			3	1	12
2018-2019	4	1			5		10
2019-2020	2				8		10
2020-2021	3	2			8	2	15
2021-2022	6	16		1	7		30
Grand Total	35	33		1	35	5	109

See Attachment E – Loss Runs

DESIRED PROGRAM

The City prefers the successful Proposer to provide its services on a "Life of Contract" basis and to agree to administer all claims until they are concluded as long as a contractual relationship exists between the City and the Proposer. Alternative options may be considered.

The City utilizes the current claims administrator to reduce all medical bills to the State of Florida Fee Schedule as well as Pharmacy Bill reduction and Legal Bill reduction. Proposers are therefore requested to include this service in their pricing structure. If a separate charge is required for this service, it should be clearly stated within the proposal.

It is anticipated that the successful proposer will assume the administration for all prior year claims. All proposals should clearly state the cost associated with the assumption of claims.

RATING DATA

The following information has been included as attachments to assist in the underwriting of the account:

- Projected payrolls by Workers' Compensation classification codes;
- The City's most recent Experience Modification worksheets. See Attachment F – SI-5 Request.

Please direct questions or requests for clarification to:

Ben Few IV, CRM, CIC, AAI

Ben Few & Company, LLC

4560 Via Royale, Suite 3

Fort Myers, Florida 33919

Phone: (239) 334-7727

Fax: (239) 334-8166

Email: ben@benfew.com

All interested proposers are solely responsible to ensure requests for loss runs and narrative description of major events are properly received. Neither the City of Key West nor Ben Few & Company, LLC assumes responsibility for the timely receipt of such requests.

EFFECTIVE DATE OF AGREEMENT

The effective date of the Agreement will be October 1, 2022, to September 30, 2025. It is anticipated that the agreement will be renewed with the successful proposer for a minimum of two (2) additional years, however City maintains the right to terminate the agreement upon each anniversary date without penalty.

PROPOSAL REQUIREMENTS

General Instructions

1. All proposal respondents must carefully read and examine the Request for Proposal before submitting a proposal. The failure of a proposal respondent to read and examine the Request for Proposal shall be at the proposal respondent's own risk.
2. Proposal respondents are required to submit one hard copy and (2) electronic copies to the City of Key West Clerks office at 1300 White Street, Key West, Florida no later than 3:00 P.M., August 10, 2022.
3. Proposals received after the above stated deadline time and date may not be considered. Proposals timely received at the aforementioned time shall be forwarded to the Selection Committee for review.
4. Proposal respondents shall submit proposals via PDF bearing City logo or name at the top or bottom of each page. Proposal respondents shall respond to each question, issue, and technical specification in the order it is requested in this RFP. Proposal content, not including forms, affidavits, and addenda, may include no more than twenty (20) double sided pages. Additional pages will not be read by the Evaluation Committee.
5. Proposal Content responses must contain the following information in the following order:
    1. Cover Letter/Statement of Interest
    2. Table of Contents
    3. Executive Summary/Proposal Narrative
    4. Qualification Statement/Team Experience Overview
    5. Required Forms & Affidavits
    6. Addendum acknowledgement
6. Pre-printed advertisements, brochures, and promotional material may be attached as additional information, but shall not serve as a substitute for a specific response. Attachment of brochures instead of the written response request will be grounds for disqualification or devaluation. A simple "yes" or "no" answer alone will not be acceptable unless clearly requested; an explanation shall be provided for each question/issue listed in this response outline.
7. The fees proposed (in U.S. dollars) will be used for proposal evaluation only. City requires that vendors' responses to this RFP shall remain in effect for a period of (120) one-hundred-twenty days following the closing date of the RFP, in order to allow adequate time for evaluation, approval, and award of contract. Any vendor who does not agree to this condition shall specifically communicate in its proposal such disagreement to City, along with proposed alternatives. City may accept or reject such proposed alternatives without further notification or explanation.

EXPLANATIONS AND CLARIFICATIONS

Any request for information concerning this project must be made in writing to:

Ben Few IV, CRM, CIC, AAI

Ben Few & Company, LLC

4560 Via Royale, Suite 3

Fort Myers, Florida 33919

Phone: (239) 334-7727

Fax: (239) 334-8166

Email: ben@benfew.com

Proposers are responsible for clarifying any perceived ambiguity, conflict, discrepancy, omission, or other error in the RFP before submitting its proposal. If a Proposer finds any such ambiguity, conflict, discrepancy, omission, or other error in the RFP, the Proposer will immediately notify the above mentioned in writing, through the above contact and request modification or clarification. City, if appropriate, may make modifications or clarifications by issuing a written response to all known Proposers and/or whose names appear as having received this RFP.

RFP SCHEDULE

Event	Date
Issuance of RFP	**07/27/2022**
Deadline for questions	**08/03/2022**
Deadline for proposals	**08/10/2022**
Proposal Evaluation Period	**08/10/2022-08/23/2022**
Proposer Selection by Committee	**08/24/2022**
Final Selection Commission Approval	**09/20/2022**

PROPOSAL EVALUATION

1. **Selection Committee**

   The duties of the Selection Committee will be to review and consider all timely submitted written proposals. The Selection Committee will utilize an evaluation form and rating scale to assess each proposal. Selection of a vendor or vendors may be based on the written proposals, at the discretion of the Selection Committee.

2. Process

The proposer must be willing to meet with the Selection Committee, if necessary, to explain any portion of the services to be provided. Additionally, proposers may be required to make presentations. The Selection Committee will rank all proposals based on the criteria established below. Representative of the City will enter contract negotiations with the selected vendor(s) to obtain a fully executed written contract.

3. Evaluation Criteria

1) Quality, clarity, and responsiveness of the proposal in conformance with submission requirements outlined below.
2) Capability of providing administrative, professional, and technical resources for the services requested.
3) Financial planning capabilities of the respondent.
4) Past performance in providing similar services to other self-insured public entities.

4. Scoring for Proposal

1) Proposal responses from vendors will be scored using the selection criteria in the section below (Selection Criteria) and measured by the quality of answers provided in the Proposal Content.
2) The Selection Committee will assign a value score to each vendor response to each question in the Proposal Content and rank vendors accordingly.
3) Proposal is limited to a maximum of 20 pages, front and back, and must adhere to the standards outlined in General Instructions portion of these documents.

SELECTION CRITERIA

SELECTION/RANKING CRITERIA	POINTS ALLOWED
Rate Schedule Proposed Fee Proposal Score: Price analysis is conducted through the comparison of Price Proposals submitted. The maximum points will be awarded to the lowest responsive Price Proposal. Proposals with higher costs will receive the fraction of the maximum points proportional to the ratio of the lowest Price Proposal to the higher Price Proposal. The fractional value of points to be assigned will be rounded to one decimal place. The criteria for price evaluation shall be based upon the following formula: (Low Price/Respondent's Price) x Price Points = Respondent's Awarded Cost/Price Points The following example illustrates the method utilized to proportionally award the fee proposal points. For this example, assume the maximum number of fee proposal points is 30: Cost Proposal Calculation Points $100,000 Respondent 1 (Lowest Cost) 30.0 $125,000 Respondent 2 (1000001125000 x 30) 24.0 $150,000 Respondent 3 (1000001150000 x 30) 20.0 Overall Score and Ranking: The Respondent's Technical point score plus the fee proposal points equals the Respondent's Total Proposal score. Respondents will be ranked numerically 1, 2, 3, etc. from highest point score to the lowest point score.	25
Evidence of Professional Experience and Skill • Demonstrates strong knowledge regarding how to provide claim administration services for governmental entities. (0 to 10 points) • Proves a successful history of providing said services. (0 to 5 points) • Incorporates/demonstrates strong team structure (including successful relationships with outside	35

vendors, networks, attorneys, etc.), substantiating ability to handle task. (0 to 10 points) • Team members have resumes that reflect experience in providing same services to governmental entities. (0 to 10 points)	
Evidence of Ability to Deliver in Specific Timeframe • Shows a deep understanding of the entire scope being requested herein. (0 to 5 points) • Able, at a minimum, to meet all of the principal area defined in the RFP's Scope of Work. (0 to 20 points)	25
Client References	10
Proper Licensure and Other Related Certifications or Professional Designations	5
Total Points	**0-100**

ELIGIBLE APPLICANTS

Each proposer responding to this RFP should preferably have within its team direct successful experience in the following areas. Please provide narrative answers in your overview section.

1) Information presented in this Request for Proposal and all statements contained in the written proposals received are intended to be relied upon by the City. All coverages and services must be issued as proposed unless the City authorizes individual changes. Any changes authorized by the City will not alter any other items contained in this Request for Proposal.
2) All proposers must be currently licensed in Florida as a Third-Party Administrator in accordance with Chapter 626, Florida Statutes.
3) Proposals should be signed by an authorized representative of the Third-Party Administrator providing the service.
4) All proposals must contain a sample contract for review.
5) All proposers must ensure that the rates proposed will apply for a minimum of 1 year. Proposers will be required to provide Ninety (90) days written notice of the rates that will be charged for subsequent contract years.
6) Proposer will be required to provide a ninety (90) days written notice prior to the termination or non-renewal of the agreement.
7) Claim reports shall be furnished monthly. Reports should be completed in plain English and received by the City within twenty (20) days following the end of each month. The reports should include a detailed description of individual claims and the amount paid for each claim and any open reserves that are assigned. Individual allocations by operating location may be necessary. Claim reports must continue to be furnished without charge until the last open claim is closed, or until the proposer is no longer providing a service to the City.
8) The proposer will adhere to any and all reporting requirements of the City's Insurers and to coordinate all specific and aggregate recoveries.
9) The proposer will coordinate all subrogation and second disability fund recoveries for all claims being administered by the Administrator even if such claims are no longer active.
10) Proposers must submit their proposals on the forms included in this Request. Additional information regarding the Proposers organization may be submitted in addition to the Proposal Forms. In addition, if an addendum to this request is issued, the Proposer must acknowledge receipt of such addendum by completing and returning with their proposals the acknowledge forms, which will accompany the addendum.
11) Every attempt has been made to furnish complete and accurate information to the best of City's knowledge. Proposers are encouraged to determine, at their sole expense, additional information required to develop their proposals including any inspections and loss control surveys.

If additional information is required, requests must be submitted in writing to:

Ben Few IV, CRM, CIC, AAI

Ben Few & Company, LLC

4560 Via Royale, Suite 3

Fort Myers, Florida 33919

Phone: (239) 334-7727

Fax: (239) 334-8166

Email: ben@benfew.com

All requests for additional information must be received no later than 3:00PM, August 3, 2022
Based on the requests received, an addendum to the specifications will be issued to all proposers.

REQUIRED INSURANCE TO BE MAINTAINED BY SUCCESSFUL PROPOSER

Prior to execution of the final contract, the successful proposer will be required to provide evidence that the following insurance is in place.

Type of Insurance	**Limits**
Workers' Compensation	Statutory
Employers' Liability	$500,000.00
General Liability	$1,000,000.00
Vehicle Liability	$1,000,000.00
Professional Liability	$1,000,000.00

The successful proposer will be required to maintain the above insurance during the entire term and any extensions of the contract. All coverages must be provided by insurers licensed to conduct business within the State of Florida and acceptable to the City.

The City of Key West, Florida
Request for Proposals
For
Third Party Claims Administration

GENERAL

The City is seeking competitive proposals from organizations that have the ability to administer the claims that are within the self-insured retentions of the City's insurance programs.

ALLOCATED AND UNALLOCATED FEES

All proposals must clearly and completely explain all charges that are not included in the Proposer's base fee. The amount of such fees should be clearly explained.

INSURANCE REQUIREMENTS

The successful proposer will be required to maintain throughout the life of the contract, insurance protection as specified in the attached forms.

The City of Key West, Florida
Request for Proposals
For
Third Party Claims Administration

Proposal Forms

General Information

Use of the proposal forms will enable a faster more complete analysis of the Proposal(s) submitted. Please complete this general proposal form. Additional information can be attached to the forms.

Name of Third-Party Administrator _____

_____

Address: _____

_____

Telephone Number: _____

Are the following services included within the Price? Quoted?

Initial contact with claimant within 24 hours?	Yes	_____	No	_____
Recorded Statements of the claimants?	Yes	_____	No	_____
Contact with the treating physician?	Yes	_____	No	_____
Narrative summaries on major claims?	Yes	_____	No	_____
Medical bills reviewed for accuracy and reduced to State Fee Schedule?	Yes	_____	No	_____
Legal bills reviewed for accuracy and reduced?	Yes	_____	No	_____
Pharmacy bills reviewed for accuracy and reduced?	Yes	_____	No	_____
Subrogation and Second Injury Fund activities?	Yes	_____	No	_____
Preparation of all State Mandated Reports?	Yes	_____	No	_____

Notification of all potential excess claims? Yes _____ No _____

Quarterly meetings with the City? Yes _____ No _____

Provide monthly loss reports to the City? Yes _____ No _____

If any of the above responses are no, please explain _____

_____

_____

Are Curriculum Vitae's of Adjusters attached? Yes _____ No _____

What is the current caseload for the adjusters who Will be assigned to the City's account? _____

Are services being proposed on:

a Life of Contract Basis? Yes _____ No _____

Cradle to Grave Basis? Yes _____ No _____

Other Basis? Yes _____ No _____

If services being proposed is not on Either a Life of Contract Basis or Cradle to Grave Basis provide full explanation on how the fee will be applied. _____

_____

_____

Will the proposer change any initial or maintenance fees? Yes _____ No _____

If so, please explain: _____

_____

Please explain required banking arrangements _____

_____

_____

Does the proposer have an approved safety program Filed with the State of Florida? Yes _____ No _____

Quoted Price:

	Cost Per Claim	Cost Per Run-Off Claim
General Liability		
Bodily Injury		
Property Damage		
Automobile Liability		
Bodily Injury		
Property Damage		
Public Officials Liability		
Police Professional Liability		
Workers Compensation		
Medical Only Claims		
Indemnity Claims		

Is an alternative pricing structure proposed? Yes _____ No _____

If so, please specify _____

_____

_____

Will a minimum fee apply to the contract? Yes _____ No _____

If so, please specify _____

_____

_____

Are there any expectations to the specifications? Yes _____ No _____

If so, please specify _____

_____

_____

The Proposer stated below is the authorized agent of the company or companies proposed and is authorized to commit the proposing company to the terms and conditions stated above.

Signature of Authorized Representative

Date

PROJECTED PAYROLLS

The City of Key West, Florida
PROJECTION OF PAYROLLS
BY
Workers' Compensation Classification

PROJECTED PAYROLLS FOR 2022-2023

Class Code	Description	Projected Payroll
5509	Street or Road Maintenance, Construction or Reconstruction	$501,516
6836	Marina and Drivers	$1,384,471
7382	Bus CO, All Other Employees and Drivers	$1,267,831
7590	Garbage Works	$330,963
7704	Firefighters and Drivers	$8,221,990
7720	Police Officers and Drivers	$9,993,899
8380	Automobile Service or Repair Center and Drivers	$506,595
8392	Auto Storage Garage, Parking Lot	$135,760
8810	Clerical Office Employees NOC	$8,255,514
8820	Attorney- All Employees & Clerical, Messengers, Drivers	$468,449
9015	Buildings- Operation by Owner or Lessee	$521,823
9102	Park NOC- All Employees and Drivers	$2,095,033
9410	Municipal, Township, County or State Employees NOC	$1,372,587
Total		**$35,056,431.28**

REQUIRED FORMS TO BE COMPLETED BY ALL PROPOSERS

PROPOSER'S QUALIFICATION STATEMENT

The undersigned certifies under oath that the information provided herein is true and sufficiently complete so as not to be misleading.

SUBJECT: Third Party Claims Administration

SUBMITTED TO: The City of Key West
1300 White Street
Key West, FL 33040

SUBMITTED BY:
Company Name: _____ Corporation ____

Company Website: _____ Partnership ____

Principle's Name: _____ Individual ____

Principle's Title: Joint Vent ____
_____

Address 1: Other ____
_____

Address 2: _____

Contact Email: _____

LICENSING:

State of Florida License No. _____ Expires _____

PROPOSER REFERENCES: List references, including contact name of whom we may call.

Reference List			
Reference	Contact Name	Phone	Email

I certify under oath that all the information herein is true.

_____
Signature

State of Florida
County of _____

Sworn to (or affirmed) and subscribed before me this _____day of _____, 2022

By _____

(Seal)

_____
Signature of Notary

Personally Known _____
Produced Identification_____
Type Produced_____

_____
Printed Name

CITY STAFF SELECTION CRITERIA MATRIX

REQUEST FOR PROPOSALS:

RFP #

Firm _____

Date _____

SELECTION/RANKING CRITERIA	POINTS ALLOWED	POINTS EARNED
Rate Schedule	25	
Evidence of Professional Experience and Skill	35	
Evidence of Ability to Deliver in Specific Timeframe	25	
Client Reference	10	
Proper Licensure and Other Related Certifications or Professional Designations	5	
Total Points	**0-100**	

ANTI-KICKBACK AFFIDAVIT

STATE OF FLORIDA)
: SS
COUNTY OF)

I, the undersigned hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees 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 subscribed before me this

_____ day of _____, 2022.

_____
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

NON-COLLUSION AFFIDAVIT

STATE OF FLORIDA)
: SS
COUNTY OF)

I, the undersigned hereby declares that the only persons or parties interested in this Proposal are those named herein, that this Proposal is, in all respects, fair and without fraud, that it is made without collusion with any official of the Owner, and that the Proposal is made without any connection or collusion with any person submitting another Proposal on this Contract.

By: _____

Sworn and subscribed before me this

_____ day of _____, 2022.

_____
NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____

SWORN STATEMENT UNDER SECTION 287.133(3)(a)
FLORIDA STATUTES ON PUBLIC ENTITY CRIMES

THIS FORM MUST BE SIGNED IN THE PRESENCE OF A NOTARY PUBLIC OR OTHER OFFICE AUTHORIZED TO ADMINISTER OATHS.

1. This sworn statement is submitted with Bid, Bid or Contract No. _____ for _____

2. This sworn statement is submitted by _____
(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.)

3. My name is _____ and my relationship to the entity named above is _____.
(Please print name of individual signing)

4. 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 with 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, material misrepresentation.

5. I understand that "convicted" or "conviction" as defined in Paragraph 287.133(l)(b), Florida Statutes, means a finding of guilt or a conviction of a public entity crime, with or without an adjudication guilt, in any federal or state trial court of record relating to charges brought by indictment information after July 1, 1989, as a result of a jury verdict, nonjury trial, or entry of a plea of guilty or nolo contendere.

6. 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 t entity and who has been convicted of a public entity crime. The term "affiliate" includes those officers, directors, executives, partners, shareholders, employees, members, and agents who are active in the management of an affiliate. The ownership by one person of shares constituting controlling interest in another person, or a pooling of equipment or 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.

7. I understand that a "person" as defined in Paragraph 287.133(1)(8), Florida Statutes, 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.

8. Based on information and belief, the statement, which I have marked below, is true in relation to the entity submitting this sworn statement. (Please indicate which statement applies.)

___Neither the entity submitting this sworn statement, nor any officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, nor any affiliate of the entity have been charged with and convicted of a public entity crime subsequent to July 1, 1989.

__The entity submitting this sworn statement, or one or more of the officers, directors, executives, partners, shareholders, employees, members, or agents who are active in management of the entity, or an affiliate of the entity has been charged with and convicted of a public entity crime subsequent to July 1, 1989, AND (Please indicate which additional statement applies.)

__There has been a proceeding concerning the conviction before a hearing of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer did not place the person or affiliate on the convicted vendor list. (Please attach a copy of the final order.)

_The person or affiliate was placed on the convicted vendor list. There has been a subsequent proceeding before a hearing officer of the State of Florida, Division of Administrative Hearings. The final order entered by the hearing officer determined that it was in the public interest to remove the person or affiliate from the convicted vendor list. (Please attach a copy of the final order.)

___The person or affiliate has not been put on the convicted vendor list. (Please describe any action taken by or pending with the Department of General Services.)

_____

(Signature)

_____

STATE OF_____(Date)

COUNTY OF_____

_____

PERSONALLY APPEARED BEFORE ME, the undersigned authority,

_____

(Name of individual signing)

who, after first being sworn by me, affixed his/her signature in the

space provided above on this_____day of _____, 2022.

My commission expires: _____

NOTARY PUBLIC

INDEMNIFICATION

To the fullest extent permitted by law, the PROPOSER expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnitees") from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the PROPOSER, its Sub-consultants or persons employed or utilized by them in the performance of the Contract. Claims by indemnitees for indemnification shall be limited to the amount of PROPOSER's insurance or $1 million per occurrence, whichever is greater. The parties acknowledge that the amount of the indemnity required hereunder bears a reasonable commercial relationship to the Contract and it is part of the project specifications or the bid documents, if any.

The indemnification obligations under the Contract shall not be restricted in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for the PROPOSER under workers' compensation acts, disability benefits acts, or other employee benefits acts, and shall extend to and include any actions brought by or in the name of any employee of the PROPOSER or of any third party to whom PROPOSER may subcontract a part or all the Work. This indemnification shall continue beyond the date of completion of the work.

PROPOSER: _____ SEAL:

_____
Address

_____
Signature

_____
Print Name

_____
Title

_____
Date

EQUAL BENEFITS FOR DOMESTIC PARTNERS AFFIDAVIT

STATE OF _____)
: SS
COUNTY OF _____)

I, the undersigned hereby duly sworn, depose and say that the firm of _____ provides benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses per City of Key West Ordinance Sec. 2-799.

By: _____

Sworn and subscribed before me this

_____ day of _____, 2022.

_____
NOTARY PUBLIC, State of _____ at Large

My Commission Expires: _____

City Ordinance Sec. 2-799
Requirements for City Contractors to Provide Equal Benefits for Domestic Partners

(a) Definitions. For purposes of this section only, the following definitions shall apply:

(1) ***Benefits*** means the following plan, program or policy provided or offered by a contractor to its employees as part of the employer's total compensation package: sick leave, bereavement leave, family medical leave, and health benefits.

(2) ***Bid*** shall mean a competitive bid procedure established by the city through the issuance of an invitation to bid, request for proposals, request for qualifications, or request for letters of interest.

(3) ***Cash equivalent*** means the amount of money paid to an employee with a domestic partner in lieu of providing benefits to the employee's domestic partner. The cash equivalent is equal to the employer's direct expense of providing benefits to an employee for his or her spouse.

The cash equivalents of the following benefits apply:

a. For bereavement leave, cash payment for the number of days that would be allowed as paid time off for the death of a spouse. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

b. For health benefits, the cost to the contractor of the contractor's share of the single monthly premiums that are being paid for the domestic partner employee, to be paid on a regular basis while the domestic partner employee maintains such insurance in force for himself or herself.

c. For family medical leave, cash payment for the number of days that would be allowed as time off for an employee to care for a spouse who has a serious health condition. Cash payment would be in the form of the wages of the domestic partner employee for the number of days allowed.

(4) ***Contract*** means any written agreement, purchase order, standing order or similar instrument entered into pursuant to the award of a bid whereby the city is committed to expend or does expend funds in return for work, labor, professional services, consulting services, supplies, equipment, materials, construction, construction related services or any combination of the foregoing.

(5) ***Contractor*** means any person or persons, sole proprietorship, partnership, joint venture, corporation, or other form of doing business, that is awarded a bid and enters into a covered contract with the city, and which maintains five (5) or more full-time employees.

(6) ***Covered contract*** means a contract between the city and a contractor awarded subsequent to the date when this section becomes effective valued at over twenty thousand dollars ($20,000).

(7) ***Domestic partner*** shall mean any two adults of the same or different sex, who have registered as domestic partners with a governmental body pursuant to state or local law authorizing such registration, or with an internal registry maintained by the employer of at least one of the domestic partners. A contractor may institute an internal registry to allow for the provision of equal benefits to employees with domestic partner who do not register their partnerships pursuant to a governmental body authorizing such registration, or who are located in a jurisdiction where no such governmental domestic partnership registry exists. A contractor that institutes such registry shall not impose criteria for registration that are more stringent than those required for domestic partnership registration by the City of Key West pursuant to Chapter 38, Article V of the Key West Code of Ordinances.

(8) ***Equal benefits*** mean the equality of benefits between employees with spouses and employees with domestic partners, and/or between spouses of employees and domestic partners of employees.

(b) Equal benefits requirements.

(1) Except where otherwise exempt or prohibited by law, a Contractor awarded a covered contract pursuant to a bid process shall provide benefits to domestic partners of its employees on the same basis as it provides benefits to employees' spouses.

(2) All bid requests for covered contracts which are issued on or after the effective date of this section shall include the requirement to provide equal benefits in the procurement specifications in accordance with this section.

(3) The city shall not enter into any covered contract unless the contractor certifies that such contractor does not discriminate in the provision of benefits between employees with domestic partners and employees with spouses and/or between the domestic partners and spouses of such employees.

(4) Such certification shall be in writing and shall be signed by an authorized officer of the contractor and delivered, along with a description of the contractor's employee benefits plan, to the city's procurement director prior to entering into such covered contract.

(5) The city manager or his/her designee shall reject a contractor's certification of compliance if he/she determines that such contractor discriminates in the provision of benefits or if the city manager or designee determines that the certification was created or is being used for evading the requirements of this section.

(6) The contractor shall provide the city manager or his/her designee, access to its records for the purpose of audits and/or investigations to ascertain compliance with the provisions of this section, and upon request shall provide evidence that the contractor is in compliance with the provisions of this section upon each new bid, contract renewal, or when the city manager has received a complaint or has reason to believe the contractor may not be in compliance with the provisions of this section. This shall include but not be limited to providing the city manager or his/her designee with certified copies of all of the contractor's records pertaining to its benefits policies and its employment policies and practices.

(7) The contractor may not set up or use its contracting entity for the purpose of evading the requirements imposed by this section.

(c) Mandatory contract provisions pertaining to equal benefits. Unless otherwise exempt, every covered contract shall contain language that obligates the contractor to comply with the applicable provisions of this section. The language shall include provisions for the following:

(1) During the performance of the covered contract, the contractor certifies and represents that it will comply with this section.

(2) The failure of the contractor to comply with this section will be deemed to be a material breach of the covered contract.

(3) If the contractor fails to comply with this section, the city may terminate the covered contract and all monies due or to become due under the covered contract may be retained by the city. The city may also pursue any and all other remedies at law or in equity for any breach.

(4) If the city manager or his designee determines that a contractor has set up or used its contracting entity for the purpose of evading the requirements of this section, the city may terminate the covered contract.

(d) Enforcement. If the contractor fails to comply with the provisions of this section:

(1) The failure to comply may be deemed to be a material breach of the covered contract; or

(2) The city may terminate the covered contract; or

(3) Monies due or to become due under the covered contract may be retained by the city until compliance is achieved; or

(4) The city may also pursue any and all other remedies at law or in equity for any breach;

(5) Failure to comply with this section may also subject contractor to the procedures set forth in Division 5 of this article, entitled "Debarment of contractors from city work."

(e) Exceptions and waivers.

The provisions of this section shall not apply where:

(1) The contractor does not provide benefits to employees' spouses.

(2) The contractor is a religious organization, association, society or any non- profit charitable or educational institution or organization operated, supervised or controlled by or in conjunction with a religious organization, association or society.

(3) The contractor is a governmental entity.

(4) The sale or lease of city property.

(5) The provision of this section would violate grant requirement, the laws, rules or regulations of federal or state law (for example, the acquisition services procured pursuant to Chapter 287.055, Florida Statutes known as the "Consultants' Competitive Negotiation Act").

(6) Provided that the contractor does not discriminate in the provision of benefits, a contractor may also comply with this section by providing an employee with the cash equivalent of such benefits, if the city manager or his/her designee determines that either:

a. The contractor has made a reasonable yet unsuccessful effort to provide equal benefits. The contractor shall provide the city manager or his/her designee with sufficient proof of such inability to provide such benefit or benefits which shall include the measures taken to provide such benefits or benefits and the cash equivalent proposed, along with its certificate of compliance, as is required under this section.

(7) The city commission waives compliance of this section in the best interest of the city, including but not limited to the following circumstances:

a. The covered contract is necessary to respond to an emergency.
b. Where only one bid response is received.
c. Where more than one bid response is received, but the bids demonstrate that none of the bidders can comply with the requirements of this section.

(f) City's authority to cancel contract. Nothing in this section shall be construed to limit the city's authority to cancel or terminate a contract, deny or withdraw approval to perform a subcontract or provide supplies, issue a non-responsibility finding, issue a non-responsiveness finding, deny a person or entity prequalification, or otherwise deny a person or entity city business.

(g) Timing of application. This section shall be applicable only to covered contracts awarded pursuant to bids which are after the date when this section becomes effective.

CONE OF SILENCE AFFIDAVIT

STATE OF _____)
: SS
COUNTY OF _____)

I the undersigned hereby duly sworn depose and say that all owner(s), partners, officers, directors, employees and agents representing the firm of _____ have read and understand the limitations and procedures regarding communications concerning City of Key West issued competitive solicitations pursuant to City of Key West Ordinance Section 2-773 Cone of Silence (attached).

_____
(signature)

_____
(date)

Sworn and subscribed before me this

_____ Day of _____, 2022.

_____
NOTARY PUBLIC, State of _____ at Large

My Commission Expires: _____

City Ordinance Sec. 2-773. - Cone of silence.

(a) *Definitions.* For purposes of this section, reference to one gender shall include the other, use of the plural shall include the singular, and use of the singular shall include the plural. The following definitions apply unless the context in which the word or phrase is used requires a different definition:

(1) *Competitive solicitation* means a formal process by the City of Key West relating to the acquisition of goods or services, which process is intended to provide an equal and open opportunity to qualified persons and entities to be selected to provide the goods or services. Completive solicitation shall include request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RFLI"), invitation to bid ("ITB") or any other advertised solicitation.

(2) *Cone of silence* means a period of time during which there is a prohibition on communication regarding a particular competitive solicitation.

(3) *Evaluation or selection committee* means a group of persons appointed or designated by the city to evaluate, rank, select, or make a recommendation regarding a vendor or the vendor's response to the competitive solicitation. A member of such a committee shall be deemed a city official for the purposes of subsection (c) below.

(4) *Vendor* means a person or entity that has entered into or that desires to enter into a contract with the City of Key West or that seeks an award from the city to provide goods, perform a service, render an opinion or advice, or make a recommendation related to a competitive solicitation for compensation or other consideration.

(5) *Vendor's representative* means an owner, individual, employee, partner, officer, or member of the board of directors of a vendor, or a consultant, lobbyist, or actual or potential subcontractor or sub-consultant who acts at the behest of a vendor in communicating regarding a competitive solicitation.

(b) *Prohibited communications.* A cone of silence shall be in effect during the course of a competitive solicitation and prohibit:

(1) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the city's administrative staff including, but not limited to, the city manager and his or her staff;

(2) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and the mayor, city commissioners, or their respective staff;

(3) Any communication regarding a particular competitive solicitation between a potential vendor or vendor's representative and any member of a city evaluation and/or selection committee therefore; and

(4) Any communication regarding a particular competitive solicitation between the mayor, city commissioners, or their respective staff, and a member of a city evaluation and/or selection committee, therefore.

(c) *Permitted communications.* Notwithstanding the foregoing, nothing contained herein shall prohibit:

(1) Communication between members of the public who are not vendors or a vendor's representative and any city employee, official or member of the city commission;

(2) Communications in writing at any time with any city employee, official or member of the city commission, unless specifically prohibited by the applicable competitive solicitation.

(A) However, any written communication must be filed with the city clerk. Any city employee, official or member of the city commission receiving or making any written communication must immediately file it with the city clerk.

(B) The city clerk shall include all written communication as part of the agenda item when publishing information related to a particular competitive solicitation;

(3) Oral communications at duly noticed pre-bid conferences;

(4) Oral presentations before publicly noticed evaluation and/or selection committees;

(5) Contract discussions during any duly noticed public meeting;

(6) Public presentations made to the city commission or advisory body thereof during any duly noticed public meeting;

(7) Contract negotiations with city staff following the award of a competitive solicitation by the city commission; or

(8) Purchases exempt from the competitive process pursuant to section 2-797 of these Code of

Ordinances; (d) *Procedure.*

(1) The cone of silence shall be imposed upon each competitive solicitation at the time of public notice of such solicitation as provided by section 2-826 of this Code. Public notice of the cone of silence shall be included in the notice of the competitive solicitation. The city manager shall issue a written notice of the release of each competitive solicitation to the affected departments, with a copy thereof to each commission member, and shall include in any public solicitation for goods and services a statement disclosing the requirements of this ordinance.

(2) The cone of silence shall terminate at the time the city commission or other authorized body makes final award or gives final approval of a contract, rejects all bids or responses to the competitive solicitation, or takes other action which ends the competitive solicitation.

(3) Any city employee, official or member of the city commission that is approached concerning a competitive solicitation while the cone of silence is in effect shall notify such individual of the prohibitions contained in this section. While the cone of silence is in effect, any city employee, official or member of the city commission who is the recipient of any oral communication by a potential vendor or vendor's representative in violation of this section shall create a written record of the event. The record shall indicate the date of such communication, the persons with whom such communication occurred, and a general summation of the communication.

(e) *Violations/penalties and procedures.*

(1) A sworn complaint alleging a violation of this ordinance may be filed with the city attorney's office. In each such instance, an initial investigation shall be performed to determine the existence of a violation. If a violation is found to exist, the penalties and process shall be as provided in section 1-15 of this Code.

(2) In addition to the penalties described herein and otherwise provided by law, a violation of this ordinance shall render the competitive solicitation void at the discretion of the city commission.

(3) Any person who violates a provision of this section shall be prohibited from serving on a City of Key
West advisory board, evaluation and/or selection committee.

(4) In addition to any other penalty provided by law, violation of any provision of this ordinance by a City of Key West employee shall subject said employee to disciplinary action up to and including dismissal.

(5) If a vendor is determined to have violated the provisions of this section on two more occasions it shall constitute evidence under City Code section 2-834 that the vendor is not properly qualified to carry out the obligations or to complete the work contemplated by any new competitive solicitation. The city's purchasing agent shall also commence any available debarment from city work proceeding that may be available upon a finding of two or more violations by a vendor of this section.

(Ord. No. 13-11, § 1, 6-18-2013)