

**BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY**

Meeting Date: NOVEMBER 14, 2007 Division: TDC

Bulk Item: Yes No Department: _____

Staff Contact Person/Phone #: Maxine Pacini
296-1552

AGENDA ITEM WORDING:

Approval of an Agreement with Middle Keys Events Council, Inc. covering the Marathon SBI Offshore Grand Prix on May 15-18, 2008 in an amount not to exceed \$75,000, DAC III, FY 2008 Event Resources.

ITEM BACKGROUND:

TDC approved same at the September 11, 2007 meeting

PREVIOUS RELEVANT BOCC ACTION:

CONTRACT/AGREEMENT CHANGES:

New Contract

STAFF RECOMMENDATIONS:

Approval

TOTAL COST: \$75,000 **BUDGETED:** Yes No

COST TO COUNTY: \$75,000 **SOURCE OF FUNDS:** TDC

REVENUE PRODUCING: Yes No **AMOUNT PER MONTH** _____ **Year** _____

APPROVED BY: County Atty OMB/Purchasing Risk Management

DOCUMENTATION: Included Not Required _____

DISPOSITION: _____ **AGENDA ITEM #** _____

Turn Key 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 **Middle Keys Events Council, Inc.** a not for profit business organized 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. Payment: The COUNTY agrees to pay \$75,000 (Seventy Five Thousand Dollars) for: **Marathon SBI Offshore Grand Prix on May 15-18, 2008** from tourist development tax funds provided Event Sponsor meets all of its obligations under this agreement.

2. Scope of Services: The **Event Sponsor** agrees to provide the County with an event as specified in the Scope of Services below (Event):

- a). 3 day event with minimum of 1 day boat racing
- b). 25 boats no less than 24 feet racing
- c). Tinsley Advertising and Stuart Newman Associates to approve \$15,000 out of county allocation
- d). Report on participation to be provided to the TDC administrative office within 30 days of the conclusion of event

3. Payment: Upon receipt from Event Sponsor of documentation, reviewed and verified by the Tourist Development Council (TDC) Administrative Office, proving that event has been produced and promoted through marketing literature, advertising program/publication ads, television coverage, publicity and on-site advertising, and that the required insurance was obtained no less than twenty days prior to the event, COUNTY shall pay the sum in Paragraph 1.

Monroe County's performance and obligation to pay under this contract is contingent upon an annual appropriation by the COUNTY.

4. Accounting: Financial records of 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. Records shall be retained a minimum of three years after contract has been performed.

5. Modification: Any changes to this contract may be made only by written mutual agreement, recommended by the TDC and approved by the COUNTY.

6. Termination: This Agreement terminates on September 30, 2008. **All invoices must be submitted prior to September 30, 2008.**

7. Non Occurrence of Event: 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.

8. 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.

9. 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 through out the entire duration of the Event and any extensions specified in any attached schedules. Failure to comply with this provision shall release County of any obligation to compensate event sponsor. Further, any material misstatement in the application for insurance coverage shall release County from it's obligations to pay under this agreement. **Event Sponsor** shall provide, to the County, as satisfactory evidence of the required insurance, including the insurance policy application and either:

- * Original Certificate of Insurance
- or
- * Certified copy of the actual insurance policy

An original certificate or 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. The insurance policy must state that the Monroe County is the certificate holder and additional Insured. Insurance should be mailed to:

**Monroe County Board of County Commissioners
C/O Risk Management
1100 Simonton Street
Room 1-213
Key West, FL 33040**

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** 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 shall 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 throughout 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.

Prior to the commencement of work governed by this contract, Event Sponsor shall obtain Water Craft Liability Insurance with terms no less restrictive than those found in the standard "American Institute Hull Clauses" (June 2, 1977 edition). Coverage shall be maintained throughout the life of the contract and include, as a minimum:

- * Injury (including death) to any person
- * Damage to Fixed or Movable Objects
- * Costs Associated with the Removal of Wrecked Vessels
- * Contractual Liability with Respect to this Contract

If the policy obtained states that coverage applies for the "Acts or Omissions of a Vessel", it shall be endorsed to provide coverage for the legal liability of the ship owner. The minimum limits acceptable shall be:

\$1 Million Combined Single Limit (CSL)

Coverage provided by a Protection and Indemnity Club (P&I) shall be subject to the approval of the County.

10. Permits: The **Event Sponsor** will secure all required permits, licenses including but not limited to occupational licenses.

11. Laws and Regulations: Any and all services, materials and equipment shall comply fully with all Local, State and Federal laws and regulations.

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

13. Finance Charges: The COUNTY and TDC will not be responsible for any finance charges.

14. Relation of COUNTY/TDC: It is the intent of the parties hereto that the **Event Sponsor** shall be legally considered as an independent contractor and that neither it nor its employees shall, under any circumstances, be considered 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.

15. 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.

16. 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 TDC and COUNTY.

17. 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.

18. Security Protection: The **Event Sponsor** agrees to provide adequate security for the event.

19. 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.

20. 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.

21. 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.

22. Severability: If any provision of this Agreement shall be held by a Court of competent jurisdiction to be invalid or unenforceable, all 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.

23. 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.

24. 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 a period of 36 months from the date of being placed on the convicted vendor list". By execution of this Agreement, Sponsor warrants that it is in compliance with this requirement.

25. 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.

26. 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: Randall Mearns
10690 Aviation Boulevard
Marathon, FL 33050

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

27. 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)

Middle Keys Events Council, Inc.

Attest:

By. _____
Secretary

By R. Mearns
President

RANDALL MEARNS
Print Name

Print Name

Date: 9/27/07

Date: _____

OR TWO WITNESSES

(1) Debra Peterson
Print Name: Debra Peterson
Date: 9/27/07

(2) Michael Meador
Print Name: Michael Meador
Date: 09/27/07

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
Susan M. Gamsley
SUSAN M. GAMSLEY
ASSISTANT COUNTY ATTORNEY
Date Sept. 26, 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
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