

AGREEMENT

THIS AGREEMENT is made by and between the CITY OF KEY WEST, FLORIDA, a municipal corporation, hereinafter referred to as "City" and RACE WORLD OFFSHORE LLC, a Florida Limited Liability Company, hereinafter referred to as "RWO".

WITNESSETH:

WHEREAS, RWO's proposal, dated February 21, 2019, submitted in response to City RFP 006-19, ANNUAL POWER BOAT CHAMPIONSHIP RACE was ranked the highest by the City Commission; and

WHEREAS, the parties desire to set forth their mutual understanding in a formal Agreement; and

WHEREAS, this event stimulates significant economic investment in the City of Key West supporting local businesses; and

WHEREAS, RWO and City have agreed to a revenue sharing formula which the City finds to be fair and adequate consideration for this agreement;

NOW, THEREFORE, in consideration for the mutual promises and covenants contained herein, it is mutually agreed between City and RWO as follows:

1. Term:

The term of this agreement shall be for five (5) years commencing on the ___ day of _____, 2019, and shall apply to the Key West Annual Power Boat Championship Race activities to be held during the years 2019 through 2023 inclusive unless earlier terminated as provided herein.

2. Demised Area:

RWO shall have the use of the Truman Waterfront Park as shown on the attached Exhibits, hereinafter referred to as the "Demised Area". City reserves the right, upon 180 days notice, to re-locate the event to a comparable sized area in the Truman Waterfront during construction or upon completion of the park improvements. In the event that RWO does not agree with the re-location, RWO shall have the right at its sole option and as its sole remedy, to terminate this agreement, within 30 days of the receipt of the re-location notice.

3.

Use:

- a) RWO may utilize the Demised Area for the purposes of holding activities consistent with the Key West Annual Power Boat Championship Race.
- b) RWO shall coordinate its use of the Demised Area with all applicable entities owning properties surrounding the Demised Area such to provide for minimum business disruption. In no circumstance shall RWO's use of the Demised Area negatively affect ingress and egress to the Truman Waterfront.
- c) RWO will comply with all laws and city ordinances governing use of city property, including but not limited to, consumption of alcohol, noise control and exemptions, and will obtain any and all necessary permits, including special event permits, licenses and/or approvals that may be required.
- d) Each year, at least 120 days before the event, RWO shall supply the City the schedule of events for that year, which schedule shall become an attachment to this Agreement. Provided, however, the said schedule and related activities shall be in be in substantial conformity with the following:
 - A. Race Village at Truman Waterfront Park, first Sunday through second Sunday of Race Week between 9:00 AM to 5:00 PM (Days 1 – 8) with race teams arriving at 5:00 AM
 1. All boats will be arranged on the leased property in accordance with the map attached hereto as Exhibit "A".
 2. All vendors will be arranged on the leased property in accordance with the map attached hereto as Exhibit "A".
 3. The entrance gate to the paid parking areas and the parking lots shall be located on the leased property in accordance with the map attached hereto as Exhibit "A".
 4. Security within the Race Village will be provided as determined by the City Manager and Police Chief based on demand for service and prior years' experience. City approved private security may be used for this purpose.
 5. If required by the City Manager, manned fire pumper truck shall be staged in the Race Village beginning on Tuesday and through Sunday of Race Week.

- B. Boat Parade on Duval Street, first Sunday of Race Week (Day 1)
1. The exact route of the procession starting at 4:00 PM and ending at approximately 6:00 PM will be as indicated on the map attached hereto as Exhibit "D".
 2. RWO shall contract and pay for law enforcement officers to ensure traffic control and the safety of the participants. The parade procession must have a law enforcement escort vehicle at the front and at the rear of the procession.
 3. Security along the parade route will be provided as determined by the City Manager and Police Chief based on demand for service and prior years' experience
 4. Trash and recycling receptacles shall be placed at the staging area and at suitable locations throughout the parade route to ensure adequate collection.
- C. Welcome Party for U. S. and International Teams at Truman Waterfront Park, Tuesday of Race Week (Day 3)
1. Please refer to Exhibit "B" for event location.
- D. Testing for Race Boats Tuesday, Thursday and Saturday of Race Week (Days 3, 5 and 7)
1. Please refer to Exhibit "B" for locations of boat launch and fueling areas.
 2. Please refer to Exhibit "C" for locations of U.S. Coast Guard Sector Key West approved race courses for testing and competition during both good and inclement weather conditions.
 3. Security on the race course to prevent spectator traffic will be provided by the Police Marine Boat if requested by the U.S. Coast Guard.
 4. Fire Services on the race course will be provided by the Fire Marine Boat if requested by the U.S. Coast Guard.
 5. Ambulance Service by the City is required on the US Navy Outer Mole during race testing.

- E. Race Day Events, Wednesday, Friday and Sunday of Race Week (Days 4, 6 and 8)
 - 1. Please refer to Exhibit "B" for locations of boat launch and fueling areas.
 - 2. Please refer to Exhibit "C" for locations of U.S. Coast Guard Sector Key West approved race courses for testing and competition during both good and inclement weather conditions.
 - 3. Security on the race course to prevent spectator traffic will be provided by the Police Marine Boat if requested by the U.S. Coast Guard.
 - 4. Fire Services on the race course will be provided by the Fire Marine Boat if requested by the U.S. Coast Guard.
 - 5. Ambulance Service by the City is required on the US Navy Outer Mole during race days.

- F. Duval Street Party on Friday of Race Week (Day 6)

4. Revenue Sharing:

RWO shall remit to City the following proceeds from the event:

- a) \$3.00 per gate admission for each ticket sold for the event;
- b) \$3.00 per paid parked car in the Truman Waterfront as reflected on attached Exhibits A-1 and A-2. \$3.00 per VIP ticket sold for the event.

RWO shall utilize a tracking and reporting method approved by City to verify and report all ticket and parking sales. Final payment of all amounts due under this revenue sharing agreement shall be due and payable on or before the 45th day following the final races on Sunday.

5. Payment for City Services

- a) City will provide to RWO an itemized invoice of actual costs incurred for all services rendered in connection with the events approved by this Agreement.
- b) RWO will remit payment to City within forty-five (45) days of invoice date for those services itemized on the invoice with the understanding RWO will remit payment directly to all contracted off-

duty law enforcement officers and its fire department personnel. RWO shall make arrangements for privately contracted clean-up services to assist with the clean-up during the entire power boat race events

6. Additional Provisions.

- a) The City department spokesperson or contact person providing the services shall immediately advise the City Manager of the action to add extra labor or equipment.
- b) RWO will provide portable toilets to be available to event attendees during all events, as required by the city manager or designee.
- c) City will provide extra trash receptacles for use during the events. RWO shall pay costs for pick-ups and disposal charges for the referenced trash receptacles. Cardboard trash receptacles are not permitted. In each instance that result in closure of a street, RWO shall provide additional garbage cans.
- d) RWO will adhere to the recycling plan of the City of Key West, which provides that one (1) recycling container for every one (1) trash barrel will be used and that they be placed side by side.
- e) RWO shall provide adequate clean-up crews to remove all litter resulting from the event. Should the City be required to provide clean-up crews to remove litter resulting from the events the costs of said clean-up shall be reimbursed by RWO.
- f) RWO will pay City for electric services as estimated by the City or Keys Energy no later than 45 days after Key West World Championship ceases use of the Demised Area each year of the event.
- g) No vendors are permitted in the pedestrian right-of-way or allowed to block any intersections in either the Truman Waterfront Park or US Navy Outer Mole Pier at any time and are subject to relocation or removal by the City.
- h) RWO agrees to keep one lane of all streets open at all times during the events to allow access to any areas of the streets for emergency vehicles.
- i) RWO will not be responsible for normal wear and tear to the natural grassy areas of the park. In the event of serious damage by a vendor or racing team RWO will be responsible for the necessary replacement of the natural grassy areas.
- j) RWO may begin using the Truman Waterfront Park starting on the Monday prior to the race week and ending the Friday following race week.

- k) The City will block cruise ships on race days at the US Navy Outer Mole Pier. The City cannot block out cruise ships at the privately owned Pier B or publicly owned Mallory Square Pier.
- l) The key contacts for the City to this agreement are the City Manager, Assistant City Manager of Operations, and Director of Port and Marine Services.
- m) RWO will provide the City with a race schedule at least 120 days prior to the event for discussion and approval as relates to the use of the Truman Waterfront Park and U.S. Navy Outer Mole Pier. RWO will comply with all rules and regulations of the US Navy pertaining to the use of the premises as set forth in the City's lease with the U.S. Navy dated 5/19/2014 and extended by renewal notice dated 2/21/19.
- n) The exhibits used herein are subject to change or modification by agreement of the parties as may be needed in consideration of the ongoing improvements to the Truman Waterfront Park.

7. Security Deposit

RWO agrees to provide a security deposit in the amount of \$5,000.00 at least thirty (30) days prior to the event each year for the faithful performance of all repairs necessary due to the use of the property caused by RWO, it's agents, employees, invitees. The parties agree to walk through and inspect the premises before and after the event to confirm exact condition of the premises and any necessary repairs. This obligation for repairs includes, but is not limited to, damage to the parking areas, staging areas and grounds utilized by the competitors or RWO. RWO shall reimburse the City for any repair expenses exceeding the deposit.

8. Insurance and Indemnity Requirements.

RWO shall:

- a) Provide comprehensive liability insurance insuring itself and City against all claims of damages or injury to persons or property arising for any reason as a result of the activities associated with events permitted by City. The insurance policy shall be written by a solvent insurance company in good standing and shall provide a minimum of \$2,000,000 coverage for bodily injury arising out of one incident and \$10 Million Dollars aggregate along with a minimum of \$2,000,000 products aggregate and a minimum \$300,000 fire damage/legal. This policy shall show City as an additional named insured and a copy shall be provided to the Special Events Section of the City Manager's Office no later than three weeks before the first event.
- b) To the fullest extent permitted by law, RWO expressly agrees to indemnify and hold harmless the City of Key West and their respective officers, directors, agents, and employees (herein called the "indemnitees") from any and all

liability for damages, including, if allowed by law, reasonable attorney's fees and court costs, such legal expenses to include costs incurred in establishing the indemnification and other rights agreed to in this Paragraph, to persons or property (including intellectual property) caused in whole or in part by any act, omission, or default by RWO. or its subcontractors, material men, or agents of any tier or their employees, arising out of this Agreement or its performance, including any such damages caused in whole or in part by any act, omission, or default of any indemnitee, but specifically excluding any claims of, or damages against an indemnitee resulting from such indemnitee's gross negligence, or the willful, wanton or intentional misconduct of such indemnitee or for statutory violation or punitive damages except and to the extent the statutory violation or punitive damages are caused by or result from the acts or omissions of RWO. or its subcontractors, material men, or agents of any tier or their respective employees.

9. Assignment and Hypothecation

This Agreement is not transferable or assignable, except as provided by Resolution of the Key West City Commission.

10. Default, Remedies

In the event that RWO fails to comply with the terms of this Agreement, including the failure to draw a large enough field of competitors to provide the 3 full days of boat races described in paragraph 3 above, the City shall have the right to terminate the Agreement upon thirty days written notice which shall be delivered pursuant to Section 12 hereof.

11. Independent Contractor

RWO is an independent contractor with respect to the City. No employee or agent of RWO shall be entitled to the wages or benefits of an employee of the City of Key West.

12. Notice

All notices, demands, or other writings in this Agreement provided to be given or made or sent, or which may be given or made or sent, by either party to this Agreement to the other, shall be deemed to have been fully given or made or sent when made in writing and received by hand delivery or Certified mail with sufficient postage pre-paid thereon to carry it to its addressed destination and addressed as follows:

To City:	City Manager P.O. Box 1409 Key West, FL 33040
To RWO:	Larry Bleil 202 Duval Street Key West, FL 33040

The address to which any notice, demands, or other writing may be given or made or sent to any party mentioned above may be changed by written notice.

13. 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 impaired thereby, but such remaining provisions shall be interpreted and enforced so to achieve, as near as may be, the purpose of this Agreement to the extent permitted by law.

14. Governing Law.

This Agreement shall be governed by, construed, and enforced in accordance with the laws of the State of Florida.

15. Entire Agreement.

This Agreement sets forth all the covenants, promises, agreements, and understandings between the City and RWO. No subsequent alteration, amendment, change, or addition to this Agreement shall be binding upon the City or RWO unless reduced to writing and duly executed by both parties.

IN WITNESS WHEREOF, RWO and City hereby accept and agree to abide by the terms and condition set forth herein, and have hereunto executed this Agreement, this ____ day of _____, 2019.

CITY OF KEY WEST

By: _____
JAMES K. SCHOLL, CITY MANAGER

ATTEST:

CHERYL SMITH, CITY CLERK

RACE WORLD OFFSHORE, LLC,
a Florida Limited Liability Company

By: 
LARRY BLEIL, MANAGER

EXHIBIT “A”

RACE VILLAGE AT TRUMAN WATERFRONT PARK

(INCLUDING BOAT ARRANGEMENT, VENDOR ARRANGEMENT, ENTRANCE GATE, PAID
PARKING AREAS)

EXHIBIT “B”

WELCOME PARTY EVENT LOCATION (DAY 3), FUELING AND BOAT LAUNCH AREAS

EXHIBIT “C”

US COAST GUARD SECTOR KEY WEST APPROVED RACE COURSE LOCATIONS

EXHIBIT “D”

BOAT PARADE ROUTE (DAY 1)