

MINUTES
KEY COLONY BEACH CITY COMMISSION
SPECIAL MEETING

Friday, November 14th, 9:30 AM
Marble Hall, 600 W. Ocean Drive, Key Colony Beach
& via Zoom Conferencing

1. **Call to Order, Pledge of Allegiance, Prayer, Rollcall:** The Key Colony Beach City Commission Special Meeting was called to order by Mayor Freddie Foster at 9:30 AM, followed by the Pledge of Allegiance, Prayer, and Rollcall. **Present:** Mayor Freddie Foster, Vice-Mayor Doug Colonell, Commissioner Tom Harding, Commissioner Tom DiFransico, Commissioner Kirk Diehl. **Also Present:** Assistant City Attorney Scott Black, City Administrator John Bartus, Chief of Police DiGiovanni, Building Official Tony Loreno, Administrative Assistant Par Darnall, Pedro Falcon, Representatives Christian Brisson and Ken Bygler, CPH Architect Brandan DeCaro.

Public Attendance: 1

2. **Approval of the Agenda:** City Clerk Roussin informed of the addition of the revised AIA Standard Form of Agreement to the agenda. There were no other changes, and Mayor Foster asked for a motion to approve the agenda.

MOTION: Motion made by Vice-Mayor Colonell to approve the agenda. Commissioner DiFransico seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

3. **Citizen Comments & Correspondence:** None.
4. **Discussion/Approval of an Agreement between the City of Key Colony Beach and Pedro Falcon Contractors**
 - a. Standard Form of Agreement A101-2017

Mayor Foster introduced the agenda item and asked Assistant City Attorney Black to review the agreement. Scott Black stated that Pedro Falcon Contractors made no changes to the agreement after review and explained that the modifications made in the A101 document were for budgeting purposes related to fiscal-year allocations. Scott Black detailed the projected issuance of the Notice to Proceed, with discussion by the City Commission on timing, the project schedule, and possible reasons for issuing the Notice to Proceed sooner rather than later.

Mayor Foster asked for the discussion of the Notice to Proceed to continue under agenda item 4c. There were no objections.

Mayor Foster asked Assistant City Attorney Black to outline the changes made to the contract. Scott Black explained the changes involving limiting compensation to the current fiscal year's allocation, specifying calendar days for completions, liquidated damages, and changes in retainage, as well as the points of contact for owners and contractors' representatives. Assistant City Attorney Black confirmed for the Commission to approve the agreement, subject to possible deducts that are being taken and that the contract is consistent with the bid documents.

Mayor Foster asked for a motion to approve.

MOTION: Motion made by Commissioner Diehl to approve. Commissioner DiFransico seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

b. Exhibit A – Insurance and Bonds A101-2017

Mayor Foster introduced the agenda item and asked Scott Black to elaborate. Assistant City Attorney Black stated there were no changes from the Workshop discussions and detailed bond and insurance requirements. Scott Black explained differences in Builders Risk Insurance, including wind, flood, and materials, and provided cost estimates and considerations of cost-effectiveness. Commissioner DiFrancesco asked for clarification on the wording in the agreement regarding the City's requirement for Builder's Risk and the need to revise the paragraph. Scott Black confirmed that the paragraph in question would be eliminated. Vice-Mayor Colonell commented on the risks covered under Builders Risk insurance and advised understanding the coverage before declining. Discussions continued on the possibility of obtaining Builders Risk insurance, including the potential coverage and the option to add a rider to the current liability insurance. Assistant City Attorney Black confirmed that the wording would be changed from "shall" to "may" and that hard quotes would be provided to the Commission as they become available.

Brandan DeCaro explained the contractors' responsibilities for substantial completion and the City's acceptance of the work. Mayor Foster asked Assistant City Attorney Scott to provide a legal opinion on the matter. Brandan DeCaro also commented on equipment and the responsibility for replacement if it is damaged before installation, and cautioned against paying for items that are not yet installed. The Commission discussed responsibilities, liabilities, and insurance coverage for various scenarios, including wind, flood, and theft protection, as well as costs. Scott Black confirmed he will revisit the topic of builder's risk insurance, including quotes and coverage options. Vice Mayor Colonell cautioned about the possible need for builder's risk insurance for a line of credit with the bank. There was no further discussion, and Mayor Foster asked for a motion to approve.

MOTION: Motion made Vice-Mayor Colonell to approve. Commissioner Diehl seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

c. General Conditions of the Contract A201-2017

Mayor Foster introduced the discussion item and noted that this was the appropriate time to discuss the Notice to Proceed. Assistant City Attorney Black confirmed there were no changes to the document and that the terms are standard terms and conditions in AIA.

Mayor Foster informed that the construction schedule terms have not changed and asked for comment on the NTP section of the contract. The Commission had no comment on the contract's general condition.

Assistant City Attorney Scott Black stated that once the contract is signed, the city will be able to move forward. Vice-Mayor Colonell commented on the time frames allotted in the contract schedule for various deliverables and project tasks. Brandon DeCaro discussed the specifications outlined in the document, provided information on the schedules and timelines, and advised against issuing a Notice to Proceed until all necessary documents are in place. Brandon DeCaro also advised issuing the NTP when a building permit is issued. Assistant City Attorney Black stated there is no time allowance for rescission of the contract. Commissioner Harding recalled the contractor providing a preliminary schedule after a contract had been issued. Vice-Mayor Colonell offered further comments on the required contract documents that should be in place before the notice is issued. Mayor Foster suggested December 1st as a reasonable date and requested a checklist of all requirements, with the Notice to be issued upon issuance of the building permit.

Ken Bygler, from Pedro Falcon Contractors, commented on the voiced concerns and detailed the preliminary work that needs to be completed. He stated that the project will move forward regardless of the issuance of the NTP. Vice-Mayor Colonell suggested issuing the NTP concurrently with the building permit and advised that the contractor not obligate the City before that. Vice-Mayor Colonell explained the importance of the document during the contract stage for both the city and the contractor and recommended waiting to purchase shop drawings. Ken Bygler acknowledged the risk of ordering shop drawings before the Notice to Proceed is issued. Mayor Foster confirmed that the NTP should be issued after everything is in place, including plans to keep the contractor up to date. He emphasized that the contract needs to be in place to allow the contractor to proceed with subs and other needs. Mayor Foster asked Vice-Mayor Colonell and Assistant City Attorney Black to provide a list of necessary documents to issue the Notice to Proceed.

There was no further discussion, and Mayor Foster asked for a motion to approve.

MOTION: Motion made by Vice-Mayor to approve. Commissioner DiFransico seconded the motion.

DISCUSSION: Commissioner DiFransico asked for clarification of the expectations of a detailed schedule within 10 days. Vice-Mayor Colonell explained that preliminary scheduling is not perfect and must be continually updated, based on bids and information received during the bid period, as well as the city's stipulations. Vice-Mayor Colonell spoke about the need for continuous review and improvement and reiterated caution that the NTP should serve as the start button for the project. Vice-Mayor Colonell gave further comment on time allotments for project preparation and the knowledge needed to have a detailed schedule.

Commissioner Harding commented on the software needs and questions on license costs and process. The Commission discussed the need for multiple licenses, uses, and costs.

ON THE MOTION: Rollcall vote. Unanimous approval.

d. Possible Deducts

Mayor Foster introduced the agenda item and the first possible deduction of the Staff Patio Pergola for \$29,743.00, then continued to make a motion.

MOTION: Motion made by Mayor Foster to deduct. Commissioner Diehl seconded the motion.

DISCUSSION: Vice-Mayor Colonell asked for confirmation that the description of all deductions had been shared by City Attorney Black for a clear understanding. Mayor Foster asked for a brief recess to allow the document to be printed and shared with the Commission.

Mayor Foster called for a 15-minute recess.

****The correspondence in question was printed and shared with the City Commission and will be attached to the meeting minutes. ****

Mayor Foster called the meeting back to order at 10:50 AM and confirmed a first and second motion for the deduct for the removal of the staff patio pergola.

FURTHER DISCUSSION: Commissioner DiFransico asked for the alternate plan if the deduct was taken. Mayor Foster and Commissioner Harding commented that the work can be scheduled at a future date when funding is available. There was no further discussion.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced the next possible deduction for the Marble Hall Patio Pergola in the amount of \$97,861.00 and stated that he will be calling the motions in the interest of time.

MOTION: Motion made by Mayor Foster to deduct. Vice-Mayor Colonell seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced the next possible deduction of the Staff Patio Concrete Slab for \$6,176.00.

MOTION: Motion made by Mayor Foster to remove the Staff Patio Concrete Slab for \$6,176.00. Commissioner Diehl seconded the motion.

DISCUSSION: Commissioner Harding asked for clarification on the intent for structurally tying the slabs to the foundation. Brandan DeCaro confirmed that the slabs were to be separate and noted the need for a small slab for the means of egress door, which could be made of pavers. Further comments followed on the pad material, the timing of installation, and the nature of the substantial completion requirements and the issuance of the Certificate of Completion.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced the listed deduct of the “City’s Use of Marble Hall throughout the Project for \$0.00”.

MOTION: Motion made by Mayor Foster to accept the zero-dollar non-turnover use of Marble Hall. Commissioner Diehl seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced the next listed deduction for the Marble Hall Patio Slab of \$11,841.00.

MOTION: Motion made by Mayor Foster to deduct. Commissioner Diehl seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced the deduct of ‘Marble Hall – New Ceiling and Lighting’ and recalled the Commission working on a substitute for materials. Vice-Mayor Colonell agreed that the city is looking for alternative deducts and possible cost savings on ceiling panels, and recommended keeping the deduct.

MOTION: Motion made by Mayor Foster to keep the deduction in scope with the understanding that the contractors have informed that the material is too high and to work with Commissioner Diehl and the contractor to identify a suitable alternate and to continue with this work. Commissioner Diehl seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced a proposed deduction related to the generator and asked for clarification on the included work. Vice-Mayor Colonell explained the specifics of the deduction and addressed whether certain items would be completed if the deduction were approved. Vice-Mayor Colonell clarified that the general contractor will still be responsible for installing the slab, conduit, and transfer switch, while the city will later install the generator and platform. Brandan DeCaro confirmed the deduction and inquired about the feasibility of opening the facility without a generator. Commissioner Harding commented on the building's designation as an Emergency Operations Center and the State Grant funding associated with it. The discussion continued regarding the city’s generator needs, grant requirements, and the potential for acquiring a smaller generator.

MOTION: Motion made by Mayor Foster to reject the deduct of the generator and accept it as part of the contract bid. Commissioner DiFrancisco seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster introduced the possible deduction for landscaping and irrigation and asked Brandan DeCaro to detail the deduction. DeCaro confirmed that the deduction covers landscaping and irrigation for the entire site and that the city would need to install all landscaping if the deduction was accepted. A discussion followed on the benefits of rejecting or approving the deduction. Mayor Foster then called for a motion.

MOTION: Motion made by Commissioner DiFrancisco to reject the deduction and have the landscaping done with the building. Vice-Mayor Colonell seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Foster announced the final deduction of \$855.00 for spalling repair and requested rejection of the bid to complete repairs at a lower cost.

MOTION: Motion made by Mayor Foster to reject and accept the deduct. Vice-Mayor Foster seconded the motion.

DISCUSSION: Vice-Mayor Colonell agreed with Mayor Foster based on the numbers and asked whether Pedro Falcon Contractor could incorporate the work with the contractor. Ken Bygler stated to prefer not to work with a

separate contractor, which Mayor Foster agreed with.
ON THE MOTION: Rollcall vote. Unanimous approval.

5. Discussion/Approval of a Proposal by All Aspects Inspections Services for \$16,200.00

Mayor Foster presented the agenda item and asked the representative from All Aspects Inspection Services to explain the proposal. The representative stated that all essential inspections are included, with Building Official Loreno confirming that each permit includes a list of required inspections. Mayor Foster requested that the requirement list be shared with the Commission. Brandan DeCaro asked about special inspections, prompting a discussion about code requirements for threshold and special inspections. Assistant City Attorney Black clarified that All Aspects will handle the Building Permit inspection services and noted that any additional specialty testing would be the contractor's responsibility, coordinated through a third party. Brandan DeCaro outlined the inspection requirements and explained the process. Building Official Loreno confirmed that All Aspects' inspections are equivalent to those performed by the building inspector, and Assistant City Attorney Black reiterated that the city would pay for All Aspects, while additional testing costs would be borne by the contractor. The discussion continued on testing protocols and the need for professional engineering sign-off requirements.

MOTION: Motion made by Mayor Foster to approve the proposal. Commissioner DiFrancisco seconded the motion.

DISCUSSION: Ken Blygler from Pedro Falcon Contractors gave an understanding of contractual requirements.

ON THE MOTION: Rollcall vote. Unanimous approval.

6. Citizen Comments: None.

7. Adjournment: The meeting adjourned at 11:32 AM.

Respectfully submitted,

Silvia Roussin

City Clerk

ADOPTED: December 18, 2025

Silvia Roussin

City Clerk