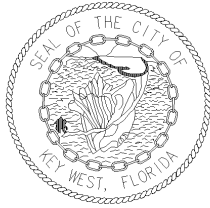


# BID DOCUMENTS FOR:



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**ITB #18-022**

## **PORTABLE SHOWER UNIT PURCHASE KEY WEST HISTORIC SEAPORT**

**MARCH 2018**

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### **CITY OF KEY WEST**

**MAYOR: CITY CRAIG CATES**

**COMMISSIONERS:**

**JIMMY WEEKLEY**

**SAMUEL KAUFMAN**

**BILLY WARDLOW**

**RICHARD G. PAYNE**

**MARGARET ROMERO**

**CLAYTON LOPEZ**

PREPARED BY:  
Port & Marine Services

ITB DOCUMENTS

CITY OF KEY WEST  
KEY WEST, FLORIDA

BID DOCUMENTS

for

**PORTABLE SHOWER UNIT PURCHASE**

\*\*\*\*

CONSISTING OF:

BIDDING REQUIREMENTS  
SUPPLEMENTAL INFORMATION

\*\*\*\*

**KEY WEST HISTORIC SEAPORT**

March 2018

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**PART 1**

**BIDDING REQUIREMENTS**

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## **INVITATION TO BID**

Sealed Bids for City of Key West (CITY) Port & Marine Services **“PORTABLE SHOWER UNIT PURCHASE,”** addressed to the City of Key West, will be received at the office of the City Clerk, 1300 White Street, Key West, Florida until **3:30 p.m.**, local time, on the **28<sup>th</sup> day of March 2018**, and then will be publicly opened and read. Any bids received after the time and date specified will not be considered.

**Please submit one (1) original bid package and two (2) electronic copies on USB drives with a single PDF file of the entire bid package.** Bid package shall be enclosed in a sealed envelope, clearly marked on the outside **“ITB #18-022 PORTABLE SHOWER UNIT PURCHASE – KEY WEST HISTORIC SEAPORT”** addressed and delivered to the City Clerk at the address noted above.

This ITB consists of the following:

- Purchase of one (1) 3-stall shower/ toilet combination unit, delivery and set-up fee as specified in Instruction to Bidders, Scope of Services.

The full Invitation to Bid may be obtained from Demand Star by Onvia and The City of Key West website. Please contact Demand Star at [www.demandstar.com](http://www.demandstar.com) or call 1-800-711-1712 or [www.cityofkeywest-fl.gov](http://www.cityofkeywest-fl.gov)

For information please contact Karen Olson, Deputy Director Port and Marine Services by email at [kolson@cityofkeywest-fl.gov](mailto:kolson@cityofkeywest-fl.gov). Verbal communications, per the City’s “Cone of Silence” ordinance is not allowed.

The Bidder shall furnish documentation showing that he is in compliance with the licensing requirements of County, and City licenses as would be required within ten days of the award. 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 Proposal in question. The CITY may reject BID for any and/or all of the following reasons: (1) for budgetary reasons, (2) if the proposer misstates or conceals a material fact in its bid, (3) if the proposal does not strictly conform to the law or is non-responsive to the bid requirements, (4) if the proposal is conditional, or (5) if a change of circumstances occurs making the purpose of the proposal unnecessary to the CITY. (6) if such rejection is in the best interest of the CITY. The CITY may also waive any minor formalities or irregularities in any proposal.

The CITY retains the right to award bid to the bidder or bidders that best meet the needs of the City.

## **INSTRUCTIONS TO BIDDERS**

### 1. **CONTRACT DOCUMENTS**

#### A. **FORMAT**

The Bid Documents are divided into parts, divisions, and sections for convenient organization and reference.

#### B. **DOCUMENT INTERPRETATION**

Should there be any doubt as to the meaning or intent of said Bid Documents, the Bidder should request of the Deputy Director Port and Marine Services, in writing (at least 4 calendar days prior to Bid opening) an interpretation thereof. Any interpretation or change in said Bid Documents will be made only in writing in the form of Addenda to the Documents, which will be furnished to all registered holders of Bid Documents. Bidders shall submit with their Bids, or indicate receipt of all Addenda. The Owner will not be responsible for any other explanation or interpretations of said Documents.

### 2. **SCOPE OF SERVICES**

Vendor shall provide, deliver and install (1) portable, three stall combination restroom/shower trailer. Trailer must meet the following standard specifications:

Aluminum frame and chassis	Water resistant interior finishes
Smooth aluminum exterior – white	Mar proof interior finishes
Electronic brake system	LED interior lighting
Marine grade sub-floor	Low level exterior lighting
Fully insulated	LED trailer lighting
Completely self-contained	Keypad lockset w/ lever handle
Roof mounted air conditioning	Ducted ventilation
On-demand propane water heater	Flushing porcelain toilets
Interior GFI outlets	Wall-hung sink w/ faucet
Exterior 120V/20amp base receptacle	Shatterproof mirror
(2) 40# LP tanks	Shower stall w/mixing valve
125 gal. min. on-board fresh water tank	Shower rod and curtain
Fresh water hook-up	Soap, towel & toilet paper dispensers
350 gal. min. on-board waste tank	(2) robe hooks per unit
Waste tank level indicator	Utility room with access door
Quick connect waste tank access valve	Full size 30” doors min.
Fold-up diamond plate landing/stair	Ability to be hard-piped for water
Dual handrails	Ability to be hard-piped for waste

### 3. **REQUIRED QUALIFICATIONS**

The prospective Bidder must meet the statutorily prescribed requirements before award of Contract by the CITY. Bidders must hold or obtain all licenses and/or certificates as required by the State and Local Statutes in order to bid and provide the product specified herein. **Provide Vendor's local Business Tax Receipt.**

4. TYPE OF BID

LUMP SUM

The Bid for the products is to be submitted on a lump sum basis. The Bidder agrees to accept as full payment for the products proposed herein, the amounts computed under the provisions of the Contract Documents.

5. PREPARATION OF BIDS

A. GENERAL

All blank spaces in the BID form must be filled in for all schedules and associated parts, as required, preferably in BLACK INK. All price information shall be clearly shown in both words and figures where required. No changes shall be made in the phraseology of the forms. Written amounts shall govern in case of discrepancy between the amounts stated in writing and the amounts stated in figures. In case of discrepancy between unit prices and extended totals, unit prices shall prevail.

Any BID shall be deemed informal which contains omissions, erasures, alterations, or additions of any kind, or prices uncalled for, or in which any of the prices are obviously unbalanced, or which in any manner shall fail to conform to the conditions of the published Invitation to BID.

Only one BID from any individual, firm, partnership, or corporation, under the same or different names, will be considered. Should it appear to the Owner that any Bidder is interested in more than one BID for work contemplated; all Bids in which such Bidder is interested will be rejected.

B. SIGNATURE

The Bidder shall sign his BID in the blank space provided therefor. If Bidder is a corporation, the legal name of the corporation shall be set forth above together with the signature of the officer or officers authorized to sign Contracts on behalf of the corporation. If Bidder is a partnership, the true name of the firm shall be set forth above together with the signature of the partner or partners authorized to sign Contracts in behalf of the partnership. If signature is by an agent, other than an officer of a corporation or a member of a partnership, a notarized power-of-attorney must be on file with the Owner prior to opening of Bids or submitted with the Bid otherwise the Bid will be regarded as not properly authorized.

C. ATTACHMENTS

Bidder shall complete and submit the following forms with his bid:

- Non-Collusion Affidavit
- Anti-Kickback Affidavit
- Sworn Statement under section 287.133(3)(a) Florida Statutes, on public entity crimes
- Indemnification Form
- Local Business License Tax Receipt
- Domestic Partnership Affidavit
- Cone of Silence Affidavit
- Cut sheets on all equipment

- Warranty information

6. MODIFICATION OR WITHDRAWAL OF BID

Prior to the time and date designated for receipt of Bids, any Bid submitted may be withdrawn by written notice to the party receiving Bids at the place designated for receipt of Bids. No Bid may be withdrawn after the time scheduled for opening of Bids unless the time specified in paragraph AWARD OF CONTRACT of these Instructions to Bidders shall have elapsed.

7. AWARD OF CONTRACT

Within SIXTY (60) calendar days after the opening of Bids, the CITY will accept one of the Bids or will act in accordance with the following paragraphs. The acceptance of the Bid will be by written notice of award, mailed to the office designated in the Bid, or delivered to the Bidder's representative. In the event of failure of the lowest responsive, responsible Bidder to sign the Contract and provide an acceptable insurance certificate(s) and evidence of holding required licenses and certificates, the Owner may award the Contract to the next lowest responsive, responsible Bidder. Such award, if made, will be made within ninety (90) days after the opening of Proposals.

The CITY reserves the right to accept or reject any or all Bids and to waive any formalities and irregularities in said Bids.

8. BASIS OF AWARD

The award will be made by the Owner on the basis of the BID from the lowest, responsive, responsible BIDDER(s) which, in the Owner's sole and absolute judgment will best serve the interest of the Owner.

9. VENDOR'S DECLARATION AND UNDERSTANDING

The Bidder declares that he has carefully examined the Contract Documents and that this Bid is made according to the provisions and under the terms of the Contract Documents, which Documents are hereby made a part of this Bid.

10. CERTIFICATES OF INSURANCE

VENDOR is to secure, pay for, and file with the City of Key West, prior to commencing any work under the Contract, all certificates for workers' compensation, public liability, and property damage liability insurance, and such other insurance coverages as may be required by specifications and addenda thereto, in at least the following minimum amounts with specification amounts to prevail if greater than minimum amounts indicated. Notwithstanding any other provision of the Contract, the VENDOR shall provide the minimum limits of liability insurance coverage as follows:

Auto Liability	\$300,000	Combined Single Limit
General Liability	\$300,000	Aggregate (Per Incident)

VENDOR shall furnish an original Certificate of Insurance indicating, and such policy providing coverage to, City of Key West named as an additional insured on a PRIMARY and NON-CONTRIBUTORY basis utilizing an ISO standard endorsement at least as



broad as CG 2010 (11/85) or its equivalent, (combination of CG 20 10 07 04 and CG 20 37 07 04, providing coverage for completed operations, is acceptable) including a waiver of subrogation clause in favor of City of Key West on all policies. VENDOR will maintain the General Liability and Umbrella Liability insurance coverages summarized above with coverage continuing in full force including the additional insured endorsement until at least 3 years beyond completion and delivery of the work contracted herein.

Notwithstanding any other provision of the Contract, the VENDOR shall maintain complete workers' compensation coverage for each and every employee, principal, officer, representative, or agent of the VENDOR who is performing any labor, services, or material under the Contract. Further, VENDOR shall additionally maintain the following minimum limits of coverage:

Bodily Injury Each Accident	\$1,000,000
Bodily Injury by Disease Each Employee	\$1,000,000
Bodily Injury by Disease Policy Limit	\$1,000,000

VENDORS's insurance policies shall be endorsed to give 30 days written notice to the City of Key West in the event of cancellation or material change, using form CG 02 24, or its equivalent.

VENDOR will comply with any and all safety regulations required by any agency or regulatory body including but not limited to OSHA.

#### SURETY AND INSURER QUALIFICATIONS

All insurance contracts, and certificates of insurance shall be either executed by or countersigned by a licensed resident agent of the Surety or insurance company, having his place of business in the State of Florida, and in all ways complying with the insurance laws of the State of Florida. Further, the said Surety or insurance company shall be duly licensed and qualified to do business in the State of Florida.

#### 11. ADDENDA

The Bidder hereby acknowledges that he has received Addenda No's. \_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_, and agrees that all addenda issued are hereby made part of the Contract Documents, and the Bidder further agrees that his Bid(s) includes all impacts resulting from said addenda.

\* \* \* \* \*

# **BID FORM**

Project Title: **PORTABLE SHOWER UNIT PURCHASE  
KEY WEST HISTORIC SEAPORT**

Project No.: **ITB #18-022**

### UNIT PRICE BID

Bid unit prices stated in this proposal include all costs and expenses for labor, equipment, materials, disposal and contractor's overhead and profit. Unit prices for the various work items are intended to establish a total price for completing the project in its entirety. All work and incidental costs shall be included for payment under the several scheduled items of the overall contract, and no separate payment will be made therefore.

1. Portable 3-stall shower/ combination unit

1        LS                                  \$ \_\_\_\_\_

## 2. Delivery and Set-Up Fee

1            LS     \$\_\_\_\_\_

**TOTAL OF ALL EXTENDED LINE ITEMS LISTED ABOVE:**

Total of line items 1 - 2 \$\_\_\_\_\_

\_\_\_\_\_ Dollars & \_\_\_\_\_ Cents  
(amount written in words)

PAYMENT TERMS: 30 days after delivery

DELIVERY DATE \_\_\_\_\_ DAYS ARO

NOTE: THE TOTAL BID WILL BE THE BASIS OF EVALUATING LOW BIDDER AND BASIS OF AWARD

## BIDDER REPRESENTATION

The undersigned, hereinafter called the Bidder, 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.

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:

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

\_\_\_\_\_

Contact Name: \_\_\_\_\_

Email: \_\_\_\_\_

Telephone: \_\_\_\_\_

Fax: \_\_\_\_\_

*Signature:* \_\_\_\_\_ *Date:* \_\_\_\_\_

SURETY

\_\_\_\_\_ whose address is

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
Street City State Zip

\_\_\_\_\_ Resident Agent  
Phone

BIDDER

The name of the Bidder submitting this Bid is \_\_\_\_\_

\_\_\_\_\_ doing business  
at

\_\_\_\_\_, \_\_\_\_\_, \_\_\_\_\_  
Street City State Zip

\_\_\_\_\_  
email address

which is the address to which all communications concerned with this Bid and with the Contract shall be sent.

The names of the principal officers of the corporation submitting this Bid, or of the partnership, or of all persons interested in this Bid as principals are as follows:

Name	Title
_____	_____
_____	_____
_____	_____
_____	_____

If Sole Proprietor or Partnership

IN WITNESS hereto the undersigned has set his (its) hand this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

\_\_\_\_\_  
Signature of Bidder

\_\_\_\_\_  
Title

If Corporation

IN WITNESS WHEREOF the undersigned corporation has caused this instrument to be executed and its seal affixed by its duly authorized officers this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

(SEAL)

\_\_\_\_\_  
Name of Corporation

By \_\_\_\_\_

Title \_\_\_\_\_

Attest \_\_\_\_\_  
Secretary

\_\_\_\_\_  
Sworn and subscribed before me this \_\_\_\_ day of \_\_\_\_\_ 20\_\_.

NOTARY PUBLIC, State of \_\_\_\_\_, at Large

My Commission Expires:

# **NON-COLLUSION AFFIDAVIT**

STATE OF FLORIDA )  
 :  
 SS COUNTY OF MONROE )

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 \_\_\_\_\_, 2018.

NOTARY PUBLIC, State of Florida at Large

My Commission Expires: \_\_\_\_\_

**ANTI-KICKBACK AFFIDAVIT**

STATE OF \_\_\_\_\_)

: 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 \_\_\_\_\_ 20\_\_\_\_.

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 OFFICER AUTHORIZED TO ADMINISTER OATHS.*

1. This sworn statement is submitted with Bid or Proposal 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 \_\_\_\_\_  
(please print name of individual signing)  
and my relationship to the entity named above is \_\_\_\_\_
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 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(1)(b), 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 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 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 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 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, 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)

\_\_\_\_\_  
(date)

STATE OF \_\_\_\_\_

COUNTY OF \_\_\_\_\_

PERSONALLY APPEARED BEFORE ME, the undersigned authority,

\_\_\_\_\_ Who, after first being sworn by me, affixed his/her  
(name of individual signing)

signature in the space provided above on this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

My commission expires:

\_\_\_\_\_  
NOTARY PUBLIC

\* \* \* \* \*

## CITY OF KEY WEST INDEMNIFICATION FORM

To the fullest extent permitted by law, the VENDOR expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents and employees (herein called the "indemnitees") from any and all liability for damages, including, if allowed by law, 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, caused in whole or in part by any act, omission, or default by VENDOR or its subcontractors, material men, or agents of any tier or their employees, arising out of this agreement or its performance, including any such damages caused in whole or in part by any act, omission or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of the VENDOR or its subcontractors, material men or agents of any tier or their respective employees.

Indemnification by VENDOR for Professional Acts. VENDOR hereby agrees to indemnify the City of Key West and each of its parent and subsidiary companies and the directors, officers and employees of each of them (collectively, the "indemnitees"), and hold each of the indemnitees harmless, against all losses, liabilities, penalties (civil or criminal), fines and expenses (including reasonable attorneys' fees and expenses) (collectively, "Claims") to the extent resulting from the performance of VENDOR's negligent acts, errors or omissions or intentional acts in the performance of VENDOR's services, or any of their respective affiliates, under this Agreement. If claims, losses, damages, and judgments are found to be caused by the joint or concurrent negligence of the City of Key West and VENDOR, they shall be borne by each party in proportion to its negligence.

VENDOR: \_\_\_\_\_

SEAL:

\_\_\_\_\_  
Address

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

DATE: \_\_\_\_\_

NOTARY PUBLIC, State of Florida at Large

My Commission Expires:

\* \* \* \* \*

**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 Code of Ordinances Sec. 2-799.

By: \_\_\_\_\_

Sworn and subscribed before me this \_\_\_\_\_ day of \_\_\_\_\_ 20 \_\_\_\_.

NOTARY PUBLIC, State of Florida at Large

My Commission Expires:

\* \* \* \* \*

**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 Code of Ordinances Sec. 2-773 Cone of Silence.

By: \_\_\_\_\_

Sworn and subscribed before me this

\_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_.

\_\_\_\_\_

NOTARY PUBLIC, State of \_\_\_\_\_ at Large

My Commission Expires: \_\_\_\_\_

\* \* \* \* \*

## **BIDDER'S CHECKLIST**

(Note: The purpose of this checklist is to serve as a reminder of major items to be addressed in submitting a bid and is not intended to be all inclusive. It does not alleviate the Bidder from the responsibility of becoming familiar with all aspects of the Contract Documents and Proper completion and submission of his bid.)

1. All Bid Documents thoroughly read and understood ☐
2. All blank spaces in Bid filled in black ink. ☐
3. Total and unit Prices added correctly. ☐
4. Addenda acknowledged. ☐
5. Bid signed by authorized officer. ☐
6. Bidder familiar with federal, state, and local laws, ordinances, rules and regulations affecting the proposed purchase. ☐
7. Bidder, if successful, able to obtain and/or demonstrate possession of required licenses and certificates within (10) ten days after receiving a Notice of Award. ☐
8. Bid submitted intact with the volume containing the Bidding Requirements, Contract Forms and Conditions of the Contract, one (1) original, two (2) USB drives. ☐
9. Bid Documents submitted in sealed envelope and addressed and labeled in conformance with the instructions in the Invitation to Bid. ☐
10. Anti-kickback Affidavit; Public Entity Crime Form; City of Key West Indemnification Equal Benefits for Domestic Partners Affidavit; Cone of Silence, Non-Collusion Affidavit and Proof of Insurance ☐
11. Equipment Cut Sheets; Warranty Information ☐
12. Read and Understand the City of Key West Purchase Order Terms & Conditions ☐

## **CITY OF KEY WEST PURCHASE ORDER TERMS AND CONDITIONS**

1. **AGREEMENT:** Except as provided in Paragraph 22 below, this purchase order, including these terms, conditions, the referenced bid package, and the specifications hereto, constitute the sole and entire agreement between the parties hereto (hereinafter "Agreement" or "Purchase Order"). Seller's acceptance of this Agreement is limited to the terms and conditions hereof and written confirmation, commencing performance, or making deliveries hereunder constitutes such acceptance, notwithstanding Seller's proposal or terms additional to or different from those set forth in this Agreement. The Seller's quotation is incorporated in and made a part of this Agreement only to the extent of specifying the nature and description of the goods and services ordered and then only to the extent that such items are consistent with the other terms of this Agreement. No course of prior dealings between the parties and no usage of the trade shall be relevant to supplement or explain any of the terms or conditions hereof. The Buyer is the City of Key West, Florida, (hereinafter referred to as the "City" or "Buyer").

2. **TIME IS OF THE ESSENCE:** Failure to perform services or deliver goods of the quality and quantity and within the time limit(s) specified by this Purchase Order shall, at the option of the City, relieve it of any obligation to accept and pay for such goods or services, including any undelivered shipments of goods. Upon failure to deliver as specified, the City may buy like goods or services elsewhere and charge the Seller with any increased cost or other loss incurred thereon, pursuant to applicable law, unless defective shipment of goods, or performance of defective services, as applicable, is agreed to by the City in writing. Any failure by the City to exercise its option with respect to any shipment of goods or performance of services shall not be deemed to constitute a waiver with respect to subsequent shipments of goods or performance of services. This provision is not in lieu of, and the City does not waive any remedies provided by law.

3. **WARRANTY:** With respect to services, Seller warrants unto the City that Seller has the competence and abilities to complete the services set forth herein. Seller will perform the services with due and reasonable diligence consistent with sound professional practices. With respect to goods, Seller warrants to City (a) that the goods shall be of the quality specified or of the test grade of their respective kinds if no quality is specified; shall conform to the specifications, drawings, samples and other descriptions contained herein, and to representations made by Seller or its representatives; be fit for City's particular purpose; and (b) that at the time the goods are accepted by the City, the goods shall have been produced, sold, delivered, and furnished in compliance with all applicable Federal and State laws, including but not limited to the Consumer Product Safety Act, the Federal Occupational Safety and Health Act, the Fair Employment Practices Act and the Equal Pay Act, and all applicable municipal ordinances, regulations, rules, labor agreements, and working conditions to which the goods are subject, (c) that the goods furnished hereunder are free of any claims or liens of whatever nature whether rightful or otherwise of any person, corporation, partnership or association.

4. **MODIFICATIONS:** Except as provided in Paragraph 22, this Agreement can be modified or rescinded only in writing and if signed by both parties, or their duly authorized agents.

5. **WAIVER:** The failure of the City to enforce any provision of this Agreement or exercise any right or privilege granted to the City hereunder shall not constitute or be construed as a waiver of any such provision or right and the same shall continue in full force.

6. **CITY OPTIONS:** City reserves the right to change specifications and delivery dates. Any difference in price required by such changes shall be equitably adjusted and the Agreement shall be modified in writing accordingly. City further reserves the right to terminate all or part of the work to be performed pursuant to this Agreement. In such event, City shall be liable only for materials or work done within the authorization of this Agreement. In no event shall City be liable for incidental or consequential damages by reason of such termination.

7. **INDEMNIFICATION:** Seller agrees to protect, indemnify, save and hold harmless City, its elected and appointed officials, officers, attorneys, and employees, from and against all losses, costs and expenses and from and against all claims, demands, suits and actions for damages, losses, costs, attorneys fees, expenses and from and against all liability awards, judgements, and decrees of whatsoever nature for any and all damages to property of the City or others of whatsoever nature and for any and all injury to any person (including death) arising out of or resulting from negligence of Seller, breach of this Purchase Order in the performance of services or the manufacture of goods, from any defect in materials or workmanship, from the failure of the goods to perform to its full capacity as specified in the Purchase Order, specifications of other data, or from the breach of any express or implied warranty.

**8.PATENT INDEMNIFICATION:** Seller represents and warrants that it has the right to use any and all intellectual property, either by licensure or ownership, that is supplied, indirectly or directly, under this Purchase Order. Further, the Seller agrees that the City is relying on this representation and warranty to issue this Purchase Order. Seller agrees to hold harmless and to defend City against any claims of patent or copyright infringement occasioned by the manufacturer, sale or use of material supplied under this Purchase Order and to indemnify City, and its elected and appointed officials, officers, attorneys, and employees, against any damages occasioned by such claims whether justified or unjustified.

**9.INSPECTION:** City shall have a reasonable time after delivery or performance within which to inspect the goods or services. Goods rejected will, at Seller's expense, be returned to Seller or otherwise disposed of as Seller shall reasonably request. The cost of inspection of goods or services rightfully rejected shall be charged to the Seller. If reasonable inspection disclosed that part of the goods received or services performed are defective or nonconforming, City shall have the right to cancel any unshipped portion of the order or unperformed portion of the services. Payment for the goods or services on this Purchase Order prior to inspection shall not constitute acceptance thereof, and is without prejudice to any and all claims that City may have against Seller. The making or failure to make any inspection of, or payment for acceptance of, the goods or services, shall in no way impair City's right to reject nonconforming goods or services, recover damages or exercise any other remedy to which City may be entitled, notwithstanding City's knowledge of the nonconformity, its substantiality or the ease of its discovery.

**10.TAXES:** The City government is a non-profit operation and not subject to tax.

**11. CONTINGENCIES:** Performance of any obligation under this Agreement may be suspended by either party without liability, to the extent that an act of God, war, riot, fire, explosion, accident, flood, sabotage, inability to obtain fuel or power, governmental laws, regulations, or orders, or any other cause beyond the reasonable control of such party, or labor trouble, strike, lockout or injunction (whether or not such labor event is within the reasonable control of such party) delays, prevents, restricts or limits the performance of this Agreement or the consumption, sale, use or end use of goods or services. The affected party shall invoke this provision by promptly notifying the other party in writing of the nature and estimated duration of the suspension period. At City's option, either the Agreement period shall be extended by the term of any such suspension, or the total Agreement quantity hereunder shall be reduced by the quantity not delivered or performed during the term of such suspension, and, in either event, the Agreement shall otherwise remain unaffected. In such event that Seller's performance is suspended for more than sixty (60) days during the term hereof, City may, at its option, terminate this Agreement upon written notice to the Seller.

**12.PRICE PROTECTION:** Seller warrants that the price(s) set forth herein are equal to the lowest net price, and the terms and conditions of sale as favorable as the price(s), terms and conditions afforded by the Seller to any other customer for goods or services of compatible grade or quality during the terms hereof. Should City be able to purchase goods or services of the same or comparable quality from another source at a lower delivered cost then in effect, thereunder, and City gives Seller written notice hereto, City may purchase such goods or services from such other sources at such lower delivered cost unless within fifteen days of receipt by Seller of said notice, Seller meets such lower delivered cost for such quantity of goods or services. Any quantity of goods or services so purchased from another source by City shall be deducted from the total quantity offered on this Agreement, but the Agreement shall otherwise remain unaffected.

**13.PACKAGING AND CARTAGE:** No charge will be allowed for packing, boxing or cartage unless agreed upon at the time of purchase, but damage to any goods not packed to insure proper protection to same will be charged to Seller. City's order number and quantity shipped will be marked or tagged on each package. City's count will be accepted as final and conclusive on any shipment not accompanied by itemized packing slip. Delay in or non-receipt of packing lists, statements or invoices in the number of copies specified or errors or omissions of any of these will be just cause for withholding payment.

**14.HAZARD:** Seller shall notify City of any inherent hazard and applicable precautions and protective measures and provide any additional relevant information, including but not limited to Material Data Safety Sheets, for the goods being purchased herein.

**15.QUANTITY:** The quantities of goods or duration of services as indicated on the face hereof, must not be exceeded without prior written authorization from City. Excess quantities may be returned to Seller at Seller's expense.

**16.ASSIGNMENT:** No right or interest in this Agreement shall be assigned by Seller without the prior written permission of the City and no delegation of any obligation owed by either City or Seller shall be made without the prior written permission of either party. Any attempted assignment or delegation shall be wholly void and totally ineffective for all purposes.

**17.CHOICE OF LAW; VENUE:** The validity, interpretation, and performance of this Agreement shall be governed and construed in accordance with the laws of the State of Florida. In the event of any dispute under this Purchase Order, venue shall be in Monroe County, Florida for any state action and Key West, Florida for any federal action.

**18.PUBLIC RECORDS; RIGHT TO AUDIT RECORDS:** Written documents prepared by either the Seller or City in furtherance of this Agreement shall constitute a public record. Any such instrument maintained by Seller hereunder shall be delivered to the City upon request. The City shall also be entitled to audit the books and records of the Seller to the extent that such books and records relate to the performance of this Agreement. Such books and records shall be maintained by the Seller for a period of three (3) years from the date of final payment under this Agreement unless a shorter period is otherwise authorized in writing by the City.

**19.FISCAL YEAR FUNDING APPROPRIATION:** (a) Specified Period. Unless otherwise provided by law, a purchase order for supplies or services may be entered into for any period of time deemed to be in the best interest of the City, provided the term of the purchase order and conditions of renewal or extension, if any, are included in the solicitation and funds are available for the initial fiscal period of the purchase order. Payment and performance obligations for succeeding fiscal periods shall be subject to the annual appropriation by City Commission. (b) Cancellation Due to Unavailability of Funds in Succeeding Fiscal Periods. When funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal year period, the purchase order shall be cancelled and the contractor shall be entitled to reimbursement for the reasonable value of any work performed to the date of cancellation.

**20.FAILURE TO EXECUTE PURCHASE ORDER:** Failure of the successful bidder to accept the Purchase Order as specified may be cause for cancellation of the award. In the event that the order is cancelled, the award may then be made to the second lowest responsive and responsible bidder, and such bidder shall fulfill every stipulation embraced herein as if he were the original party to whom the bid award was made, or all bids may be rejected and made void by the City.

**21.INDEPENDENT CONTRACTOR.** The Seller shall perform the obligations of this Purchase Order as an independent contractor and under no circumstances shall it be considered as agent or employee of the City.

**22.OTHER RELATED AGREEMENTS.** In conjunction with, or prior to issuing this Purchase Order, the City may require the Seller to execute a full written agreement that is approved by the City Manager or City of Key West Commission. to the extent there are any conflicting terms and conditions. Otherwise, the Master Agreement and this Purchase Order shall be deemed supplemental to each other.

**23.SOVEREIGN IMMUNITY.** Nothing contained in this Purchase Order shall be construed as a waiver of the City's right to sovereign immunity under section 768.28, Florida Statutes, or other limitations imposed on the City's potential liability under state or federal law. The provisions of \*768 28, Florida Statutes, and any other limitations or restrictions in the City's liability shall be deemed incorporated herein by this reference.

**24.INSURANCE.** If this Purchase Order requires the Seller to perform services on the City's premises or at any place where the City conducts operations, or requires the Seller to perform professional consulting services, the Seller shall request insurance coverage requirements from the City's Purchasing Manager. In circumstances where insurance is required by the City, Seller shall provide proof of insurance or insurance certificates with the City listed as an additional named insured prior to performing under this Purchase Order. Noncompliance with this Paragraph shall place the Seller in default and subject this Purchase Order to immediate cancellation.

**25.TAX EXEMPTION:** The City's Florida State Sales Tax Exemption Number is 85-8012621608C5 and Federal tax ID Number is 59-6000346.

**26.ORDER OF PRECEDENCE:** When this PO is issued subsequent to the results of a request for quote, bid, or proposal, additional terms and conditions, if any, contained in the solicitation or resulting contract shall control.

**27.SHIPPING INSTRUCTIONS:** Unless otherwise specified, all goods are to be shipped prepaid, FOB destination. When shipping address indicates a room number and/or inside delivery, it is the Vendor's responsibility to make delivery to that location at no additional charge. Where specific authorization is granted to ship goods to FOB shipping point, Vendor agrees to prepay all shipping charges and route as instructed. No COD shipments will be accepted.