



MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

**CONTRACT SUMMARY**

Contract with: Upper Keys Rotary Contract # \_\_\_\_\_ **TDC #: 414**  
Foundation, Inc. Effective Date: 10/17/07  
 Expiration Date: 9/30/08

Contract Purpose/Description:  
Approval of an Agreement with Upper Keys Rotary Foundation, Inc. covering the 13<sup>th</sup>  
Annual Gigantic Nautical Flea Market on February 23-24, 2008, DAC IV, FY 2008  
Event Resources.

Contract Manager: Maxine Pacini 3523 TDC # 3  
 (Name) (Ext.) (Department/Stop #)

for BOCC meeting on 10/17/07 Agenda Deadline 10/2/07

**CONTRACT COSTS**

Total Dollar Value of Contract: \$ 15,000 Current Year Portion: \$ \_\_\_\_\_  
 Budgeted? Yes  No  Account Codes : 120-70030-530340-T8OS-498-X-530340 ✓  
 Grant: \$ \_\_\_\_\_  
 County Match: \$ \_\_\_\_\_

**ADDITIONAL COSTS**

Estimated Ongoing Costs: \$ \_\_\_\_\_/yr For: \_\_\_\_\_  
 (Not included in dollar value above) (eg. maintenance, utilities, janitorial, salaries, etc.)

**CONTRACT REVIEW**

	Date In	Changes Needed	Reviewer	Date Out
Division Director	<u>9/19/07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Stewart</u>	<u>9/19/07</u>
Risk Management	<u>9-12-07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>M. Stewart</u>	<u>9-12-07</u>
O.M.B./Purchasing	<u>9/13/07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>F. P...</u>	<u>9/13/07</u>
County Attorney	<u>9/19/07</u>	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>	<u>S. Grimsley</u>	<u>9/19/07</u>

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

## Destination Events Agreement

THIS AGREEMENT (Agreement) is entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2007 by and between MONROE COUNTY, a political subdivision of the state of Florida (County) and **Upper Keys Rotary Foundation, Inc.** a not for profit business, organized and operating under the laws of the state of Florida (Event Sponsor).

WITNESSETH:

in consideration of the mutual covenants contained herein, the parties agree as follows:

1. The County agrees to pay up to **\$15,000 (Fifteen Thousand Dollars)** for **13<sup>th</sup> Annual Gigantic Nautical Flea Market on February 23-24, 2008** from tourist development tax funds (See Exhibit A). No more than 10% of the total advertising and promotional costs paid under this agreement shall be attributable to in-county advertising and promotion.

2. Scope of Services: The event sponsor agrees to provide the County with an event as specified below:

- a). A two (2) day nautical flea market activities
- b). Food and Beverage vendors
- c). Marine, Boating, Fishing, Diving and Nautical Antique Equipment vendors

3. All advertising and public relations services or supervision of advertising and public relations will be provided through the contracted agencies of the Tourist Development Council (TDC) and COUNTY. The agencies of record shall receive payment for work in progress upon submission of documented invoices associated with the event.

4. Payment: Any payments directly to the event sponsor or vendors associated with said event shall be as follows:

Payment upon presentation of an invoice shall indicate the task completed for which payment is sought, with proper documentation attached.

Upon completion of said event, a financial statement detailing all revenue and expenses utilizing generally accepted accounting principals shall be prepared, notarized and submitted by Event Sponsor. The County's contracted public relations firm shall confirm compliance with the Scope of Services.

Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the COUNTY. Only acceptable expenses listed in the Monroe County Tourist Development Council Operations Manual shall be paid.

5. Accounting: Financial records of the Sponsor pertaining to this project shall be kept according to generally recognized accounting principles and shall be available to the COUNTY or to an authorized representative for audit.

6. Modification: Line item changes to the advertising and promotion budget may be made up to but not exceeding 10% of the larger line item amount without requiring COUNTY approval of the particular change.

7. Breach and Penalties: The parties agree to full performance of the covenants contained in this agreement, and the COUNTY reserves the right at its discretion, provided such breach is material, to terminate this agreement for any misfeasance, malfeasance, or nonperformance of the agreement terms or negligent performance of the agreement terms by the event sponsor.

8. Termination: This Agreement will be terminated on September 30, 2008. **All invoices must be submitted prior to September 30, 2008.**

9. Non Occurrence of Event: If the event does not take place for any reason under control of Event Sponsor except for those reasons in paragraph 19, then Event Sponsor agrees to refund to the COUNTY any amounts already paid to them under this agreement, and relieve the COUNTY from any further payments.

The event sponsor shall give written notice to the Monroe County Tourist Development Council if it is found necessary to cancel an event. The notice shall contain the following specifics: 1) reason for cancellation, 2) documentation of the reason for cancellation and 3) person authorized to cancel including title and stated affiliation.

10. Indemnification and Hold Harmless: The event sponsor covenants and agrees to indemnify and hold harmless and defend Monroe County, its officers, employees and agents including the Tourist Development Council and Visit Florida Keys 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, except those losses or damages caused by COUNTY or its agents.

11. 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:

- \* Original 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 COUNTY 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

13<sup>th</sup> Annual Gigantic Nautical Flea Market

FY 2008

Contract #: 414

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.

12. Permits: The event sponsor will secure all required permits, licenses including but not limited to occupational licenses.

13. Taxes: The COUNTY and TDC are exempt from Federal Excise and State of Florida Sales Tax.

14. Finance Charges: The COUNTY and TDC shall not be responsible for any finance charges.

15. Relation of COUNTY/TDC: It is the intent of the parties hereto that the event sponsor shall be legally considered as an independent Event Sponsor and that neither it nor its employees shall, under any circumstances, be considered employees, servants or agents of the COUNTY and TDC and the COUNTY and TDC shall at no time be legally responsible for any negligence on the part of said Event Sponsor, its employees or agents, resulting in either bodily or personal injury or property damage to any individual, firm, or corporation.

16. Disclosure: The event sponsor shall be required to list any or all potential conflicts or interest, as defined by Florida Statute 112 and Monroe County Code. The event sponsor shall disclose to the COUNTY and TDC all actual or proposed conflicts of interest, financial or otherwise, direct or indirect, involving any client's interest which may conflict with the interest of the COUNTY and TDC.

17. Assignment: The event sponsor shall not assign, transfer, convey, sublet or otherwise dispose of this agreement, or of any or all of its right, title or interest therein, or his or its power to execute such agreement to any person, company or corporation without prior consent of the COUNTY.

18. Compliance with laws - Nondiscrimination: The event sponsor, shall comply with all federal, state and local laws and ordinances applicable to the work or payment for work thereof, and shall not discriminate on the grounds of race, color, religion, sex, age, or national origin in the performance of work under this Agreement. This Agreement shall be subject to all federal, state, and local laws and ordinances.

19. Force Majeure: The event sponsor shall not be liable for delay in performance or failure to perform in whole or in part, the services due to the occurrence of any contingency beyond its control or the control of any of its subcontractors or suppliers, including labor dispute, strike, labor shortage, war or act of war whether an actual declaration thereof if made or not, insurrection, sabotage, riot or civil commotion, act of public

enemy, epidemic, quarantine restriction, accident, fire, explosion, storm, flood, drought or other act of God, act of any governmental authority, jurisdictional action, or insufficient supply of fuel, electricity, or materials or supplies, or technical failure where the event sponsor has exercised reasonable care in the

prevention or mitigation of damages and delay, any such delay or failure shall not constitute a breach of the Agreement. Upon demand of TDC or COUNTY, the event sponsor must furnish evidence of the causes of such delay or failure. COUNTY shall not pay for any services or activities, promotional or otherwise, connected with an event produced after the date(s) described in paragraph 1 and Scope of Services.

20. Governing Law/Venue: This Agreement shall be governed by and construed in accordance with the laws of the State of Florida applicable to contracts made and to be performed entirely in the State. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of the agreement, the County and Sponsor agree that venue shall lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida. This Agreement shall not be subject to arbitration.

21. Security Protection: The event sponsor agrees to provide adequate security for the event. No TDC funds will be used for this purpose.

22. Ownership: All advertising and promotion work performed under the agreement and paid for by the COUNTY and TDC shall be the property of the COUNTY and TDC, for whatever use and/or disposition the COUNTY and TDC may deem appropriate.

23. Media rights: The TDC shall have the right to broadcast, rebroadcast, use, reproduce or transmit for any purpose whatsoever, radio, television, pictures, sound, film and tape motion pictures and still photographs paid by the COUNTY and TDC under this agreement.

24. 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 John Underwood at Tinsley Advertising at 305-856-6060.

25. Severability: If any provision of this Agreement shall be held by a Court of competent jurisdiction to be invalid or unenforceable, the remaining provisions shall not be affected thereby; and each provision of this Agreement shall be valid and enforceable to the fullest extent permitted by law.

26. Authority: Each of the signatories for the sponsor below certifies and warrants that:

a) The Sponsor's name in the agreement is the full name as designated in its corporate charter, and b) they are empowered to act and execute the agreement for the Sponsor and c) this Agreement has been approved by the Sponsor's Board of Directors.

27. Ethics Clause: The event sponsor warrants that it has not employed, retained or other wise had act on its behalf, any former County office or employee in violation of Section 2 or 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 agreement without liability and may also, at its discretion, deduct from the agreement 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.

28. Public Entity 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 proposal on a contract to provide any goods or services to a public entity, may not submit a proposal on a contract with a public entity for the construction or repair of a public building or public work, may not submit proposals 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 period of 36 months from the date of being placed on the convicted vendor list."

29. Notice: Any notice required or permitted under this agreement shall be in writing and had delivered or mailed, postage prepaid, to the other party by certified mail, returned receipt requested to the following:

**For Grantee:** Jim Lupino  
P.O. Box 1514  
Tavernier, FL 33070

**For Grantor:** Lynda Stuart  
Monroe County Tourist Development Council  
1201 White Street, Suite 102  
Key West, FL 33040

**And**

Susan Grimsley, Asst. County Attorney  
P.O. Box 1026  
Key West, FL 33041-1026

30. Entire Agreement: The parties agree that the Agreement above constitutes the entire agreement between the COUNTY and event sponsor.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement 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:

Upper Keys Rotary Foundation, Inc.

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

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

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

James Lupino  
Print Name

Date: \_\_\_\_\_

Date: 9/11/07

OR TWO WITNESSES

(1) Tanya de la Peña

(2) Carrie Bryant

Print Name: Tanya de la Peña

Print Name: Carrie Bryant

Date: 9/11/07

Date: 9.11.07

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:  
Susan M. Grimsley  
SUSAN M. GRIMSLEY  
ASSISTANT COUNTY ATTORNEY  
Date Sept. 10, 2007

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"**

**MONROE COUNTY TOURIST DEVELOPMENT COUNCIL  
DESTINATION EVENT BUDGET  
BUDGET BREAKDOWN**

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

**EVENT NAME: UPPER KEYS ROTARY GIGANTIC NAUTICAL FLEA MARKET**

**MEDIA PLACEMENT & PRODUCTION COSTS:**

Newspaper, radio, magazines, TV, website/internet advertising only \$ 11,750.

PROMOTIONAL SIGNS: posters/banners \$

PROMOTIONAL ITEMS: t-shirts, hats, jackets, coozie cups \$ 1,000.

DIRECT MAIL PROMOTIONS: brochures/pamphlets/postage & shipping \$

PROGRAMS: \$

PUBLIC RELATIONS: \$

\*GENERAL NON-ALLOCATED: \$ 2,250.

**TOTAL** \$ 15,000.

\*GENERAL NON-ALLOCATED MAY NOT EXCEED 15% OF THE ABOVE BUDGET AND CAN ONLY BE UTILIZED FOR ACCEPTABLE TDC ITEMS AS APPROVED BY THE ADVERTISING AND PUBLIC RELATIONS AGENCY OF RECORD.

ACTUAL EXPENDITURES MAY DEVIATE NO MORE THAN 10% FROM THE BUDGETED OINE ITEMS HNOTED ABOVE.

Monroe County Tourist Development Destination/TurnKey Event Application FY 2008