

REQUEST FOR PROPOSALS

RFP#009-19

CITY OF KEY WEST

**CODE COMPLIANCE SPECIAL
MAGISTRATE**

Proposal Form

To: City of Key West City Clerk
1300 White Street
Key West, Florida 33040

The undersigned hereby declares that he/she/it has carefully examined the RFP#009-19 for **Code Compliance Special Magistrate Services**, and agrees to furnish the same, as specified, in accordance with the terms and conditions of the document

NAME OF INDIVIDUAL OR FIRM:

Dirk Matthew Smits, Esq.

Vernis & Bowling of the Florida Keys, P.A.

BUSINESS ADDRESS:

81990 Overseas Highway, Islamorada, Florida 33036

TELEPHONE NO.:

305-664-4675

SIGNATURE & NAME OF CONTACT PERSON:



Dirk M. Smits, B.S.C.

TITLE: Managing Attorney/Partner

DATE: July 16, 2010

Profile of Submitter
VERNIS & BOWLING
OF THE FLORIDA KEYS, P.A.

I. History of Vernis & Bowling of The Florida Keys, P.A.

Vernis & Bowling of the Florida Keys was founded by James Bowling in 1973 in Islamorada, Florida. Over the years that followed the firm's leadership changed locally with many quality attorneys providing excellent service to our local community.

In 1997 the firm changed its leadership here in the Keys and brought in Dirk M. Smits.

Mr. Smits took over the reins of Vernis & Bowling of The Florida Keys at that time and since that date has led the office from a solo practice in 1997 to the largest local law firm in the Florida Keys. Under Mr. Smits' leadership the firm took on a new focus towards government work. Mr. Smits' history included work for municipalities and a taxing district as well as other government type matters for private individuals. Mr. Smits also possessed skill and experience in the courtroom, which translated to numerous litigation matters and over a dozen trials to verdict locally in the Florida Keys, from Plantation Key to Key West. The litigations undertaken by Mr. Smits include both private individuals, corporations and government entities.

Today, Mr. Smits possesses Board Certification by the Florida Bar and is considered an expert in City, County and Local Government Law. Mr. Smits serves as a Monroe County School Board attorney, City Attorney for the City of Layton, Attorney to the Key Largo Fire and Emergency Medical Services Board as well as Attorney to the Florida Keys Mosquito Control District.

II. Special Expertise of the Firm and its Government Lawyers

Mr. Smits and the members of his firm have extensive experience in government matters. Dirk M. Smits developed and oversees the passage and implementation of the Sales Tax Referendum for the School District as well as a Half Mil Referendum and implementation. Additionally, Mr. Smits is published in the Sunshine Law, a copy of which is attached. Finally, as previously mentioned, Mr. Smits is Board Certified in Local Government Law, which requires a comprehensive assessment of the skill and knowledge of the certified lawyer in all areas of government including City Government. Mr. Smits is considered an expert in local government law and allowed to so indicate under the Rules Regulating the Florida Bar.

III. Location and Staff

Vernis & Bowling of the Florida Keys, P.A. is located at 81990 Overseas Highway, Islamorada, Florida 33036. Dirk M. Smits, B.C.S is the managing attorney/partner, and the firm currently has five (5) associate attorneys: Scott Black, Esq., Gaelan Jones, Esq., Michael Ferral, Esq., Dale Coburn, Esq., and Michael San Filippo, Esq., as well as an experienced support staff, to serve the needs of the all of the clients represented. Additionally, the firm has experienced government lawyers in all 14 offices throughout the State of Florida, as well as Alabama and Georgia.



[Department of State](#) / [Division of Corporations](#) / [Search Records](#) / [Detail By Document Number](#) /

Detail by Entity Name

Florida Profit Corporation

VERNIS & BOWLING OF THE FLORIDA KEYS, P.A.

Filing Information

Document Number P93000064464
FE/EIN Number 65-0437103
Date Filed 09/13/1993
State FL
Status ACTIVE

Principal Address

81990 OVERSEAS HWY
THIRD FLOOR
ISLAMORADA, FL 33036

Changed: 04/27/2017

Mailing Address

1680 NE 135 STREET
NORTH MIAMI, FL 33181

Changed: 02/18/2011

Registered Agent Name & Address

BOWLING, JAMES W
1680 NE 135TH ST
N. MIAMI, FL 33181

Address Changed: 04/27/2017

Officer/Director Detail

Name & Address

Title President, Director, Treasurer, Secretary

BOWLING, ROBERT C
1680 NE 135TH ST
N. MIAMI, FL 33181

Title VP

BOWLING, JAMES W
1680 NE 135TH ST

N. MIAMI, FL 33181**Annual Reports**

Report Year	Filed Date
2017	04/04/2017
2018	01/16/2018
2019	02/13/2019

Document Images

<u>02/13/2019 -- ANNUAL REPORT</u>	View image in PDF format
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<u>04/27/2017 -- AMENDED ANNUAL REPORT</u>	View image in PDF format
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<u>04/30/1996 -- ANNUAL REPORT</u>	View image in PDF format

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**2018 / 2019
MONROE COUNTY BUSINESS TAX RECEIPT
EXPIRES SEPTEMBER 30, 2019**

Business Name: SIMMONS THERON C - VERNIS & BOWLING OF THE FLORIDA KEYS
Owner Name: THERON C SIMMONS
Mailing Address: 81990 OVERSEAS HWY 3RD FLOOR ISLAMORADA, FL 33036
RECEIPT# 46112-107262
Business Location: 81990 OVERSEAS HWY 3RD FLOOR ISLAMORADA, FL 33036
Business Phone: 305-664-4675
Business Type: ATTORNEY

STATE LICENSE: FL BAR 0623385

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
30.00	0.00	30.00	3.00	0.00	0.00	33.00

Paid 317-18-00000049 10/10/2018 33.00

THIS BECOMES A TAX RECEIPT
WHEN VALIDATED

Danise D. Henriquez, CFC, Tax Collector
PO Box 1129, Key West, FL 33041

THIS IS ONLY A TAX.
YOU MUST MEET ALL
COUNTY AND/OR
MUNICIPALITY PLANNING
AND ZONING REQUIREMENTS.

**MONROE COUNTY BUSINESS TAX RECEIPT
P.O. Box 1129, Key West, FL 33041-1129
EXPIRES SEPTEMBER 30, 2019**

Business Name: SIMMONS THERON C - VERNIS & BOWLING OF THE FLORIDA KEYS
Owner Name: THERON C SIMMONS
Mailing Address: 81990 OVERSEAS HWY 3RD FLOOR ISLAMORADA, FL 33036
RECEIPT# 46112-107262
Business Location: 81990 OVERSEAS HWY 3RD FLOOR ISLAMORADA, FL 33036
Business Phone: 305-664-4675
Business Type: ATTORNEY

STATE LICENSE: FL BAR 062338

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
30.00	0.00	30.00	3.00	0.00	0.00	33.00

Paid 317-18-00000049 10/10/2018 33.00



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
02/20/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER National Risk Management & Associates, Inc. Robert J. Ray, CIC, CRM, CPRM License #A215767 P.O. Box 521550 Longwood FL 32752-1550		CONTACT NAME: Robert J. Ray, CIC, CRM, CPRM PHONE (A/C, No, Ext): (407) 767-2950 FAX (A/C, No): (407) 767-9117 E-MAIL ADDRESS: Robert.Ray@nrmafa.com
INSURED Vernis & Bowling et al 1680 Northeast 135th Street Miami FL 33181		INSURER(S) AFFORDING COVERAGE INSURER A: Continental Casualty - CNA INSURER B: Argonaut Insurance Company INSURER C: INSURER D: INSURER E: INSURER F:
		NAIC # 20443 19801

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
	COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input type="checkbox"/> OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: <input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC OTHER:					EACH OCCURRENCE \$ DAMAGE TO RENTED PREMISES (Ea occurrence) \$ MED EXP (Any one person) \$ PERSONAL & ADV INJURY \$ GENERAL AGGREGATE \$ PRODUCTS - COMP/OP AGG \$ COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	AUTOMOBILE LIABILITY <input type="checkbox"/> ANY AUTO <input type="checkbox"/> OWNED AUTOS ONLY <input type="checkbox"/> HIRED AUTOS ONLY <input type="checkbox"/> SCHEDULED AUTOS <input type="checkbox"/> NON-OWNED AUTOS ONLY					EACH OCCURRENCE \$ AGGREGATE \$
	UMBRELLA LIAB <input type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED RETENTION \$					PER STATUTE OTH-ER \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	<input type="checkbox"/> Y <input type="checkbox"/> N				E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$
A B	Lawyer's Professional Liability		596873486	02/23/2019	02/23/2020	Limits of Liability: \$10,000,000/\$10,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Law Firm

CERTIFICATE HOLDER

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

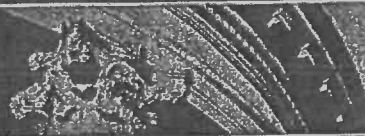
AUTHORIZED REPRESENTATIVE

 Robert J. Ray, CIC, CRM, CPRM

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VERNIS & BOWLING

ATTORNEYS AT LAW • EST. 1970



Dirk M. Smits, Esq.

Vernis & Bowling of the Florida Keys, P.A.
Islamorada Professional Center - 3rd Floor
81990 Overseas Highway
Islamorada, Florida 33036
Phone: (305) 664-4675
Fax: (305) 664-5414
email: DSmits@Florida-Law.com
website: www.Florida-Law.com

Dirk M. Smits was born in Boca Raton, Florida. He attended and graduated from Tulane University with a bachelor's degree in accounting. During his years at Tulane, he was a member of Beta Alpha Psi Accounting Honor Society and on the Dean's List three (3) semesters. Mr. Smits attended law school at the University of Miami and graduated *Cum Laude*. While in law school, he received honors including Dean's List and an honors scholarship.

Mr. Smits' practice is concentrated primarily in City, County and Local Government Law and he has been certified as an expert by the Florida Bar for those areas. He serves as a Monroe County School Board Attorney, City Attorney for the City of Layton, Board Attorney for the Florida Keys Mosquito Control District, and Board Attorney for Key Largo Fire & EMS District. The firm and Mr. Smits formerly served as counsel to Monroe County.

In service of the numerous government clients, Mr. Smits has handled every aspect of the practice. Matters include a range of routine meeting issues to complicated land use, acquisition and even eminent domain questions. Mr. Smits regularly drafts legal documents, resolutions, ordinances, contracts and legal opinions for his government clients.

Mr. Smits has extensive jury trial experience at both the Federal and State level. In addition, Mr. Smits has appellate experience in the Third, Fourth and Fifth State District Courts of Appeal. He most recently has appeared for oral argument in both final and interlocutory appeals in the Florida Third District Court of Appeal as well as the Florida Supreme Court. Complementary to this courtroom experience is his Supreme Court certification as a Circuit and County Court Mediator.

AREAS OF PRACTICE:

City, County and Local Government Law
Administrative Law/DOAH
Labor and Employment Law
Public Procurement
Civil Litigation
Construction Defect
Personal Injury
Insurance Defense
Commercial Litigation
Appellate Practice
Admiralty/Maritime Law
Business and Real Estate Law
Land Use and Code Enforcement Prosecution and Defense
Mediation and Alternative Dispute Resolution
Bankruptcy issues relating to real estate lender representation
Landlord/Tenant Matters

BAR & COURT ADMISSIONS:

Florida Bar
All State Courts in Florida
U.S. District Courts for the Southern and Middle Districts of Florida
U.S. Bankruptcy Court Bar for the Southern District of Florida
Member of the Florida School Board Attorneys Association
Supreme Court Certified Mediator
Board Certified in City, County and Local Government Law

EDUCATION:

Graduate:
University of Miami Law School, Juris Doctor

Honors:
Cum Laude
Dean's List

Undergraduate:
Tulane University, B.A. in Accounting

Honors:
Beta Alpha Psi Accounting Honor Society

PUBLICATIONS:

Smits, D. M. And E Fussell. 2004. Introduction to Florida Sunshine Law. *In:* Rutledge, C.R. (Ed.) Florida Mosquito Control Handbook, Third Edition. Florida Mosquito Control Association, Ft. Myers, FL. 7 pp.



DIRK M. SMITS
FIRM MANAGER
VERNIS & BOWLING
OF THE FLORIDA KEYS, P.A.

ATTORNEYS AT LAW
81990 OVERSEAS HIGHWAY
ISLAMORADA, FL 33036

TELEPHONE: (305) 664-4675
FACSIMILE: (305) 664-5414

EDUCATION

University of Miami School of Law, Coral Gables, FL

Juris Doctor graduated Cum Laude

G.P.A.: 3.2/4.0 Rank: 46/349 Class: 16/106 Section (Top 12% overall)

Honors: Dean's List 2 of 6 semesters, Dean's Honor Scholarship

A.B. Freeman School of Business, Tulane University, New Orleans, LA

Bachelor of Science in Management with concentration in accounting.

G.P.A.: 3.4/4.0 (accounting), 3.4/4.0 (business), 3.1/4.0 (Tulane overall)

Honors: Dean's List 3 of 6 semesters, Beta Alpha Psi Honor Society

Activities: Tulane Rowing Team, Officer Sigma Chi Fraternity, Campaign volunteer for Boca Raton Mayor Carol Hanson

Organizations: Upper Keys Bar Association; Academy of Defense Trial Attorneys
Chairman, Bar Grievance Committee 16A; Board Member – Rural Health; Board Member –
Florida Keys Community College Foundation

Supreme Court Certified Circuit and County Court Mediator

Board Certified City County and Local Government

EXPERIENCE

Firm Manager, Principle of Florida Keys and Key West offices. Manage mid-sized Florida Keys full service law firm with 6 attorneys and 6 paralegals.

VERNIS & BOWLING OF THE FLORIDA KEYS, P.A., Islamorada, FL

Responsible for full-time handling of all aspects of arbitration, trial, general commercial representation, government and appellate practice in Monroe County, Florida. Attorney for the Florida Keys Mosquito Control District (litigation and board attorney), Monroe County School Board (for litigation as well as Board Attorney), Board Attorney for Key Largo Fire and EMS

special taxing district, Florida Keys Children=s Shelter, City of Layton Code Enforcement Board and the State of Florida, including Florida Highway Patrol, Department of Transportation, Department of Corrections, Monroe County State Attorney, Department of Health, Florida Marine Patrol and the Department of Children & Families. Litigation and trial experience in State and Federal courts in Monroe County and throughout middle and South Florida. Appellate experience in the 3rd, 4th, 5th DCAs as well as the 11th Circuit, the Florida Supreme Court and U.S. Supreme Court. Areas of practice include general commercial litigation, arbitration and government, emphasis in general government representation and litigation (Administrative, State and Federal), insurance, commercial, employment law and Florida Sunshine Law. June 1997 - Present.

Senior Associate Attorney/Independent Contractor,

LAW OFFICES OF ARTHUR C. KOSKI, Boca Raton, FL

Ran own independent personal injury plaintiff and defense trial practice in conjunction with being responsible for handling all aspects of arbitration, trial and appellate practice for the Law Offices of Arthur C. Koski. Trial experience in State and Federal court cases, jury and non-jury. Areas of practice include general commercial representation, litigation and arbitration, plaintiff and defendant personal injury, Federal ADEA and sexual harassment defense, and general employment law, general representation of the Greater Boca Raton Beach Tax District as well as domestic relations. April 1995 - June 1997.

Senior Associate/Attorney,

ZACK, PONCE & TUCKER, P.A., Miami, FL

Responsible for all aspects of complex litigation, from inception to conclusion. Argued motions. Handled all phases of discovery including depositions of fact and various witnesses in the medical, bio-mechanical, economic and vocational rehabilitationist fields. Participated in settlement negotiations, mediations and trial preparation. Fully briefed and argued appeals in *N.P.B.A., et. al. v. Calabro*, Case No. 94-1598, and *City of Miami Beach, et. al. v. Garcia*, Case No. 94-879 and 94-549. Areas of concentration include plaintiff and defendant personal injury, automobile, products liability, medical malpractice and other professional malpractice, commercial work for Fortune 500 companies as well as other commercial clients and governmental entities including the City Miami Beach and the City of Coral Gables. June 1993 - April 1995.

Associate/ Attorney,

WILSON, ELSE, MOSKOWITZ, EDELMAN & DICKER, Miami, FL

Participated in trial of *Wenger v. Arai Helmet*. Argued motions. Prepared all aspects of cases for trial. Took and defended depositions of witnesses. Settled cases. Drafted trial and appellate briefs. Drafted motions, pleadings, discovery, client reports and correspondence. Researched Federal and State laws. Areas of practice include general insurance defense litigation, commercial litigation and insurance coverage analysis. August 1991 - June 1993.

Diploma of Recognition

Upon the recommendation of the Faculty
has conferred on
Birk Mathieu Smith
the degree of

Surge Doctor

with all the rights, honors and privileges therunto appertaining.
In witness whereof, the seal of the University and the signatures
of the President and the Dean are hereunto affixed.

Given at Coral Gables, Florida, on

May 12, 1991

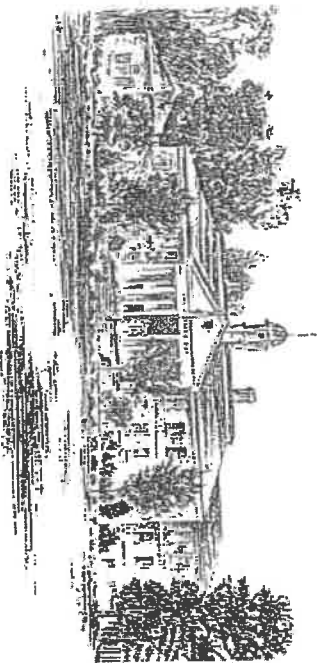
President



Dean

Mary Doyle
Dean

The Florida Bar



he it known that

Birk M. Smith

has met the Standards of Certification
and is Board Certified as a specialist in
City, County and Local Government Law
and is granted the rights and privileges
appertaining to such certification



from

August 1, 2005

to

July 31, 2010

Kenneth Smith
Chair, Board of Legal Specialization

CHAIR, BOARD OF LEGAL SPECIALIZATION
CITY, COUNTY AND LOCAL GOVERNMENT LAW

Certification is the highest level of recognition given by The Florida Bar for competency and experience within an area of law. Look here to find a board certified attorney or become board-certified.

BOARD CERTIFICATION IN CITY, COUNTY & LOCAL GOVERNMENT LAW



For complete information regarding board certification in city, county and local government law, see Rule 6-18, Rules Regulating The Florida Bar. For questions concerning the requirements for board certification in city, county and local government law, or to obtain an application for board certification in city, county and local government law, contact the staff liaison for this area.

Certification can help you by giving you a way to make known your experience to the public and other lawyers. Certification also improves competence by requiring continuing your legal education in a specialty field. There are many benefits to becoming Board Certified in city, county and local government law:

Your name is listed in the Directory issue of The Florida Bar Journal in the Certified Lawyer's section, under the area of specialty by geographical location;

- You are recognized by your peers in the field as being as specialist in this area of the law and become a good source for referrals both from other lawyers, as well as the general public;
- Specialization is an opportunity for targeted advertising;
- You may advertise yourself as a "certified specialist" in your chosen area of practice, a distinction that becomes ever more important as the number of certified specialists increases and the public becomes more aware of the significance of certification.

STATISTICS

There are currently 149 attorneys Board Certified in city, county and local government law since the area's inception in 1996. Certified attorneys make up approximately 6% of The Florida Bar's total membership. Attorneys certified in city, county and local government law make up roughly 3% of all board certified attorneys.

DEFINITION

"City, County and Local Government Law" is the practice of law dealing with legal issues of county, municipal or other local governments, such as, but not limited to, special districts, agencies and authorities, including litigation in the federal and state courts and before administrative agencies; the preparation of laws, ordinances and regulations; and the preparation of legal instruments for or in behalf of city, county and local governments.

APPLICATIONS

The application filing period begins **September 1st** of each year and continues through the filing deadline of **October 31st** of the same year. If your application is approved by the Committee and the BLSE, you may be eligible to sit for the examination generally given in May .

ELIGIBILITY

To become Board Certified in city, county and local government law you must meet the following criteria:

- Have been engaged in the practice of law for at least five years prior to the date of application.
- Demonstrate substantial involvement in the practice of city, county and local government law during the three years immediately preceding the date of application. (Substantial involvement is defined as devoting not less than 40% of one's practice to matters in which issues of city, county and local government law are significant factors.)
- Complete at least 60 hours of continuing legal education (CLE) in city, county and local government law activities within the three year period immediately preceding the date of application.
- Submit the names of five attorneys who can attest to your reputation for knowledge, skills, proficiency and substantial involvement in the field of city, county and local government law.
- Pass a written examination demonstrating special knowledge, skills and proficiency in city, county and local government law.
Certification is granted for five years. To be recertified, requirements similar to those for initial certification must be met.

EXAMINATION

The exam is given in two parts with a lunch break between Parts I and II. **Part I** of the exam contains **80 multiple choice** questions worth 60% of the total score. **Part II** of the exam consists of three essay questions, collectively worth 40% of the total score.

EDUCATION

Continuing legal education (CLE) credit toward the certification requirement of 60 hours, may be obtained through any of the following activities: (See Rule 4.02 - 4.03 of the City, County & Local Government Law Certification Standing Committee Policies for complete guidelines).

- - - - -

- Attendance at seminars, university courses or home-study (audio/video) dealing with city, county and local government law issues;
- Lecturing at city, county and local government law seminars*;
- Writing published articles, books, chapters or preparing lecture outlines on city, county and local government law topics*;
- Teaching city, county and local government law courses in an approved law school or graduate level program*.

** In no event may the amount of credit awarded exceed 50% of the total hours required for certification or recertification.*

COURSES AND SPONSORS APPROVED BY THE CITY, COUNTY, AND LOCAL GOVERNMENT LAW COMMITTEE

1. National Institute of Municipal Law Officers - IMLA - 202-466-5424
2. ABA - Section of State and Local Government Law - 312-988-6195
3. Florida Association of City Attorneys
4. Florida Association of Counties - 850-224-3148
5. Florida Municipal Attorneys Association - 850-222-9684
6. Florida League of Cities - 850-222-9684
7. Evidence Based Seminars
8. Civil Trial Mediation (Max 15 credits)

The Florida Bar
Legal Specialization & Education Department
651 E. Jefferson Street
Tallahassee, Florida 32399-2300
800/342-8060
850/561-5842

The Florida Bar Board of Legal Specialization and Education operates under the authority of the Supreme Court of Florida. The certification program and any supporting materials or activities are not funded by the general revenues of The Florida Bar.

[Updated: 12/10/2004]

Supreme Court of Florida

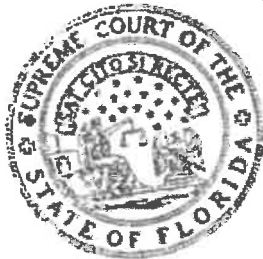
Certificate of Good Standing

I JOHN A. TOMASINO, Clerk of the Supreme Court of the State of Florida, do hereby certify that

DIRK MATTHEW SMITS

was admitted as an attorney and counselor entitled to practice law in all the Courts of the State of Florida on December 3, 1991, is presently in good standing, and that the private and professional character of the attorney appear to be good.

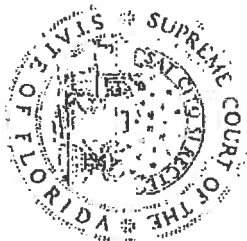
*WITNESS my hand and the Seal of the
Supreme Court of Florida at Tallahassee,
the Capital, this May 21, 2019.*



A handwritten signature in dark ink, appearing to read "J. A. Tomasino", is written over a horizontal line.

Clerk of the Supreme Court of Florida.

Supreme Court of Florida



this certifies that

Dirk M. Smits

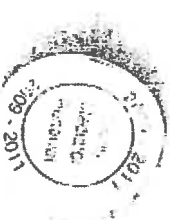
having fulfilled the requirements of the Florida Rules for Certified and Court-Appointed Mediators 10.100(a)
is hereby certified as a COUNTY MEDIATOR

from August 1, 2003 to August 1, 2005

in all judicial circuits of the state

A handwritten signature in dark ink, appearing to read "Henry L. Quarles", is written over a horizontal line.

Chief Justice



No. 16540CR

Supreme Court of Florida



this certifies that

Dirk M. Smits

having fulfilled the requirements of the Florida Rules for Certified and Court-Appointed Mediators 10.100(c)
is hereby certified as a CIRCUIT MEDIATOR

from August 1, 2003 to August 1, 2005

in all judicial circuits of the state

A handwritten signature in dark ink, appearing to read "Henry L. Anderson".

Chief Justice



No. 16540CR

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA



CERTIFICATE OF GOOD STANDING

UNITED STATES OF AMERICA
SOUTHERN DISTRICT OF FLORIDA

}

Fla. Bar. # **911518**

I, **ANGELA E. NOBLE**, Clerk of the United States District Court
for the Southern District of Florida,

DO HEREBY CERTIFY that ***Dirk Matthew Smits*** was duly admitted to practice
in said Court on **May 21, 1992**, and is in good standing as a member of the bar of this Court.

Dated at: **Miami, Florida**, this **June 21, 2019**.

ANGELA E. NOBLE
Court Administrator • Clerk of Court

By 
Deputy Clerk

MEMBER PROFILE

Dirk Matthew Smits

Member in Good Standing

Eligible to Practice Law in Florida

Bar Number:

911518

Mail Address:

Vernis & Bowling of the Florida K
81990 Overseas Hwy
Islamorada, FL 33036-3614
United States

Office: **305-664-4675**

Cell: **305-664-4675**

Fax: 305-664-5414

Email:

dsmits@florida-law.com

Personal Bar URL:

<https://www.floridabar.org/mybarprofile/911518>

vCard:



County:

Monroe

Circuit:

16

Admitted:

12/03/1991

10-Year Discipline History:

None

Board Certifications:

Area	Year
City, County and Local Government Law	2005

Sections:

City, County & Local Govt Law

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PROPOSED

CODE COMPLIANCE SPECIAL MAGISTRATE FEE AGREEMENT

THIS AGREEMENT is entered into this ____ day of _____, 2019, between the CITYOF MARATHON, a Florida municipal corporation, located at 1300 White Street, Key West, Florida 33040 (the "CITY"), and DIRK M. SMITS, c/o Vernis & Bowling of the Florida Keys, P.A., located at 81990 Overseas Highway, Third Floor, Islamorada, Florida 33036 (the "SPECIAL MAGISTRATE").

WHEREAS, the CITY recently passed an ordinance establishing a special magistrate code compliance process; and

WHEREAS, the CITY subsequently solicited special magistrates via RFP # 009-19; and

WHEREAS, the CITY chose SPECIAL MAGISTRATE as the top ranked respondent to the RFP; and

WHEREAS, the SPECIAL MAGISTRATE represents that he is capable and prepared to provide such services.

NOW THEREFORE, in consideration of the mutual covenants contained herein, the CITY and the SPECIAL MAGISTRATE agree as follows:

1.0 Term

- 1.1 This Agreement shall take effect on the date of its execution by the Mayor.
- 1.2 The term of this Agreement shall be for one (1) year, commencing upon the effective date, unless otherwise terminated as provided herein.
- 1.3 The CITY shall have the option to renew the Agreement for additional one-year periods, as approved by the City Council, at the same terms and conditions, by giving the SPECIAL MAGISTRATE written notice not less than thirty (30) days prior to the expiration of the term then in effect. There shall be no limit on the number of terms a person may serve as a special magistrate.

2.0 Services to Be Performed by the SPECIAL MAGISTRATE

- 2.1 The SPECIAL MAGISTRATE shall perform the services as generally described in the Scope of Work Exhibit "A".

3.0 Compensation

3.1 General

PROPOSED

- 3.1.1 The CITY shall pay SPECIAL MAGISTRATE on an flat fee basis at the rate of \$5,000.00 per month; an hourly basis at a rate of \$250.00 per hour for all of SPECIAL MAGISTRATE's time associated with attendance at additional hearings, inclusive of all costs incurred to provide said services. There will be no additional charges for office overhead to include administrative assistants/secretaries and other support personnel. The CITY will not provide reimbursement for travel, meals or mileage.
- 3.1.2 The hourly rate, as set out in Section 3.1.1 may be adjusted by an Amendment to this Agreement, after mutual written agreement of the parties, annually beginning one year form the effective date of the Agreement. Approval by the CITY may only be granted by action of City Council, at its sole discretion.
- 3.1.3 Each individual invoice shall be due and payable forty-five (45) days after receipt by the CITY of a correct, fully-documented invoice, in form and substance satisfactory to the CITY. All invoices shall be delivered to:

City of Key West
Attn: City Clerk
1300 White Street
Key West, Florida 33040

4.0 Insurance

- 4.1 SPECIAL MAGISTRATE shall carry and provide proof of \$1,000,000.00 professional/malpractice insurance.
- 4.2 SPECIAL MAGISTRATE shall not commence work under this Agreement until the required insurance as stated herein has been obtained and proof of such insurance has been provided to the CITY.

5.0 Standard of Care

- 5.1 SPECIAL MAGISTRATE has represented to the CITY that he has the experience necessary to perform the work in a professional and workmanlike manner.
- 5.2 SPECIAL MAGISTRATE shall exercise the same degree of care, skill, and diligence in the performance of the services as is provided by a professional of like experience, knowledge, and resources, under similar circumstances.

6.0 Indemnification

PROPOSED

- 6.1 SPECIAL MAGISTRATE shall indemnify and hold harmless the CITY, its council members, officers, employees, and agents from all actions, claims, penalties, judgments, liabilities, losses, and causes of action which may arise out of its fulfillment of this Agreement.
- 6.2 SPECIAL MAGISTRATE shall defend the CITY, and shall pay all reasonable expenses incurred by the CITY in defending itself, with regard to all damages and penalties the CITY may legally be required to pay as a result of the negligence of the SPECIAL MAGISTRATE as aforesaid. Expenses shall include all incidental reasonable expenses including attorney fees, and shall include a reasonable value of any services rendered by the CITY's Legal Department.
- 6.3 Nothing in this indemnification is intended to constitute a waiver of the CITY's limitation on liability as set forth in section 768.28, Florida Statutes.
- 6.4 This covenant shall survive the expiration or termination of this Agreement.
- 6.5 This provision shall not be construed to require SPECIAL MAGISTRATE to indemnify the CITY in situations wherein their rulings are appealed in the ordinary course as provided by law.

7.0 Independent Contractor

- 7.1 SPECIAL MAGISTRATE undertakes performance of the services as an independent contractor and shall be wholly responsible for the methods of performance.
- 7.2 CITY shall have no right to supervise the methods used, but CITY shall have the right to observe such performance.
- 7.3 SPECIAL MAGISTRATE shall work closely with CITY in performing services under this Agreement
- 7.4 SPECIAL MAGISTRATE shall not pledge the CITY's credit or make it a guarantor of payment or surety for any contract, debt, obligation, judgment, lien or any form of indebtedness and shall have no right to speak for or bind the CITY in any manner.
- 7.5 SPECIAL MAGISTRATE further warrants and represents that he has no obligation or indebtedness that would impair his ability to fulfill the terms of this Agreement.

8.0 Authority to Practice

- 8.1 SPECIAL MAGISTRATE hereby represents and warrants that he has and will continue to maintain all licenses and approvals required to conduct his

PROPOSED

business, and that he will at all times conduct his business activities in a reputable manner.

9.0 Compliance with Laws

- 9.1 In performance of the services, SPECIAL MAGISTRATE will comply with applicable regulatory requirements, including federal, state, special district, and local laws, rules, regulations, orders, codes, criteria and standards.

10.0 Conflicts and Unavailability

- 10.1 SPECIAL MAGISTRATE acknowledges that this Agreement is non-exclusive, that the CITY has an Alternate Special Magistrate, and consents to the CITY assigning any matter for which SPECIAL MAGISTRATE has or may have a conflict of interest, or for which SPECIAL MAGISTRATE is unavailable, to an Alternate Special Magistrate.
- 10.2 In the event that SPECIAL MAGISTRATE determines that a conflict of interest may arise or has arisen in reference to any matter that SPECIAL MAGISTRATE is handling for the CITY, SPECIAL MAGISTRATE shall notify the City Attorney and the City's Code Compliance Director no later than fourteen (14) days prior to the scheduled hearing. If a conflict arises or is first determined less than fourteen (14) days prior to the scheduled hearing, then the SPECIAL MAGISTRATE shall notify the CITY no later than 48 hours after such conflict arises or is first determined.
- 10.3 SPECIAL MAGISTRATE acknowledges that the CITY's code compliance hearing schedule will generally follow a set pattern and further agrees to inform CITY of any hearing dates that he will miss due to vacation or other planned absence at least thirty (30) days in advance.
- 10.4 In all other instances where the SPECIAL MAGISTRATE is unavailable, he agrees to give the CITY thirty (30) day notice, or if the unavailability arises less than thirty (30) days before a hearing date, SPECIAL MAGISTRATE agrees to provide notice of unavailability to the CITY within one (1) business day of when it arises.

11.0 CITY's Responsibilities

- 11.1 CITY shall be responsible for providing information in the CITY's possession that may reasonably be required by SPECIAL MAGISTRATE to provide the services described in Section 2.0.

12.0 Termination of Agreement

- 12.1 This Agreement may be terminated by the SPECIAL MAGISTRATE upon ninety (30) days prior written notice to the CITY.
- 12.2 This Agreement may be terminated by the CITY with or without cause upon ninety (30) days prior written notice to the SPECIAL MAGISTRATE.

PROPOSED

- 12.3 Unless the SPECIAL MAGISTRATE is in breach of this Agreement, the SPECIAL MAGISTRATE shall be paid for services rendered to the CITY's satisfaction through the date of termination.

13.0 Governing Law and Venue

- 13.1 This Agreement shall be governed in all respects by the laws of the State of Florida, and any litigation with respect thereto shall be brought only in the courts of Monroe County, Florida or the United State District Court, Southern District of Florida, Key West Division.

14.0 Non-Discrimination

- 14.1 SPECIAL MAGISTRATE warrants and represents that all of his employees are treated equally during employment without regard to race, color, religion, gender, age, or national origin.

15.0 Waiver

- 15.1 A waiver by either the CITY or SPECIAL MAGISTRATE of any breach of this Agreement shall not be binding upon the waiving party unless such waiver is in writing. In the event of a written waiver, such a waiver shall not affect the waiving party's rights with respect to any other or further breach. The making or acceptance of a payment by either party with knowledge of the existence of a default or breach shall not operate or be construed to operate as a waiver of any subsequent default or breach.

16.0 Severability

- 16.1 The invalidity, illegality, or unenforceability of any provision of this Agreement, or the occurrence of any event rendering any portion or provision of this Agreement void, shall in no way affect the validity or enforceability of any other portion or provision of the Agreement.
- 16.2 Any void provision shall be deemed severed from the Agreement and the balance of the Agreement shall be construed and enforced as if the Agreement did not contain the particular portion or provision held to be void.
- 16.3 The parties further agree to reform the Agreement to replace any stricken provision with a valid provision that comes as close as possible to the intent of the stricken provision.
- 16.4 The provisions of this section shall not prevent the entire Agreement from being void should a provision which is of the essence of the Agreement to be determined to be void.

PROPOSED

17.0 Entirety of Agreement

- 17.1 The CITY and the SPECIAL MAGISTRATE agree that this Agreement sets forth the entire Agreement between the parties, and that there are no promises or understandings other than those stated herein.

18.0 Modification

- 18.1 The Agreement may not be modified unless such modifications are evidenced in writing signed by both CITY and SPECIAL MAGISTRATE. Such modifications shall be in the form of a written Amendment executed by both parties.

19.0 Successors and Assigns

- 19.1 CITY and SPECIAL MAGISTRATE each binds itself/himself and its/his partners, successors, assigns, and legal representative to the other party to this Agreement and to their partners, successors, executors, administrators, assigns, and legal representatives.
- 19.2 SPECIAL MAGISTRATE shall not assign, transfer, convey, sublet or otherwise dispose of this Agreement, or of any or all of its rights, title or interest therein, or the SPECIAL MAGISTRATE's power to execute this Agreement, to any person, company, or corporation without prior written consent of the CITY. Such consent may be withheld for any reason in the sole discretion of the City Council.

20.0 Public Records

- 20.1 The SPECIAL MAGISTRATE shall comply with Florida's Public Records Act, Chapter 119, Florida Statutes, and, if determined to be acting on behalf of the CITY as provided under Section 119.011(2), Florida Statutes, specifically agrees to:
- (1) Keep and maintain public records required by the CITY to perform the service.
 - (2) Upon request from the CITY's custodian of public records or designee, provide the CITY with a copy of the requested records or allow the records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, Florida Statutes, or as otherwise provided by law.
 - (3) Ensure that public records that are exempt or confidential and exempt from public records disclosure requirements are not disclosed except as authorized by law for the duration of the contract and following completion of the contract if the

PROPOSED

SPECIAL MAGISTRATE does not transfer the records to the CITY.

- (4) Upon completion of the contract term, transfer, at no cost, to the CITY, all public records in possession of the SPECIAL MAGISTRATE or keep and maintain public records required by the CITY to perform the service. If the SPECIAL MAGISTRATE transfers all public records to the CITY upon the completion of this Agreement, the SPECIAL MAGISTRATE shall destroy any duplicate public records that are exempt or confidential and exempt from public records disclosure requirements. If the SPECIAL MAGISTRATE keeps and maintains public records upon completion of the contract, the SPECIAL MAGISTRATE shall meet all applicable requirements for retaining public records. All records stored electronically must be provided to the CITY, upon request from the CITY's custodian of public records or designee, in a format that is compatible with the information technology of the CITY.

20.2 IF THE SPECIAL MAGISTRATE HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO THE SPECIAL MAGISTRATE'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS OR DESIGNEE at _____, City of Key West, OR BY MAIL AT 1300 WHITE STREET, KEY WEST, FLORIDA 33040.

21.0 Notice

- 21.1 Any notice, demand, communication, or request required or permitted hereunder shall be in writing and delivered in person or sent by overnight courier service or by Certified Mail, postage prepaid as follows:

As to CITY:
City of Key West
Attention: City Manager
1300 White Street
Key West, Florida 33040

With a copy to:

PROPOSED

City of Key West
Attention: City Attorney
1300 White Street
Key West, Florida 33040

As to SPECIAL MAGISTRATE:
Dirk M. Smits, Esquire
Vernis & Bowling of the Florida Keys, P.A.
81990 Overseas Highway, Third Floor
Islamorada, Florida 33036

22.0 Contract Administration

- 22.1 Except as otherwise provided in this Agreement, services of SPECIAL MAGISTRATE shall be under the general direction of the City Council, or their designee, who shall act as the CITY' s representative during the term of the Agreement.

N WITNESS WHEREOF, the parties hereto have executed this Agreement on the date and year first written above.

THE CITY OF KEY WEST, FLORIDA

By: _____

(City Seal)

PROPOSED

EXHIBIT "A" SCOPE OF WORK

The CITY requires the services of a Special Magistrate to provide the following services:

- The special magistrate shall conduct monthly hearings relating to the enforcement and violation of the business tax receipt, fire, building, zoning, sign and other related codes in force in the City of Key West pursuant to Chapter 162 of the Florida Statutes and Chapter 2 of the Key West Code of Ordinances and appeals to the magistrate as dictated by the Key West Code of Ordinances.
- Special Magistrate agrees to observe all pertinent laws in the exercise of his duties, including but not limited to, the Sunshine Law, the Public Records Law, Chapter 112 of the Florida Statutes relating to conflicts of interest, and law relating to procedures for quasi-judicial hearings.
- It is not the function of the special magistrate to initiate enforcement proceedings or to inspect for code violations.
- The special magistrate shall sit as an impartial hearing officer to determine, based on evidence presented during the hearing, if a violation exists. The special magistrate shall serve at the pleasure of the City Commission, and shall not be deemed a City employee.
- The Special Magistrate will review and understand all relevant codes, ordinances, and Florida Statutes relative to the service provided.
- The City shall provide such clerical and administrative personnel as deemed reasonably necessary to support the Special Magistrate's activities and assist in the proper performance of duties. The Special Magistrate shall not be authorized to engage, hire, or use any person, except those provided by the City to assist in the performance of duties.
- All hearings before the Special Magistrate shall be conducted so as to ensure fundamental due process.
- The Special Magistrate shall take testimony from any witness having knowledge concerning a hearing on a case. All testimony shall be under oath. The Special Magistrate shall have the power to administer an oath to any witness.
- As soon as practicable after the conclusion of the hearing, the Special Magistrate shall issue findings of fact based on evidence of record, and conclusions of law, and shall issue an order affording the proper relief consistent with powers granted within City code and consistent with chapter 162 of the Florida Statutes no later than 5 days after the hearing.

ANTI - KICKBACK AFFIDAVIT

STATE OF FLORIDA)
COUNTY OF MONROE) : SS

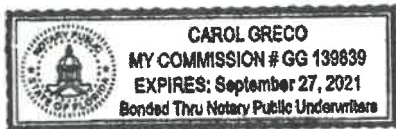
I, the undersigned hereby duly sworn, depose and say that no portion of the sum herein bid will be paid to any employees of the City of Key West as a commission, kickback, reward or gift, directly or indirectly by me or any member of my firm or by an officer of the corporation.

By: DIRK M. SMITS

Sworn and subscribed before me this 16th day of JULY, 2019.

NOTARY PUBLIC, State of FLORIDA at Large

My Commission Expires:




LOCAL VENDOR CERTIFICATION PURSUANT TO CKW ORDINANCE 09-22 SECTION 2-798

The undersigned, as a duly authorized representative of the vendor listed herein, certifies to the best of his/her knowledge and belief, that the vendor meets the definition of a "Local Business." For purposes of this section, "local business" shall mean a business which:

- a. Principle address as registered with the FL Department of State located within 30 miles of the boundaries of the city, listed with the chief licensing official as having a business tax receipt with its principle address within 30 miles of the boundaries of the city for at least one year immediately prior to the issuance of the solicitation.
- b. Maintains a workforce of at least 50 percent of its employees from the city or within 30 miles of its boundaries.
- c. Having paid all current license taxes and any other fees due the city at least 24 hours prior to the publication of the call for bids or request for Bids.
 - Not a local vendor pursuant to Ordinance 09-22 Section 2-798
 - Qualifies as a local vendor pursuant to Ordinance 09-22 Section 2-798


If you qualify, please complete the following in support of the self-certification & submit copies of your County and City business licenses. Failure to provide the information requested will result in denial of certification as a local business.

DIRK M. SMITS, c/o
Business Name VERNIS & BOWLING OF THE FLORIDA KEYS, P.A. Phone: (305) 664-4675
81990 OVERSEAS HIGHWAY, 3RD FLOOR
Current Local Address: ISLAMORADA, FL 33036 Fax: (305) 664-5414
(P.O Box numbers may not be used to establish status)
Length of time at this address: 22 YEARS

Signature of Authorized Representative Date: July 16, 2019

STATE OF FLORIDA COUNTY OF MONROE
The foregoing instrument was acknowledged before me this 16th day of July, 2019.

By DIRK M. SMITS of VERNIS & BOWLING OF THE FLORIDA KEYS, P.A.
(Name of officer or agent, title of officer or agent) (Name of corporation acknowledging)
or has produced identification PERSONALLY KNOWN as identification
(Type of identification)

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


Signature of Notary
CAROL GRECO
Print, Type or Stamp Name of Notary
NOTARY
Title or Rank



- a. A predecessor or successor of a person convicted of a public entity crime; or
- b. 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)

7/16/19

(Date)

STATE OF FLORIDA

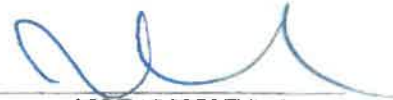
COUNTY OF MONROE

PERSONALLY, APPEARED BEFORE ME, the undersigned authority,

DIRK M. SMITS who, after first being sworn by me, affixed his/her
(Name of individual signing)

Signature in the space provided above on this 16th day of JULY, 2019.

My commission expires:



NOTARY PUBLIC



**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 Bid for RFP#009-19 CODE COMPLIANCE
SPECIAL MAGISTRATE

2. This sworn statement is submitted by DIRK M. SMITS c/o
VERNIS & BOWLING OF THE FLORIDA KEYS, P.A.
(Name of entity submitting sworn statement)

whose business address is 81990 OVERSEAS HIGHWAY, 3RD FLOOR, ISLAMORADA, FL 33036

and (if applicable) its Federal Employer Identification Number (FEIN) is 65-0437103

(If the entity has no FEIN, include the Social Security Number of the individual signing this sworn statement)

3. My name is DIRK M. SMITS
(Please print name of individual signing)

and my relationship to the entity named above is MANAGING PARTNER

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

Conflict of Interest Affidavit

By the signature below, the firm (employees, officers and/or agents) certifies, and hereby discloses, that, to the best of their knowledge and belief, all relevant facts concerning past, present or currently planned interest or activity (financial, contractual, organizational, or otherwise) which relates to the proposed work; and bear on whether the firm (employees, officers and/or agents) has a conflict has been fully disclosed.

Additionally the firm, (employees, officers and/or agents) agrees to immediately notify in writing the Finance Director or designee, if any actual or potential conflict of interest arises during the contract and/or project duration. See Exhibit "A"

DIRK M. SMITS c/o
VERNIS & BOWLING OF THE FLORIDA KEYS, P.A.

Signature

7/17/19
Date

DIRK M. SMITS
Name Printed

MANAGING PARTNER
Title of Person Signing Affidavit

State of FLORIDA
County Of MONROE

SUBSCRIBED AND SWORN to before me this 17th day of JULY, 2019 by DIRK M. SMITS who is personally known to me to be the MANAGING PARTNER for the Firm, OR who produced the following identification

Notary Public

My Commission expires _____

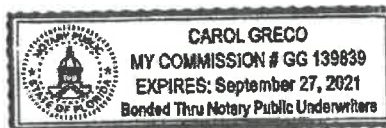


EXHIBIT "A"

Elizabeth Pressman v. City of Key West, Monroe County Circuit Court Case No. 18-CA-987-K

Vernis & Bowling of the Florida Keys, P.A. is representing Plaintiff, Elizabeth Pressman

CONE OF SILENCE AFFIDAVIT

STATE OF FLORIDA)
)
 : SS
COUNTY OF MONROE)

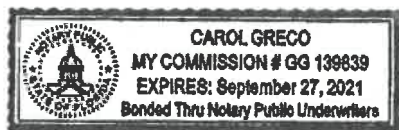
I the undersigned hereby duly sworn depose and say that all owner(s), partners, officers, directors, employees and agents representing the firm of DIRK M. SMITS c/o VERNIS & BOWLING OF THE FLORIDA KEYS, PA have read and understand the limitations and procedures regarding communications concerning City of Key West issued competitive solicitations pursuant to City of Key West Ordinance Section 2-773 Cone of Silence.


Sworn and subscribed before me this

16th Day of JULY, 2019.


NOTARY PUBLIC, State of FLORIDA at Large

My Commission Expires: _____



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. Competitive Solicitation shall include request for proposals ("RFP"), request for qualifications ("RFQ"), request for letters of interest ("RFI"), 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.

EQUAL BENEFITS FOR DOMESTIC PARTNERS AFFIDAVIT

STATE OF FLORIDA)
 : SS
COUNTY OF MONROE)

DIRK M. SMITS c/o

I, the undersigned hereby duly sworn, depose and say that the firm of VERNIS & BOWLING OF THE FLORIDA KEYS, P.A. 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: 

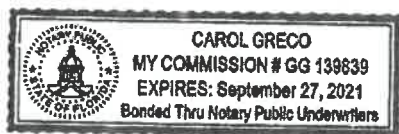
Sworn and subscribed before me this

16th Day of JULY, 2019.



NOTARY PUBLIC, State of FLORIDA 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.
- (1) 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.
- (2) 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.
- (3) 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).
- (4) 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.

- (5) 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.
- (6) 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.
- (7) 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.
- (8) 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.
- (9) 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.
- (10) 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 the purpose of evading the requirements of this section.
- (11) 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.

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

(b) 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.

1 Enforcement. If the contractor fails to comply with the provisions of this section:

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

- (14) The city may terminate the covered contract; or
- (15) Monies due or to become due under the covered contract may be retained by the city until compliance is achieved; or
- (16) The city may also pursue any and all other remedies at law or in equity for any breach;
- (17) 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."

(c) Exceptions and waivers.

The provisions of this section shall not apply where:

The contractor does not provide benefits to employees' spouses.

- (1) 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.
- (2) The contractor is a governmental entity
- (3) The sale or lease of city property.
- (4) 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").
- (5) 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

- (6) 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.

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

16th day of JULY, 2019.

NOTARY PUBLIC, State of Florida at Large

My Commission Expires: _____



INDEMNIFICATION

To the fullest extent permitted by law, the CONTRACTOR 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 CONTRACTOR, its Subcontractors 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 CONTRACTOR'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 CONTRACTOR 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 CONTRACTOR or of any third party to whom CONTRACTOR may subcontract a part or all of the Work. This indemnification shall continue beyond the date of completion of the work.

CONTRACTOR: DIRK M. SMITS c/o
VERNIS & BOWLING FOR THE FLORIDA KEYS, P.A. SEAL:

81990 OVERSEAS HIGHWAY, THIRD FLOOR
ISLAMORADA, FL 33036

Address

Signature

DIRK M. SMITS

Print Name

MANAGING PARTNER

Title

DATE:

JULY 16, 2019