

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF KEY WEST GRANTING AN AMENDMENT TO SECTION 9, AND ADDING A RELATED EXHIBIT A-1 TO THE FRANCHISE AGREEMENT BETWEEN THE CITY AND DUCK TOURS SEAFARI, D/B/A YELLOW DUCK TOURS TO AMEND THE TYPE OF SIGHTSEEING VEHICLE(S) PERMITTED BY THE FRANCHISE AGREEMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, in Ordinance No. 11-02 the City Commission approved a franchise agreement between the City and Duck Tours Seafari, d/b/a Yellow Duck Tours; and

WHEREAS, the owner of Duck Tours Seafari has requested an amendment to the franchise agreement, to allow an additional type of sightseeing vehicle to be used for sightseeing/shuttle operations.

WHEREAS, Key West City Charter section 7.01(4) requires that the grant of a franchise must be done by ordinance; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF KEY WEST FLORIDA:

Section 1: That "Section 9." of the Franchise Agreement contained in Ordinance No. 11-02 is hereby amended as follows*:

Section 9. CONSIDERATION FOR GRANT AND AUTHORIZED NUMBER OF VEHICLES

* * * * *

Grantor is hereby authorized to operate up to ten (10) ~~amphibious~~ sightseeing vehicles under the provisions of this franchise. In the event that the Grantee can document through the use of a professional traffic impact or related study acceptable to the City that no adverse effects would be permitted upon the allowance of additional vehicles, the City Commission shall agenda an item for consideration of an amendment to this ordinance to permit additional vehicles.

True and accurate color photographs of the vehicles authorized to be used in the operation are attached hereto as Exhibit "A" and "A-1".

* * * * *

*(Coding: Added language is underlined; deleted language is ~~struck through~~.)

Section 2: That Franchisee shall execute a First Amendment to Franchise Agreement that recognizes this addition.

Section 3: Except as specifically provided herein, this amendment to franchise ordinance No. 11-02 is not intended to waive any requirement of the franchise ordinance, the Key West City Code of Ordinances or City Charter.

Section 4: If any section, provision, clause, phrase, or application of this Ordinance is held invalid or unconstitutional for any reason by any court of competent jurisdiction, the remaining provisions of this Ordinance shall be deemed severable therefrom and shall be construed as reasonable and necessary to achieve the lawful purposes of the Franchise Agreement.

Section 5: All Ordinances or parts of Ordinances of said City in conflict with the provisions of this Ordinance are hereby superseded to the extent of such conflict.

Section 6: This Ordinance shall go into effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Read and passed on first reading at a regular meeting held this _____ day of _____, 2014.

Read and passed on final reading at a regular meeting held this _____ day of _____, 2014.

Authenticated by the presiding officer and Clerk of the Commission on _____ day of _____, 2014.

Filed with the Clerk _____, 2014.

Mayor Craig Cates	_____
Vice Mayor Mark Rossi	_____
Commissioner Teri Johnston	_____
Commissioner Clayton Lopez	_____
Commissioner Billy Wardlow	_____
Commissioner Jimmy Weekley	_____
Commissioner Tony Yaniz	_____

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK