

**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

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**AGENDA ITEM WORDING:**

Approval of an Amendment to Agreement with Key West Players, Inc. to revise Exhibit A of the Waterfront Playhouse Lobby Restoration/Renovation project.

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**ITEM BACKGROUND:**

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**PREVIOUS RELEVANT BOCC ACTION:**

BOCC approved original Agreement at their meeting of November 15, 2006.

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**CONTRACT/AGREEMENT CHANGES:**

**Amendment to revise Exhibit A**

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**STAFF RECOMMENDATIONS:**

**Approval**

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**TOTAL COST:** \$153,216

**BUDGETED:** Yes  No

**COST TO COUNTY:** \$153,216

**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 #** \_\_\_\_\_

MONROE COUNTY BOARD OF COUNTY COMMISSIONERS

CONTRACT SUMMARY

Contract with: Key West Players, Inc. Contract # \_\_\_\_\_ TDC #: 285  
 Effective Date: 11/15/06  
 Expiration Date: 3/31/08

Contract Purpose/Description:  
Approval of an Amendment to Agreement with Key West Players, Inc. to revise Exhibit A of the Waterfront Playhouse Lobby Restoration/Renovation project.

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

for BOCC meeting on 11/14/07 Agenda Deadline 10/30/07

CONTRACT COSTS

Total Dollar Value of Contract: \$ 153,216 Current Year Portion: \$ 53,000  
 Budgeted? Yes  No  Account Codes : 117-77040-530340-T77B-023-Y-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>10/12/07</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>[Signature]</u> | <u>10/12/07</u> |
| Risk Management   | <u>10/15/07</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>[Signature]</u> | <u>10/15/07</u> |
| O.M.B./Purchasing | <u>10/16/07</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>[Signature]</u> | <u>10/17/07</u> |
| County Attorney   | <u>10/11/07</u> | Yes <input type="checkbox"/> No <input checked="" type="checkbox"/> | <u>S.Grimmsley</u> | <u>10/11/07</u> |

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



September 28, 2007

Dear District I Advisory Committee:

Key West Players, Inc. requests an amendment to the scope of services within our FY 2007 Capital Project Funding Grant. The grant was awarded for the Waterfront Playhouse Lobby Restoration/Renovation project in an amount not to exceed \$153,216.

We had originally planned to complete some structural repairs and concrete repairs, but the total cost of the project exceeded our expectations and we decided not to contract with our architects to complete that work at this time. The cost of that work would have been \$30,000.

We are asking the DAC to approve the deletion of the following items from segment 2 of our contract:

- Structural repairs: Installation of reinforcement
- Concrete repairs: Installation of patching materials

We are requesting that the grant amount remain at \$153,216.

Thank you for your continued support of this needed restoration.

Sincerely,

A handwritten signature in black ink that reads "Henry Woods".

Henry Woods  
Project Manager and Past Board President  
Key West Players, Inc.

**AMENDMENT (1st AMENDMENT) TO AGREEMENT**

THIS AMENDMENT to agreement dated the \_\_\_\_ day of \_\_\_\_ 2007, is entered into by and between the Board of County Commissioners for Monroe County, on behalf of the Tourist Development Council, and **Key West Players, Inc.**

WHEREAS, there was a contract entered into on November 15, 2006 between the parties, awarding \$153,216 for the Waterfront Playhouse Lobby Restoration/Renovation project; and

WHEREAS, it has become necessary to revise the work outlined in Segment 2 of Exhibit A; and

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

1. Exhibit A shall be revised and attached hereto.
2. The remaining provisions of the contract dated November 15, 2006 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:

**Key West Players, Inc.**

By. \_\_\_\_\_  
Secretary

By *Robert M. Frechette*  
President  
Robert M. Frechette  
Print Name

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

**OR TWO WITNESSES**

(1) \_\_\_\_\_  
(1) \_\_\_\_\_  
Print Name

(2) \_\_\_\_\_  
(2) \_\_\_\_\_  
Print Name

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM  
*[Signature]*  
Date: 11/15/2007

# REVISED EXHIBIT A

**NAME OF ENTITY:** Key West Players, Inc.

**NAME OF PROJECT:** Waterfront Playhouse Lobby Restoration/Renovation

NUMBER OF SEGMENTS TO PROJECT: 3

**Note:** *County signoff and submission for reimbursement only allowed after completion of each segment as documented in this exhibit. Grantee must apply for reimbursement utilizing the 'Application for Payment' form included within the Payment/Reimbursement Kit.*

|   | <u>Schedule of Value</u>                        | <u>TDC Portion</u>                              |
|---|---|---|
| <p>Segment #: <u>1</u></p> <p><u>Description:</u> Demo and Rough-In Work</p> <ul style="list-style-type: none"> <li>• Architectural Fee: Design/Construction Documents/Bidding</li> <li>• Mobilization/Permit Fees</li> <li>• Demolition/Dump Fees</li> <li>• General Conditions (Superintendent, Temporary Office)</li> <li>• Floor trenching, patching &amp; Leveling</li> <li>• Rough framing</li> <li>• Plumbing rough-in</li> <li>• Electrical rough-in</li> <li>• Structural repairs of historic building (preparation)</li> <li>• Concrete repair preparation</li> </ul> | <p><u>Total Cost:</u><br/><u>\$ 101,122</u></p> | <p><u>TDC portion:</u><br/><u>\$ 50,561</u></p> |
| Waterfront Playhouse  |   |   |

# REVISED EXHIBIT A

|  |   |   |
|--|---|---|
| <p>Segment #: <u>2</u></p> <p><u>Description:</u> New Finish Work</p> <ul style="list-style-type: none"> <li>• General Conditions (Superintendent Services)</li> <li>• General Labor</li> <li>• Purchase and deliver doors</li> <li>• Door rough framing</li> <li>• Purchase and deliver plumbing fixtures</li> <li>• Purchase and deliver electrical fixtures</li> <li>• Electrical Fixture Rough-in</li> </ul> | <p style="text-align: center;"> <u>Total Cost:</u><br/> <u>\$101,122</u> </p> | <p style="text-align: center;"> <u>IDC portion:</u><br/> <u>\$50,561</u> </p> |
| <p>Waterfront Playhouse</p>  |   |   |

# REVISED EXHIBIT A

|  |  |   |
|--|--|---|
| <p>Segment #: <u>3</u></p> <p><u>Description:</u> Completion of all work</p> <ul style="list-style-type: none"> <li>• A/E Fees: Construction Contract Administration</li> <li>• General conditions: Superintendent</li> <li>• General labor</li> <li>• Hang doors and install hardware</li> <li>• Install finishes: Sheetrock, plaster, tile, etc.</li> <li>• Plumbing trimout</li> <li>• Electrical trimout</li> <li>• Repair seating at auditorium</li> <li>• Install millwork and countertops</li> <li>• Paint and finish</li> <li>• Punch List completion</li> </ul> | <p style="text-align: center;"> <u>Total Cost:</u><br/> <u>\$104,188</u> </p> <p style="text-align: center;"> <u>GRAND TOTAL</u><br/> <u>\$ 306,432</u> </p> | <p style="text-align: center;"> <u>IDC portion:</u><br/> <u>\$52,094</u> </p> <p style="text-align: center;"> <u>IDC TOTAL</u><br/> <u>\$153,216</u> </p> |
|--|--|---|

## Grant Award Agreement

This AGREEMENT dated the 15 day of ~~November~~ 2006, is entered into by and between the BOARD OF COUNTY COMMISSIONERS FOR MONROE COUNTY, hereinafter "County" or "GRANTOR," on behalf of the TOURIST DEVELOPMENT COUNCIL, hereinafter "TDC" and **Key West Players, Inc.**, hereinafter "Grantee".

WHEREAS, the third penny of Tourist Development Tax may be used to acquire, construct, extend, enlarge, remodel, repair or improve, convention centers, sports stadiums, sports arenas, coliseums, auditoriums, fishing piers, museums, zoological parks, nature centers, beach improvements and beach park facilities which are publicly owned and operated or owned and operated by not-for-profit corporations, and

WHEREAS, Grantee has applied for funding for the Waterfront Playhouse Lobby Restoration/Renovation project; and

WHEREAS, the Grantor and TDC have determined that it is in the best interest of the County, for purposes of promoting tourism and preserving the heritage of the community, to construct, enlarge, remodel, repair and improve the property for use as an auditorium open to the public;

NOW, THEREFORE, in consideration of the mutual covenants and payments contained herein, the Grantee and the Grantor have entered into this Agreement on the terms and conditions as set forth below.

1. **GRANT AGREEMENT PERIOD.** This Agreement is for the period of **November 15, 2006 through to March 31, 2008**. This Agreement shall remain in effect for the stated period unless one party gives to the other written notification of termination pursuant to and in compliance with paragraphs 7, 12 and 13 below.

2. **SCOPE OF AGREEMENT.** The Grantee shall provide the following scope of services: Segment 1: Demo and Rough-In Work. Segment 2: New Finish Work. Segment 3: Completion of all Work. Segment(s) of the work is/are more particularly described in Exhibit(s) A, detailing the work and the cost allocable to each segment, attached hereto and incorporated herein by reference. All work for which grant funds are to be expended must be completed by the stated termination date of **March 31, 2008** and all invoices pertaining to this project shall be submitted to the Finance Department of Monroe County no later than **March 31, 2008** to be considered for payment.

a) There shall be a project manager to acknowledge receipt of goods or work performed. This **Project Manager shall be Henry Woods, 1217 Grinnell Street, Key West, FL 33040 (Telephone: (305) 849-9424/Fax: (305) 295-3359)**. Should there be a change in the project manager specified in the Grantee's application, a new project

manager shall be designated and notice of the designation shall be provided to TDC/County.

b) If, and to the extent that, Grantee contracts for any of the work funded under this Agreement to be performed or completed, Grantee shall give notice to County of the contractual relationship, provide County with a copy of any and all contracts and shall require the contractor(s) to comply with all the terms of this contract. Should grantee contract the work and then decrease the scope of work to be performed by a contractor, Grantee shall provide County with an amended contract executed by Grantee and its contractor.

(i) A Grantee which is a governmental entity shall comply with the procurement regulations and policies to which it is subject, and shall provide Grantor documentation of the procurement requirements applicable to the project and compliance therewith.

(ii) A Grantee which is a not-for-profit entity shall undergo procurement processes for those parts of the project to be contracted (not performed by the entity's employees), which shall, at a minimum, require the acquisition of two written quotes for work expected to be under \$25,000 or a notarized statement as to why such written quotes were not feasible. For work expected to be \$25,000 or more, a competitive bid process must be performed. County procurement policies and procedures may be used by the Grantee as a guideline. In the event that the monetary contractual process commenced prior to the effective date of this funding grant Agreement, and the guidelines above were not followed, Grantee shall submit with its reimbursement request a notarized statement which details the Grantee's procurement efforts to ensure the best service for the most economical price. Grantee shall provide Grantor detailed documentation of the procurement process used.

c) Grantee shall exercise good internal controls to assure that the project as described in the funding application shall be completed on a timely basis within the proposed budget and shall provide to County any certifications, including those by the architect, engineer, contractor or an independent consultant if necessary, required to establish that materials which are purported to be applied to the project are in fact so applied. Further verification shall be required to show that equipment and other fixtures and personal property covered by this Agreement are delivered to and installed in the project site. When any permit is required by any governmental agency, copies of plans and other documents which are submitted to the applicable agency shall be submitted to the County Engineering Division to enable verification that the scope of services under this Agreement has been provided.

3. AMOUNT OF AGREEMENT AND PAYMENT. The Grantor shall provide an amount not to exceed **\$153,216** (One Hundred and Fifty Three Thousand, Two Hundred and Sixteen Dollars) for materials and services used to construct, enlarge, remodel, repair and improve the property. Reimbursement request must show that Grantee has paid in full for materials and services relating to the segment prior to seeking the 50% (fifty percent) reimbursement from Grantor. Payment shall be 50% (fifty percent) reimbursement of the total cost of the segment, subject to the cap on expenditures for

that segment as set forth in Exhibit A. Reimbursement can be sought after each segment of the Agreement is completed and signed by the Monroe County Engineering Department as outlined in 3.a. The Board of County Commissioners and the Tourist Development Council assume no liability to fund this Agreement for an amount in excess of this award. Monroe County's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the BOCC.

a) Payment shall be made upon the completion of a specific segment as outlined in the Scope of Services and Exhibit A. Payment for expenditures permissible by law and County policies shall be made through reimbursement to Grantee upon presentation of Application for Payment Summary— AIA Document G702 or similar certification as required below for governmental entities and not-for-profit entities, invoices, canceled checks and other documentation necessary to support a claim for reimbursement. Payment is a 50% (fifty percent) reimbursement of the total cost of each segment of the project, subject to the cap on expenditures for that segment as set forth in Exhibit A. Reimbursement can be sought after each segment of the Agreement is completed and signed by the Monroe County Engineering Department as outlined in 3.a. Included in said documentation shall be proof that the Grantee has received the property, realty or personalty, for each segment of Agreement as outlined in Exhibit A and paid an amount equal to or greater than the amount invoiced to the Grantor. It shall be necessary for the Grantee to contact the County Engineering Division and to arrange for inspections upon the completion of each segment. The documentation needed to support the payment request shall be in the form necessary for submission and available to the County engineer at the time of inspection. All submissions for payment shall have a proposed schedule of values for segment(s) and indicate the percentage of completion of the overall project as of the submission. This document should be signed by the project architect, engineer, general contractor or project manager. Photos of the progress of the work shall also be submitted with the payment application. It shall be the responsibility of the project architect, engineer, general contractor or project manager to initiate the communication with the Monroe County Engineering Division to facilitate the inspection(s) of the segment of the project. All submissions requesting payment shall be approved in writing, and signed, by the Monroe County Engineering Division as to the completion of the segment of the project for which payment is requested. The application for payment document must be certified through a statement signed by an officer of the organization and notarized, declaring that representations in the invoice are true and factual. Grantee shall also provide partial releases of liens or certifications of non-lien if applicable. Grantor shall retain 10% of any payment on work in progress until the Grantee has provided a Final Release of Lien for each vendor/Contractor for whom payment is requested. For projects exceeding \$25,000 in TDC funding under this Agreement, final payment will not be made until the following documents are complete and submitted to the Grantor:

- |              |        |  |
|--------------|--------|--|
| AIA Document | G-702  | Application for Payment Summary                      |
| AIA Document | G-704  | Certificate of Substantial Completion                |
| AIA Document | G-706  | Contractor's Affidavit of Debts & Claims             |
| AIA Document | G-706A | Contractor's Affidavit of Release of Liens           |
| AIA Document | G-707  | Consent of Surety to Final Payment (when applicable) |

## Final Release of Lien or Affidavit and Partial Release of Lien

For projects for which TDC funding under this Agreement is \$25,000 or less, the AIA documentation is not required, but sufficient documentation must be submitted to County to provide similar assurances that the work has been completed and contractors/suppliers paid.

All payment requests must be submitted no later than the completion of project of **March 31, 2008**. Invoices received after **March 31, 2008** will not be considered for payment.

b) Documentation shall be submitted to the TDC Administrative Office to show the receipt and application of in-kind donations of goods, professional services, and materials. Said documentation should include invoices, bills of lading, etc., and be verified as received and applied to the project through a notarized statement of the project architect, engineer, general contractor or project manager. The receipt and application to the project of volunteer labor are to be documented and verified by notarized signature of the project architect, engineer, general contractor or project manager, and said documentation submitted to the TDC Administrative Office. All submissions shall identify the items included in Exhibit A and grantee shall complete the Application for Payment form which is provided within the payment/reimbursement kit provided to the grantee, listing the schedule of values which are sought to be reimbursed and shall indicate the percentage of completion of the overall project as of the submission. This document should be signed by the project architect, engineer, general contractor or project manager.

Photographs showing progress on project shall be included in any payment request. The Project Manager shall certify delivery to the project site and installation therein of any goods or services provided other than through an architect, engineer or contractor. All work performed and goods received on site and incorporated into the project shall be verified by one of the foregoing. Submission of any documentation which is untrue, falsified, or otherwise misrepresents the work which has been completed, paid, or donated shall constitute a breach of agreement, for which breach the contract may be immediately terminated at the discretion of the County, whose decision shall be final.

c) Grantee must submit all documentation for final payment on or before the termination date of this grant of **March 31, 2008**. Invoices received after **March 31, 2008** will not be considered for payment.

d) At any time that the documentation requirement policies of Monroe County are revised, such as to require annual inventory reports for equipment purchased under a TDC capital project grant, Grantee shall comply thereafter with such increased requirements, or further funding under the Agreement may be terminated by County.

e) Upon successful completion of this Grant Agreement, the Grantee may retain ownership of the real and personal property acquired and/or improved with funding under this Grant Agreement. However, the Grantee shall maintain, preserve and operate the property which was acquired or improved under this Agreement for the uses

and purposes which qualified the Grantee for tourist development tax funding. Grantee shall complete and sign a Property Reporting Form (provided within payment/reimbursement package) for personal property and forward said completed form with the appropriate invoice to the TDC Administrative Office. Real property acquired or improved through funding under this Agreement shall remain dedicated for the purposes set forth herein or for other purposes which promote tourism and ownership of said property shall be retained by the Grantee. The following terms shall apply:

(i) The Grantee shall have the use of the property, including both realty and personalty acquired with funding under this agreement, at the project site for so long as the facility is operated by Grantee, open to the public, and has a primary purpose of promoting tourism. At such time as any of the conditions in the preceding sentence shall cease to exist, the Grantee shall transfer ownership and possession of equipment and personal property to a local government or another not-for-profit organization which is a facility for which tourist development taxes may be used pursuant to Florida Statute with prior approval from TDC and BOCC.

(ii) At any time that the Grantee: (a) elects to stop the project or otherwise decide not to place into service for tourist-related purposes the facility acquired, constructed, or renovated with tourist development tax funding, (b) demolishes the project facility or divests itself of ownership or possession of the real property, or (c) ceases the use of the property with a primary purpose of promoting tourism, Grantee shall, pursuant to the formula set forth hereafter, refund to the County the Tourist Development funding. This provision shall survive the termination date of all other provisions of this contract for a period of ten years. Should the demolition, transfer of ownership, or change to a non-tourist related purpose occur after the facility has been used for tourist-related purposes for at least three (3) years, the amount of refund shall be pro-rated based on a useful life of ten (10) years.

(iii) The Grantee is responsible for the implementation of adequate maintenance procedures to keep the real and personal property in good operating condition.

(iv) The Grantee is responsible for any loss, damage, or theft of, and any loss, damage or injury caused by the use of, real or personal property or equipment purchased through funding under this Agreement.

4. RECORDS AND REPORTS. The Grantee shall keep such records as are necessary to document the performance of the Agreement and expenses as incurred, and give access to these records at the request of the TDC, the County, the State of Florida or authorized agents and representatives of said government bodies. The Grantee shall also provide such access to the personal property and equipment purchased under this Agreement. It is the responsibility of the Grantee to maintain appropriate records in accordance with generally accepted accounting principles consistently applied to insure a proper accounting of all funds and expenditures. The Grantee understands that it shall be responsible for repayment of any and all audit exceptions which are identified by the Auditor General for the State of Florida, the Clerk of Court for Monroe County, the Board of County Commissioners for Monroe County, or their agents and representatives. In the event of an audit exception, the current fiscal year grant award or subsequent grant awards will be offset by the amount of the audit

exception. In the event the grant is not renewed or supplemented in future years, the Grantee will be billed by the Grantor for the amount of the audit exception and shall promptly repay any audit exception.

(a) Public Access. The County and Grantee shall allow and permit reasonable access to, and inspection of, all documents, papers, letters or other materials in its possession or under its control subject to the provisions of Chapter 119, Florida Statutes, and made or received by the County and Grantee in conjunction with this Agreement; and the County shall have the right to unilaterally cancel this Agreement upon violation of this provision by Grantee.

5. MODIFICATIONS AND AMENDMENTS. Any and all modifications of the terms of this Agreement shall be only amended in writing and approved by the Board of County Commissioners for Monroe County. The terms, covenants, conditions, and provisions of this Agreement shall bind and inure to the benefit of the County and Grantee and their respective legal representatives, successors, and assigns.

6. INDEPENDENT CONTRACTOR. At all times and for all purposes hereunder, the Grantee is an independent contractor and not an employee of the Board of County Commissioners of Monroe County. No statement contained in this Agreement shall be construed as to find the Grantee or any of its employees, contractors, servants or agents to be employees of the Board of County Commissioners of Monroe County, and they shall be entitled to none of the rights, privileges or benefits of employees of Monroe County.

(a) No Personal Liability. No covenant or Agreement contained herein shall be deemed to be a covenant or Agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

7. COMPLIANCE WITH LAW. In carrying out its obligations under this Agreement, the Grantee shall abide by all statutes, ordinances, rules and regulations pertaining to or regulating the provisions of this Agreement, including those now in effect and hereafter adopted. Any violation of said statutes, ordinances, rules or regulations shall constitute a material breach of this Agreement and shall entitle the Grantor to terminate this Agreement immediately upon delivery of written notice of termination to the Grantee.

8. RESTRICTIONS ON AGREEMENTS ENTERED PURSUANT TO THIS AGREEMENT. The Grantee shall include in all Agreements funded under this Agreement the following terms:

a) Anti-discrimination. Contractor agrees that it will not discriminate against any employees or applicants for employment or against persons for any other benefit or service under this Agreement because of their race, color, religion, sex, national origin, or physical or mental handicap where the handicap does not affect the ability of an

individual to perform in a position of employment, and to abide by all federal and state laws regarding non-discrimination.

b) Anti-kickback. Contractor warrants that no person has been employed or retained to solicit or secure this Agreement upon an Agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the Contractor has any interest, financially or otherwise, in contractor. For breach or violation of this warranty, the Contractor shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage or contingent fee. Contractor acknowledges that it is aware that funding for this Agreement is available at least in part through the County and that violation of this paragraph may result in the County withdrawing funding for the Project.

c) Hold harmless/indemnification. Contractor acknowledges that this Agreement is funded at least in part by the County and agrees to indemnify and hold harmless the County and any of its officers and employees from and against any and all claims, liabilities, litigation, causes of action, damages, costs, expenses (including but not limited to fees and expenses arising from any factual investigation, discovery or preparation for litigation), and the payment of any and all of the foregoing or any demands, settlements or judgments (collectively claims) arising directly or indirectly from any negligence or criminal conduct on the part of Contractor in the performance of the terms of this Agreement. The Contractor shall immediately give notice to the County of any suit, claim or action made against the Contractor that is related to the activity under this Agreement, and will cooperate with the County in the investigation arising as a result of any suit, action or claim related this Agreement.

d) Insurance. Contractor agrees that it maintains in force at its own expense a liability insurance policy which will insure and indemnify the Contractor and the County from any suits, claims or actions brought by any person or persons and from all costs and expenses of litigation brought against the Contractor for such injuries to persons or damage to property occurring during the Agreement or thereafter that results from performance by Contractor of the obligations set forth in this Agreement. At all times during the term of this Agreement and for one year after acceptance of the project, Contractor shall maintain on file with the County a certificate of the insurance of the carriers showing that the aforesaid insurance policy is in effect. The following coverage's shall be provided:

1. Workers Compensation insurance as required by Florida Statutes.
2. Commercial General Liability Insurance with minimum limits of \$500,000 per occurrence for bodily injury, personal injury and property damage.
3. Comprehensive Auto Liability Insurance with minimum limits of \$300,000 combined single limit per occurrence.

The Contractor, the County and the TDC shall be named as additional insured, exempt workers compensation. The policies shall provide no less than 30 days notice of cancellation, non-renewal or reduction of coverage.

At all times during the term of this Agreement and for one year after acceptance of the project, Contractor shall maintain on file with the County a certificate of insurance showing that the aforesaid insurance coverage's are in effect.

e) Licensing and Permits. Contractor warrants that it shall have, prior to commencement of work under this Agreement and at all times during said work, all required licenses and permits whether federal, state, County or City.

f) Right to Audit. The Contractor shall keep such records as are necessary to document the performance of the Agreement and expenses as incurred, and give access to these records at the request of the TDC, the County, the State of Florida or authorized agents and representatives of said government bodies.

9. HOLD HARMLESS/INDEMNIFICATION. The Grantee hereby agrees to indemnify and hold harmless the BOCC/TDC and any of its officers and employees from and against any and all claims, liabilities, litigation, causes of action, damages, costs, expenses (including but not limited to fees and expenses arising from any factual investigation, discovery or preparation for litigation), and the payment of any and all of the foregoing or any demands, settlements or judgments arising directly or indirectly under this Agreement. The Grantee shall immediately give notice to the Grantor of any suit, claim or action made against the Grantor that is related to the activity under this Agreement, and will cooperate with the Grantor in the investigation arising as a result of any suit, action or claim related to this Agreement.

(a) Non-Waiver of Immunity. Notwithstanding the provisions of Sec. 768.28, Florida Statutes, the participation of the County and the Grantee in this Agreement and the acquisition of any commercial liability insurance coverage, self-insurance coverage, or local government liability insurance pool coverage shall not be deemed a waiver of immunity to the extent of liability coverage, nor shall any contract entered into by the County be required to contain any provision for waiver.

(b) Privileges and Immunities. All of the privileges and immunities from liability, exemptions from laws, ordinances, and rules and pensions and relief, disability, workers' compensation, and other benefits which apply to the activity of officers, agents, or employees of any public agents or employees of the County, when performing their respective functions under this Agreement within the territorial limits of the County shall apply to the same degree and extent to the performance of such functions and duties of such officers, agents, volunteers, or employees outside the territorial limits of the County.

10. NONDISCRIMINATION. County and Grantee agree that there will be no discrimination against any person, and it is expressly understood that upon a determination by a court of competent jurisdiction that discrimination has occurred, this

Agreement automatically terminates without any further action on the part of any party, effective the date of the court order. County or Grantee agree to comply with all Federal and Florida statutes, and all local ordinances, as applicable, relating to nondiscrimination. These include but are not limited to: 1) Title VI of the Civil Rights Act of 1964 (PL 88-352) which prohibits discrimination on the basis of race, color or national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC ss. 1681-1683, and 1685-1686), which prohibits discrimination on the basis of sex; 3) Section 504 of the Rehabilitation Act of 1973, as amended (20 USC s. 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC ss. 6101-6107) which prohibits discrimination on the basis of age; 5) The Drug Abuse Office and Treatment Act of 1972 (PL 92-255), as amended, relating to nondiscrimination on the basis of drug abuse; 6) The Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment and Rehabilitation Act of 1970 (PL 91-616), as amended, relating to nondiscrimination on the basis of alcohol abuse or alcoholism; 7) The Public Health Service Act of 1912, ss. 523 and 527 (42 USC ss. 690dd-3 and 290ee-3), as amended, relating to confidentiality of alcohol and drug abuse patient records; 8) Title VIII of the Civil Rights Act of 1968 (42 USC s. et seq.), as amended, relating to nondiscrimination in the sale, rental or financing of housing; 9) The Americans with Disabilities Act of 1990 (42 USC s. 1201 Note), as maybe amended from time to time, relating to nondiscrimination on the basis of disability; 10) Any other nondiscrimination provisions in any Federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

11. ANTI-KICKBACK. The Grantee warrants that no person has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage or contingent fee, and that no employee or officer of the County or TDC has any interest, financially or otherwise, in the said funded project, except for general membership. For breach or violation of this warranty, the Grantor shall have the right to annul this Agreement without liability or, in its discretion, to deduct from the Agreement price or consideration, the full amount of such commission, percentage, brokerage or contingent fee.

12. TERMINATION. This Agreement shall terminate on **March 31, 2008**. Termination prior thereto shall occur whenever funds cannot be obtained or cannot be continued at a level sufficient to allow for the continuation of this Agreement pursuant to the terms herein. In the event that funds cannot be continued at a level sufficient to allow the continuation of this Agreement pursuant to the terms specified herein, this Agreement may then be terminated immediately by written notice of termination delivered in person or by mail to Grantee. The Grantor may terminate this Agreement without cause upon giving written notice of termination to Applicant. The Grantor shall not be obligated to pay for any services or goods provided by Grantee after Grantee has received written notice of termination.

13. TERMINATION FOR BREACH. The Grantor may immediately terminate this Agreement for any breach of the terms contained herein. Such termination shall take place immediately upon receipt of written notice of said termination. Any waiver of any breach of covenants herein contained to be kept and performed by Grantee shall not be

deemed or considered as a continuing waiver and shall not operate to bar or prevent the Grantor from declaring a forfeiture for any succeeding breach either of the same conditions or of any other conditions. Failure to provide Grantor with certification of use of matching funds or matching in-kind services at or above the rate of request for reimbursement or payment is a breach of Agreement, for which the Grantor may terminate this Agreement upon giving written notification of termination.

14. ENTIRE AGREEMENT. This Agreement constitutes the entire Agreement of the parties hereto with respect to the subject matter hereof and supersedes any and all prior Agreements with respect to such subject matter between the Grantee and the Grantor.

15. GOVERNING LAW, VENUE, INTERPRETATION, COSTS, AND FEES. 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. This Agreement is not subject to arbitration. Mediation proceedings initiated and conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil Procedure and usual and customary procedures required by the circuit court of Monroe County.

(a) Venue. In the event that any cause of action or administrative proceeding is instituted for the enforcement or interpretation of this Agreement, the County and Grantee agree that venue shall lie in the appropriate court or before the appropriate administrative body in Monroe County, Florida.

(b) Severability. If any term, covenant, condition or provision of this Agreement (or the application thereof to any circumstance or person) shall be declared invalid or unenforceable to any extent by a court of competent jurisdiction, the remaining terms, covenants, conditions and provisions of this Agreement, shall not be affected thereby; and each remaining term, covenant, condition and provision of this Agreement shall be valid and shall be enforceable to the fullest extent permitted by law unless the enforcement of the remaining terms, covenants, conditions and provisions of this Agreement would prevent the accomplishment of the original intent of this Agreement. The County and Grantee 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.

(c) Attorney's Fees and Costs. The County and Grantee agree that in the event any cause of action or administrative proceeding is initiated or defended by any party relative to the enforcement or interpretation of this Agreement, the prevailing party shall be entitled to reasonable attorney's fees, court costs, investigative, and out-of-pocket expenses, as an award against the non-prevailing party, and shall include attorney's fees, courts costs, investigative, and out-of-pocket expenses in appellate proceedings.

(d) Adjudication of Disputes or Disagreements. County and Grantee agree that all disputes and disagreements shall be attempted to be resolved by meet and confer sessions between representatives of each of the parties. If no resolution can be agreed upon within 30 days after the first meet and confer session, the issue or issues shall be

discussed at a public meeting of the Board of County Commissioners. If the issue or issues are still not resolved to the satisfaction of the parties, then any party shall have the right to seek such relief or remedy as may be provided by this Agreement or by Florida law.

(e) Cooperation. In the event any administrative or legal proceeding is instituted against either party relating to the formation, execution, performance, or breach of this Agreement, County and Grantee agree to participate, to the extent required by the other party, in all proceedings, hearings, processes, meetings, and other activities related to the substance of this Agreement or provision of the services under this Agreement. County and Grantee specifically agree that no party to this Agreement shall be required to enter into any arbitration proceedings related to this Agreement.

16. ETHICS CLAUSE: Grantee warrants that he has not employed, retained or otherwise had act on his behalf any former County officer 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 Grantor 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. The County and Grantee warrant that, in respect to itself, it has neither employed nor retained any company or person, other than a bona fide employee working solely for it, to solicit or secure this Agreement and that it has not paid or agreed to pay any person, company, corporation, individual, or firm, other than a bona fide employee working solely for it, any fee, commission, percentage, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For the breach or violation of the provision, the Grantee agrees that the County shall have the right to terminate this Agreement without liability and, at its discretion, to offset from monies owed, or otherwise recover, the full amount of such fee, commission, percentage, gift, or consideration.

(a) Covenant of No Interest. County and Grantee covenant that neither presently has any interest, and shall not acquire any interest, which would conflict in any manner or degree with its performance under this Agreement, and that only interest of each is to perform and receive benefits as recited in this Agreement.

(b) Code of Ethics. County agrees that officers and employees of the County recognize and will be required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, regarding, but not limited to, solicitation or acceptance of gifts; doing business with one's agency; unauthorized compensation; misuse of public position, conflicting employment or contractual relationship; and disclosure or use of certain information.

17. PUBLIC ENTITY CRIME STATEMENT: 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 an Agreement to provide any goods or services to a public entity, may not submit a bid on a Agreement 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, sub-contractor, or consultant under a Agreement 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.

18. **AUTHORITY:** Grantee warrants that it is authorized by law to engage in the performance of the activities encompassed by the project herein described. Each of the signatories for the Grantee below certifies and warrants that the Grantee's name in this Agreement is the full name as designated in its corporate charter (if a corporation); they are empowered to act and contract for the Grantee, and this Agreement has been approved by the Board of Directors of Grantee or other appropriate authority.

19. **LICENSING AND PERMITS:** Grantee warrants that it shall have, prior to commencement of work under this Agreement and at all times during said work, all required licenses and permits whether federal, state, County or City.

20. **INSURANCE:** Grantee agrees that it maintains in force at its own expense a liability insurance policy which will insure and indemnify the Grantee and the Grantor from any suits, claims or actions brought by any person or persons and from all costs and expenses of litigation brought against the Grantee for such injuries to persons or damage to property occurring during the Agreement or thereafter that results from performance by Grantee of the obligations set forth in this Agreement. At all times during the term of this Agreement and for one year after acceptance of the project, Grantee shall maintain on file with the Grantor a certificate of the insurance of the carriers showing that the aforesaid insurance policy is in effect. The following coverage's shall be provided:

1. Workers Compensation insurance as required by Florida Statutes.
2. Commercial General Liability Insurance with minimum limits of \$500,000 Combined Single Limit (CSL) If split limits are provided, the minimum limits acceptable shall be \$250,000 per Person \$500,000 per occurrence \$50,000 property damage.
3. Comprehensive Auto Liability Insurance with minimum limits of \$300,000 combined single limit per occurrence.

The Grantee, the Grantor and the TDC shall be named as additional insured, except workers compensation. The policies shall provide no less than 30 days notice of cancellation, non-renewal or reduction of coverage.

Grantee 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  
Or
- Certificate of Insurance e-mailed from Insurance Agent/Company to County Risk Management (Telephone Maria Slavik at 295-3178 for details)

**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 BOCC prior to the contract being executed by the Clerks office. The Insurance policy must state that the Monroe County BOCC and Monroe County TDC is the Certificate Holder and additional Insured for this contract. Insurance should be mailed to:**

**Monroe County Board of County Commissioners  
C/O Risk Management  
1100 Simonton Street  
Key West, FL 33041**

21. NOTICE. Any written notice to be given to either party under this Agreement or related hereto shall be addressed and delivered as follows:

For Grantee: Henry Woods  
Waterfront Playhouse  
1217 Grinnell Street  
Key West, FL 33040

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

22. CLAIMS FOR FEDERAL OR STATE AID. Contractor and County agree that each shall be, and is, empowered to apply for, seek, and obtain federal and state funds to further the purpose of this Agreement; provided that all applications, requests, grant proposals, and funding solicitations shall be approved by each party prior to submission.

23. NON-DELEGATION OF CONSTITUTIONAL OR STATUTORY DUTIES. This Agreement is not intended to, nor shall it be construed as, relieving any participating entity from any obligation or responsibility imposed upon the entity by law except to the

extent of actual and timely performance thereof by any participating entity, in which case the performance may be offered in satisfaction of the obligation or responsibility. Further, this Agreement is not intended to, nor shall it be construed as, authorizing the delegation of the constitutional or statutory duties of the County, except to the extent permitted by the Florida constitution, state statute, and case law.

24. **NON-RELIANCE BY NON-PARTIES.** No person or entity shall be entitled to rely upon the terms, or any of them, of this Agreement to enforce or attempt to enforce any third-party claim or entitlement to or benefit of any service or program contemplated hereunder, and the County and the Grantee agree that neither the County nor the Grantee or any agent, officer, or employee of either shall have the authority to inform, counsel, or otherwise indicate that any particular individual or group of individuals, entity or entities, have entitlements or benefits under this Agreement separate and apart, inferior to, or superior to the community in general or for the purposes contemplated in this Agreement.

25. **ATTESTATIONS.** Grantee agrees to execute such documents as the County may reasonably require, to include a Public Entity Crime Statement, an Ethics Statement, and a Drug-Free Workplace Statement.

26. **NO PERSONAL LIABILITY.** No covenant or Agreement contained herein shall be deemed to be a covenant or Agreement of any member, officer, agent or employee of Monroe County in his or her individual capacity, and no member, officer, agent or employee of Monroe County shall be liable personally on this Agreement or be subject to any personal liability or accountability by reason of the execution of this Agreement.

27. **FORCE MAJEURE.** The Grantee shall not be liable for delay in performance or failure to complete the project, in whole or in part, due to the occurrence of any contingency beyond its control or the control of its contractors and subcontractors, including war or act of war whether an actual declaration thereof is made or not, act of terrorism impacting travel in the United States, insurrection, riot or civil commotion, act of public enemy, epidemic, quarantine restriction, storm, flood, drought or other act of God, or act of nature (including presence of endangered animal species which cannot be timely removed in a safe manner or any act of any governmental authority which prohibits the project from proceeding as described in the scope of services and incorporated references and which the Grantee has exercised reasonable care in the prevention thereof. However, lack of planning for normal and expected weather conditions for the time of year the project is to be executed shall not constitute an act of God excusing a delay. Any delay or failure due to the causes stated shall not constitute a breach of the Agreement; however, the BOCC shall have the right to determine if there will be any reduction to the amount of funds due to the Grantee after consideration of all relevant facts and circumstances surrounding the delay in performance or failure to complete the project within the contract period. Upon demand of TDC or BOCC, the Grantee must furnish evidence of the causes of such delay or failure. BOCC shall not pay for any goods received or services provided after the date(s) described in paragraph 1 and Scope of Services.


28. EXECUTION IN COUNTERPARTS. This Agreement may be executed in any number of counterparts, each of which shall be regarded as an original, all of which taken together shall constitute one and the same instrument and any of the parties hereto may execute this Agreement by signing any such counterpart.


29. SECTION HEADINGS. Section headings have been inserted in this Agreement as a matter of convenience of reference only, and it is agreed that such section headings are not a part of this Agreement and will not be used in the interpretation of any provision of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed the day and year first above written.

(SEAL)  
Attest: Danny L. Kolhage, Clerk

Board of County Commissioners  
of Monroe County

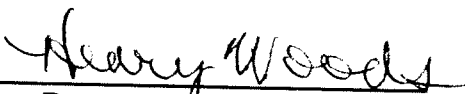
  
Deputy Clerk

  
Mayor/Chairman

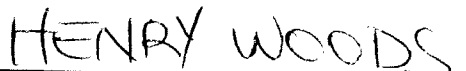
(CORPORATE SEAL)  
Attest:

Key West Players, Inc.

By. \_\_\_\_\_  
Secretary

By.   
President

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

  
Print Name

OR TWO WITNESSES

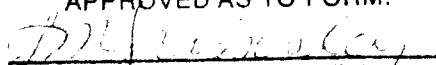
(1) \_\_\_\_\_

(2) \_\_\_\_\_

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

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

MONROE COUNTY ATTORNEY  
APPROVED AS TO FORM:

  
SUSAN M. GRIMSLEY  
ASSISTANT COUNTY ATTORNEY  
Date 12/2/06

# EXHIBIT A

**NAME OF ENTITY:** Key West Players, Inc.  
**NAME OF PROJECT:** Waterfront Playhouse Lobby Restoration/Renovation

NUMBER OF SEGMENTS TO PROJECT: 3

**Note:** *County signoff and submission for reimbursement only allowed after completion of each segment as documented in this exhibit. Grantee must apply for reimbursement utilizing the 'Application for Payment' form included within the Payment/Reimbursement Kit.*

|  |  | <u>Schedule of Value</u> | <u>IDC Portion</u>                              |
|--|--|--------------------------|---|
| <p>Segment #: <u>1</u></p> <p><u>Description:</u> <u>Demo and Rough-In Work</u></p> <ul style="list-style-type: none"> <li>• Architectural Fee: Design/Construction Documents/Bidding</li> <li>• Mobilization/Permit Fees</li> <li>• Demolition/Dump Fees</li> <li>• General Conditions (Superintendent, Temporary Office)</li> <li>• Floor trenching, patching &amp; Leveling</li> <li>• Rough framing</li> <li>• Plumbing rough-in</li> <li>• Electrical rough-in</li> <li>• Structural repairs of historic building (preparation)</li> <li>• Concrete repair preparation</li> </ul> |  |                          | <p><u>Total Cost:</u><br/> <u>\$101,122</u></p> |
|  |  |                          | <p><u>IDC portion:</u><br/> <u>\$50,561</u></p> |
| Waterfront Playhouse   |  |                          |   |

# EXHIBIT A

|   |   |
|---|---|
| <p>Segment #: <u>2</u></p> <p><u>Description:</u> New Finish Work</p> <ul style="list-style-type: none"> <li>• A/E Fees: Construction Contract Administration</li> <li>• General Conditions (Superintendent Services)</li> <li>• General Labor</li> <li>• Purchase and deliver doors</li> <li>• Door rough framing</li> <li>• Purchase and deliver plumbing fixtures</li> <li>• Purchase and deliver electrical fixtures</li> <li>• Electrical Fixture Rough-in</li> <li>• Structural repairs: Installation of reinforcement</li> <li>• Concrete repairs: Installation of patching materials</li> </ul> | <p style="text-align: right;"><u>Total Cost:</u><br/><u>\$101,122</u></p> <p style="text-align: right;"><u>TDC portion:</u><br/><u>\$50,561</u></p> |
| <p style="text-align: center;">Waterfront Playhouse</p>   |   |

# EXHIBIT A

Segment #: 3

Description: Completion of all work

- A/E Fees: Construction Contract Administration
- General conditions: Superintendent
- General labor
- Hang doors and install hardware
- Install finishes: Sheetrock, plaster, tile, etc.
- Plumbing trimout
- Electrical trimout
- Repair seating at auditorium
- Install millwork and countertops
- Paint and finish
- Punch List completion

Total Cost:  
\$104,188

**GRAND TOTAL**  
**\$ 306,432**

IDC portion:  
\$52,094

**IDC TOTAL**  
**\$153,216**

Request For Waiver of  
Balance Requirements

This is to certify that the person named in question 1, this is a bona fide person who  
is engaged in a bona fide business for the following reasons:

name: Key West Players dba Whitefront Playhouse

purpose: TDC Capital Project - Lobby Renovation

location: Wall Street @ Mallory Square  
Key West, FL 33040

mailing: P.O. Box 724, Key West, FL 33041

phone: 305-394-7445

work: Remodel existing lobby & upgrade restrooms/  
handicap accessible. Upgrade access to sound &  
light booth above lobby. Provide noise abatement for performance

other notes: no automobiles

ex Waiver will  
be # 447800004 GL/Property

name of Contractor: Henry Woods

approved  not approved

Management: M. Shanks H. RO. CP

by Administrative Officer  
Approval \_\_\_\_\_ Not Approved \_\_\_\_\_

of County Commissioner approved \_\_\_\_\_ Not Approved \_\_\_\_\_

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

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: Key West Players dba Waterfront Playhouse

Contract for: TDC Capital Project - Lobby Renovation

Address of Contractor: Wall Street @ Mallory Square  
Key West, FL 33040

mailing: P.O. BOX 724, Key West, FL 33041

Phone: 305-394-7445

Scope of Work: Remodel existing lobby & upgrade restrooms/  
handicap accessible. Upgrade access to sound &  
light booth above lobby. Provide noise abatement for performance.

Reason for Waiver: no employees

Policies Waiver with  
apply to: # 447800004 GL/Property

Signature of Contractor: [Signature]

Approved  Not Approved

Risk Management: [Signature]

Date: 10-20-06

County Administrator Appeal:  
Approved  Not Approved

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

Board of County Commissioners Appeal:  
Approved  Not Approved

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

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/29/2006

PRODUCER (305)294-2542

FAX (305) 6-7985

The Porter Allen Company  
513 Southard Street  
Key West, FL 33040  
David Freeman

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

RECEIVED  
OCT 18  
MONROE COUNTY  
RISK MANAGEMENT

| INSURERS AFFORDING COVERAGE |                      | NAIC # |
|-----------------------------|----------------------|--------|
| INSURER A                   | Burlington Insurance |        |
| INSURER B                   |                      |        |
| INSURER C                   |                      |        |
| INSURER D                   |                      |        |
| INSURER E                   |                      |        |

INSURED Waterfront Theater  
PO Box 724  
Key West, FL 33040

## COVERAGES

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR ADD'L LTR | INSRD | TYPE OF INSURANCE  | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS  |
|----------------|-------|--|---------------|----------------------------------|-----------------------------------|---|
| A              | X     | GENERAL LIABILITY  | 447B000004    | 01/13/2006                       | 01/13/2007                        | EACH OCCURRENCE \$ 1,000,000  |
|                |       | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |               |                                  |                                   | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000<br>MED EXP (Any one person) \$ 5,000<br>PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ 2,000,000<br>PRODUCTS - COMP/OP AGG \$ INCLUDED |
|                |       | AUTOMOBILE LIABILITY   |               |                                  |                                   | COMBINED SINGLE LIMIT (Ea accident) \$<br>BODILY INJURY (Per person) \$<br>BODILY INJURY (Per accident) \$<br>PROPERTY DAMAGE (Per accident) \$   |
|                |       | GARAGE LIABILITY   |               |                                  |                                   | AUTO ONLY - EA ACCIDENT \$<br>OTHER THAN AUTO ONLY: EA ACC \$<br>AGG \$   |
|                |       | EXCESS/UMBRELLA LIABILITY  |               |                                  |                                   | EACH OCCURRENCE \$<br>AGGREGATE \$<br>DEDUCTIBLE \$<br>RETENTION \$   |
|                |       | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY  |               |                                  |                                   | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?<br>If yes, describe under SPECIAL PROVISIONS below<br>OTHER   |

*M. Slavik*  
10-19-06  
4

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**Monroe County BOCC and Monroe County TDC IS THE CERTIFICATE HOLDER AND ADDITIONAL INSURED**

**CERTIFICATE HOLDER**  
 Monroe County Board of County Commissioners  
 Monroe County TDC  
 C/O Risk Management  
 Maria Slavik  
 P O Box 1026  
 Key West, FL 33040

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
 AUTHORIZED REPRESENTATIVE  
*David W. Freeman*  
 David W. Freeman

# ACORD™ CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)  
09/29/2006

PRODUCER (305)294-2542 FAX (305) 296-7985

The Porter Allen Company  
513 Southard Street  
Key West, FL 33040  
David Freeman

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW.

**INSURERS AFFORDING COVERAGE**

NAIC #

INSURED Waterfront Theater  
PO Box 724  
Key West, FL 33040

INSURER A: Burlington Insurance  
INSURER B:  
INSURER C:  
INSURER D:  
INSURER E:

**COVERAGES**

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. AGGREGATE LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

| INSR ADD'L LTR | INSR | TYPE OF INSURANCE  | POLICY NUMBER | POLICY EFFECTIVE DATE (MM/DD/YY) | POLICY EXPIRATION DATE (MM/DD/YY) | LIMITS   |              |
|----------------|------|--|---------------|----------------------------------|-----------------------------------|--|--------------|
| A              | X    | GENERAL LIABILITY  | 447B000004    | 01/13/2006                       | 01/13/2007                        | EACH OCCURRENCE  | \$ 1,000,000 |
|                |      | <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY<br><input type="checkbox"/> CLAIMS MADE <input checked="" type="checkbox"/> OCCUR<br>GEN'L AGGREGATE LIMIT APPLIES PER:<br><input type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC |               |                                  |                                   | DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000<br>MED EXP (Any one person) \$ 5,000<br>PERSONAL & ADV INJURY \$ 1,000,000<br>GENERAL AGGREGATE \$ 2,000,000<br>PRODUCTS - COMPI/OP AGG \$ INCLUDED |              |
|                |      | AUTOMOBILE LIABILITY   |               |                                  |                                   | COMBINED SINGLE LIMIT (Ea accident)  | \$           |
|                |      | <input type="checkbox"/> ANY AUTO<br><input type="checkbox"/> ALL OWNED AUTOS<br><input type="checkbox"/> SCHEDULED AUTOS<br><input type="checkbox"/> HIRED AUTOS<br><input type="checkbox"/> NON-OWNED AUTOS  |               |                                  |                                   | BODILY INJURY (Per person)   | \$           |
|                |      |  |               |                                  |                                   | BODILY INJURY (Per accident)   | \$           |
|                |      |  |               |                                  |                                   | PROPERTY DAMAGE (Per accident)   | \$           |
|                |      | GARAGE LIABILITY   |               |                                  |                                   | AUTO ONLY - EA ACCIDENT  | \$           |
|                |      | <input type="checkbox"/> ANY AUTO  |               |                                  |                                   | OTHER THAN AUTO ONLY: EA ACC   | \$           |
|                |      |  |               |                                  |                                   | AGG  | \$           |
|                |      | EXCESS/UMBRELLA LIABILITY  |               |                                  |                                   | EACH OCCURRENCE  | \$           |
|                |      | <input type="checkbox"/> OCCUR <input type="checkbox"/> CLAIMS MADE  |               |                                  |                                   | AGGREGATE  | \$           |
|                |      | <input type="checkbox"/> DEDUCTIBLE<br><input type="checkbox"/> RETENTION \$   |               |                                  |                                   |  | \$           |
|                |      | WORKERS COMPENSATION AND EMPLOYERS' LIABILITY  |               |                                  |                                   | WC STATUTORY LIMITS  | OTHER        |
|                |      | ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED?<br>If yes, describe under SPECIAL PROVISIONS below<br>OTHER  |               |                                  |                                   | E.L. EACH ACCIDENT   | \$           |
|                |      |  |               |                                  |                                   | E.L. DISEASE - EA EMPLOYEE   | \$           |
|                |      |  |               |                                  |                                   | E.L. DISEASE - POLICY LIMIT  | \$           |

*M. Slavik re attachment 10/18/06*

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES / EXCLUSIONS ADDED BY ENDORSEMENT / SPECIAL PROVISIONS  
**Monroe County BOCC and Monroe County TDC IS THE CERTIFICATE HOLDER AND ADDITIONAL INSURED**

**CERTIFICATE HOLDER**  
 Monroe County Board of County Commissioners  
 Monroe County TDC  
 C/O Risk Management  
 Maria Slavik  
 P O Box 1026  
 Key West, FL 33040

**CANCELLATION**  
 SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, THE ISSUING INSURER WILL ENDEAVOR TO MAIL 10 DAYS WRITTEN NOTICE TO THE CERTIFICATE HOLDER NAMED TO THE LEFT, BUT FAILURE TO MAIL SUCH NOTICE SHALL IMPOSE NO OBLIGATION OR LIABILITY OF ANY KIND UPON THE INSURER, ITS AGENTS OR REPRESENTATIVES.  
 AUTHORIZED REPRESENTATIVE  
 David W. Freeman

## **IMPORTANT**

If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must be endorsed. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

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).

## **DISCLAIMER**

The Certificate of Insurance on the reverse side of this form does not constitute a contract between the issuing insurer(s), authorized representative or producer, and the certificate holder, nor does it affirmatively or negatively amend, extend or alter the coverage afforded by the policies listed thereon.

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**Additional Coverages and Factors**09/29/2006

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| Line of Business Coverages for      | General Liability |              |      |         |        |
|-------------------------------------|-------------------|--------------|------|---------|--------|
| Coverage                            | Limits            | Ded/Ded Type | Rate | Premium | Factor |
| General Aggregate                   | 2,000,000         |              |      |         |        |
| Personal & Advertising<br>Injury    | 1,000,000         |              |      |         |        |
| Each Occurrence                     | 1,000,000         |              |      |         |        |
| Products/Completed Ops<br>Aggregate | INCLUDED          |              |      |         |        |
| Fire Damage                         | 100,000           |              |      |         |        |
| Medical Expense                     | 5,000             |              |      |         |        |