

AMENDMENT (1st AMENDMENT) TO AGREEMENT

THIS AMENDMENT to agreement dated the _____ day of _____ 2008, is entered into by and between the Board of County Commissioners for Monroe County, Florida, a political subdivision of the state of Florida ("County"), and **Lower Keys Chamber of Commerce, Inc.** ("Event Sponsor").

WHEREAS, there was a contract entered into on October 17, 2007 between the parties, awarding \$10,300 for the production of the 24th Annual Underwater Music Festival in July 2008; and

WHEREAS, it has become necessary to revise Exhibit B to reflect a change in budget due to scrivener's error; and

NOW, THEREFORE, in consideration of the mutual covenants contained herein the parties agree to the amended agreement as follows:

1. Exhibit B of the Agreement dated October 17, 2007 shall be revised, and attached hereto.
2. The remaining provisions of the contract dated October 17, 2007 remain in full force and effect.

IN WITNESS WHEREOF, the parties have set their hands and seal on the day and year first above written.

(SEAL)
Attest: Danny L. Kolhage, Clerk

Board of County Commissioners
of Monroe County

Deputy Clerk

Mayor/Chairman

(CORPORATE SEAL)
Attest:

Lower Keys Chamber of Commerce, Inc.

By _____
Secretary

By 
President/Event Sponsor

Print Name

Tim SAUNDERS
Print Name

OR TWO WITNESSES

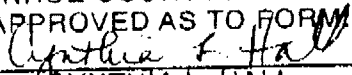
(1) _____

(2) _____

(1) _____
Print Name

(2) _____
Print Name

Amendment #1
Underwater Music Festival
Contract #: 370

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

CYNTHIA L. HALL
ASSISTANT COUNTY ATTORNEY
Date 3-18-08

REVISED
EXHIBIT B

MONROE COUNTY TOURIST DEVELOPMENT COUNCIL
CULTURAL UMBRELLA EVENT BUDGET
BUDGET BREAKDOWN

line items listed below must be approved by the appropriate agency of record

FISCAL YEAR 2008

EVENT NAME: 24th Annual Underwater Music Festival

**MEDIA PLACEMENT & PRODUCTION COSTS: newspaper, radio, magazines,
TV, website/internet advertising only** \$ 4,500.00

PROMOTIONAL SIGNS: posters/banners \$ 200.00

PROMOTIONAL ITEMS: t-shirts, hats, jackets, koozie cups \$ 600.00

**DIRECT MAIL PROMOTIONS: brochures/pamphlets/
postage & shipping**

PROGRAMS:

PUBLIC RELATIONS (\$1,000 is for Press Boat) \$ 5,000.00

***GENERAL NON-ALLOCATED**

TOTAL: \$ 10,300.00

*GENERAL NON ALLOCATED MAY NOT EXCEED 15% OF THE ABOVE BUDGET.
AND CAN ONLY BE UTILIZED FOR ACCEPTABLE TDC ITEMS.

ACTUAL EXPENDITURES MAY DEVIATE NO MORE THAN 10% FROM THE BUDGETED LINE ITEMS
NOTED ABOVE.

FUNDING AGREEMENT

THIS AGREEMENT is made and entered into by and between Monroe County, Florida, a political subdivision of the state of Florida ("County"), and Lower Keys Chamber of Commerce, Inc. ("Event Sponsor") on this 17th day of October, 2007.

WHEREAS, the umbrella organization under contract to the County has recommended to the Monroe County Tourist Development Council ("TDC"), which has endorsed the recommendation, that certain monies be allocated for promotion of an event by Event Sponsor;

NOW THEREFORE, in consideration of the mutual promises contained herein, the parties agree as follows:

1. Amount: County shall pay a sum not to exceed **\$10,300 (Ten Thousand and Three Hundred Dollars)** effective **October 17, 2007** for promotion and related expenditures, as described in the event budget, attached hereto as Exhibit B, for production of the **24th Annual Underwater Music Festival in July 2008**. Payment will be made only after Event Sponsor submits invoices and support documentation acceptable to the County's Finance Department. The advertising and promotion budget using County funding may be altered as to the individual line items, or components, within 10% of the amount stated for that item or component, without increasing the total dollar amount and without requiring a written amendment to this agreement. The general non-allocated section of an Umbrella event budget may be utilized for unforeseen permissible expenditures and for those budget lines that may require additional funds. Monroe County's performance and obligation to pay under this agreement is contingent upon an annual appropriation by the County.
2. Duties of Event Sponsor: Event Sponsor shall provide promotion and related services as described in the Sponsor's application for funding, Exhibit A, attached hereto. All advertising and public relations services or supervision of advertising and public relations will be provided through the contracted agencies of the TDC and County.
3. Invoicing: The contracted agencies of record shall receive payment of work in progress upon submission of documented invoices associated with the event. Event sponsor fully understands that funding is obtained from tourist development taxes for which the fiscal year ends September 30, 2008. Event sponsor also understands that the funding process through which this contract was made available by County requires event sponsors to submit their payment requests as quickly as possible and to finalize all such requests before the end of the fiscal year, if at all possible. In order for the tourist development taxes to be utilized most effectively for the purpose for which they were authorized, attracting and promoting tourism, the budgeting process of the County requires the event's funding to be concluded in a timely manner. In recognition that the timeliness of payment requests is of extreme importance to the funding of future advertising and promotion for the stability of the tourist-based economy, Event Sponsor agrees to submit by September 30, 2008, all invoices and support documentation as required by the County's Finance Department rules and policies. **Event Sponsor shall not be reimbursed nor will Event Sponsor's vendors be paid directly for any invoices received by the County after September 30, 2008, except that for events with promotional expenditures incurred between July 1 and September 30, 2008, invoices must be submitted within ninety (90) days of the conclusion of the event.**

4. Reimbursement to County: Event Sponsor shall reimburse County for any amount of funds expended by County in connection with an event which does not occur as a result of any act or omission by Event Sponsor.
5. Indemnification: Event Sponsor covenants and agrees to indemnify and hold harmless Monroe County Board of County Commissioners from any and all claims for bodily injury (including death), personal injury, and property damage (including property owned by Monroe County) and any other losses, damages, and expenses (including attorney's fees) which arise out of, in connection with, or by reason of the services provided, event sponsored, or other activities and funding associated with this agreement. Should event involve the serving or distribution of alcoholic beverages, Event Sponsor shall obtain prior to the event a Liquor Liability insurance policy naming Monroe County as a co-insured.
6. Records: Event Sponsor shall maintain records pursuant to generally accepted accounting principles for four (4) years after the event and shall permit County and its agents and employees access to said records at reasonable times.
7. Termination: County may terminate this agreement without cause by providing written notice to Event Sponsor, through its officer, agent, or representative, no less than sixty (60) days prior to the event and may terminate for breach upon providing to Event Sponsor, through its officer, agent or representative, notice at least seven (7) days prior to the effective date of the termination. Notice is deemed received by Event Sponsor when hand delivered, delivered by national courier with proof of delivery, or by U.S. mail upon verified receipt or upon the date of refusal or non-acceptance of delivery.
8. Conflicts: Event sponsor is an independent contractor and shall disclose any potential conflicts of interest as defined by Florida Statutes, Chapter 112 and Monroe County Code, Article XXI.
9. Non-Collusion: By signing below, Event Sponsor warrants that he/she/it has not employed, retained or otherwise had act on his/her/its behalf any former County officer or employee in violation of Section 2 of Ordinance No. 10-1990 or any County officer or employee in violation of Section 3 of Ordinance No. 10-1990. For breach or violation of the provision the County may, at its discretion terminate this contract without liability and may also, at its discretion, deduct from the contract or purchase price, or otherwise recover, the full amount of any fee, commission, percentage, gift, or consideration paid to the former or present County officer or employee.
10. Public Entities Crimes: A person or affiliate who has been placed on the convicted vendor list following a conviction for public entity crime may not submit a bid on a contract to provide any goods or services to a public entity, may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work, may not submit bids on leases of real property to public entity, may not be awarded or perform work as a contractor, supplier, subcontractor, or consultant under a contract with any public entity, and may not transact business with any public entity in excess of the threshold amount provided in Section 287.017, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

11. **Logo:** All promotional literature and display advertising with the exception of generic advertising must display the "Florida Keys & Key West Come As You Are" logo/trade mark (as per attached logo sample). This logo/trade mark was adopted by the TDC and County in December 2006.

In-County Logo: The logo that includes the "Monroe County Tourist Development Council" designation is to be utilized in all approved in-county print newspaper ads, magazine ads, street banners, posters and other approved signage efforts. Radio commercials should include "Brought to you by The Monroe County Tourist Development Council". To seek approval, clarification and/or logo in electronic format (eps or jpg file), contact John Underwood with Tinsley Advertising at 305-856-6060.

Out of County Logo: The out of county logo does NOT include the "Monroe County Tourist Development Council" designation and is to be utilized in all other efforts including any approved out-of-county print newspaper ads, magazine ads, television commercials, internet advertising (banners, buttons, e-mail blasts), direct mail promotions (brochures and pamphlets) and any approved promotional items including programs, T-shirts, hats, jackets, trophies and koozie cups. Radio commercials should include "Brought to you by The Monroe County Tourist Development Council". To seek approval, clarification and/or logo in electronic format (eps or jpg file), contact Emerson Fales or John Underwood at Tinsley Advertising at 305-856-6060.

12. **Insurance Requirements:** Event Sponsor, as a pre-requisite of the Special Event governed by this agreement, shall obtain, at its own expense, insurance as specified in this section.

Event Sponsor will not be permitted to commence work associated with the Event (including pre-staging of personnel and material) until satisfactory evidence of the required insurance has been furnished to the county as specified below. Event Sponsor shall maintain the required insurance throughout the entire duration of the Special Event and any extensions specified in any attached schedules. Failure to comply with this provision may result in the immediate suspension of the Event until the required insurance has been reinstated or replaced. Event Sponsor shall provide, to the County, as satisfactory evidence of the required insurance, either:

* Certificate of Insurance

or

* Certified copy of the actual insurance policy

A certified copy of any or all insurance policies required by this contract shall be filed with the Clerk of the BOCC prior to the Event.

All insurance policies must specify that they are not subject to cancellation, non-renewal, material change or reduction in coverage unless a minimum of thirty (30) days prior notification is given to the County by the insurer.

Acceptance and/or approval of Event Sponsor's insurance shall not be construed as relieving Event Sponsor from any liability or obligation assumed under this contract or imposed by law.

The Monroe County Board of County Commissioners, its employees and officials will be included as "Additional Insured" on all policies.

Any deviations from these General Insurance Requirements must be requested in writing on the County form titled "Request for Waiver of Insurance Requirements" and must be approved by Monroe County Risk Management.

Event Sponsor shall furnish the County with a certificate evidencing the insurance required by this paragraph not later than twenty (20) days prior to the event.

Prior to commencement of work governed by this contract, Event Sponsor shall obtain General Liability Insurance. Coverage shall be maintained through out the life of the contract and include, as a minimum:

- * Premises Operations
- * Products and Completed Operations
- * Blanket contractual Liability
- * Personal Injury Liability
- * Expanded Definition of Property Damage

The minimum limits acceptable shall be:

- * \$1,000,000.00 combined Single Limit (CSL)

If split limits are provided, the minimum limits acceptable shall be:

- * \$500,000.00 per person
- * \$1,000,000.00 per Occurrence
- * \$100,000.00 Property Damage

An Occurrence Form policy is preferred. If coverage is provided on a Claims Made policy, its provisions should include coverage for claims filed on or after the effective date of this contract. In addition, the period for which claims may be reported should extend for a minimum of twelve (12) months following the acceptance of work by the County.

Recognizing that the work governed by this contract involves the sales and/or distribution of alcoholic beverages, the Contractor's General Liability Insurance policy shall include Liquor Liability with limits equal to those of the basic coverage.

A separate Liquor Liability policy is acceptable if the coverage is not more restrictive than the contractor's General Liability policy.

(SEAL)

Attest: Danny L. Kolhage, Clerk

Isabel C. DeSantis
Deputy Clerk



Board of County Commissioners
of Monroe County

Marie D. Genereaux
Mayor/Chairman

(CORPORATE SEAL)

Attest:

By: _____
Secretary

Print Name _____

OR TWO WITNESSES

(1) _____

Print Name _____

Date: _____

Underwater Music Festival
Cultural Umbrella Funding FY 2008
Contract ID#: 370

Lower Keys Chamber of Commerce,
Inc.

By: _____
President

Jason O'Brien
Print Name

Date: _____

(2) _____

Print Name _____

Date: _____

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:

Susan M. Grimsley
SUSAN M. GRIMSLEY
ASSISTANT COUNTY ATTORNEY
Date: 6-26-07

In-County Logo

The
Florida Keys
& Key West
..... come as you are®
MONROE COUNTY TOURIST DEVELOPMENT COUNCIL

Out-of-County Logo

The
Florida Keys
& Key West
..... come as you are®

EXHIBIT A

D.

**MONROE COUNTY TOURIST DEVELOPMENT COUNCIL
CULTURAL UMBRELLA
SCHEDULE OF EVENTS**

FISCAL YEAR 2008

EVENT NAME: 24th Annual Underwater Music Festival

List scheduled event activities in date order. If pre-promotion is included, indicate the event dates of the next season. If funded, funds will be reimbursed only for the promotion of event activities listed here.

Saturday

Press Boat leaves the dock at 9:00am - Underwater
speakers placed beneath four different boats positioned
to cover the entire Looe Key Preservation Reserve.
Music and reef awareness messages are the
focal point of this event broadcast from 10:00 am to
2:00 pm, followed by WWUS-1 Radio, "Sounds
of the Islands".

Sunday

See the underwater art and instruments display along
with an ongoing movie taken at Looe Key during the
festival by Ian Workman and place bids on the
underwater art works at Artists in Paradise Gallery

Friday

24th Annual Underwater Music Festival art auction
cocktail party at 6:00 pm, bidding starts at 7:00 pm
at the Artists in Paradise Gallery on Big Pine Key

IF FUNDED, EXHIBITS A AND B WILL BECOME PART OF YOUR CONTRACT AND TRANSMITTED TO THE OFFICE OF THE CLERK OF THE COURT.

EXHIBIT B

MONROE COUNTY TOURIST DEVELOPMENT COUNCIL
CULTURAL UMBRELLA EVENT BUDGET
BUDGET BREAKDOWN

line items listed below must be approved by the appropriate agency of record

FISCAL YEAR 2008

EVENT NAME:	<u>24th Annual Underwater Music Festival</u>
MEDIA PLACEMENT & PRODUCTION COSTS: newspaper, radio, magazines, TV, website/internet advertising only	\$ 4,500.00
PROMOTIONAL SIGNS: posters/banners	\$ 200.00
PROMOTIONAL ITEMS: t-shirts, hats, jackets, koozie cups	\$ 600.00
DIRECT MAIL PROMOTIONS: brochures/pamphlets/ postage & shipping	
PROGRAMS:	\$ 1,000.00
PUBLIC RELATIONS	\$ 4,000.00
*GENERAL NON-ALLOCATED	
TOTAL:	<u>\$ 10,300.00</u>

*GENERAL NON ALLOCATED MAY NOT EXCEED 15% OF THE ABOVE BUDGET.
AND CAN ONLY BE UTILIZED FOR ACCEPTABLE TDC ITEMS.

ACTUAL EXPENDITURES MAY DEVIATE NO MORE THAN 10% FROM THE BUDGETED LINE ITEMS
NOTED ABOVE.

MONROE COUNTY, FLORIDA

Request For Waiver of Insurance Requirements

It is requested that the insurance requirements, as specified in the County's Schedule of Insurance Requirements, be waived or modified on the following contract.

Contractor: See Event Attachment - CULTURAL

Name of Entity: Lower Keys Chamber of Commerce

Name of Event: 24th Annual Underwater Music Festival

Contract for: Services

Address of Contractor: C/O TDC Att: Maxine

Phone: 305-296-1552

Scope of Work: Advertising and Promotion

Reason for Waiver: Providing funds to promote event only... Minimal exposure to county

Policies Waiver will apply to: General Liability

Signature of Contractor: [Handwritten Signature]

Approved [X] Not Approved

Risk Management: [Handwritten]

Date: [Handwritten]

County Administrator Appeal: Approved Not Approved

Date: _____

Board of County Commissioners Appeal: Approved Not Approved

Meeting Date: _____