



Islamorada, Village of Islands

REGULAR VILLAGE COUNCIL MEETING

September 28, 2023 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

The Village Council has resumed the in-person regular meeting format. Virtual participation is still available to the public. Please see the last page of the agenda for participation details

AGENDA

I. CALL TO ORDER / ROLL CALL

II. PLEDGE OF ALLEGIANCE

III. AGENDA: Requests for Deletion / Emergency Additions

IV. REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

- A.** Founders Park, East Ridge Rd. and Village Wide Boat Ramp Update
and Report **TAB 1**

(Peter Frezza, Environmental Resources Manager)

V. PUBLIC COMMENT

(This is general public comment. It provides an opportunity for the public to speak about matters not scheduled elsewhere on the agenda. The mayor opens public comment on agenda items throughout the meeting.)

VI. CITIZENS' ADVISORY COMMITTEE REPORTS & APPOINTMENTS

- A.** Approval of the Appointments to the Islamorada Youth Council **TAB 2**

VII. MAYOR / COUNCIL COMMUNICATIONS

- A.** Discussion of Noise Ordinance - Council Member Gregg **TAB 3**
B. Discussion of Noise Ordinance - Council Member Jolin **TAB 4**
C. Freebee Discussion - Vice Mayor Mahoney
D. Discussion Regarding Cell Phone Usage on Dais by Council Members
During Meeting - Mayor Pinder
E. Discussion Regarding Rezoning of Certain Properties upon Village
Incorporation
F. Discussion of Former Director of Development Service Gulizio's contract
- Council Member Rosenthal
G. Discussion of Traffic Study - Council Member Rosenthal

- H. Discussion of Island Silver and Spice Property - Council Member Rosenthal

VIII. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

- A. Discussion Regarding Local Planning Agency Procedures **TAB 5**
- B. Request for Village Council Direction - Agreement with Attention Media, LLC for a Social Media Outreach Program **TAB 6**
- C. Update on Village Manager Selection Process - Upcoming Workshop on October 3, 2023
- D. Discussion of Master Plan for Islamorada Parks

IX. CONSENT AGENDA

(All items on the Consent Agenda are considered routine by the Village Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event, the item will be moved to the Main Agenda.)

- A. Approval of Minutes for the Regular Village Council Meeting held on July 6, 2023 **TAB 7**
- B. Resolution Approving Final Ranking and Recommendation of the RFP 23-12 Evaluation Committee and Approval of ASAP Inc. for the Green Turtle Hammock Nature Preserve Basin Improvement Project **TAB 8**

(Peter Frezza, Environmental Resources Manager)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 23-12 EVALUATION COMMITTEE FOR SELECTION OF A CONTRACTOR FOR THE GREEN TURTLE HAMMOCK NATURE PRESERVE BASIN IMPROVEMENT PROJECT; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- C. Resolution Approving Final Ranking and Recommendation of the RFP 23-13 Evaluation Committee and Approval of Agreement with Poseidon Marine Towing Corp. for Nearshore Buoy and Signage Installation and Maintenance **TAB 9**

(Peter Frezza, Environmental Resources Manager)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 23-13 EVALUATION COMMITTEE FOR SELECTION OF A CONTRACTOR FOR NEARSHORE BUOY AND SIGNAGE INSTALLATION AND MAINTENANCE; AUTHORIZING THE

VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- D. Resolution Approving DEP Agreement No. LPA0711 Between the Florida Department of Environmental Protection and the Village Relating to Funding through the Florida Keys Stewardship Act **TAB 10**

(Peter Frezza, Environmental Resources Manager)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING DEP AGREEMENT NO. LPA0711 BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE VILLAGE RELATED TO FLORIDA KEYS STEWARDSHIP ACT FUNDING; AUTHORIZING VILLAGE OFFICIALS TO TAKE ALL STEPS NECESSARY TO FINALIZE AND IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

- E. Resolution Approving Second Amendment to Work Authorization No. 3 with M.T. Causley, LLC., for Building Services Department Support Services **TAB 11**

(Sheila Denoncourt, Chief Building Official)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A SECOND AMENDMENT TO WORK AUTHORIZATION NO. 3 BETWEEN M. T. CAUSLEY, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE SECOND AMENDMENT TO WORK AUTHORIZATION NO. 3; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

- F. Resolution Approving Work Authorization No. 4 with M.T. Causley, LLC. for Building Services Department Support Services **TAB 12**

(Sheila Denoncourt, Chief Building Official)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 4 BETWEEN M. T. CAUSLEY, LLC, AND

ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 4; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

- G.** Resolution Approving FY 2023-2024 Expenditures through a Cooperative Professional Services Agreement with All Aspects Inspection Services, LLC. for Building Services Department Support Services **TAB 13**

(Sheila Denoncourt, Chief Building Official)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING FISCAL YEAR 2023-2024 EXPENDITURES THROUGH A COOPERATIVE PROFESSIONAL SERVICES AGREEMENT BETWEEN ALL ASPECTS INSPECTION SERVICES, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE BUILDING PERMIT PLANS REVIEW AND INSPECTION SERVICES TO THE BUILDING SERVICES DEPARTMENT; APPROVING THE WAIVER OF COMPETITIVE BIDDING; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

- H.** Resolution Approving Purchase of Three Personal Protective Gear Washer/Extractor Units Funded through FEMA Assistance to Firefighters Grant **TAB 14**

(Terry Abel, Fire Chief)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE PURCHASE OF PROTECTIVE PERSONAL EQUIPMENT EXTRACTOR UNITS FOR THE ISLAMORADA FIRE RESCUE DEPARTMENT; APPROVING THE WAIVER OF COMPETITIVE BIDDING; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- I.** Resolution Approving One Year Extension to GrayRobinson Agreement for State Lobbying Services **TAB 15**

(John Quick, Interim Village Attorney)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A ONE YEAR RENEWAL OF THE AGREEMENT FOR PROFESSIONAL STATE LOBBYING SERVICES BETWEEN GRAYROBINSON, P.A. AND

ISLAMORADA, VILLAGE OF ISLANDS; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE PROFESSIONAL SERVICES AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

X. ORDINANCES

A. Ordinance Relating to Trespass on Public Property TAB 16

(John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 50 “STREETS, SIDEWALKS AND OTHER PUBLIC PLACES”, ARTICLE I “GENERAL”, CREATING SECTION 50-2 TO BE ENTITLED “TRESPASS WARNINGS; AUTHORIZATION TO ISSUE TRESPASS WARNING FOR PUBLIC PROPERTY; AND APPEAL PROCESS” OF THE VILLAGE CODE RELATING TO TRESPASS ON PUBLIC PROPERTY WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

B. Ordinance Calling for a Referendum to Increase Council Compensation TAB 17

(John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, PROVIDING FOR AN INCREASE IN COMPENSATION FOR VILLAGE COUNCIL MEMBERS; PROVIDING FOR A REFERENDUM TO BE HELD WITH THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION IN MARCH 19, 2024; PROVIDING FOR SUBMISSION TO THE ELECTORS OF A PROPOSED AMENDMENT TO THE VILLAGE CHARTER PERTAINING TO INCREASED COMPENSATION FOR COUNCIL MEMBERS; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER/CONFORMITY OF AMENDMENT; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE

C. Ordinance Calling for a Referendum to Provide for 2 year Staggered Terms, Eliminate Seat Assignments, and Revising Term Limits TAB 18

(John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS,

FLORIDA, CALLING FOR A REFERENDUM VOTE TO BE HELD WITH THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION ON TUESDAY, MARCH 19, 2024; PROVIDING FOR SUBMISSION TO THE ELECTORS OF PROPOSED AMENDMENTS TO THE VILLAGE CHARTER PERTAINING TO SEAT ASSIGNMENTS, TERM LIMITS, AND STAGGERING OF TERMS; PROVIDING FOR PLACEMENT ON THE BALLOT; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR AUTHORIZATION OF VILLAGE CLERK AND FOR VILLAGE CANVASSING BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER/CONFORMITY OF AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

D. Ordinance Relating to Campaign Expenditures Cap TAB 19

(John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, PROVIDING FOR A LIMITATION ON CAMPAIGN EXPENDITURES FOR VILLAGE COUNCIL CANDIDATES; PROVIDING FOR REFERENDUM TO BE HELD WITH THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION IN MARCH 19, 2024; PROVIDING FOR SUBMISSION TO THE ELECTORS OF A PROPOSED AMENDMENT TO THE VILLAGE CHARTER PERTAINING TO A LIMITATION ON CAMPAIGN EXPENDITURES FOR VILLAGE COUNCIL CANDIDATES; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER/CONFORMITY OF AMENDMENT; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE

XI. RESOLUTIONS

A. Resolution Approving Settlement Agreement in the Matter of Glynn Heirs v. Islamorada, Village of Islands TAB 20

(John Quick, Interim Village Attorney)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE MEDIATED SETTLEMENT AGREEMENT RELATING TO THE GLYNN PROPERTY DESCRIBED HEREIN; AUTHORIZING VILLAGE OFFICIALS TO EXECUTE, DELIVER AND IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

B. Resolution Approving 60-day Renewal of Employee Interchange Agreement with Monroe County and Appointing Ed Koconis as Interim Village Manager TAB 21

(John Quick, Interim Village Attorney)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A RENEWAL OF THE EMPLOYEE INTERCHANGE AGREEMENT WITH MONROE COUNTY, FLORIDA FOR AN ADDITIONAL SIXTY (60) DAYS AND PERMITTING ED KOCONIS TO SERVE AS INTERIM VILLAGE MANAGER; AND PROVIDING AN EFFECTIVE DATE

XII. MOTIONS

- A.** Approval of Local Planning Agency Appointments **TAB 22**

XIII. ADJOURNMENT

Options for Viewing the Village Council Meeting:

The public is encouraged to watch the meeting on Monroe County's MCTV Comcast Channel 77. Alternatively, the public may view the meeting streamed live on the Village website from their personal computer, tablet or phone via the following link:

https://www.islamorada.fl.us/departments/communications/live_village_broadcast_meeting.php

Option 1: Email your comments.

1. Public comment should be submitted via email to: public.comment@islamorada.fl.us
2. The email should contain "Public Comment" in the subject line.
3. The name and address of the submitter shall be included in the email.
4. Public comment should be submitted by 9 a.m. the day before the meeting. Public comment will be sent to the Village Councilmembers for consideration prior to the meeting. Public comments will not be read during the meeting.

Option 2: Call in During the Meeting.

1. If phoning in, dial 305-224-1968 and enter the webinar **ID: 911 0656 4166** followed by #. When the Mayor opens public comment pertaining to the agenda item you are interested in dial *9 to be recognized by the Zoom meeting monitor. The Monitor will call you by the last four digits of your phone number. **Please be sure to unmute your phone when you are called upon.**
2. If watching online via Zoom: Open the Zoom webinar link <https://zoom.us/j/91106564166> and follow the prompts to join the webinar. When the Mayor opens public comment use the "raise your hand" feature to be recognized by the meeting monitor. Public comments will be heard in the order in which they are received.

ADA Assistance:

These meetings are open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the ADA Coordinator at (305) 664-6448 or by email at ADA@islamorada.fl.us at least 48 hours before the scheduled meeting



MEMORANDUM

DATE: September 28, 2023

TO: Mayor and Village Council

FROM: Peter Frezza, Environmental Resources Manager

SUBJECT: Village Boat Ramp Options and Talking Points

Construct a new boat ramp & dock at Founders Park in the location of a historic launching site

Pros: a benefit to fishing guides, directs traffic away from current boat ramp

Cons: expensive, bad optics due to necessary mangrove excavation and bay bottom dredging, likely would complicate current parking, additional marina staffing would be needed, a potential disruption source to marina residents, Village/marina liability

Cost estimates associated with this option: \$65,000 for design and permitting fees; \$50,000 estimated mitigation fees; Likely total project construction costs greater than \$500,000.

Utilize the existing ramp at Founders Park with a 'Guide Program' as in the past

Pros: environmentally responsible, inexpensive compared to constructing a new ramp, a benefit to guides

Cons: additional marina staffing needed, potential disruption to marina residents/reduces marina privacy, utilizes existing and needed parking, marina liability, working marina infrastructure is not in place, including no public bathrooms open early or late

Costs: Those associated with additional staffing

Under a program like this there are options to accommodate fishing guides.

Options:

- Continue to use the current configuration of the ramp and gate and increase the working hours of the marina from 6am to 8pm (from current hours of 8am – 6pm). This would be four more staff hours per day and would require the hiring of two additional staff members (pers. commun. with Lisa Watts). Under this scenario, the ramp would also be open to the public from 6am – 8pm. This likely would significantly increase the use of the boat ramp.

- Continue to use the current configuration of the ramp and gate and increase the working hours of the marina from 7am to 7pm. This would be two more staff hours per day and would require the hiring of one additional staff member (pers. commun. with Lisa Watts). There are advantages to this option over the former. These are: reduced staff costs, less marina use during non-daylight hours, less disruption to marina residents.
- Install an electronic gate and lock at the boat ramp that utilizes a badge system to open and close the gate. This would allow for electronic monitoring and regulated use of the ramp. Guides within the program would be assigned badges and would have use of the ramp during non-business hours. The hours of operation of the gate could be determined by the Village and programmed by the IT staff. Costs for this option associated with the accompanying electronics and power supplies of the gate/lock are estimated to be \$12,000. The ramp would still need to be staffed during the hours that the gate was operational.

Build a second ramp adjacent to the existing ramp at Founders Park (Expansion of marina)

This is a viable option if the demand for the ramp becomes great enough to necessitate a second launch. Marina staff indicate that currently the demand for the ramp is being met by the single launch. There is limited space, however, for a second launch. Construction of a second launch would require the removal of mangroves or marina infrastructure or both to accommodate a second launch.

Regarding all the above options – please refer to page 2 of the Rules and Regulations of the Plantation Yacht Harbor Marina, attached hereto as Exhibit “A” that indicates, “There are No Charter Vessels Allowed to Occupy Dockage/Stored Space or Conduct Business in Marina.”

Expansion/hardening of Blackwood Drive boat ramp

Pros: good location, could meet a need for a functional public boat ramp on Upper Matecumbe

Cons: potentially not permissible, no trailer parking available- a land purchase would need to be made if trailer parking were desired - this would require a willing seller, likely privacy concerns with neighbors

Costs: Those associated with construction of the ramp or land purchase for trailer parking; Likely total project construction costs of the ramp are greater than \$350,000; costs associated with a land purchase for trailer parking are unknown.

Additional consideration for Blackwood Drive ramp: this location is being used as a landing/come-ashore area for live-aboards that have vessels moored nearby in Little Basin and Big Basin. Is further infrastructure needed here to accommodate them or is there other action needed because of this? See Exhibit “B” for photos.

Construction of a new ramp at Indian Key Fill

Pros: could meet a need for a public boat ramp in Islamorada on Lower Matecumbe

Cons: currently no parking is planned for the Fills, congestion and safety issues, shoreline erosion would necessitate extensive hardening, mangrove and seagrass mitigation costs could be significant depending on location

Costs: Construction costs likely would be between \$500,000 and \$1 million.

East Ridge Rd. boat ramp

Pros: open 24 hours/day

Cons: no trailer parking, not a suitable location for guide use

Options:

- Continue to keep the ramp open 24 hours/per day
- Begin evening closures of ramp on schedule with other Village properties with evening closures

Exhibit "A"

EXHIBIT "C"

RULES AND REGULATIONS

Plantation Yacht Harbor Marina

Rules and Regulations

Fire Hazard

No fuel is allowed on docks. Vessels cannot be refueled while in their Space. No smoking around refueling area. No open flames; including charcoal, will be permitted on docks. The use of charcoal burners, gas welders, gas torches, or any flame producing equipment, except within the Vessel (e.g., cook stoves, lamps, and lanterns) is prohibited. Fuel shall be stored only in tanks integral to the Vessel. There shall be no storage of any flammable substance on or near the piers or bulkhead.. All Vessels shall have automatic fire extinguishing systems.

Fueling

Vessels will only be refueled at Marina fuel dock. No fueling is allowed at any other location on Marina premises. Owner's, crews, guests, shall obey any and all posted rules concerning fueling. Marina personnel must be notified immediately in case of spillage.

Environmental

Discharging of contaminated bilge water, fuel, oil, paint, sewage and any other substance is strictly prohibited. Violators will be subject to a \$500.00 fine and/or permanent expulsion from the Marina Site. The prevention of fuel spillage is of paramount importance. In the event of an accidental spill, Owner shall notify Marina personnel immediately. Owner may be required to assist the Marina in preparation of special reports to the EPA or others, if required. Owner is responsible for proper disposal of all used oil, grease, used filters, batteries and lubricants. In the event of an emergency, the Marina reserves the right to relocate any Vessel.

Trailers

Owner will not leave trailers on the Marina's premises, at any time, unless prior approval has been given by Marina. Owner must provide Marina with trailer registration and description. Trailers left on Marina premises for more than 24hrs without approval will be towed at Owners expense. No miscellaneous items are to be stored on trailers.

Signs

The Owner agrees not to display or allow to be displayed on or near Vessel any "FOR SALE" signs while the Vessel is in its assigned Space. Owner may place "FOR SALE" signs on Marina bulletin board only. Marina must be notified in advance of the intended sale of the Vessel. At no time can Vessel be shown unless Owner is present.

Parking

All Plantation Yacht Harbor Marina slip customers will be issued one (1) vehicle parking permit per Vessel. Any vehicle parked in the reserved section without a displayed permit will be towed at Owners expense. No overnight parking of recreational vehicles, campers, or storage/work trailers is allowed. Should an Owner have guests, Owner must notify Dock Master to get additional temporary permits as needed. All spaces are on a first come first served basis. There are no assigned spaces except those marked handicapped.

Repairs and Maintenance on Vessels

The Owner understands and agrees that no major repairs/maintenance, (including outfitting, sanding or painting) of Vessel, shall be performed in the Space without prior permission from the Dock Master or Marina office. Extent of repairs/maintenance shall be solely at the discretion of Dock Master or Marina management.

Outside Contractors

All outside contractors must comply with our "Policy for Outside Contractors". Copies may be obtained from the Dock Masters office.

Children

Please keep small children under appropriate and safe supervision at all times. Children may not run about the Marina Site.

Garbage

Garbage, bait and fish wastes must be sealed in leak proof plastic bags and deposited in the containers supplied for that purpose. No person shall place oil, spirits, flammable liquids, or any other hazardous materials into the containers. Owner will only place normal household garbage in Marina's containers. Refuse from maintenance or repairs must be removed from premises by Owner.

Pets

Pets must be leashed within the confines of the Marina Site. Pets are permitted only if they do not disturb other guests. Owner shall remove pet droppings left on Marina Site.

Disturbances

Noise shall be kept to a minimum. Boaters should use discretion in operating engines, generators, radio and television sets so as not to create a nuisance which disturbs the peace and tranquility of others. Rigging shall be secured in such a manner as to prevent noise.

Restrictions

Owner is responsible for keeping the area assigned to him/her orderly and free and clear of gear or debris. Laundry (towels, bathing suits, etc.) shall not be hung on lifelines or any part of any Vessel. Laundry of any type or any type of any item of a personal or unsightly nature shall not be hung or spread to dry out or air in public view, on any Vessel or on a pier.

Alterations

Owner shall not make any alterations to Space without first receiving written consent of Dock Master. No addition, alteration, or modification shall be made to the electrical and/or water supply system or any other utility service including docks and piers that may be furnished by Marina.

Vessel Insurance

All Vessels must be fully covered by insurance as described in the License Agreement. A copy of Owner's Vessel insurance with Marina named as additional insured will be kept on file in Dock Masters office.

Switching Spaces

Owner may not switch Spaces with other Owners without first receiving written authorization from Dock Master. Space is not transferable in the event Vessel is sold.

Trip Notification

Vessels leaving for more than one day will so notify Dock Master. Marina reserves the right to use or sell all unoccupied Spaces.

Conduct

There shall be no disorder or disorderly conduct by Owner, crew, or guests, that might injure a person, cause damage to property, or disrupt the order of the Marina. The Owner may use the public areas of the Marina, jointly and in common with other Owners, patrons, and invitees. It is understood and agreed that the Owner's use of the public areas shall not interfere with the Marina's operations.

Vessel Jurisdiction

All Vessels come under jurisdiction of Marina upon entering Marina. The Rules of the Road and navigation laws of the United States shall apply to Vessels in or approaching the Marina.

Denial to Launch Vessel

The Marina shall have the right to refuse to launch/retrieve any vessel or personal watercraft if in violation of any Marina policy, rules or regulations.

Chartered Vessels

There are NO CHARTER VESSELS ALLOWED TO OCCUPY DOCKAGE/STORAGE SPACE, OR CONDUCT BUSINESS IN MARINA.

Live Aboard

Live aboards are prohibited within the Marina without prior written consent from Dock Master.

Severe weather, emergencies and storm plan

Owner must have suitable arrangements for safe, sheltered anchorage during severe weather, including but not limited to tropical storms, hurricanes, and tornados. Owner warrants such arrangements have and will be made.

Dock Boxes

All dock boxes must be white, constructed of fiberglass and must be kept in good condition and appearance. Size of dock boxes can be no more than 54 inches in length, 36 inches in height, and no more than 30 inches wide. Each Owner is limited to one (1) dock box per space. Any box which is found in violation of this rule will be removed together with contents, at owner's expense, after ten (10) days written notice to owner.

Storage Space limit

All storage spaces are for one (1) Vessel only. If an Owner wishes to leave a dinghy/tender in the water overnight, prior arrangements **MUST** be made with Dock Master before this can be done. There will be **NO** rafting of Vessels to those moored in storage Spaces or otherwise.

Exhibit "B"

Blackwood Drive boat ramp





**BOAT
RAMP
CLOSED
FROM
SUNSET
TO SUNRISE**

WARNING

American Crocodile in the area
We cannot guarantee your safety

- Do not approach
- Do not feed
- Keep your distance

Violators will be fined



**SAFETY IS YOUR
RESPONSIBILITY**

Monroe County Sheriff's Office



Enter Protection

All Monroe County Sheriff's Office's Department are
authorized by the state of Florida to enforce the rules
any person to leave the premises.

Failure to leave the premises after being instructed
may result in an arrest for trespassing after warning.

FLORIDA STATE STATUTE 810.04







Council Communication

To: Mayor and Village Council
From: Anne Onsgard
Date: September 28, 2023
SUBJECT: **Approval of the Appointments to the Islamorada Youth Council TAB 2**

Background:

At its regular meeting on October 23, 2013, the Village Council of Islamorada, Village of Islands (the "Village") adopted Resolution No. 13-10-81, thereby establishing the Islamorada Youth Council. As set forth in the resolution, the first Islamorada Youth Council was comprised of two (2) students from Island Christian School (high school) and three (3) students from Coral Shores High School, with the students appointed by the schools and subsequently approved by the Village Council.

Since that time, Village Council adopted and amended Resolution No. 14-07-47 thereby increasing the number of seated members on the Youth Council from five (5) to eight (8), which included the addition of one (1) student from Island Christian (high school) and two (2) students from Coral Shores High School and expanding the residency requirement to allow all Upper Keys High school students to be considered for membership to the Youth Council. This was done with the goal of increasing participation and to allow interested Key Largo and Tavernier students the experience of serving on the Youth Council with their high school peers.

At its regular meeting on August 8, 2019, Village Council approved Resolution No. 19-08-52 amending the high school affiliation requirement for membership due to the closure of Island Christian School in May of 2019 and providing that all members be solicited from Coral Shores High School. Due to an increase in students interested in participating on this committee, the amendment also included expanding the membership from eight (8) to ten (10) to provide increased access to the youth advisory committee.

The Youth Council suffered a one-year suspension (inactive 2020-21 school year) due to the Covid-19 Pandemic. A written report of recent activities (last two terms: 2021-22, 2022-23) of the Youth Council is attached (Attachment A).

The Youth Council is intended to act as an advisory board to the Village Council and to provide the youth of Islamorada an opportunity to participate in the Village's decision-making process through recommendations pertaining to youth issues and youth community initiatives. The goal is to promote and encourage the youth to become effective leaders in the community by helping to shape the future of the Village.

In summary, the Youth Council is comprised of 10 students in grades nine through twelve,

who are residents of the Upper Keys. Youth Council members are to be appointed by school officials annually in September and approved by the Village Council to serve a one-year term.

Analysis:

Staff worked with Coral Shores High School to solicit the ten (10) students to be appointed to the Youth Council. The following ten (10) students completed the application, meet the requirements of membership to the Youth Council, and were appointed by their school. Approval of the appointments listed below is requested of the Village Council.

Riley Cooper, Grade 12
Robert Dube, Grade 12
Allegra Fucaraccio, Grade 10
Corben Dean, Grade 11
Kai Guth, Grade 11
Zane Rindom, Grade 11
Julia Rusch, Grade 9
Ambrose Sanchez, Grade 12
Abbie Sargent, Grade 11
Nathaniel Shugarman, Grade 10

Upon approval of the ten members by the Village Council, staff would schedule the first official monthly meeting of the 2023-2024 Youth Council to be held in October.

Budget Impact:

The budget impact associated with the activities of the Youth Council would continue to include any costs for copies and materials that may be needed by its members and possibly a small amount staff overtime to provide administrative support at meetings of the Youth Council. Youth Council attendance at the 2024 Florida League of Cities Annual Conference and associated expenses may be considered next spring.

Staff Impact:

The Founders Park & Program Manager would continue to act as staff liaison to the Youth Council and would continue to ensure that meetings are properly noticed and that record minutes of the meetings are kept.

Recommendation:

It is recommended that the Village Council, by motion and vote, approve the appointments to the Islamorada Youth Council.

Attachments: 1. IYC Committee Report to Council 09_28_2023

Islamorada Youth Council

Current Committee Members: 10 Vacancies: 0

Staff Liaison: Anne Onsgard, Founders Park & Program Manager

Meetings of the Islamorada Youth Council are regularly scheduled monthly, October through May. The Islamorada Youth Council held ten (10) meetings during the last twenty-four (24) months. During the last two years the Committee continued its mission to give students and young people a voice in the community as a citizen's advisory committee to the Village Council. By accurately representing the youth of Islamorada, they seek to put forth the needs and concerns of the youth to make the community a better place for everyone. During the past two years, Committee members:

1. Received annual training and review on Florida's *Government in the Sunshine Law* regarding government meetings; and reviewed and discussed the Florida League of Cities video *City Government 101* for further understanding of local government.
2. Participated in lesson plan activities outlined in the Florida League of Cities' *MY CITY, I'm Part of It, I'm Proud of It!* publication for civic education.
3. Designed a custom Youth Council tee for uniformity at events and meetings.
4. Discussed key issues among the youth of Islamorada which continued to include lack of recreation activities. The committee collaborated with staff to create and expand on teen events at Founders Park – successfully planned and executed the following events in 2022: Teen Night (105 attendees), Teen Night Out "*Founders after Hours*" middle school teen event (111 attendees), and a Float in Movie for high school teens (75 in attendance). Events considered for Spring 2023 season were unsuccessful due to Park Staffing and teen availability.
5. Reviewed and considered participating in Florida League of Cities' Youth Council Contests including the annual video competitions and Council2College Scholarship contests.
6. Continued promotion of youth/student volunteerism and community service. Committee members assisted Parks & Recreation Department staff with the following annual events at Founders Park: Trunk or Treat Halloween Party, Holiday Fest and Parade, Family Friendly Movie Under the Stars, Island Fest, and the Spring Fest. Members received presentations on new events including environmental clean-ups to be considered for youth involvement.
7. Participated in discussions with guest speakers including Vice-Mayor Pete Bacheler regarding Village current events and government procedures, Emma Haydocy with Florida Bay Forever providing a presentation on Everglades restoration and initiatives, and Islamorada Public Works Director Andrew Engelmeyer regarding the development and status of the Indian Key Fills project.
8. Seven (7) members of our Youth Council attended the Annual Florida League of Cities' Conference Youth Council Program. Interacted with other Youth Councils in a "World Café" format.

Attachment A

9. Participated in the Village Council Candidate forum hosted by the Islamorada Chamber of Commerce on October 5, 2022.
10. Interviewed the Village Manager (Ted Yates); Additional learning provided on Islamorada's governmental structure, the Village's budgeting process, and discussion on key issues including affordable housing and sea level rise.
11. Reviewed, discussed, and supported the approval of Ordinance No. 2206 amending the Village Code section 50 Streets, Sidewalks, and Other Public Places, to prohibit Smoking at Public Parks and Beaches. Created a PSA reflecting the Village's No Smoking in Parks and Beaches campaign.
12. Successfully developed and created a promotional video for the Youth Council program.
13. Reviewed and discussed the mission, purpose, and importance of the Parks & Recreation Department including the mutual benefits of youth employment within the Department. Reviewed teen employment opportunities; Participated in resume building activities.
14. Participated in other activities to develop skills in public speaking, navigating job interviews, and other team building activities provided by the Parks & Recreation Staff at each meeting.

During the next year, Youth Council members plan to consider new and ongoing teen programs, environmental and other community service projects; They will also consider attending the Florida League of Cities' annual conference and competitions; Consider additional youth civic engagement and leadership opportunities with the Village Council; and will continue to address matters that arise during the year that are pertinent to the Committee's duties and responsibilities.



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion of Noise Ordinance - Council Member Gregg TAB 3

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. Islamorada, FL Code of Ordinances Noise

ARTICLE IV. - NOISE

Footnotes:

--- (2) ---

Cross reference— *Noise permit; alcoholic beverages permit, § 42-42.*

Sec. 18-61. - Intent and purpose.

It is the intent and purpose of this article to provide an efficient procedure for the prohibition of excessive, unnecessary, or unnaturally loud noises within the incorporated areas of the village.

(Ord. No. 03-06, § 1, 6-26-2003)

Sec. 18-62. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alarm means any fire, burglary, motor vehicle, or whistle alarm or similar stationary emergency signaling device.

Authorized emergency vehicle means all vehicles of the state department of transportation designated as emergency vehicles by the department, all police and fire vehicles of any municipality or county, or of the state, and all ambulances and rescue vehicles.

Construction means any site preparation, assembly, erection, substantial repair, alteration, demolition, or similar action for or on public or private rights-of-way, structures, utilities or similar property.

Device means a radio receiver, compact disk player, television, musical instrument, cassette player, phonograph sound amplifier, stereo, tape player, loudspeaker, electronic audio device, or other machine for the production or reproduction of sound.

Emergency means any occurrence or set of circumstances involving actual or imminent physical injury or property damage which demands immediate attention.

Emergency work means any work performed for the purpose of preventing or alleviating the physical injury or property damage threatened or caused by an emergency.

Motor vehicle means any two or more wheeled vehicle, or machine, propelled or drawn by mechanical power, gas or diesel, and used on the public roads and highways in the transportation of people or property and which is required to be licensed.

Multifamily dwelling means a building or portion of a building designed to be used exclusively for residential occupancy by two or more families.

Noise disturbance means any sound that is unreasonably loud, raucous or jarring; causes an adverse psychological or physiological effect on humans; unreasonably interferes with the enjoyment of life or property, including outdoor recreation; or is a nuisance.

Person means any individual, association, club, society, firm, or partnership, and bodies politic and corporate.

Public right-of-way means any street, avenue, boulevard, highway, sidewalk, alley, swale or similar place normally accessible to the public which is owned or controlled by the village or other governmental agency.

Public space means any real property or structure, normally accessible to the public.

Real property line means an imaginary line along the surface, and its vertical plane extension, which separates the real property owned, rented or leased by one person from that owned, rented or leased by another person, excluding intrabuilding real property divisions.

Sound means energy which is transmitted by pressure waves in air or other materials and is the objective cause of the sensation of hearing. Sound is commonly called noise if unwanted.

(Ord. No. 03-06, § 2, 6-26-2003)

Cross reference— Definitions generally, § 1-2.

Sec. 18-63. - General prohibition.

No person shall by any method or device make, continue or cause to be made or continued any noise disturbance within the village except as allowed by this article.

(Ord. No. 03-06, § 3, 6-26-2003)

Sec. 18-64. - Unmuffled exhaust.

- (a) No person shall discharge or cause to be discharged the exhaust of any steam engine, or stationary internal combustion engine, or motor vehicle, except through a muffler or other device approved by the mechanism's manufacturer, which will effectively prevent loud and explosive sound. Motor vehicles shall comply with F.S. §§ 316.272 and 316.293, which are incorporated in this section by reference.
- (b) Vessels within the area 1,200 feet into the tidal waters adjacent to the corporate limits of the village shall comply with F.S. § 327.65, which is incorporated in this section by reference.

(Ord. No. 03-06, § 4, 6-26-2003)

Sec. 18-65. - Multifamily dwellings.

No person shall operate or permit the operation within a multifamily dwelling of any source of sound in such a manner as to create a noise disturbance when perceived within the center of an adjacent intrabuilding dwelling receiving the sounds. The doors and windows of the room shall be closed when determining whether the sound constitutes a violation of this article.

(Ord. No. 03-06, § 5, 6-26-2003)

Sec. 18-66. - Pagers, public address systems, and outdoor telephones.

No person shall operate or cause to be operated any outdoor loudspeaker, public address, paging, or telephone signaling device so as to create a noise disturbance.

(Ord. No. 03-06, § 6, 6-26-2003)

Sec. 18-67. - Exemptions.

The following uses and activities shall be exempt from the provisions of this article:

- (1) Cries for emergency assistance and warning calls.
- (2) Radios, sirens, horns, bells, and other sounds created by authorized emergency vehicles.
- (3) Activities on or in village-owned and school athletic facilities, and on or in publicly owned property and facilities, when such activities have been authorized by the village manager or designee.
- (4) Fire alarms and burglar alarms, including testing of such alarm, except when such alarms cause false alarms prohibited by ordinance.
- (5) Aircraft in conjunction with an approved use and zoning.
- (6) Emergency maintenance performed by public service utilities or their contractors.
- (7) Performance of emergency work by public employees, or by contractors performing emergency work for the public entity.
- (8) Lawful construction activity conducted on private property between the hours of 7:30 a.m. and sundown.
- (9) Lawn mowing and operation of gasoline- and electric-powered lawn, garden and household maintenance tools and machinery between the hours of 7:00 a.m. and sundown.
- (10) Outdoor bands, amplified music, and entertainers on all approved commercial properties, between the hours of 7:00 a.m. and 10:00 p.m. Sunday through Thursday and 7:00 a.m. through 11:00 p.m. Friday and Saturday.
- (11)

Any sound emanating from any circus, carnival or outdoor show permitted pursuant to the provisions of chapter 42, article II, and chapter 30, article VI, division 8.

(Ord. No. 03-06, § 7, 6-26-2003; Ord. No. 05-22, § 2, 12-15-2005)

Sec. 18-68. - Measurement procedures.

In determining whether a violation of this article has occurred, the complained-of noise shall be measured according to the following standards:

- (1) The primary means of measurement shall be by ordinary, auditory senses of a reasonable person with normal sensitivities, so long as any mechanical device does not enhance their hearing, such as a microphone or hearing aid.
- (2) The measurement shall be taken on the public streets, in a public park, in a public building or upon any parking lot open to members of the public as invitees or licensees, or in any occupied residential unit or property which is not the source of the noise, and in any event a location of not less than 50 feet from the sound source.
- (3) The measurement of noise as it pertains to multifamily dwellings shall be according to the provisions of section 18-65.

(Ord. No. 03-06, § 8, 6-26-2003)

Sec. 18-69. - Penalties; enforcement.

A violation of this article or any resolution adopted pursuant to this article may be enforced by issuance of a notice of violation, citation, summons, or notice to appear in county court, or by filing an action in civil court for injunctive relief. This article is supplemental and nothing contained in this article shall prohibit the village from enforcing this article by any other lawful means.

(Ord. No. 03-06, § 9, 6-26-2003)



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion of Noise Ordinance - Council Member Jolin TAB 4

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. NOISE ORDINANCE Village of Islamorada

Chapter 1 NOISE

Section 1 PURPOSE

The overall purpose of the Code is to protect the public health, safety, and welfare by establishing regulations for noise. This Code shall apply to the volume level and control of all sound originating within the jurisdictional limits of the Village. It is not the intent of this Code to interfere unduly with the freedom of speech or religion.

Section 2 GENERAL REQUIREMENTS

All use in all zoning districts shall conform to the requirements contained in this Chapter, including Chart 1.

Section 3 NOISES TO WHICH THE STANDARDS APPLY

1. The requirements of Chart 1 shall apply to all noises (except those specifically exempted in Section 5), including but not limited to, continuous and intermittent noise, tones, impact noise, and noise emitted by speaker boxes, sound amplification devices, pick up and delivery trucks and any other commercial or industrial activities.
2. The noise levels listed in Chart 1 shall be those levels which may not be exceeded for a cumulative period of no less than one (1) minute in any fifteen (15) minute period. The noise levels listed in Chart 1 for all other types of property may not be exceeded for longer than eight and three-tenths percent (8.3%) of any measurement period, which measurement period shall not be less than thirty (30) minutes.
3. Where the ambient noise level exceeds the allowable noise levels given in Chart 1, then the ambient level becomes the allowable exterior noise level.
4. *Definitions.* The following words, terms, and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, unless the context clearly indicates a different meaning:
 - a. *Commercial* means the property use that is for the trafficking of goods or furnishing of services for sale or profit, including, but not limited to, banking and other financial institutions, dining establishments, retail or wholesale establishments, recreation or entertainment establishments, office buildings, transportation facilities and warehouses. This category excludes property which is defined as *Multi-Use* (see c).
 - b. *Convenient hearing* means the listening comfort of those persons assembled.
 - c. *Multi-Use* means property that includes a building(s) or structure(s) which contains both commercial (usually on the ground floor) and residential use, where such residential use is located above, behind, below or adjacent to the commercial use. This category shall also include any area where commercial use abuts residential use or is located immediately or directly across a public right-of-way from residential use. Property used for the public benefit such as outdoor concert events, fairs, festivals, athletic fields, and public assemblies is also included in the definition of *Multi-Use*.

- d. *Neighborhood inhabitants* means person or persons who dwell or reside in a place which is immediately adjacent to or within 200 feet of the property generating the noise.
- e. *Plainly audible* means any sound that can be detected by a person using his or her unaided hearing faculties who has a direct line of sight and hearing to the source of the noise. The person need not determine particular words or phrases, or the name of any song or artist; the detecting of a rhythmic bass reverberating sound is sufficient.
- f. *Public right-of-way* means any street, avenue, boulevard, road, highway, sidewalk, alley or easement that is owned, leased or controlled by a governmental entity.
- g. *Real property line* means either (i) the imaginary line including its vertical extension that separates one parcel of real property from another; (ii) the vertical and horizontal boundaries of a dwelling unit that is part of a multi-dwelling unit such as a condominium, townhouse, or apartment building; or (iii) on a multi-use property, the point of interface between the two portions of the property on which different categories of activity are being performed.
- h. *Residential* means property use that is from residences, including, but not limited to, single-family residences, multi-family residences, condominiums, apartments, hotels, motels, and assisted living facilities.
- i. *Sound amplification device* includes, but is not limited to, radios, stereos, CD players, DVD players, microphones, drums, turn tables, audio or visual equipment, electronic devices, musical instruments, sound equipment, television sets, interior or exterior speakers, loudspeakers, bullhorn, or any similar device

CHART 1. MAXIMUM NOISE LEVELS IN A- AND C- WEIGHTED DECIBELS

This chart establishes the maximum permissible noise level, measured in A-weighted and C-weighted decibels, which may be generated in the defined locations at the described time periods. As used below, dBA and dBC shall be the symbol designations of a noise level, using the A-weighting and C-weighting network of sound level meters. For purposes of this Chapter, noise shall be measured using the slow exponential time weighting characteristic of the sound level meter.

Type of Property Generating Noise	Class A Standard 8AM – 9PM	Class A Standard 9PM-8AM
Residential	60dBA/65dBC	55dBA/60dBC
Multi-Use	65dBA/70dBC	55dBA/60dBC
Commercial	70dBA/75dBC	65dBA/70dBC

Section 4 PROHIBITED ACTS

1. No person shall produce, cause to be produced, or allow to be produced, by any means, any noise which exceeds the applicable sound level limits as set forth in Chart 1 and Section 3 (2) within any private property when measured at or beyond the real property line of the property generating said noise, except when authorized by Village Council, pursuant to a permit issued or other valid agreement.

2. No person shall produce, cause to be produced, or allow to be produced, by any means, any noise which exceeds the applicable sound level limits as set forth in Chart 1 and section 3 (2) within any public property, when measured at or beyond the real property line of the property generating said noise, or for noises created out of doors, at or beyond 100 feet from the source of the noise, except when authorized by City Council, or other vailed agreement.

Section 5 ADDITIONAL PROHIBITED ACTS

1. *On Residential Property:*

- a. It shall be unlawful for any person to make, maintain, create, or allow to be created any unreasonably disturbing noise that is of such character, intensity or duration as to be detrimental to the life, healthy, comfort or repose of any individual of ordinary sensibilities residing in or occupying the area.
- b. It shall be unlawful to play any radio, phonograph, television, electronic device, or any musical instrument or operate a sound-amplification device in such a manner as to unreasonably disturb the peace, quiet, comfort, and repose of neighboring inhabitants of ordinary sensibilities, or at any time louder than is necessary for convenient hearing of the person or persons who are in the room vehicle, or chamber in which such machine, instrument, or device is operated.
- c. The operation of any such machine, instrument, speaker or device between the hours of 8:30pm and 8am in such a manner as to be plainly audible at a distance of 15 feet from the property line of the building or structure, or the boundary of the vehicle in which the noise is located shall be prima facie evidence of a violation of this section.

2. *On Multi-Use Property:*

- a. It shall be unlawful for any person to make, maintain, create, or allow to be created any unreasonably disturbing noise that is of such character, intensity or duration as to be detrimental to the life, health, comfort or repose of any individual of ordinary sensibilities residing in or occupying the area.
- b. It shall be unlawful to play any radio, phonograph, television, electronic device, or any musical instrument or operate a sound-amplification device in such a manner as to unreasonably disturb the peace, quiet, comfort, and repose of neighboring inhabitants of ordinary sensibilities, or at any time louder than is necessary for convenient hearing for the person or persons who are in the room, vehicle, or chamber in which such machine, instrument, or device is operated.
- c. Any such machine, instrument, speaker, or device being used inside of a building, structure, room, chamber, or other similarly defined area shall not in any way face or direct the sound toward any open entrance or exit, or any window or other similar opening in the building, structure, room, chamber, or other similarly defined area.
- d. The operation of any such machine, instrument, speaker, or device between the hours of 8:30pm and 8:00am in such a manner as to be plainly audible at a distance of 100 feet from the property line of the building or structure, or the boundary of the vehicle in which it is located shall be prima facie evidence of a violation of this section.

Section 6 EXEMPT NOISES

The following types of noise are hereby made exempt from the provision of this Chapter:

1. Noises from temporary construction and maintenance activities between 8AM and 9PM except Sundays and federal holidays.
2. Noises from safety signals, emergency equipment and vehicles, warning devices and emergency pressure release valves and law enforcement activities, including training.
3. Noises from motor vehicles such as automobiles, trucks, airplanes, motorcycles, and railroads which are regulated by state and federal law.
4. Ordinary domestic noises provided such noises comply with the requirements of Chart 1.

Section 7 USE OF MECHANICAL LOUD SPEAKERS OR AMPLIFIERS OUT OF DOORS

1. It is hereby made unlawful to use any mechanical loud speaker or other sound amplification device on a truck or other moving vehicle or out of doors on public or private property except under a permit issued by the Village of Islamorada. For purposes of this section, "out of doors" shall mean the loud speaker or other sound amplification device is located outside and not wholly enclosed within a building or structure. Sound amplification devices located wholly within automobiles and handheld mobile electronic devices are hereby made exempt from this subsection, except that it is hereby made unlawful for any person to make, maintain, create or allow to be created any unreasonably disturbing noise from any car sound amplification device (whether wholly or partially contained within the automobile or not) or handheld mobile electronic device that is of such character, intensity, or duration as to be detrimental to the life, health, comfort, or repose of any individual of ordinary sensibilities residing in or occupying the area.
2. Except as provided in subsections (6) and (7), no person shall use a loudspeaker or other sound amplification device on a truck or other moving vehicle or out of doors on a public or private property between the hours of 8:30pm and 8:00am.
3. No person shall use a loudspeaker or other sound amplification device out of doors within 1000 feet of any school, physical place of worship at which a religious organization regularly conducts religious services, hospital, or court of law during normal business hours of operation of that entity without the permission from that property owner.
4. Each permit application shall include the name, address, and telephone number of the permit applicant. The applicant shall submit a plan showing the proposed location and orientation of the loud speaker(s) or sound amplification device (s) to be used, the street address and specific location at that address for the proposed use, the hours of operation of the loud speaker(s) or sound amplification device(s), a description of the loud speaker(s) or sound amplification device(s) including its decibel level and such other information as applicable. The applicant shall certify that such speaker(s) and device(s) will be monitored to ensure that it is operated within the decibel levels prescribed in Chart 1 of this Chapter. If the loudspeaker(s) or sound amplification device(s) is being used out of doors temporarily for a special event, the permit application must be submitted to the Village of Islamorada at least three business days, excluding holidays, in advance of the installation of the equipment and must be accompanied by a permit fee set by resolution of the City Council. Such usage must comply with this Chapter. If the use of such speaker or device out of doors will be continual, the permit application must be submitted to the Planning Official prior to the installation of the equipment. All entities currently using these devices must retroactively participate in this permitting process.

5. The Planning Official shall approve a permit application provided that the proposed use and speaker or device:
 - a. Complies with Sections (1) through (8) of this Chapter as applicable; and
 - b. Will not interfere with any governmental function and if the proposed use of the speaker or device is temporary for a special event: and
 - c. Is not for a location within 1000 feet of an activity or another location previously permitted under this section for the same date and time if the proposed use of the speaker or device is temporary for a special event; and
 - d. Is not for an individual entity or organization that has been found guilty of violating this Chapter at least three times within a twelve-month period or at least four or more times within a twenty-four month period prior to the date of the permit application;
 - e. Is not for a fully enclosed restaurant, bar, or other similar establishment that does not have a permitted sidewalk café or other approved designated outdoor space for patrons. If the use of the loud speaker sound amplification device is not temporary for a special event, but instead is continual, the permit shall be valid for a period of 12 months from the date of issuance, at which time the Village may renew the permit for the next 12-month period under the same conditions - provided the renewal fee is paid and the number, type and location of the speaker(s) or device(s) has not changed. The Village may also consider the number of citations that have been issued, if any, to the applicant for violations under this Chapter during the prior 12-month period when determining renewal of the permit. If, at the time of renewal, the number of speakers or devices has increased or the type or location of the speakers or devices has changed, the permit application process shall begin anew. Annual renewal of the permit is the responsibility of each permit holder.
6. Any person, business, or property owner that is operating a restaurant, bar, or other similar establishment at a fixed location that is providing designated outdoor space to its patrons on private property (i.e. patio, yard, rooftop etc. .) may utilize loud speakers or sound amplification devices for temporary or continual use out of doors as long as such speakers and devices are permitted according to outline of this Chapter. Such speakers and devices shall not face or direct the sound upward toward airspace or outward toward any adjacent businesses, streets, alleys, rights-of-way or residential property. Instead, such speaker and devices shall be set in such a way that the sound is directed downward and inward toward patrons and complies with the sound levels and standards set forth in this Chapter and Chart 1. If the speakers are free standing, they shall not be elevated more than five feet off the ground.
7. The Village shall revoke a permit issued for continuous use upon the issuance of a third civil citation within a 12-month period for utilizing a loud speaker or sound amplification device in violation of this Chapter. However, if a citation is ultimately dismissed it will not count toward the requisite number of citations for revocation. The Village shall send written notice of the revocation to the violator named in the citation and to the property owner. The permit shall be revoked for the remainder of the 12-month period for which the permit was issued. During this time the speaker(s) or device(s) shall be removed or disconnected and not used out of doors. After the revocation period has expired, an application for a new permit may be submitted.
8. Any applicant shall have the right to appeal the denial of a permit or the revocation of a permit by immediately requesting review with a court of competent jurisdiction or by appealing the

decision. The appeal shall be taken by the applicant within five days after receipt of the notice of denial or revocation, by filing a written notice with the Code Department copying the Village Clerk. A decision shall be rendered no later than ten days following receipt of the notice of appeal. If the permit was denied, the code Department shall direct the responsible department to issue a permit if the applicant has met the criteria set forth in this Chapter for issuance of a permit. If the permit was revoked, the Code Department shall uphold the revocation. If the applicant is not satisfied with the decision they may file a request for immediate review by the Village Council.

Section 8 METHOD OF NOISE MEASUREMENT

All measurements shall be made with a sound level meter. The sound level meter shall be calibrated in accordance with the meter manufacturer's recommendations. As necessary, a windscreen shall be utilized with the sound level meter. The measurements shall in general be made in accordance with the standards as promulgated by the American Society for Testing Materials guidance.



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Freebee Discussion - Vice Mayor Mahoney

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion Regarding Cell Phone Usage on Dais by Council Members
During Meeting - Mayor Pinder

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From: Joseph B. Pinder III, Mayor
Date: September 28, 2023
SUBJECT: Discussion Regarding Rezoning of Certain Properties upon Village Incorporation

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion of Former Director of Development Service Gulizio's contract - Council Member Rosenthal

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion of Traffic Study - Council Member Rosenthal

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion of Island Silver and Spice Property - Council Member Rosenthal

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion Regarding Local Planning Agency Procedures TAB 5

Background:

At the September 11, 2023 Local Planning Agency ("LPA") meeting, an issue arose whereby an applicant requested a deferral during the meeting based upon certain discussion and requests made by the LPA. The Village Code allows an applicant to request a deferral under certain circumstances where made 7 business days before it is scheduled to be heard by Council. Since the September 11 request was made outside of the 7-day period, it was presented to the LPA that they could consider that matter or also defer their consideration until after the applicant supplemented its application in order to review the full file before being presented to Council. The LPA elected to defer their consideration.

Analysis:

In the event this scenario arises again, guidance is being sought from Council as to whether it would prefer that the LPA make its determination based on the presentation before it or if it would prefer that the LPA defer such items.

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From: Bryan Cook, Interim Village Manager
Date: September 28, 2023
SUBJECT: **Request for Village Council Direction - Agreement with Attention Media, LLC for a Social Media Outreach Program TAB 6**

Background:

For the February 4, 2021, regular Village Council meeting agenda, Mayor Pinder asked that a Council discussion item regarding engagement of Attention Media, LLC, be included. Due to the Mayor's familiarity with services provided by Attention Media, LLC, the Mayor suggested a pilot project whereby each Council Member would work with Attention Media, LLC, to promote transparency through a social media outreach program with the goal to change the perception of the Village and to engage residents. Attention Media's proposed cost for the services was \$5,000.00 per month.

After discussion, other Council Members expressed support for the pilot program without competitive bidding with a consensus that the services would be under the purview of the Village Attorney, Village Manager and Public Information Officer for editorial oversight and with support for competitive bidding for any continuation of the services beyond a pilot program.

Council directed the Acting Village Manager and Village Attorney to draft an agreement for consideration by Carlos Garcia on behalf of Attention Media, LLC. at a cost of \$6,000.00 per month at the request of Attention Media due to the short-term commitment of the pilot program and the "up-front" costs for Attention Media to implement the program.

On February 25, 2021, the Village Council adopted Resolution No. 21-02-17, thereby approving the Agreement with Attention Media, LLC for a four (4)-month pilot program. The Agreement was effective March 1, 2021, and terminated June 30, 2021.

At the June 9, 2021, regular Village Council meeting, the Village Council discussed the pilot program and agreed that more time was needed to evaluate the program. The Village Council directed staff to draft a First Amendment to the Agreement to extend the pilot program for an additional three months through September 30, 2021. On July 1, 2021, the Village Council adopted Resolution No. 21-07-57 approving the First Amendment.

During the FY 2021-2022 budget preparation process, \$72,000.00 was included in the PR (Public Relations)/Advertising expenditure account budget in the Village Council Department of the General Fund for Attention Media's services. Under his authority, the Village Manager prepared and executed a Second Amendment to the Agreement for services for the month of October 2021 for \$6,000.00, and the Village Manager prepared and executed a Third Amendment to the Agreement for services for the month of November 2021 for \$6,000.00, and the Village Manager prepared and executed a Fourth Amendment to the Agreement for

services for nine (9) months through September 30, 2022, for \$54,000.00.

The Village Council adopted Resolution No. 22-10-118 on October 25, 2022, approving the Fourth Amendment to the Agreement with Attention Media, LLC, which expires on September 30, 2023.

Analysis:

The Village Council approved a waiver of competitive bidding to engage the services of Attention Media, and the services have been renewed without going through a competitive bid process. When drafting the agreement for services and in the renewals, the Village Council has opted not to specify deliverables that must be met in order for Attention Media to receive the current amount of \$6,000.00 a month in compensation. Attention Media usually provides six (6) short videos per month with subjects that range from Mayor conference attendance, Chamber Events, and videos of the MCSO deputies assigned to the Village and/or other first responders. With the turnover and absences in the Village Manager and in the Executive Assistant to the Village Manager/Public Information Officer positions, no staff has been directing Attention Media or managing the contract. Direction tends to come from the members of the Village Council directly to the principal of Attention Media, Carlos Garcia.

Currently, the Human Resources Director has been continuing to update the Village's Facebook page and the Village's GoGov application to keep the public informed of Council meetings and other important events. Further, Village staff utilizes its Constant Contact email application to send informational emails to the public who sign through the Village's web site. Constant Contact also has a feature where the Village can survey the public.

Staff is seeking direction from the Village Council on whether to 1) return at the October 10, 2023, regular Village Council meeting with a Resolution to approve the renewal of the Village's engagement of Attention Media for social media outreach (primarily video) services with a waiver of competitive bidding; 2) prepare and release a Request for Proposals for social media outreach services and coordinate a competitive bid process. Local professional video producers often contact the Village to inquire about providing video and social media services; 3) suspend Attention Media's services until a permanent Village Manager is hired and a Public Information Officer is potentially available to re-evaluate the Village's social media needs. In the interim, task the Village's A/V Technician in the IT Department with producing informational videos to determine the feasibility of using experienced existing staff in lieu of an external contractor.

Budget Impact:

Costs for Attention Media's services have been recorded in the Village Council Department's Public Relations/Advertising expenditure account in the General Fund. The FY 2023-2024 adopted budget for this account includes \$75,000.00 for Attention Media's services.

The Village pays for the IslamoradaSocial.org website at a cost of approximately \$110.00 per month.

Staff Impact:

Staff impact would be determined by the direction the Village Council provides to the Village Manager. The A/V Technician in the Village's IT Department has the knowledge and skills

necessary to perform the services, The services would also be an appropriate part of the Public Information Officer's job duties.

Recommendation:

It is recommended that the Village Council consider the alternatives and provide direction to the Interim Village Manager.

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Update on Village Manager Selection Process - Upcoming Workshop on October 3, 2023

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: Discussion of Master Plan for Islamorada Parks

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: None



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: **Approval of Minutes for the Regular Village Council Meeting held on July 6, 2023 TAB 7**

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. 07062023_RVCM Minutes



Islamorada, Village of Islands
REGULAR VILLAGE COUNCIL MEETING

July 6, 2023 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

MINUTES

I. CALL TO ORDER / ROLL CALL

Mayor Joseph B. Pinder III called the meeting to order at 05:30 PM

PRESENT: Council Member mark gregg, Council Member Elizabeth Jolin,
Council Member Henry Rosenthal, Vice Mayor Sharon Mahoney,
Mayor Joseph B. Pinder III,

ABSENT:

II. PLEDGE OF ALLEGIANCE

MCSO Captain Derek Paul led the Pledge of Allegiance and Tony Hammon said a prayer to begin the meeting.

III. AGENDA: Requests for Deletion / Emergency Additions

The following changes were made to the agenda:

Council Member Mark Gregg:

- added Village Manager Contract Renewal to Mayor/Council Communications as VII B

Council Member Henry Rosenthal:

- asked to pull Consent Agenda items E (Ferguson Waterworks) and F (Marcum Agreement) to the Resolutions Section
- announced that Publix would like to use the Village logo on reusable plastic bags. Village Attorney John Quick said he could work with them on licensing the Village logo

Mayor Joseph B. Pinder III:

- move Tab 9 - Item IX C to Consent (Council Member Henry Rosenthal requested it remain in Resolutions)
- move Tab 10 - CPH Solar Light Poles to Consent
- move Tabs 9, 11, and 12 to be considered directly after the Consent Agenda

Vice Mayor Sharon Mahoney:

- added a survey report from CarlosG of Islamorada Social
- requested permission to move forward with Richard Black of the FL Keys Guide Association to explore redoing a disused boat ramp - Village Manager Ted Yates reported that he and Environmental Resources Manager Pete Frezza were already working on the project with WSP.

IV. REPORTS, PRESENTATIONS AND ANNOUNCEMENTS

A. Islamorada Social Survey Updates - **ADDED AT THE DAIS DURING ADDITIONS TO THE AGENDA**

Carlos G of Islamorada Social reported on the results of the recent Building and Code survey, and announced an upcoming survey on FreeBee services.

B. South Atlantic Fishing Environmentalists - Jon Reynolds, Artificial Reef presentation

South Atlantic Fishing Environmentalists President Jon Reynolds gave a presentation on the creation of an artificial reef project, noting the South Atlantic Fishing Environmentalists have funding to implement the program. Mr. Reynolds asked the Village to hold the permit which would be coordinated with FWC, stating all risk was to be assumed by the job company and not the Village.

Keith Mille of the Florida Fish and Wildlife Commission noted that Monroe County doesn't currently have an artificial reef in their coastal counties artificial reef program. He noted the other 33 coastal counties who do provide oversight of the contractor's operations.

Concern was raised about the potential liability to the Village for holding the permit and whether the artificial reef would be of benefit to the overall fish population.

Mayor Joseph B. Pinder III asked Mr. Reynolds to work with Village Manager Ted Yates and Village Attorney John Quick.

V. PUBLIC COMMENT

(This is general public comment. It provides an opportunity for the public to speak about matters not scheduled elsewhere on the agenda. The mayor opens public comment on agenda items throughout the meeting.)

Mayor Joseph B. Pinder III opened public comment.

Speakers included:

TJ Willacker
Jay Frins
Dave Galen
Joey Spaulding
Sandy Bisceglia
Van Cadenhead
Jake Roth
Frank Derfler
Tony Young
Joe Wischmeier
Richard Black

There being no one else wishing to speak, Mayor Pinder closed public comment at 7:00 p.m.

VI. CITIZENS' ADVISORY COMMITTEE REPORTS

Council Member Elizabeth Jolin asked for a copy of the reports in advance. Village Manager Ted Yates noted it had not been past practice to submit a formal report but, we can work with committees to get that information in front of the Council.

A. Near Shore Water Regulations Citizens Advisory Committee

Chair Dianne Harbaugh reported on the initiatives and activities of the Committee. She noted the Committee had been approached about reopening the boat ramp at the marina for fishing guides, and concerns were expressed about sufficient parking.

B. Parks and Recreation Citizen's Advisory Committee

Chair Carolyn Wightman reported on the initiatives and activities of the Committee. Ms. Wightman clarified the special call meeting was designed to support a decision on how to finish the tennis courts - possibly as a joint tennis and pickleball court.

Village Manager Ted Yates noted an engineering company was preliminarily asked for input and indicated if the DPW facility was relocated away from the courts there would be additional parking space available for patrons.

C. Historic Preservation Commission

Chair Corie Abel reported on the initiatives and activities of the Committee and noted it was a goal of the Commission for storyboards to be placed at the Hurricane Monument.

VII. MAYOR / COUNCIL COMMUNICATIONS

A. Vice Mayor Mahoney - Discussion of Standardizing the Number of Members for Citizen Advisory Committees

Vice Mayor Sharon Mahoney suggested standardizing committee composition from ten members to seven for consistency amongst committees.

Village Attorney John Quick had created a resolution that would supersede other resolutions that form the committees and noted that only the Historical Preservation Committee and LPA were mandated per ordinance, but those committees do not have ten members.

B. Council Member Mark Gregg - Discussion of Village Manager Contract Renewal - **ADDED AT DAIS DURING ADDITIONS TO THE AGENDA**

Council Member Gregg noted his intent was not to circumvent Tab 7, but wanted to provide an alternative to not renewing Village Manager Yates' contract. He indicated he had spoken with Alison Smith, the labor attorney at Weiss Serota, who suggested a Personal Improvement Plan for Mr. Yates, which would help to analyze problem areas and assist with giving more direction.

Vice Mayor Sharon Mahoney shared her impression that she and Council Members Jolin and Rosenthal were treated differently by Village Manager Yates than Mayor Pinder and Council Member Gregg. She noted that she and Mr. Yates did not communicate well, and it seemed that he was resistant to her ideas and suggestions.

Council Member Henry Rosenthal indicated he wasn't interested in training Mr. Yates for a job that he should already know how to do. He noted his displeasure at not being involved in the Fills meetings and at the firing of Dan Gulizio, Director of Planning and Development Services. Council Member Rosenthal stated he didn't think Mr. Yates was a good fit for the Village Manager position.

Council Member Elizabeth Jolin noted she had identified problems in the way Mr. Yates managed, completed an evaluation of his work, and discussed it with him. She respected Council Member Gregg's request but noted the issues were more complicated than writing up a Personal Improvement Plan.

Mayor Joseph B. Pinder III noted his goal was to unify the Council and community and expressed concern that the negativity was leading to Council's division.

Mayor Joseph B. Pinder III opened public comment for those **opposing the renewal** of the Village Manager's contract.

Joe Wischmeier
Ed Davidson
Van Cadenhead
Sandy Bisceglia
Dave Petkovich
Robert Moser

Tom Raffanello
Angie

Mayor Joseph B. Pinder III then opened public comment for those **supporting the renewal** of the Village Manager's contract.

Tony Hammon
Glen Lathem
Dave Epstein
Andy Newman
Craig McBay
Frank Derfler
Derek Rothberg
Claire Johnson
Roger Young
George Perez
John Fernandez
Richard Engel

Village Manager Ted Yates noted he did a lot of research to prepare for this role and expressed his dismay at the division in Islamorada. He stated how difficult it was to lead here with so many competing agendas and admitted that he had challenges building relationships with some of the Council Members. He acknowledged Council's frustration that things weren't getting done quickly enough but noted his work behind the scenes to improve processes.

Mayor Pinder recessed the meeting for a break at 9:32 p.m. and reconvened at 9:55 p.m.

Council Member Gregg moved to extend the meeting for half an hour at 9:55 pm.

Council Member Mark Gregg moved to table tab 7 and agree to retain John Quick and Alison Smith of Weiss Serota to assist with the development of a Performance Improvement Program and a program to help the council get to know each other better and work together. Vice Mayor Sharon Mahoney seconded for discussion.

Vice Mayor Mahoney stated that Council Member Gregg's motion was too broad and needed tighter parameters.

Council Member Jolin suggested Council Member Gregg withdraw his motion.

Council Member Rosenthal indicated he wanted to hear Tab 7.

After robust discussion, Council Member Gregg withdrew his motion.

VIII. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

A. Update on Charitable Contribution Applications

Village Manager Ted Yates summarized that 16 applicants have requested charitable funding. To move forward, he suggested analysis of the requests with Council and then deciding when to put it on the agenda.

B. Update on the Fills - Meeting with DEP

Village Manager Ted Yates noted DEP controls a small portion of land where the boat ramp is on the Fills. DEP manages all of the park system and would like us to consider a kayak launch and parking spots to access the Indian and Lignumvitae Keys.

Council Member Henry Rosenthal noted that the plan for the Fills involves no parking and he was not interested in waiving that to accommodate DEP.

Mayor Joseph B. Pinder III suggested Village Manager Yates contact DEP and FWC to inform them of the Village's position.

C. Comprehensive Plan Amendment - Market Rate, Affordable and Non-Residential BPAS - Additional Allocations

Village Manager Ted Yates noted the Village was entitled to 10.25 BPAS allocations, and that staff was working to pull them into the pool.

IX. CONSENT AGENDA

(All items on the Consent Agenda are considered routine by the Village Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event, the item will be moved to the Main Agenda.)

Mayor Joseph B. Pinder III noted Council Member Henry Rosenthal wanted to discuss Tabs 5 and 6, and that Tab 10 was added to the Consent Agenda.

Village Manager Ted Yates summarized the items on the Consent Agenda for the edification of the Council and the public.

Village Attorney John Quick noted that Marcum sent over an audit agreement and that the documentation had been sent to Marcum.

Mayor Pinder moved, and Council Member Jolin seconded to extend the meeting to 11:00 pm.

Mayor Joseph B. Pinder III opened public comment at 10:27 pm

Speakers included:

Van Cadenhead

Sue Miller

Joe Wischmeier

Dave Petkovich

Ed Davidson

There were no further speakers, and public comment was closed.

ACTION: Motion to approve item IX. by Elizabeth Jolin second by Joseph B. Pinder III;

Motion passed with a 5:0

AYES: Sharon Mahoney, Elizabeth Jolin, mark gregg, Henry Rosenthal, Joseph B. Pinder III

NAYS: None

ABSTAIN: None

- A. Meeting Minutes: May 16, 2023 Fills Workshop and May 18, 2023 Special Call Land Use Council Meeting -**TAB 1**
- B. Resolution Approving Change Order No. 1 to the Construction Agreement with CBT Related to the Green Turtle Hammock Preserve Handicap Access Project - **TAB 2** (Peter Frezza, Environmental Resources Manager)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING CHANGE ORDER NO. 1 TO THE AGREEMENT BETWEEN ISLAMORADA, VILLAGE OF ISLANDS AND CBT CONSTRUCTION AND DEVELOPMENT, INC. RELATED TO THE GREEN TURTLE HAMMOCK PRESERVE HANDICAP ACCESS PROJECT; AUTHORIZING THE VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF CHANGE ORDER NO. 1; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS AND PROVIDING FOR AN EFFECTIVE DATE

- C. Southeast Florida Local and Tribal Government Climate Action Pledge - **TAB 3** (Peter Frezza, Environmental Resources Manager)

A PLEDGE OF THE SOUTHEAST FLORIDA LOCAL AND TRIBAL GOVERNMENTS ENDORSING THE SOUTHEAST FLORIDA CLIMATE ACTION PLEDGE; AGREEING TO JOINTLY ADVANCE STRATEGIC CLIMATE ADAPTATION AND MITIGATION PLANNING, PROGRAMS, POLICIES AND PROJECTS; AND ADVANCING THE IMPLEMENTATION OF THE REGIONAL CLIMATE ACTION PLAN AS APPROPRIATE FOR EACH GOVERNMENT

- D. Resolution Requesting that the Monroe County Land Authority Prioritize Purchase of Selected Properties within the Village for Habitat Protection and Conservation - **TAB 4** (Peter Frezza, Environmental Resources Manager)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, REQUESTING THAT THE MONROE COUNTY LAND AUTHORITY PRIORITIZE PURCHASE OF THE ATTACHED LIST OF PROPERTIES WITHIN THE VILLAGE FOR THE PURPOSES OF HABITAT PROTECTION AND CONSERVATION, AS WELL AS DENSITY REDUCTION WHICH REDUCES THE POTENTIAL FOR OTHER ISSUES WITHIN THE VILLAGE AND RESELL THE PROPERTIES TO THE STATE OF FLORIDA, FLORIDA FOREVER PROGRAM; PROVIDING FOR TRANSMITTAL OF THIS RESOLUTION TO THE LAND AUTHORITY; AND PROVIDING FOR AN EFFECTIVE DATE

- E. Approving & Ratifying FY 22-23 Purchases from Furgeson Waterworks for Wastewater Department - **TAB 5 - MOVED FROM THE CONSENT AGENDA TO THE RESOLUTIONS SECTION AT THE DAIS DURING ADDITIONS TO THE AGENDA** (A.J. Engelmeyer, Public Works Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RATIFYING PURCHASES FROM FERGUSON WATERWORKS FROM THE BEGINNING OF FY 2022-2023 THROUGH JUNE 25, 2023; AUTHORIZING ADDITIONAL PURCHASES THROUGH THE END OF FY 2022-2023; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; APPROVING A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

- F. Resolution Approving Marcum Agreement for Wastewater Audit - **TAB 6 - MOVED FROM THE CONSENT AGENDA TO THE RESOLUTIONS SECTION AT THE DAIS DURING ADDITIONS TO THE AGENDA** (John Quick, Interim Village Attorney)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A PROPOSAL OF MARCUM LLP TO PERFORM AUDIT SERVICES OF A CERTAIN WASTEWATER AGREEMENT; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR AUDIT SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; APPROVING A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

- G. Resolution Approving Work Authorization No. 5 with CPH for Professional Engineering Services for Certification of Founders Park Solar Streetlights - **TAB 10 - MOVED FROM THE CONSENT AGENDA TO THE RESOLUTIONS SECTION AT THE DAIS DURING ADDITIONS TO THE AGENDA** (Maria Bagiotti, Founders Park Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 5 WITH CPH, LLC FOR ENGINEERING PROFESSIONAL SERVICES TO CERTIFY SOLAR LIGHT POLES IN FOUNDERS PARK; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 5 UNDER THE EXISTING AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION NO. 5; AND PROVIDING FOR AN EFFECTIVE DATE

X. RESOLUTIONS

- A. Resolution Approving Purchases from SHI International Corp. for FY 2022-2023 - TAB 9 - MOVED TO THE BEGINNING OF THE RESOLUTIONS SECTION AT THE DAIS DURING ADDITIONS TO THE AGENDA** (Vince Tarves, Systems Engineer)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RATIFYING PURCHASES FROM SHI INTERNATIONAL CORP. FOR FY 2022-2023 THROUGH JUNE 25, 2023; AUTHORIZING ADDITIONAL PURCHASES THROUGH THE END OF FY 2022-2023; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; APPROVING A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

The item was continued to the July 27 agenda.

- B. Resolution Approving Amendment No. 2 to the Agreement with Tetra Tech, Inc., for Debris Monitoring Services and Adding Financial Recovery Assistance Services - TAB 11 - MOVED TO THE BEGINNING OF THE RESOLUTIONS SECTION AT THE DAIS DURING ADDITIONS TO THE AGENDA** (Terry Abel, Fire Chief)

RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING EXECUTION OF AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICES AGREEMENT WITH TETRA TECH, INC., FOR DEBRIS MONITORING SERVICES AND ADDING FINANCIAL RECOVERY ASSISTANCE SERVICES; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AMENDMENT NO. 2 TO THE PROFESSIONAL SERVICE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

There was no one wishing to provide public comment.

ACTION:	Motion to approve item X.E. by Mark Gregg second by Sharon Mahoney; Motion passed with a 5:0
AYES:	Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS:	None
ABSTAIN:	None

- C. Resolution Approving Amendment No. 3 to the Agreement with Ashbritt, Inc., for Debris Management Services - TAB 12 - MOVED TO THE BEGINNING OF THE RESOLUTIONS SECTION AT THE DAIS DURING ADDITIONS TO THE AGENDA** (Terry Abel, Fire Chief)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING EXECUTION OF AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICES AGREEMENT WITH ASHBRIIT, INC., FOR DEBRIS MANAGEMENT SERVICES; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AMENDMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE AMENDMENT NO. 3 TO THE PROFESSIONAL SERVICE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

There was no one wishing to provide public comment.

ACTION: Motion to approve item X.F. by Mark Gregg second by Joseph B. Pinder III;
Motion passed with a 5:0
AYES: Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS: None
ABSTAIN: None

- D. Resolution Approving Non-Renewal of Village Manager Contract
- **TAB 7** (John Quick, Interim Village Attorney)

This item was not heard and was moved to an upcoming agenda.

- E. Resolution to Adopt Second FY 2022-2023 Budget Amendment
- **TAB 13** (Maria Bassett, Finance Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING THE VILLAGE'S ADOPTED BUDGET FOR FISCAL YEAR 2022-2023; AND PROVIDING AN EFFECTIVE DATE

This item was not heard and was moved to an upcoming agenda.

- F. Resolution Determining the Proposed Millage Rate for Fiscal Year 2023-2024, Establishing the Current Year Rolled-Back Rate, and the Date, Time, and Place for the First and Second Budget Hearings -
TAB 14 (Maria Bassett, Finance Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, DETERMINING THE PROPOSED MILLAGE RATE FOR FISCAL YEAR 2023-2024; ESTABLISHING THE CURRENT YEAR ROLLED-BACK RATE, AND THE DATE, TIME AND PLACE FOR THE FIRST AND SECOND BUDGET HEARINGS AS REQUIRED BY STATE LAW; DIRECTING THE FINANCE DIRECTOR AND VILLAGE MANAGER TO PROPERLY FILE THE CERTIFICATION OF TAXABLE VALUE VIA E-TRIM; DIRECTING THE VILLAGE CLERK TO TRANSMIT THIS RESOLUTION TO THE MONROE COUNTY PROPERTY APPRAISER PURSUANT TO THE REQUIREMENTS OF FLORIDA

**STATUTES AND THE RULES AND REGULATIONS OF THE
DEPARTMENT OF REVENUE OF THE STATE OF FLORIDA; AND
PROVIDING FOR AN EFFECTIVE DATE**

Council Member Mark Gregg moved to extend the meeting for 20 minutes at 11:16 p.m.

It was noted that this item needed to be heard tonight in order to send out the TRIM notices which need to have a preliminary millage rate and advertise the Budget Hearings.

Finance Director Maria Bassett suggested a preliminary rate of 3 mills. She noted it gave the Council some latitude to adopt a lower rate but makes sure it is sufficient for the coming budget.

Discussion ensued regarding the preliminary millage rate and the consensus of Council agreed to 3%.

Village Attorney John Quick noted this was not the final TRIM rate, and that the Council can adopt a lower rate. He noted it would require a second TRIM mailing if they approved a lower preliminary rate and needed to go higher later.

Council Member Mark Gregg

Public comment was opened, Ed Davidson spoke.

Budget workshop dates were set for August 2 and 3 at 3:00 p.m. and budget hearings for September 12 and 19 at 5:30 p.m.

ACTION:	Motion to approve trim at 3% item X.H. by Elizabeth Jolin second by Mark Gregg; Motion passed with a 5:0
AYES:	Mark Gregg, Elizabeth Jolin, Henry Rosenthal, Sharon Mahoney, Joseph B. Pinder III
NAYS:	None
ABSTAIN:	None

- G.** Resolution Approving Non-Renewal of Village Manager Contract
- **TAB 7** (John Quick, Interim Village Attorney)

This item was not heard and was moved to an upcoming agenda.

- H.** Resolution to Adopt Second FY 2022-2023 Budget Amendment
- **TAB 13** (Maria Bassett, Finance Director)

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, AMENDING THE VILLAGE'S
ADOPTED BUDGET FOR FISCAL YEAR 2022-2023; AND
PROVIDING AN EFFECTIVE DATE**

This item was not heard and was moved to an upcoming agenda.

- I. Resolution Approving Award of Contractual Services Agreement for Residential and Commercial Solid Waste, Yard Waste and Recycling Collection and Disposal Services Effective January 1, 2024 - **TAB 15** (Ted Yates, Village Manager)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A CONTRACTUAL SERVICES AGREEMENT FOR RESIDENTIAL AND COMMERCIAL SOLID WASTE, YARD WASTE AND RECYCLING COLLECTION AND DISPOSAL SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE CONTRACTUAL SERVICES AGREEMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACTUAL SERVICES AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

This item was not heard and was moved to an upcoming agenda.

XI. ORDINANCES

- A. Amending Administrative Relief Under the Building Permit Allocation System (BPAS) - 1st Reading - **TAB 16** (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING ARTICLE IV, "ADMINISTRATIVE PROCEDURES," OF CHAPTER 30, "LAND DEVELOPMENT REGULATIONS," OF THE VILLAGE CODE RELATING TO ADMINISTRATIVE RELIEF AVAILABLE TO APPLICANTS UNDER THE BUILDING PERMIT ALLOCATION SYSTEM (BPAS); PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON APPROVAL OF THIS ORDINANCE BY THE FLORIDA DEPARTMENT OF ECONOMIC OPPORTUNITY.

This item was not heard and was moved to an upcoming agenda.

- B. Moratorium on Building Permit Allocations (BPAS) - 1st Reading - **TAB 17** (John Quick, Interim Village Attorney)

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING A TEMPORARY MORATORIUM, WITHIN THE VILLAGE, ON THE ACCEPTANCE OF MARKET RATE RESIDENTIAL BUILDING PERMIT ALLOCATION SYSTEM (BPAS) APPLICATIONS WITH OR WITHOUT LAND

DEDICATIONS; PROVIDING FOR EXEMPTIONS; PROVIDING FOR PROCEDURES FOR VESTED RIGHTS AND JUDICIAL REVIEW; PROVIDING FOR A TERM; PROVIDING FOR SEVERABILITY; PROVIDING FOR CONFLICTS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY.

This item was not heard and was moved to an upcoming agenda.

XII. MOTIONS

- A.** Motion to Accept Funds Appropriated by the 2023 Florida Legislature for Purchase of 2024 Freightliner Ambulance - **TAB 19** (Maria Bassett, Finance Director)

MOTION TO ACCEPT FUNDS IN THE AMOUNT OF \$190,000.00 APPROPRIATED BY THE 2023 FLORIDA LEGISLATURE FOR THE PURCHASE OF ONE (1) 2024 FREIGHTLINER AMBULANCE FOR THE FIRE RESCUE DEPARTMENT

This item was not heard and was moved to an upcoming agenda.

XIII. ADJOURNMENT

A motion to extend the meeting for 10 minutes failed and the meeting was adjourned at 11:43 p.m.

Marne McGrath, Village Clerk



Council Communication

To: Mayor and Village Council
From: Peter Frezza, Environmental Resources Manager
Date: September 28, 2023
SUBJECT: **Resolution Approving Final Ranking and Recommendation of the RFP 23-12 Evaluation Committee and Approval of ASAP Inc. for the Green Turtle Hammock Nature Preserve Basin Improvement Project TAB 8**

Background:

Islamorada, Village of Islands (the "Village") has been completing physical improvements to the Green Turtle Hammock Nature Preserve ("GTH") as outlined in the management plan for this property over the past decade. Remaining components to be completed at GTH adjacent to Florida Bay include an ADA-compliant kayak launch, an ADA-compliant dock, improved access from the upland area to the waterfront, a waterfront pavilion/observation tower, a restroom, and an improved parking area. The property currently has washed-out sea walls, overgrown landscaping, and not enough parking to facilitate the Village's goals for the site. Boat basin structure conditions have gradually worsened from subsequent storms over the years.

The Village has completed the design and permitting for all the necessary physical improvements at the GTH. Specifically, the scope of work for this project includes construction of a 55 linear foot seawall repair, a 410 square-foot kayak launch, a 165 square-foot boardwalk, and installation of new riprap along 700 square feet of the side of the boat basin, large chunk armor stone along the east side of the boat basin and fill in the uplands to level existing grade elevations. Also contained within the scope is the filling and capping of an existing residential well adjacent to the canal. Construction of a two-story pavilion and associated parking area were put out to bid through a separate Request for Proposals through the Village.

Analysis:

On July 12, 2023, the Village issued Request for Proposals (RFP) 23-12 to solicit proposals from qualified firms to furnish all necessary supervision, labor, tools, parts, and equipment required to complete the Green Turtle Hammock Nature Preserve Basin Improvement Project, (the "Project"). RFP 23-12 was issued in accordance with Sec. 2-327(b) and (c)(4) of the Village's Purchasing Guidelines in the Village Code of Ordinances. The RFP was published on DemandStar.com and on the Village's website from July 12, 2023, through the submittal deadline of August 15, 2023, and notices were posted on the Village's Facebook page and in a local newspaper. To answer questions posed about the RFP, Addendum No. 1 was published on July 13, 2023, Addendum No. 2 was published on July 25, 2023, and Addendum No. 3 was published on July 28, 2023.

The Village received a total of three (3) proposals in response to RFP 22-12. The proposals

received were from ASAP Inc., Upper Keys Marine Construction LLC, and Rycon Construction Inc. An Evaluation Committee (the “Committee”) was convened to evaluate and rank the proposals. Cost is not the only factor considered during an evaluation. Consideration is also given to each firm’s organization, experience, qualifications and proposed timeline for completion of the project.

The three responsive proposals were reviewed and scored by the Committee in a publicly noticed meeting on September 21, 2023. A maximum of 102.5 points were available in the scoring system per Committee member including the 2.5 points available for local preference, for a total maximum score by the Committee of 307.5 points. The Committee ranked the proposals as follows according to the criteria and point system provided in the RFP.

<u>Rank</u>	<u>Proposer/Firm Name</u>	<u>Points</u>	<u>Cost Proposal</u>
1	ASAP Inc.	282.5	\$ 298,700.00
2	Upper Keys Marine Construction	276	\$ 450,650.00
3	Rycon Construction Inc.	193	\$ 882,418.04

Following discussion and calculation of the scoring, the committee members agreed to make a recommendation to the Village Council to approve ASAP Inc. for the project. Adoption of the proposed Resolution would approve the ranking of the RFP 23-12 Evaluation Committee and the recommended selection of ASAP Inc. for the project. The Resolution would also authorize the Village Manager and Village Attorney to enter into an agreement with ASAP Inc. for the requested services in substantially the form of Agreement provided as an Exhibit “1” to the proposed resolution and authorizes the Village Manager to expend budgeted funds. The proposal from ASAP Inc. is provided as Exhibit A to the Agreement.

Budget Impact:

Village staff have identified the Parks and Recreation Impact Fees as an appropriate funding source for this service and the capital project construction costs pursuant to Sections 30-361 & 30-362 of the Village’s Code of Ordinances and Village Comprehensive Plan Policy 9-1.1.1 which direct the financing of public facilities through the use of impact fees collected for new development. As both Upper and Lower Matecumbe Keys have experienced increased residential development after Hurricane Irma in September 2017, public facilities that are to be constructed at GTH will elevate service levels to Village residents, especially those located on Upper and Lower Matecumbe Keys. For these reasons, the use of Parks and Recreation Fees is proposed and is deemed appropriate for this project.

Costs of the GTH improvement projects are being accounted for in the Capital Projects Fund. Transfers of Parks and Recreation Impact Fees accounted for in the Impact Fee Fund are made to the Capital Projects Fund as needed. The proposed fiscal year 2023-2024 Capital Project Fund Budget includes \$1.5 million for the Green Turtle Hammock Improvements.

Staff Impact:

The Village Attorney would move forward with finalizing the Agreement for services. Village staff, including the Environmental Resources Manager and Public Works Director would communicate with ASAP Inc. to coordinate the timing of the services and inspect the work during the project. The Village Finance Department would track expenditures.

Recommendation:

It is recommended that the Village Council adopt the attached Resolution, thereby approving the selection of ASAP Inc. to complete the Green Turtle Hammock Nature Preserve Basin Improvement project, authorizing the Village Manager and Village Attorney to enter into an Agreement for the services, and authorizing the Village Manager to expend budgeted funds.

- Attachments:**
1. Resolution_RFP 23-12_GTH Basin
 2. Ex_1_Agreement-GTHP_Basin
 3. Ex_A_ASAP Proposal to RFP 23-12

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 23-12 EVALUATION COMMITTEE FOR SELECTION OF A CONTRACTOR FOR THE GREEN TURTLE HAMMOCK NATURE PRESERVE BASIN IMPROVEMENT PROJECT; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") owns the 10.7-acre Green Turtle Hammock Preserve ("GTH") located on Upper Matecumbe Key, which was purchased with grant assistance from the Florida Communities Trust ("FCT") for the purposes of environmental preservation and recreational development; and

WHEREAS, pursuant to the restrictive covenants set forth in the acquisition documents for GTH, FCT required that the Village develop a Management Plan for the property which includes the design and development of site improvements to support public outdoor recreation and environmental interpretation of the park; and

WHEREAS, the Village has completed the design and permitting of the remaining site improvements for the property surrounding the boat basin and shoreline; and

WHEREAS, the Village is in need of an independent contractor to complete the construction of this remaining work; and

WHEREAS, on July 12, 2023, the Village issued Request for Proposals (RFP) 23-12 to solicit proposals from qualified firms to complete the Green Turtle Hammock Nature Preserve Basin Improvement Project (the "Project"); and

WHEREAS, RFP 23-12 was issued in accordance with Sec. 2-327(b) and (c)(4) of the Village's Purchasing Guidelines in the Village Code of Ordinances; and

WHEREAS, the Village received a total of three (3) proposals in response to RFP 23-12. The proposals received were from ASAP Inc., Upper Keys Marine Construction and Rycon Construction, Inc.; and

WHEREAS, the Village Manager established an Evaluation Committee (the "Committee") to review responsive proposals to the RFP and make a recommendation to the Village Council for the selection of a Contractor to complete the Project; and

WHEREAS, the Committee reviewed the three proposals received using the selection criteria detailed in RFP 23-12 and recommends selection of the highest-ranked proposal from ASAP Inc. for the Project for an amount not to exceed Two Hundred Ninety-Eight Thousand Seven Hundred and 00/100 Dollars (\$298,700.00) to complete the Project; and

WHEREAS, the Village Council finds that approval and selection of ASAP Inc. for the Project is in the best interest of the Village and its residents.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this Reference.

Section 2. **Approval of Selection.** The Village Council hereby approves the selection of ASAP Inc. to complete the Project.

Section 3. Authorization of Village Officials. The Village Manager or designee and the Village Attorney are authorized to negotiate an agreement with ASAP Inc. substantially in the form attached hereto as Exhibit "1", for an amount not to exceed Two Hundred Ninety-Eight Thousand Seven Hundred and 00/100 Dollars (\$298,700.00) to complete the Project.

Section 4. Execution of Agreement. The Village Manager is authorized to execute the Agreement with ASAP Inc. on behalf of the Village, to execute any required documents to implement the terms and conditions of the Agreement, and to execute any extension or amendments to the Agreement, subject to approval as to form and legality by the Village Attorney.

Section 5. Authorization of Fund Expenditures. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is hereby authorized to expend budgeted funds for the Project.

Section 6. Effective Date. This Resolution shall become effective immediately upon its adoption.

Motion to adopt by _____, seconded by _____.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

AGREEMENT

THIS IS AN AGREEMENT, dated the day of , 2023, between:

ISLAMORADA, VILLAGE OF ISLANDS

a Florida municipal corporation, hereinafter "**VILLAGE**,"

and

ASAP Inc.

a Florida Profit Corporation. authorized to do business in the State of Florida, hereinafter

"CONTRACTOR."

WITNESSETH:

In consideration of the mutual terms and condition, promises, covenants, and payments hereinafter set forth, VILLAGE and CONTRACTOR agree as follows:

Article I. PREAMBLE

In order to establish the background, context and form of reference for this Agreement and to generally express the objectives, and intentions, of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

Section 1.01 The VILLAGE is in need of an independent experienced contractor to provide services for the construction of a community kayak launch, sea wall renovation, and other boat basin improvements at the Green Turtle Hammock Preserve in a timely and responsive timeframe (the "Project").

Section 1.02 On July 12, 2023, the VILLAGE issued Request for Proposals No. 23-12 for the Project, including all Exhibits and Addenda (the "RFP").

Section 1.03 On August 15, 2023, the VILLAGE received three (3) proposals including a proposal from CONTRACTOR, for completion of the Project as expressed in the RFP.

Section 1.04 The evaluation committee ranked the responsive proposals in accordance with the RFP and determined that CONTRACTOR was a the highest ranked, responsive and responsible proposer for the Project.

Section 1.05 On September 28, 2023, the Village Council of Islamorada, Village of Islands (the "Village Council") adopted Resolution No. 23-##-##, awarding the RFP to CONTRACTOR and authorizing the Village to negotiate and execute this Agreement with CONTRACTOR for the Project.

Section 1.06 VILLAGE and CONTRACTOR desire to enter into this Agreement for the completion of the Project in accordance with the RFP and on the schedule set forth in ARTICLE 3 entitled "TIME FOR COMPLETION".

Article II. SCOPE OF WORK

Section 2.01 CONTRACTOR shall furnish all necessary expertise, personnel, tools, materials, equipment and supervision, to perform all of the work for the Project described in the RFP, and the Proposal, a copy of which is attached hereto and specifically made a part of this Agreement as Exhibit "A".

Section 2.02 CONTRACTOR hereby represents to VILLAGE, with full knowledge that VILLAGE is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and personnel to perform the services to be provided by CONTRACTOR for the Project pursuant to the terms of this Agreement.

Section 2.03 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with applicable recognized professional standards.

Section 2.04 None of the work or services under this Agreement for the Project shall be subcontracted by CONTRACTOR, unless CONTRACTOR obtains prior written consent from the VILLAGE. Approved subcontractors shall be subject to each provision of this Agreement and CONTRACTOR shall be responsible and indemnify the VILLAGE for all subcontractors' acts, errors or omissions.

Article III. TIME FOR COMPLETION

Section 3.01 The CONTRACTOR shall commence work as directed by the VILLAGE and in accordance with a Project Timeline. The Project Timeline shall be based upon the timeline as stated in Exhibit "A" to this Agreement as may be modified and agreed upon during negotiation of this Agreement and provided as Exhibit "B". CONTRACTOR shall complete all work in a timely manner in accordance with the Project Timeline or be subject to liquidated damages pursuant to Section 3.03.

Section 3.02 Anything to the contrary notwithstanding, minor adjustment to the Project timeline for completion approved by VILLAGE in advance, in writing, will not constitute a delay by CONTRACTOR. Furthermore, a delay due to an Act of God, fire, lockout, strike or labor dispute, riot or civil commotion, act of public enemy or other cause beyond the control of CONTRACTOR shall extend this Agreement for a period equal to such delay and during this period such delay shall not constitute a delay by CONTRACTOR.

Section 3.03 VILLAGE and CONTRACTOR recognize that time is of the essence with respect to the completion of the Project and VILLAGE would suffer financial loss if the Project is not completed within the time specified in the timeline for completion set forth in Exhibit "A" as

mention above, subject to adjustments of such timeline as approved by the Village as provided in the RFP and Proposal. VILLAGE and CONTRACTOR also recognize the expense and difficulties involved in proving with reasonable certainty the actual loss or damage suffered by VILLAGE if the Project is not completed on time. Accordingly, in lieu of requiring any such proof, VILLAGE and CONTRACTOR agree that, as liquidated damages for delays, or early termination of the Agreement, CONTRACTOR shall pay VILLAGE, in addition to any other damages and/or remedies to which VILLAGE may be entitled, the dollar amount equal to six one hundredths of a percent (0.06%) per day of total Contract Price (as defined below) for each calendar day within the first fifteen (15) days after the final completion date set forth in the timeline where the CONTRACTOR fails to reach final completion in accordance with the RFP and Proposal attached hereto as Exhibit "A" or in the event of early termination of the Agreement, for each calendar day within the first fifteen (15) days from termination to the stated completion date. For each calendar day after the first fifteen days following the final completion date provided in the timeline where the CONTRACTOR fails to reach final completion in accordance with the RFP and Proposal the VILLAGE shall be entitled to the dollar amount equal to one tenth of one percent (0.1%) per day of total Contract Price until the CONTRACTOR achieves final completion with respect to a delay or in the event of earlier termination of the Agreement, for each calendar day after the first fifteen days from termination to the stated final completion date, the Village shall be entitled to the dollar amount equal to one tenth of one percent (0.1%) per day of total Contract Price. CONTRACTOR further agrees that the amount of liquidated damages assessed pursuant to this paragraph is reasonable and does not constitute a penalty. Although the parties recognize the difficulty of proving the loss or damage suffered by the VILLAGE due to delay or early termination, the CONTRACTOR acknowledges and agrees that the amount of liquidated damages approximate the loss anticipated at the time of execution of this Agreement.

Article IV. CONTRACT PRICE, GUARANTEES AND WARRANTIES

Section 4.01 The VILLAGE hereby agrees to pay CONTRACTOR for the faithful performance of this Agreement, for work completed in accordance with the Proposal attached hereto as Exhibit "A", and as directed by VILLAGE. Prices for work completed by the CONTRACTOR shall be as reflected in Exhibit "A". The contract price for the Project hereto is referred to as Contract Price and shall not exceed **Two Hundred Ninety-Eight Thousand Seven Hundred Dollars (\$298,700.00)**.

Section 4.02 The VILLAGE will make payments to CONTRACTOR for completed and proper work and in the amounts stated in Exhibit "A" in accordance with the Local Government Prompt Payment Act in Chapter 218, Florida Statutes.

Section 4.03 The CONTRACTOR shall guarantee all portions of the Project against poor workmanship and faulty materials for a period of twelve (12) months after final payment and shall immediately correct any defects which may appear during this period upon notification by VILLAGE.

Section 4.04 The CONTRACTOR shall specify warranty duration and guidelines, inclusions and exclusions for all products.

Section 4.05 The making and acceptance of the final payment shall constitute a waiver of all claims by the CONTRACTOR other than those arising from requirements of the specifications.

Section 4.06 CONTRACTOR is prohibited from placing a lien on the Village's property. This prohibition applies to; inter alia, all sub-contractors and suppliers and labors.

Article V. CONTRACTOR'S LIABILITY INSURANCE/BOND

Section 5.01 The CONTRACTOR shall not commence work under this Agreement until CONTRACTOR has obtained all insurance required under this Article and such insurance has been approved by the VILLAGE nor shall the CONTRACTOR allow any Subcontractor to commence work on his sub-contract until all similar such insurance required of the subcontractor has been obtained and approved.

Section 5.02 Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the VILLAGE prior to the commencement of the work. These Certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the VILLAGE. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

Section 5.03 Financial Ratings of the insurers must be no less than "A" in the latest edition of "Bests Key Rating Guide", published by A.M. Best Guide.

Section 5.04 Insurance shall be in force during the term of this Agreement. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the CONTRACTOR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall not continue to work pursuant to this contract unless all required insurance remains in full force and effect.

Section 5.05 Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are as follows: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- (a) Workers' Compensation Insurance – as required by law;
- (b) Comprehensive General Liability Insurance, including Premises Operation, Products and Completed Operations, Blanket Contractual Liability, Personal Injury Liability, Expanded Definition of Property Damage - \$1,000,000 combined single limit;
- (c) Automobile Liability Insurance - \$300,000 per occurrence, \$300,000 per Accident for bodily injury and \$300,000 per accident for property damage; and

Pollution Liability \$1,000,000 per claim and in the aggregate Contractor shall purchase and maintain pollution liability insurance against claims for damages arising out of the assessment, removal, remediation, transport and/or handling of hazardous materials, including but not limited to mold, asbestos, and lead. The policy shall include a minimum limit of not less than \$1,000,000.00 per claim and in the aggregate. Said pollution liability policy shall include and list as additional insureds the Village, include coverage for its respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of all such additional insureds; and, the insurance afforded to these additional insureds shall provide primary coverage for all claims covered thereby (including as applicable those arising from both ongoing and completed operations) on a non-contributory basis.

Contractor shall obtain all necessary endorsements to support these requirements.

The insurance provided by the contractor shall apply on a primary basis. Any insurance, or self-insurance, maintained by the Village shall be excess of, and shall not contribute to, the insurance provided by proposer.

The insurance maintained by the contractor shall apply on a first dollar basis without application of a deductible or self-insured retention. The contractor shall pay on behalf of the Village or the Village's council members, officials, officers, agents and employees any deductible or self-insured retention applicable to a claim against the Village or the Village's council, officials, officers, agents and employees.

Section 5.06 The CONTRACTOR shall hold the VILLAGE, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of CONTRACTOR's negligent operations in completing the Project and name the VILLAGE as an additional insured under their policy.

Section 5.07 The VILLAGE reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

Section 5.08 Bonds. If required by the VILLAGE, prior to performing any portion of the Scope of Work the CONTRACTOR shall deliver to VILLAGE the Bonds required to be provided by CONTRACTOR hereunder (the bonds referenced in this Section are collectively referred to herein as the "Bonds"). Pursuant to and in accordance with Section 255.05, Florida Statutes, the CONTRACTOR shall obtain and thereafter at all times during the performance of the Scope of Work maintain a separate performance bond and labor and material payment bond for the Scope of Work, each in an amount equal to one hundred percent (100%) of the Contract Price and each in the form provided in the Contract Documents or in other form satisfactory to and approved in writing by VILLAGE and executed by a surety of recognized standing with a rating of B plus or better for bonds up to Two Million Dollars. The surety providing such Bonds must be licensed, authorized and admitted to do business in the State of Florida and must be listed in the Federal Register (Dept. of Treasury, Circular 570). The cost of the premiums for such Bonds is included in

the Contract Price. If notice of any change affecting the Scope of the Work, the Contract Price, Contract Time or any of the provisions of the Contract Documents is required by the provisions of any bond to be given to a surety, the giving of any such notice shall be CONTRACTOR's sole responsibility, and the amount of each applicable bond shall be adjusted accordingly. If the surety is declared bankrupt or becomes insolvent or its right to do business in Florida is terminated or it ceases to meet applicable law or regulations, the CONTRACTOR shall, within five (5) days of any such event, substitute another bond (or Bonds as applicable) and surety, all of which must be satisfactory to VILLAGE.

Article VI. PROTECTION OF PROPERTY

Section 6.01 At all times during the performance of this Agreement, the CONTRACTOR shall protect the VILLAGE's property and properties adjoining the Project site from all damage whatsoever on account of the work being carried on pursuant to this Agreement.

Article VII. CONTRACTOR'S INDEMNIFICATION

Section 7.01 The CONTRACTOR agrees to release the VILLAGE from and against any and all liability and responsibility in connection with this Agreement and the matters contained herein. The CONTRACTOR further agrees not to sue or seek any money or damages from VILLAGE in connection with this Agreement except with respect to payment for services rendered with respect to this Agreement.

Section 7.02 The CONTRACTOR agrees to indemnify, defend and hold harmless the VILLAGE, its trustees, elected and appointed officers, agents, servants and employees, from and against any and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the VILLAGE or any third party arising out of, or by reason of, or resulting from the CONTRACTOR's negligent acts, errors, or omissions with respect to this Agreement.

Section 7.03 If a court of competent jurisdiction holds the VILLAGE liable for certain tortuous acts of its agents, officers, or employees, such liability shall be limited to the extent and limit provided in 768.28, Florida Statutes. This provision shall not be construed as a waiver of any right or defense that the VILLAGE may possess. The VILLAGE specifically reserves all rights as against any and all claims that may be brought.

Section 7.04 Nothing in this Agreement shall be deemed or treated as a waiver by the VILLAGE of any immunity to which it is entitled by law, including but not limited to the VILLAGE's sovereign immunity as set forth in Section 768.28, Florida Statutes.

Article VIII. INDEPENDENT CONTRACTOR

Section 8.01 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the VILLAGE's employee for all purposes, including but not limited to, the

application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder provided. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the VILLAGE and the VILLAGE will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

Article IX. CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

Section 9.01 The VILLAGE may request changes that would increase, decrease or otherwise modify the Scope of Work to be provided under this Agreement as described in Article II of this Agreement. Such changes or additions to the Project must be in accordance with the provisions of the Code of Ordinances of the VILLAGE and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work to the Project. Each amendment shall at a minimum include the following information on the Project:

PROJECT NAME
PROJECT DESCRIPTION
ESTIMATED PROJECT COST
ESTIMATED COST FOR ADDITION OR CHANGE TO PROJECT
ESTIMATED PROJECT COMPLETION DATE

Section 9.02 In no event will the CONTRACTOR be compensated for any work which has not been described in a separate written agreement or amendment executed by the parties hereto.

Article X. TERM AND TERMINATION

Section 10.01 This Agreement may be terminated by either party for cause, or the VILLAGE for convenience, upon ten (10) days written notice by the VILLAGE to CONTRACTOR in which event the CONTRACTOR shall be paid its compensation for services performed to termination date. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, the CONTRACTOR shall indemnify the VILLAGE against any loss pertaining to this termination up to a maximum of the full Contract Price. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONTRACTOR shall become the property of VILLAGE and shall be delivered by CONTRACTOR to VILLAGE.

Section 10.02 This Agreement shall take effect as of the date of execution as shown herein below and continue for such time as is contemplated by the VILLAGE.

Article XI. CONTRACT DOCUMENTS

Section 11.01 CONTRACTOR and VILLAGE hereby agree that the following Exhibits, which are attached hereto and made a part thereof, are fully incorporated herein and made a part of this Agreement, as if written herein word for word: this Agreement; including CONTRACTOR's Proposal in response to the RFP as set forth and incorporated into this Agreement as Exhibit "A"; the RFP as incorporated into this Agreement and all other addendums and exhibits thereto. In the event there is a conflict between the terms of the RFP, CONTRACTOR'S Proposal, and this Agreement, the terms of this Agreement shall prevail.

Article XII. MISCELLANEOUS

Section 12.01 Legal Representation. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply due to the joint contribution of both parties.

Section 12.02 Assignments. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of VILLAGE. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires VILLAGE approval. However, this Agreement shall run to the VILLAGE and its successors and assigns.

Section 12.03 Records. CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed, if applicable. Such books and records will be available at all reasonable times for examination and audit by VILLAGE and shall be kept for a period of three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by VILLAGE of any fees or expenses based upon such entries.

Section 12.04 Public Records. VILLAGE is a public agency subject to Chapter 119, Florida Statutes. To the extent that CONTRACTOR is acting on behalf of VILLAGE pursuant to Section 119.0701, Florida Statutes, CONTRACTOR shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by VILLAGE were VILLAGE performing the services under this Agreement;
- (b) Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

- (c) Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- (d) Meet all requirements for retaining public records and transfer to VILLAGE, at no cost, all public records in possession of the CONTRACTOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the VILLAGE.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-664-6412, Clerk@islamorada.fl.us, or by mail: Village Clerk, 868800 Overseas Highway, Islamorada, FL 33036.

Section 12.05 Ownership of Documents. Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of VILLAGE.

Section 12.06 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, 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 CONTRACTOR, 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 this provision, the VILLAGE shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

Section 12.07 E-Verify. CONTRACTOR shall comply with Section 448.095, Fla. Stat., "Employment Eligibility," including the registration and use of the E-Verify system to verify the work authorization status of employees. Failure to comply with Section 448.095, Fla. Stat. shall result in termination of this Contract. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by CONTRACTOR, CONTRACTOR may not be awarded a public contract for a period of 1 year after the date of termination.

Section 12.08 Scrutinized Companies.

- (a) CONTRACTOR certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CONTRACTOR or its subconsultants are found to have submitted a false certification; or if CONTRACTOR, or its subconsultants are

placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

- (b) If this Agreement is for more than one million dollars, CONTRACTOR certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if CONTRACTOR, its affiliates, or its subconsultants are found to have submitted a false certification; or if CONTRACTOR, its affiliates, or its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- (c) CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- (d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Section 12.09 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the VILLAGE designate the following as the respective places for giving of notice:

VILLAGE:	Village Manager Islamorada, Village of Islands 86800 Overseas Highway Islamorada, Florida 33036
Copy To:	Village Attorney Islamorada, Village of Islands 86800 Overseas Highway Islamorada, Florida 33036
CONTRACTOR:	Contact Name/Title Company Street Address City, State and zip code Email address

Section 12.10 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of

the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

Section 12.11 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

Section 12.12 Headings. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

Section 12.13 Severability. If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

Section 12.14 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Monroe County, Florida.

Section 12.15 Disputes. Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in the Sixteenth Judicial Circuit Court in and for Monroe County.

Section 12.16 Extent of Agreement. This Agreement together with Exhibits, attached hereto, as amended herein above represents the entire and integrated agreement between the VILLAGE and the CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

Section 12.17 Waiver. Failure of the VILLAGE to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

[CONTRACT DOCUMENTS FROM RFP SHALL BE INSERTED IN AGREEMENT]

[SIGNATURE PAGE TO AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature: The VILLAGE, signing by and through its Village Manager, attested to by its Village Clerk, duly authorized to execute same, and by CONTRACTOR, by and through its _____, duly authorized officer to execute same.

VILLAGE

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

By: _____
Bryan Cook, Interim Village Manager

AUTHENTICATION:

Marne McGrath, Village Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ONLY

John J. Quick, Interim Village Attorney

CONTRACTOR

WITNESS:

Print Name:_____

By:_____

Print Name:_____

Title:_____

Date:_____

ATTEST:

SECRETARY

STATE OF FLORIDA)
COUNTY OF _____)

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____ (year) by _____ (name of person making the statement) as _____ (title) of _____ (company name), who __ is personally known to me or __ has provided Florida Driver's License as identification.

NOTARY PUBLIC

My Commission Expires:

Exhibit "A"

FORM OF CONTRACTOR'S PROPOSAL

Exhibit "B"

PROJECT TIMELINE

Exhibit A

ASAP Inc
91795 Overseas Hwy
PO Box 804
Tavernier, FL 33070
305-852-4554
office@asapmarineconstruction.com
www.asapmarineconstruction.com

August 15, 2023

Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, FL 33036

To Whom It May Concern:

ASAP, Inc is a family owned and operated Marine Contractor in the Florida Keys. Established in 1981 by father and son, Joseph and Jay Frins, the company pioneered the method of drilling the hole into the coral rock and then placing the piling into it. This makes for a more solid and secure piling to attach a dock or lift to. Now Jay's sons, Trevor and Devin are learning the family business to continue providing quality piling and dock installations. We perform marine contracting work specializing in dock, piling, and seawall installation from Ocean Reef to Key West. We own six barges, eight cranes, four excavators, and several air hammers. No job is too big or too small.

We can auger holes from the land or by water. We work with wood, steel or concrete pilings; install seawalls, concrete or vinyl/steel retaining walls as well as boulder rip rap walls. Our barges can easily provide services to move material and equipment to/from offshore islands from our waterfront work yards, located in Tavernier and Key Largo.

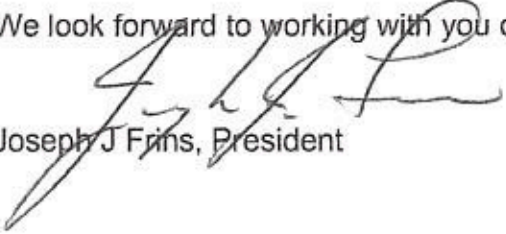
We have completed dock and piling work for Islamorada, Village of Islands at Founders Park boat ramp, Indian Key State Park, and Lignumvitae Key. We have held contracts with the County for the removal of derelict vessels and currently have a contract with FKEC to provide barge services for emergency and routine repairs to the power system.

We have a team of ten employees that work together to complete projects. Our piling installation crew is comprised of four to five employees and our top work crew is comprised of five to six employees. Jobs of this size are usually completed within 90 to 120 days, barring any unforeseen delays due to weather, supply chain, and/or circumstances beyond our control at the job site.

Manufacturers warranties for the floating structures and composite decking will be the only warranties provided for this project.

Our company carries Longshoreman's, Jones Act, Pollution Liability, General Liability and Workers Compensation insurance. We are licensed in Monroe County – license # ENGII209B

We look forward to working with you on this project,



Joseph J Frins, President

References:

Florida Department of Environmental Protection
John Pennekamp Coral Reef State Park
PO Box 370487
Key Largo, FL 33037
Paul.Rice@FloridaDEP.gov
Office: 305-451-1226

Arpin & Sons LLC
4940 N Dixie hwy
Oakland Park, FL 33334
Arpin2@bellsouth.net
954-772-8345

Seabird Marina
69501 Overseas Hwy
Long Key FL 33001
Lynn
seabirdmarina@aol.com
305-393-3423

Exhibit "D"

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA GREEN TURTLE NATURE PRESERVE BASIN IMPROVEMENTS BID SCHEDULE					
Item	Item Description	Unit	Unit Price	Quantity	Extended Price/Subtotal
1	Mobilization	LS	\$ 2,500.00	1	\$ 2,500.00
2	Demobilization	LS	\$ 2,500.00	1	\$ 2,500.00
3	Survey Layout, Project Documentation, As-builts	LS	\$ 4,500.00	1	\$ 4,500.00
4	Clearing and Grubbing	LS	\$ 3,500.00	1	\$ 3,500.00
5	Erosion and Sedimentation Control	LS	\$ 7,900.00	1	\$ 7,900.00
6	Kayak Launch	LS	\$ 35,000.00	1	\$ 35,000.00
7	Chunk Limestone	CY	\$ 575.00	22	\$ 12,650.00
8	Boardwalk	LS	\$ 60,000.00	1	\$ 60,000.00
9	Seawall Repair	LS	\$ 137,500.00	1	\$ 137,500.00
10	Riprap	LS	\$ 25,000.00	1	\$ 25,000.00
11	Cap and Fill Well (Grout Fill)	CF	\$ 85.00	90	\$ 7,650.00
Project Total					\$ 298,700.00

This cost proposal is valid for ninety (90) days from date of submission, August 15, 2023. If work is not awarded prior to the end of ninety (90) days, a new cost proposal will need to be requested.

**2023 / 2024
MONROE COUNTY BUSINESS TAX RECEIPT
EXPIRES SEPTEMBER 30, 2024**

Business Name: ASAP INC

RECEIPT# 30140-9209

Owner Name: JOSEPH J FRINS
Mailing Address: PO BOX 804
TAVERNIER, FL 33070

Business Location: 91795 OVERSEAS HWY
TAVERNIER, FL 33070
Business Phone: 305-852-4554
Business Type: CONTRACTOR (ENGINEERING)

Employees 10

COMP CARD: ENG II 209-B

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
25.00	0.00	25.00	0.00	0.00	0.00	25.00

Paid 000-22-00058935 07/24/2023 25.00

THIS BECOMES A TAX RECEIPT
WHEN VALIDATED

Sam C. Steele, CFC, Tax Collector
PO Box 1129, Key West, FL 33041

THIS IS ONLY A TAX.
YOU MUST MEET ALL
COUNTY AND/OR
MUNICIPALITY
PLANNING, ZONING AND
LICENSING
REQUIREMENTS.

**MONROE COUNTY BUSINESS TAX RECEIPT
P.O. Box 1129, Key West, FL 33041-1129
EXPIRES SEPTEMBER 30, 2024**

Business Name: ASAP INC

RECEIPT# 30140-9209

Owner Name: JOSEPH J FRINS
Mailing Address: PO BOX 804
TAVERNIER, FL 33070

Business Location: 91795 OVERSEAS HWY
TAVERNIER, FL 33070
Business Phone: 305-852-4554
Business Type: CONTRACTOR (ENGINEERING)

Employees 10

COMP CARD: ENG II 209-B

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
25.00	0.00	25.00	0.00	0.00	0.00	25.00

Paid 000-22-00058935 07/24/2023 25.00

CONTRACTOR ID / LICENSE # 00180 / 00180	CERTIFICATE OF COMPETENCY NUMBER: ENGII209B	CERTIFICATE TYPE: PILE DRIVING & FOUNDATION CONT
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MONROE COUNTY GROWTH MANAGEMENT - BUILDING DEPARTMENT

Middle Keys/Main Office: 2798 Overseas Highway, Marathon, FL (305) 289-2501
Lower Keys Office: 5503 College Road, Key West, FL (305) 295-3990
Upper Keys Office: 102050 Overseas Highway, Key Largo, FL (305) 453-8800
11601 CR 905, Key Largo, FL (305) 453-8765

CERTIFICATE OF COMPETENCY

Extended Per Monroe County Ordinance 023-2021

! IMPORTANT: CONTRACTOR CERTIFICATE OF COMPETENCY ENCLOSED !

FRINS, JOSEPH JOHN JR
135 N AIRPORT ROAD

TAVERNIER FL, 33070

Dear Certificate of Competency Holder:

Please find below your **extended** Monroe County Certificate of Competency per Monroe County Ordinance 023-2021. Chapter 2023-271, Laws of Florida became effective on July 1, 2023 relating to preemption of local occupational licensing (HB 1383). The BOCC amended Monroe County Code Chapter 6-240. The amended Code section will provide that in order to provide a reasonable transition period for those license holders affected by the enactment of chapter 2023-271, Laws of Florida, specialty contractor licenses that were active as of June 30, 2023 shall continue to be valid, and will not expire, until June 30, 2024. Additionally, please note:

- You have agreed to abide by the requirements found in Monroe County Code 6-234
- It is the certificate holder's responsibility to notify this office in writing of any legal name and/or address changes by completing the Name and/or Address Change Form. (Obtained from our website at www.monroecounty-fl.gov).
- Journeyman and Masters are NOT contractors, and therefore, are prohibited from contracting, and shall only perform work in their trade while under the supervision and direction of a licensed contractor of same category.
- Contracting shall only be done under the qualified business name. This license does NOT belong to the Company and may NOT be renewed or used by another individual or company other than the license holder named herein for any construction purposes
- If you are inactive, you may NOT contract to do work or pull a permit, and you do not need to have current insurances on file.

Thank you.

MONROE COUNTY GROWTH MANAGEMENT BUILDING DEPARTMENT CERTIFICATE OF COMPETENCY

>>> Extended Per Monroe County Ordinance 023-2021<<<

This is to certify that the contractor listed is in good standing.

This certificate according to law of competency is valid and in force unless revoked until the noted expiration date below.

Rick Griffin

BUILDING OFFICIAL

Code Section 6-240: MC Ordinance 023-2021

Extended to: 06/30/24

Qualifier: FRINS, JOSEPH JOHN JR

Company name: ASAP INC

License type: PILE DRIVING & FOUNDATION CONT (EIIB)

County license: ENGII209B

RECEIPT #: N/A

Cont.ID: 00180

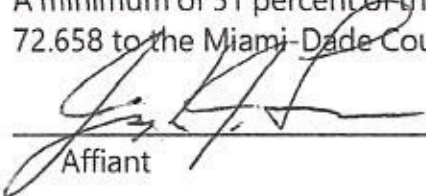
AMOUNT PAID N/A

Affidavit
For Certification as a Local Business

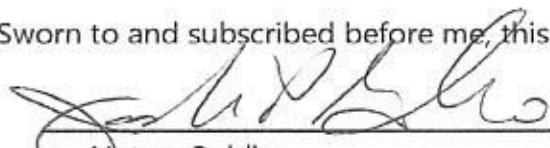
State of Florida
County of Monroe

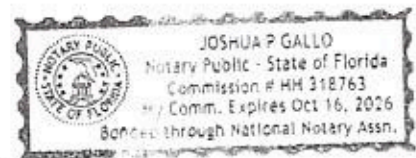
BEFORE ME, the undersigned authority, personally appeared Joseph J Frins
(Affiant's Name), as President (Title) of ASAP Inc
(Name of Company), a S-Corp (Type of
Entity), who after having been sworn, deposes and states:

1. My name is Joseph J Frins.
2. I am the President (Title) of ASAP Inc
(Name of Firm), and I have personal knowledge of the facts stated herein.
3. ASAP Inc (Name of Firm) seeks certification as a
local business pursuant to Ordinance 2-327(e), Islamorada, Village of Islands,
and RFP 19-08; and
4. ASAP Inc (Name of Firm) has a current Monroe
County occupational license or business tax receipt, with a principal office
located at 91795 Overseas Hwy, Tavernier, FL
(Physical Address), which is between MM 72.658 and the
Miami-Dade County boundary line; and
5. The principal office has been established a minimum of 18 consecutive months
prior to the date of the solicitation and operates or performs business on a day-
to-day basis that is a substantial component of the goods or services being
offered to the Village; and
6. A minimum of 51 percent of the labor or personnel used to perform the
purchase or contract reside in the Upper Keys (MM72.658 to the Miami-Dade
County boundary line) at the time of submittal; and
7. A minimum of 51 percent of the business' owners reside in the Upper Keys (MM
72.658 to the Miami-Dade County boundary line) at the time of submittal.


Affiant

Sworn to and subscribed before me, this 8 day of Aug, 2023.


Notary Public
Personally known
Produced identification
Type of identification produced



Village Code Section 2-237(e) *Preference for local businesses.*

- (1) Local preference shall apply for purchases of or contracts for material, supplies, equipment, improvements, or services in the following manner:
 - (a) Any local business shall receive a preference bonus of ten percent for purchases or contracts less than \$100,000.00.
 - (b) Any local business shall receive a preference bonus of five percent for purchases or contracts which are \$100,000.00 or more but less than \$500,000.00.
 - (c) Any local businesses shall receive a preference bonus of two and one-half percent for purchases or contracts which are \$500,000.00 or more.
- (2) For purposes of this subsection, the term "local business" shall mean the following:
 - (a) A business with a current required Monroe County occupational license or business tax receipt, which has a principal office located within the Upper Keys (Upper Keys shall be defined as that geographical area located from the southern boundary of the village at MM 72.658 north to the Miami-Dade County boundary line); and
 - (b) The principal office has been established a minimum of 18 consecutive months prior to the date of the solicitation of the purchase or contract and operates or performs business on a day-to-day basis that is a substantial component of the goods or services being offered to the village; and
 - (c) A minimum of 51 percent of the labor or personnel used to perform the purchase or contract reside in the Upper Keys at the time of submittal; and
 - (d) A minimum of 51 percent of the business' owners reside in the Upper Keys at the time of submittal.
 - (e) Post office boxes are not verifiable and shall not be used for the purpose of establishing a physical address pursuant to this subsection.
 - (f) Any business seeking certification as a local business shall execute and submit to the village an affidavit, in a form provided by the village, certifying that it meets the criteria established for a determination as a local business. The affidavit shall be submitted and kept on file with the village and updated at the time of submittal of any bid or proposal.
- (3) Exemption: The local preference provided for by this subsection shall not be applied where the application of the preference would conflict with federal law, state law or the conditions of any funding source for the purchase or contract.
- (4) Waiver: The application of local preference to a particular purchase or contract for which the village council is the awarding authority may be waived by the village council prior to the solicitation of the purchase or contract.
- (5) Notice: Both bid documents and request for proposal documents shall include notice of the local preference policy and any applicable waiver in accordance with subsection 2-237(e)(4) above.
- (6) Penalties:
 - (a) Misrepresentation. Any vendor, contractor, or firm who fails to act in good faith and misrepresents the local preference status as determined by the village manager in any bid or proposal submitted to the village for the purchases of or contracts for materials, supplies, equipment, improvements, or services shall:
 - (1) Lose the privilege to submit a bid or proposal to the village for a period of up to one year from the date the misrepresentation was discovered; and
 - (2) Pay a penalty equal to the difference between the original purchase or contract award and the next lowest responsive, responsible bidder and pay an additional ten percent penalty based upon the original value of the purchase or contract awarded.
 - (b) Failure to maintain local business preference qualifications. Any vendor, contractor, or firm that fails to maintain its local preference status which resulted in the awarded contract shall be in breach of the contract and may be subject to termination of the contract, suspension of payments under the contract, and loss of the local preference status on the contract.
 - (c) Prior to the imposition of penalties provided for in 2-237(e)(6)(a) or (b) above, any vendor, contractor, or firm shall be entitled to notice from the village and an evidentiary hearing before the village council. Such hearing request shall be filed with the village clerk within 20 calendar days from receipt of the notice.

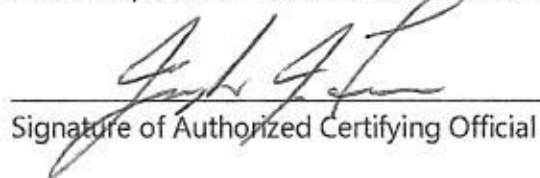
12. SUSPENSION AND DEBARMENT

(1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such, the contractor is required to verify that none of the contractor's principals (defined at 2 C.F.R. § 180.995) or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).

(2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.

(3) This certification is a material representation of fact relied upon by Islamorada, Village of Islands. If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to Islamorada, Village of Islands, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.

(4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.



Signature of Authorized Certifying Official

Joseph J Frins, President

Name and Title of Authorized Certifying Official

8-8-23

Date

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

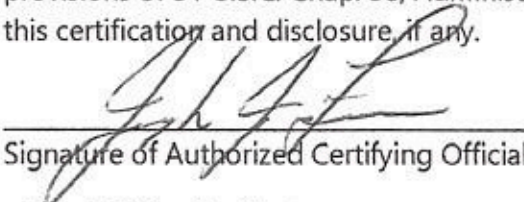
Certification for Contracts, Grants, Loans, and Cooperative Agreements

The undersigned certifies, to the best of his or her knowledge and belief, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.
2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. Chap. 38, Administrative Remedies for False Claims and Statements, apply to this certification and disclosure, if any.


Signature of Authorized Certifying Official

Joseph J Frins, President

Name and Title of Authorized Certifying Official

8.8.23

Date

ADDITIONAL CONTRACT TERMS FOR FEDERAL AND FEMA FUNDED PROJECTS

The following clauses will form part of the agreement between Islamorada, Village of Islands and the Contractor resulting from this RFP.

A. Access to Records:

The following access to records requirements shall apply to the contract.

1. The Contractor agrees to provide Islamorada, Village of Islands, the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.
2. The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.
3. The Contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.
4. In compliance with the Disaster Recovery Act of 2018, Islamorada, Village of Islands and the Contractor acknowledge and agree that no language in this contract is intended to prohibit audits or internal reviews by the FEMA Administrator or the Comptroller General of the United States.

B. Changes to the Contract:

Any changes to the contract between Islamorada, Village of Islands and the Contractor modification, change order, or constructive change must be allowable, allocable, within the scope of the grant or cooperative agreement, and reasonable for the completion of project scope.

- C. **Non-use of DHS Seal, Logo, and Flags:** The Contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of HSS agency officials without specific FEMA pre-approval.
- D. **Compliance with Federal Law, Regulations, and Executive Orders:** This is an acknowledgement that FEMA financial assistance will be used to fund all or a portion of the contract. The contractor will comply with all applicable Federal law, regulations, executive orders, FEMA policies, procedures and directives.
- E. **No Obligation by Federal Government:** The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.

- F. **Program Fraud and False or Fraudulent Statement or Related Facts:** The Contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the Contractor's actions pertaining to this contract.



Signature of Contractor's Authorized Official

Joseph J Frins, President

Name and Title of Contractor's Authorized Official



Council Communication

To: Mayor and Village Council
From: Peter Frezza, Environmental Resources Manager
Date: September 28, 2023
SUBJECT: **Resolution Approving Final Ranking and Recommendation of the RFP 23-13 Evaluation Committee and Approval of Agreement with Poseidon Marine Towing Corp. for Nearshore Buoy and Signage Installation and Maintenance TAB 9**

Background:

Nearshore Buoy Maintenance Program: Since 2004, the Village has continuously operated a buoy maintenance program (the "Program") to aid in boater navigation and facilitate preservation of nearshore waters, flats and reefs within the Village's 1200' off-shore jurisdiction within the Atlantic Ocean and Gulf of Mexico. The Village's buoy system consists of approximately 140 uniform navigational buoys and a series of fixed regulatory, recreational and informational markers compliant with Florida Administrative Code, Chapter 68D-23 Uniform Waterway Markers in Florida Waters (the "No Wake Zone Buoys"). The Village suffers frequent losses and damage to the buoy system from routinely heavy boat traffic, environmental wear, seasonal storm activity, and occasional vandalism and theft.

Under Florida law and pursuant to Village Ordinance 03-10, the Village is responsible for responding to reports of damaged or missing system buoys and markers. To ensure operational continuity, the Village has retained marine contractors to conduct regular inspections and repairs, to replace missing buoys and markers, and to install new buoys and markers when necessary. A competitive bid for the buoy maintenance and replacement services has not been completed in recent years because the cost of the services has not exceeded \$25,000.00 annually.

Lower Matecumbe Swim Zones: In 2020, the Village established a Vessel Exclusion Zone/Swim Area generally located off the Port Antigua and White Marlin Beaches on Lower Matecumbe Key to curtail issues associated with "party boats" anchoring in the shallow water off these beaches. The zone is currently demarcated by a system of 20 appropriately marked regulatory buoys. Due to continued use of the area that is causing impacts to the community, a modification has been requested to the zone to incorporate five additional buoys. The Village has a need to secure a contractor to install these five appropriately marked buoys and maintain the Swim Zone buoys.

Analysis:

On August 3, 2023, the Village issued Request for Proposals (RFP) 23-13 to solicit proposals from qualified firms to provide the materials and services to purchase and install five new appropriately marked buoys within the Port Antigua/White Marlin Beach Vessel Exclusion Zone (the "Installation Project") and to maintain the Village's existing system of nearshore

regulatory buoys and signs on a long-term basis (the “Maintenance Project” and, collectively with the Installation Project, the “Project”).

RFP 23-13 was issued in accordance with Sec. 2-327(b) and (c)(4) of the Village’s Purchasing Guidelines in the Village Code of Ordinances. The RFP was published on DemandStar.com and on the Village’s website from August 3, 2023 through the submittal deadline of September 5, 2023, and notices were posted on the Village’s Facebook page and in a local newspaper. To answer questions posed about the RFP, Addendum No. 1 was published on August 24, 2023, and Addendum No. 2 was published on August 31, 2023.

The Village received a total of two (2) proposals in response to RFP 23-13. The proposals received were from Poseidon Marine Towing Corp., Islamorada, Florida, and Underwater Engineering Services, Inc., Fort Pierce, Florida. An Evaluation Committee (the “Committee”) was convened to evaluate and rank the proposals and make a recommendation to the Village Council for the selection of a Contractor to complete the Project. Cost is not the only factor considered during an evaluation. Consideration is also given to each firm’s organization, experience, qualifications and proposed timelines for completion of the projects.

The two responsive proposals were reviewed and scored by the Evaluation Committee in a publicly noticed meeting on September 8, 2023. A maximum of 120 points were available in the scoring system per Committee member including the 10 points available for local preference, for a total maximum score by the Committee of 360 points. The proposers were either not eligible for local preference or did not submit a Local Preference Affidavit, thus the maximum available score for each firm was 330 points.

The Evaluation Committee found both firms highly qualified and experienced. The significant difference between the firms was the cost proposals for both aspects of the Project. A factor that appeared to be very important is the office location of each firm as it controls the firms’ ability to provide immediate services and significantly impacts the cost of providing services in Islamorada as evidenced by the following:

- The cost proposal from Underwater Engineering Services, Inc. for the buoy maintenance program was \$43,698.00 for each quarterly inspection of the nearshore buoy system. That cost does not include replacement of missing buoys during the inspections. Additional trips that may be requested to replace buoys between the inspection dates were quoted at a rate beginning at \$5,915.00 per mobilization plus all crew hourly rates, project manager and equipment expenses. Annual expenses would be \$174,792.00 plus buoy replacement costs and costs for additional visits to replace buoys.
- In comparison, Poseidon Marine Towing is an Islamorada firm with vessels traveling locally on the water every day, allowing them to complete missing buoy replacements timely and at a low hourly rate. The highest cost for buoy replacement services provided by Poseidon Marine Towing during the past five (5) years was \$11,704.00 for the fiscal year. At the new hourly rate of \$325.00, and maintenance of the additional swim zone buoys, the annual buoy maintenance expenses are expected to remain under \$35,000.00 per year.

The Committee ranked the proposals as follows according to the criteria and point system provided in the RFP.

Proposed Costs

<u>Rank</u>	<u>Proposer/Firm Name</u>	<u>Points</u>	<u>No Vessel Zone</u>	<u>Annual</u>
<u>Maintenance</u>				
1.	Poseidon Marine Towing Corp.	325	\$	
	11,285.00 \$43,698.00/quarter			
2.	Underwater Engineering Services	218	\$ 26,490.00	\$325.00/hour

Following discussion and calculation of the scoring, the committee members were in agreement to make a recommendation to the Village Council to approve Poseidon Marine Towing Corp. for the Project.

Adoption of the proposed resolution would approve the ranking of the RFP 23-13 Evaluation Committee and the recommended selection of Poseidon Marine Towing Corp. for the Project. The Resolution would also authorize the Village Manager and Village Attorney to enter into an agreement with Poseidon Marine Towing Corp. for the requested services in substantially the form of Agreement provided as an Exhibit "1" to the proposed resolution and authorizes the Village Manager to expend budgeted funds. Through the Agreement, Poseidon Marine Towing Corp. would complete the Swim Zone Project Installation and provide Buoy Maintenance services for up to five years. The proposal from Poseidon Marine Towing Corp. is provided as Exhibit A to the Agreement.

Budget Impact:

Poseidon Marine Towing Corp. proposed cost for the Vessel Exclusion/Swim Zone Installation is \$11,285.00. Buoy Maintenance Program Costs are specified at a not-to-exceed \$35,000.00 per year to provide adequate funds for years in which extreme weather may damage buoys. The Buoy Maintenance Programs costs are partially funded by the Monroe County Boating Improvement Fund Grant current at \$14,000.00 per year. Remaining expenses for the Swim Zone Installation and annual maintenance would be expended from the Plantation Yacht Harbor Marina's operating budget, in the Repairs and Maintenance expenditure account.

Staff Impact:

The Village's Environmental Resources Coordinator would coordinate with Poseidon Marine Towing Corp. to complete the Swim Zone installation project. The Plantation Yacht Harbor Head Dockmaster is the primary coordinator of the annual Buoy Maintenance Program services.

Recommendation:

It is recommended that the Village Council adopt the proposed resolution, thereby approving the selection of Poseidon Marine Towing Corp. for the Project and authorizing the Village Manager and Village Attorney to enter into an Agreement for the services.

Attachments: 1. Resolution_with_Agreement_and_Proposal

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE FINAL RANKINGS AND RECOMMENDATIONS OF THE RFP 23-13 EVALUATION COMMITTEE AND SELECTION OF A CONTRACTOR FOR NEARSHORE BUOY AND SIGNAGE INSTALLATION AND MAINTENANCE; AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY TO NEGOTIATE AN AGREEMENT FOR THE REQUESTED SERVICES; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") installed a nearshore buoy system in 2004 consisting of approximately 140 uniform navigational buoys and a series of fixed regulatory, recreational and informational markers compliant with Florida Administrative Code, Chapter 68D-23 Uniform Waterway Markers in Florida Waters to aid in boater navigation and facilitate preservation of nearshore waters, flats and reefs within the Village's 1200' off-shore jurisdiction within the Atlantic Ocean and Gulf of Mexico; and

WHEREAS, under Florida law and pursuant to Village Ordinance 03-10, the Village is responsible for responding to reports of damaged or missing system buoys and markers; and

WHEREAS, the Village has continuously operated a buoy maintenance program to address frequent losses and damage to the buoy system from routinely heavy boat traffic, environmental wear, seasonal storm activity, and occasional vandalism and theft; and

WHEREAS, in 2020, the Village established a Vessel Exclusion Zone/Swim Area generally located off the Port Antigua and White Marlin Beaches on Lower Matecumbe Key demarcated by a system of twenty (20) appropriately marked regulatory buoys; and

WHEREAS, due to continued use of the area that is causing impacts to the community, a modification has been requested to the zone to incorporate five additional buoys; and

WHEREAS, on August 3, 2023, the Village issued Request for Proposals (RFP) 23-13 to solicit proposals from qualified firms to provide the materials and services to purchase and install five new appropriately marked buoys within the Port Antigua/White Marlin Beach Vessel Exclusion Zone (the "Installation Project") and to maintain the Village's existing system of nearshore regulatory buoys and signs on a long-term basis (the "Maintenance Project" and, collectively with the Installation Project, the "Project"); and

WHEREAS, RFP 23-13 was issued in accordance with Sec. 2-327(b) and (c)(4) of the Village's Purchasing Guidelines in the Village Code of Ordinances; and

WHEREAS, The Village received a total of two (2) proposals in response to RFP 23-13. The proposals received were from Poseidon Marine Towing Corp., Islamorada, Florida ("Poseidon Marine") and Underwater Engineering Services, Inc., Fort Pierce, Florida; and

WHEREAS, the Village Manager established an Evaluation Committee (the "Committee") to review responsive proposals to the RFP and make a recommendation to the Village Council for the selection of a Contractor to complete the Project; and

WHEREAS, the Committee reviewed the two proposals received using the selection criteria detailed in RFP 23-13 and recommends selection of the highest-ranked proposal from Poseidon Marine for the Project for an amount not to exceed Eleven Thousand Two Hundred Eighty Five and 00/100 Dollars (\$11,285.00) to complete the Installation Project and a rate of \$325.00 per hour for the Maintenance Project; and

WHEREAS, the Village Council finds that approval and selection of Poseidon Marine for the Project is in the best interest of the Village and its residents.

**NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:**

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this Reference.

Section 2. **Approval of Selection.** The Village Council hereby approves the Committee's recommendation and selects Poseidon Marine to complete the Project.

Section 3. **Authorization of Village Officials.** The Village Manager and/or his designee and the Village Attorney are authorized to negotiate an agreement with Poseidon Marine substantially in the form attached hereto as Exhibit "1", for an amount not to exceed Eleven Thousand Two Hundred Eighty Five and 00/100 Dollars (\$11,285.00) to complete the Installation Project and a rate of \$325.00 per hour for the Maintenance Project (the "Agreement");.

Section 4. **Execution of Agreement.** The Village Manager is authorized to execute the Agreement with Poseidon Marine on behalf of the Village, to execute any required documents to implement the terms and conditions of the Agreement, and to execute any extension and/or amendments to the Agreement, subject to approval as to form and legality by the Village Attorney.

Section 5. **Authorization of Fund Expenditures.** Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is hereby authorized to expend budgeted funds for the Project.

Section 6. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

Motion to adopt by _____, seconded by _____.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III _____

Vice Mayor Sharon Mahoney _____

Councilman Mark Gregg _____

Councilwoman Elizabeth Jolin _____

Councilman Henry Rosenthal _____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

AGREEMENT

THIS IS AN AGREEMENT, dated the day of October, 2023, between:

ISLAMORADA, VILLAGE OF ISLANDS

a Florida municipal corporation, hereinafter "**VILLAGE**,"

and

POSEIDON MARINE TOWING CORP.

a Florida Corporation, authorized to do business in the State of Florida, hereinafter
"**CONTRACTOR**."

WITNESSETH:

In consideration of the mutual terms and condition, promises, covenants, and payments hereinafter set forth, VILLAGE and CONTRACTOR agree as follows:

Article I. PREAMBLE

In order to establish the background, context and form of reference for this Agreement and to generally express the objectives, and intentions, of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

Section 1.01 The VILLAGE is in need of an independent experienced contractor to provide the materials and services to purchase and install five new appropriately marked buoys within the Port Antigua/White Marlin Beach Vessel Exclusion Zone (the "Installation Project") and to maintain the Village's existing system of nearshore regulatory buoys and signs on a long-term basis (the "Maintenance Project" and, collectively with the Installation Project, the "Project").

Section 1.02 On August 3, 2023, the VILLAGE issued Request for Proposals No. 23-13 for the Project, including all Exhibits and Addenda (the "RFP").

Section 1.03 On September 5, 2023, the VILLAGE received two (2) proposals including a proposal from CONTRACTOR for completion of the Project as expressed in the RFP.

Section 1.04 The evaluation committee ranked the responsive proposals in accordance with the RFP and determined that CONTRACTOR was the highest ranked, responsive and responsible proposer for the Project.

Section 1.05 On _____, 2023, the Village Council of Islamorada, Village of Islands (the "Village Council") adopted Resolution No. 2__-__-__, awarding the RFP to CONTRACTOR and authorizing the Village to negotiate and execute this Agreement with CONTRACTOR for the Project.

Section 1.06 VILLAGE and CONTRACTOR desire to enter into this Agreement for the completion of the Project in accordance with the RFP which is incorporated herein and as made part of this Agreement as if fully set forth herein and in ARTICLE 2 entitled "SCOPE OF WORK" and on the schedule set forth in ARTICLE 3 entitled "TIME FOR COMPLETION".

Article II. SCOPE OF WORK

Section 2.01 CONTRACTOR shall furnish all necessary expertise, personnel, tools, materials, equipment and supervision, to perform all of the work for the Installation Project described in Section IX, Scope of Services under the paragraph entitled "Port Antigua/White Marlin Beach Vessel Exclusion Zone" of the RFP and with respect to the Maintenance Project as described in Section IX, Scope of Services under the paragraph entitled "Buoy Maintenance Program" of the RFP, and the Proposal, a copy of which is attached hereto and specifically made a part of this Agreement as Exhibit "A".

Section 2.02 CONTRACTOR hereby represents to VILLAGE, with full knowledge that VILLAGE is relying upon these representations when entering into this Agreement with CONTRACTOR, that CONTRACTOR has the professional expertise, experience and personnel to perform the services to be provided by CONTRACTOR for the Project pursuant to the terms of this Agreement.

Section 2.03 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with applicable recognized professional standards.

Section 2.04 None of the work or services under this Agreement for the Project shall be subcontracted by CONTRACTOR, unless CONTRACTOR obtains prior written consent from the VILLAGE. Approved subcontractors shall be subject to each provision of this Agreement and CONTRACTOR shall be responsible and indemnify the VILLAGE for all subcontractors' acts, errors or omissions.

Article III. TIME FOR COMPLETION

Section 3.01 The CONTRACTOR shall commence work as directed by VILLAGE and in accordance with an Installation Project timeline to be provided to CONTRACTOR by the VILLAGE. CONTRACTOR shall complete all work in a timely manner in accordance with the Installation Project timeline and as stated in Exhibit "A" to this Agreement. With respect to the Maintenance Project CONTRACTOR shall complete all work in a timely manner as directed by the VILLAGE.

Section 3.02 Anything to the contrary notwithstanding, minor adjustment to the Installation Project timeline for completion approved by VILLAGE in advance, in writing, will not constitute a delay by CONTRACTOR. Furthermore, a delay due to an Act of God, fire, lockout, strike or labor dispute, riot or civil commotion, act of public enemy or other cause beyond the control of CONTRACTOR shall extend the timeline for a period equal to such delay and during this period such delay shall not constitute a delay by CONTRACTOR.

Article IV. CONTRACT PRICE, GUARANTEES AND WARRANTIES

Section 4.01 The VILLAGE hereby agrees to pay CONTRACTOR for the Installation Project, for work completed in accordance with the Proposal attached hereto as Exhibit "A", and as directed by VILLAGE. The contract price for the Installation Project hereto is referred to as Contract Price and shall not exceed **Eleven Thousand Two Hundred Eighty Five Dollars (\$11,285.00)**. In connection with the Maintenance Project, the CONTRACTOR shall be paid the hourly rates as set forth in the Proposal, in an amount not to exceed **Thirty Five Thousand Dollars (\$35,000.00)** per year during the five year term.

Section 4.02 The VILLAGE will make payments to CONTRACTOR for completed and proper work and in the amounts stated in Exhibit "A" in accordance with the Local Government Prompt Payment Act in Chapter 218, Florida Statutes.

Section 4.03 The CONTRACTOR shall guarantee all portions of the Project against poor workmanship and faulty materials for a period of twelve (12) months after final payment and shall immediately correct any defects which may appear during this period upon notification by VILLAGE.

Section 4.04 The CONTRACTOR shall specify warranty duration and guidelines, inclusions and exclusions for all products.

Section 4.05 The making and acceptance of the final payment shall constitute a waiver of all claims by the CONTRACTOR other than those arising from requirements of the specifications.

Section 4.06 CONTRACTOR is prohibited from placing a lien on the Village's property. This prohibition applies to; inter alia, all sub-contractors and suppliers and labors.

Article V. CONTRACTOR'S LIABILITY INSURANCE

Section 5.01 The CONTRACTOR shall not commence work under this Agreement until CONTRACTOR has obtained all insurance required under this Article and such insurance has been approved by the VILLAGE nor shall the CONTRACTOR allow any Subcontractor to commence work on his sub-contract until all similar such insurance required of the subcontractor has been obtained and approved.

Section 5.02 Certificates of insurance, reflecting evidence of the required insurance, shall be filed with the VILLAGE prior to the commencement of the work. These Certificates shall contain a provision that coverage afforded under these policies will not be canceled until at least thirty (30) days prior written notice has been given to the VILLAGE. Policies shall be issued by companies authorized to do business under the laws of the State of Florida.

Section 5.03 Financial Ratings of the insurers must be no less than "A" in the latest edition of "Bests Key Rating Guide", published by A.M. Best Guide.

Section 5.04 Insurance shall be in force during the term of this Agreement. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during the period of this Agreement, then in that event, the CONTRACTOR shall furnish, at least thirty (30) days prior to the expiration of the date of such insurance, a renewed certificate of insurance as proof that equal and like coverage for the balance of the period of the Agreement and extension thereunder is in effect. The CONTRACTOR shall not continue to work pursuant to this contract unless all required insurance remains in full force and effect.

Section 5.05 Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are as follows: premises, operations, products/completed operations, and certain contracts. Coverage must be written on an occurrence basis, with the following limits of liability:

- (a) Workers' Compensation Insurance – as required by law;
- (b) Comprehensive General Liability Insurance, including Premises Operation, Products and Completed Operations, Blanket Contractual Liability, Personal Injury Liability, Expanded Definition of Property Damage - \$1,000,000 combined single limit;
- (c) P & I Insurance - \$1,000,000 limit; and
- (d) Vehicle Liability - \$300,000 per Occurrence
(Owned, non-owned and hired vehicles) \$300,000 Combined Single Limit.

Section 5.06 The CONTRACTOR shall hold the VILLAGE, its agents, and employees, harmless on account of claims for damages to persons, property or premises arising out of CONTRACTOR's negligent operations in completing the Project and name the VILLAGE as an additional insured under their policy.

Section 5.07 The VILLAGE reserves the right to require any other insurance coverage it deems necessary depending upon the exposures.

Article VI. PROTECTION OF PROPERTY

Section 6.01 At all times during the performance of this Agreement, the CONTRACTOR shall protect the VILLAGE's property and properties adjoining the Project site from all damage whatsoever on account of the work being carried on pursuant to this Agreement.

Article VII. CONTRACTOR'S INDEMNIFICATION

Section 7.01 The CONTRACTOR agrees to release the VILLAGE from and against any and all liability and responsibility in connection with this Agreement and the matters contained herein. The CONTRACTOR further agrees not to sue or seek any money or damages from VILLAGE in connection with this Agreement except with respect to payment for services rendered with respect to this Agreement.

Section 7.02 The CONTRACTOR agrees to indemnify, defend and hold harmless the VILLAGE, its trustees, elected and appointed officers, agents, servants and employees, from and against any

and all claims, demands, or causes of action of whatsoever kind or nature, and the resulting losses, costs, expenses, reasonable attorneys' fees, liabilities, damages, orders, judgments, or decrees, sustained by the VILLAGE or any third party arising out of, or by reason of, or resulting from the CONTRACTOR's negligent acts, errors, or omissions with respect to this Agreement.

Section 7.03 If a court of competent jurisdiction holds the VILLAGE liable for certain tortuous acts of its agents, officers, or employees, such liability shall be limited to the extent and limit provided in 768.28, Florida Statutes. This provision shall not be construed as a waiver of any right or defense that the VILLAGE may possess. The VILLAGE specifically reserves all rights as against any and all claims that may be brought.

Section 7.04 Nothing in this Agreement shall be deemed or treated as a waiver by the VILLAGE of any immunity to which it is entitled by law, including but not limited to the VILLAGE's sovereign immunity as set forth in Section 768.28, Florida Statutes.

Article VIII. INDEPENDENT CONTRACTOR

Section 8.01 This Agreement does not create an employee/employer relationship between the parties. It is the intent of the parties that the CONTRACTOR is an independent contractor under this Agreement and not the VILLAGE's employee for all purposes, including but not limited to, the application of the Fair Labor Standards Act minimum wage and overtime payments, Federal Insurance Contribution Act, the Social Security Act, the Federal Unemployment Tax Act, the provisions of the Internal Revenue Code, the State Workers Compensation Act, and the State unemployment insurance law. The CONTRACTOR shall retain sole and absolute discretion in the judgment of the manner and means of carrying out the CONTRACTOR's activities and responsibilities hereunder provided. This Agreement shall not be construed as creating any joint employment relationship between the CONTRACTOR and the VILLAGE and the VILLAGE will not be liable for any obligation incurred by CONTRACTOR, including but not limited to unpaid minimum wages and/or overtime premiums.

Article IX. CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

Section 9.01 The VILLAGE may request changes that would increase, decrease or otherwise modify the Scope of Work to be provided under this Agreement as described in Article II of this Agreement. Such changes or additions to the Project must be in accordance with the provisions of the Code of Ordinances of the VILLAGE and must be contained in a written amendment, executed by the parties hereto, with the same formality and with equality and dignity prior to any deviation from the terms of this Agreement, including the initiation of any additional or extra work to the Project. Each amendment shall at a minimum include the following information on the Project:

PROJECT NAME
PROJECT DESCRIPTION
ESTIMATED PROJECT COST
ESTIMATED COST FOR ADDITION OR CHANGE TO PROJECT
ESTIMATED PROJECT COMPLETION DATE

Section 9.02 In no event will the CONTRACTOR be compensated for any work which has not been described in a separate written agreement or amendment executed by the parties hereto.

Article X. TERM AND TERMINATION

Section 10.01 This Agreement may be terminated by either party for cause, or the VILLAGE for convenience, upon ten (10) days written notice by the VILLAGE to CONTRACTOR in which event the CONTRACTOR shall be paid its compensation for services performed to termination date. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, the CONTRACTOR shall indemnify the VILLAGE against any loss pertaining to this termination up to a maximum of the full Contract Price. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONTRACTOR shall become the property of VILLAGE and shall be delivered by CONTRACTOR to VILLAGE.

Section 10.02 This Agreement shall take effect as of the date of execution as shown herein below and shall continue for a period of up to five (5) years, unless terminated earlier.

Article XI. CONTRACT DOCUMENTS

Section 11.01 CONTRACTOR and VILLAGE hereby agree that the following Contract Documents and Exhibits, which are attached hereto and made a part thereof, are fully incorporated herein and made a part of this Agreement, as if written herein word for word: this Agreement; including CONTRACTOR's Proposal in response to the RFP as set forth and incorporated into this Agreement as Exhibit "A"; the RFP as incorporated into this Agreement and all other addendums and exhibits thereto. In the event there is a conflict between the terms of the RFP, CONTRACTOR'S Proposal, and this Agreement, the terms of this Agreement shall prevail.

Article XII. MISCELLANEOUS

Section 12.01 Legal Representation. It is acknowledged that each party to this Agreement had the opportunity to be represented by counsel in the preparation of this Agreement and, accordingly, the rule that a contract shall be interpreted strictly against the party preparing same shall not apply due to the joint contribution of both parties.

Section 12.02 Assignments. This Agreement, or any interest herein, shall not be assigned, transferred, or otherwise encumbered, under any circumstances, by CONTRACTOR without the prior written consent of VILLAGE. For purposes of this Agreement, any change of ownership of CONTRACTOR shall constitute an assignment which requires VILLAGE approval. However, this Agreement shall run to the VILLAGE and its successors and assigns.

Section 12.03 Records. CONTRACTOR shall keep books and records and require any and all subcontractors to keep books and records as may be necessary in order to record complete and correct entries as to personnel hours charged to this engagement, and any expenses for which CONTRACTOR expects to be reimbursed, if applicable. Such books and records will be available at all reasonable times for examination and audit by VILLAGE and shall be kept for a period of

three (3) years after the completion of all work to be performed pursuant to this Agreement. Incomplete or incorrect entries in such books and records will be grounds for disallowance by VILLAGE of any fees or expenses based upon such entries.

Section 12.04 Public Records. VILLAGE is a public agency subject to Chapter 119, Florida Statutes. To the extent that CONTRACTOR is acting on behalf of VILLAGE pursuant to Section 119.0701, Florida Statutes, CONTRACTOR shall:

- (a) Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by VILLAGE were VILLAGE performing the services under this Agreement;
- (b) Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- (c) Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- (d) Meet all requirements for retaining public records and transfer to VILLAGE, at no cost, all public records in possession of the CONTRACTOR upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the VILLAGE.

IF CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONTRACTOR'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-664-6412, Clerk@islamorada.fl.us, or by mail: Village Clerk, 868800 Overseas Highway, Islamorada, FL 33036.

Section 12.05 Ownership of Documents. Reports, surveys, plans, studies and other data provided in connection with this Agreement are and shall remain the property of VILLAGE.

Section 12.06 No Contingent Fees. CONTRACTOR warrants that it has not employed or retained any company or person, other than a bona fide employee working solely for the CONTRACTOR, 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 CONTRACTOR, 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 this provision, the VILLAGE shall have the right to terminate the Agreement without liability at its discretion, to deduct from the contract price, or otherwise recover the full amount of such fee, commission, percentage, gift or consideration.

Section 12.07 E-Verify. CONTRACTOR shall comply with Section 448.095, Fla. Stat., "Employment Eligibility," including the registration and use of the E-Verify system to verify the work authorization status of employees. Failure to comply with Section 448.095, Fla. Stat. shall result in termination of this Contract. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by CONTRACTOR, CONTRACTOR may not be awarded a public contract for a period of 1 year after the date of termination.

Section 12.08 Scrutinized Companies.

- (a) CONTRACTOR certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the CONTRACTOR or its subconsultants are found to have submitted a false certification; or if CONTRACTOR, or its subconsultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- (b) If this Agreement is for more than one million dollars, CONTRACTOR certifies that it and its subconsultants are also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in Section 287.135, F.S. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if CONTRACTOR, its affiliates, or its subconsultants are found to have submitted a false certification; or if CONTRACTOR, its affiliates, or its subconsultants are placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- (c) CONTRACTOR agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.
- (d) As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

Section 12.09 Notice. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the CONTRACTOR and the VILLAGE designate the following as the respective places for giving of notice:

VILLAGE: Village Manager
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

Copy To: Village Attorney
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

CONTRACTOR: Ilene Perez, Vice President
Poseidon Marine Towing Corp.
112 Villa Bella Dr.
Islamorada FL 33036

Section 12.10 Binding Authority. Each person signing this Agreement on behalf of either party individually warrants that he or she has full legal power to execute this Agreement on behalf of the party for whom he or she is signing, and to bind and obligate such party with respect to all provisions contained in this Agreement.

Section 12.11 Exhibits. Each Exhibit referred to in this Agreement forms an essential part of this Agreement. The exhibits if not physically attached should be treated as part of this Agreement and are incorporated herein by reference.

Section 12.12 Headings. Headings herein are for convenience of reference only and shall not be considered on any interpretation of this Agreement.

Section 12.13 Severability. If any provision of this Agreement or application thereof to any person or situation shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement, and the application of such provisions to persons or situations other than those as to which it shall have been held invalid or unenforceable shall not be affected thereby, and shall continue in full force and effect, and be enforced to the fullest extent permitted by law.

Section 12.14 Governing Law. This Agreement shall be governed by the laws of the State of Florida with venue lying in Monroe County, Florida.

Section 12.15 Disputes. Any claim, objection, or dispute arising out of the terms of this Agreement shall be litigated in the Sixteenth Judicial Circuit Court in and for Monroe County.

Section 12.16 Extent of Agreement. This Agreement together with Contract Documents and Exhibits, attached hereto, as amended herein above represents the entire and integrated agreement between the VILLAGE and the CONTRACTOR and supersedes all prior negotiations, representations or agreements, either written or oral.

Section 12.17 Waiver. Failure of the VILLAGE to insist upon strict performance of any provision or condition of this Agreement, or to execute any right therein contained, shall not be construed as a waiver or relinquishment for the future of any such provision, condition, or right, but the same shall remain in full force and effect.

[Signature Page To Follow]

[SIGNATURE PAGE TO AGREEMENT]

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature: The VILLAGE, signing by and through its Village Manager, attested to by its Village Clerk, duly authorized to execute same, and by CONTRACTOR, by and through its _____, duly authorized officer to execute same.

VILLAGE

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

By: _____
Bryan Cook, Interim Village Manager

AUTHENTICATION:

Marne McGrath, Village Clerk

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ONLY

John J. Quick, Interim Village Attorney

CONTRACTOR

WITNESS:

Print Name:_____

By:_____

Print Name:_____

Title:_____

Date:_____

ATTEST:

SECRETARY

STATE OF FLORIDA)
COUNTY OF _____)

Sworn to (or affirmed) and subscribed before me by means of ☐ physical presence or ☐ online notarization, this _____ day of _____, 20____ (year) by _____ (name of person making the statement) as _____ (title) of _____ (company name), who __ is personally known to me or __ has provided Florida Driver's License as identification.

NOTARY PUBLIC

My Commission Expires:

Exhibit "A"

FORM OF CONTRACTOR'S PROPOSAL

[ATTACH]



September 1, 2023

Islamorada, Village of Islands
Attn: Village Clerk
86800 Overseas Highway
Islamorada, Florida 33036

RE: REQUEST FOR PROPOSALS NEARSHORE BUOY AND SIGNAGE INSTALLATION AND MAINTENANCE
(RFP 23-13)

To Whom It May Concern:

Thank you for the opportunity to provide our proposal for this project. Poseidon Marine Towing Corp. is an Islamorada, family run small business with residency in Islamorada. We provide marine towing and salvage throughout the waterways of Islamorada. Our buoy installation and maintenance team consist of 3 employees and a 24' Sea Ark Aluminum vessel dedicated to the current buoy maintenance program for the Village of Islamorada.

We have over 7 years' experience in providing a Buoy maintenance program for the Village of Islamorada waterway buoys and signs. This included the 2021 installation of 20 Vessel Exclusion Zone Buoys for Port Antigua/White Marlin Beach. We maintain all the stock and supplies necessary in coordination with the Plantation Yacht Harbor Marina Dockmaster Lisa Watts.

As a marine towing and salvage company our daily activities provide us the ability to observe the current conditions of buoys to include identifying algae laden, damaged, or missing buoys and signs in between our quarterly waterway inspection. This provides prompt action to clean or facilitate its replacement. Our 24-hour on call allows the Village staff as well as residents to contact us immediately upon notice of damaged, or missing buoys and signs.

As part of our program, we adhere to the inspection of all uniform waterway markers once every three years and complete an inspection report according to Rule 68D-23.110, Florida Administrative Code. Our last Tri-annual Florida Uniform Waterway Marker Permit Inspection Report Checklist completed in November 2021. We are active proponents of providing these services as new projects or situations may arise as it is crucial to the safety of our village waterways.



Client references are:

Peter Frezza, Environmental Resource Manager
peter.frezza@islamorada.fl.us
Village of Islamorada
8600 Overseas Highway
Islamorada, FL 33036
(305) 393-0982

Brett Ekblom, President
brett@nativeconstruction.com
Native Construction Contracting Inc.
100 Wrenn St
Tavernier, FL 33070
(305) 852-3116

Cory Offutt, President
TowBoatUS Miami / Biscayne Towing & Salvage, Inc.
300 Alton Rd Suite 210
Miami Beach, FL 33139
(305) 358-1486

Poseidon Marine Towing has established itself as a reliable source for the residents and the businesses of the Village of Islamorada. Growing our relationship to better support the Village of Islamorada is our top priority. Should you have questions regarding our proposal, please contact me at (305) 338-2232 or via email at towboat.us.islamorada@gmail.com. We look forward to continuing our partnership together.

Sincerely,

A handwritten signature in black ink, appearing to read "Ilene", with a stylized flourish at the end.

Ilene Perez, Vice President
Poseidon Marine Towing



NEARSHORE BUOY AND SIGNAGE INSTALLATION AND MAINTENANCE (RFP 23-13)

Owner Information

Name Islamorada Village of Islands

Address 86800 Overseas Highway

City, State ZIP Islamorada, FL 33036

Phone 305-852-6451

Email clerk@islamorada.fl.us

Project name Nearshore Buoy and Signage Installation and Maintenance

Contractor Information

Company Poseidon Marine Towing Corp.

Name Ilene Perez

Address 112 Villa Bella Dr

City, State ZIP Islamorada, FL 33036

Phone 305-852-6451

Email towboat.us.islamorada@gmail.com

Scope of Service

Buoy Maintenance Program

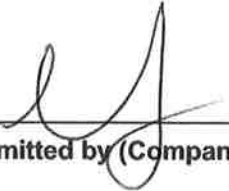
Our 24-hour on call service can respond to calls from Village staff when buoys are missing or damaged and need to be replaced. Our daily activities provide observation of the current conditions of buoys to include identifying algae laden, damaged, or missing buoys and signs in between our quarterly waterway inspection. Periodic field visits to search for missing buoys, searching for anchors where buoys are no longer there, installation of new anchors where they are unable to be found, checking and cleaning of the current buoys in place, replacement of damaged or missing buoys and signs. Responsible for maintaining a stock of buoys and supplies necessary to replace missing or damaged buoys in a timely manner. Responsible for the recovery of buoys that have been reported and found away from their moorings. Conduct an inspection of all uniform waterway markers once every three years and complete an inspection report according to Rule 68D-23.110, Florida Administrative Code. Responsible for the installation of new buoys and signs as directed by the Village as new situations or projects

Company Proposal

Poseidon Marine Towing Corp proposes the above scope of service for the amount of \$325.00 per hour.

Timeline

Proposal Remains in effect for 90 days from September 10, 2023. Timeline proposal 90 Days from written approval from the Village of Islamorada.


Submitted by (Company Representative)

9/11/23
Date



NEARSHORE BUOY AND SIGNAGE INSTALLATION AND MAINTENANCE (RFP 23-13)

Owner Information

Name Islamorada Village of Islands

Address 86800 Overseas Highway

City, State ZIP Islamorada, FL 33036

Phone 305-852-6451

Email clerk@islamorada.fl.us

Project name Port Antigua/White Marlin Beach Vessel Exclusion Zone

Contractor Information

Company Poseidon Marine Towing Corp.

Name Ilene Perez

Address 112 Villa Bella Dr

City, State ZIP Islamorada, FL 33036

Phone 305-852-6451

Email towboatus.islamorada@gmail.com

Scope of Service

Port Antigua/White Marlin Beach Vessel Exclusion Zone

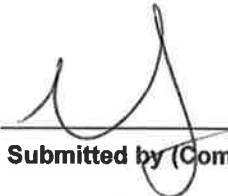
Responsible for the purchase and installation of the five new regulatory buoys to be located at the Port Antigua and White Marlin Beach Vessel Exclusion Zone. This is to include all necessary components that are required to install the buoys, including but not limited to the buoys themselves, stickers, reflective stickers, anchors, shackles, eye rings, hose and chains necessary to mark and secure the buoys. The buoys are to be indicated with the proper Village ordinance number and permit number. The details of the plans, buoys and location of this buoy system are in Port Antigua/White Marlin Beach. Responsible for supplying all the necessary equipment to install the buoys. The location of the buoys are to be indicated with a temporary marker prior to installation.

Company Proposal

Poseidon Marine Towing Corp proposes the above scope of service for the amount of \$11,285.00.

Timeline

Proposal Remains in effect for 90 days from September 10, 2023. Timeline proposal 90 Days from written approval from the Village of Islamorada.


Submitted by (Company Representative)

9/1/23
Date



Warranty for NEARSHORE BUOY AND SIGNAGE INSTALLATION AND MAINTENANCE (RFP 23-13)

It is expressly understood and agreed that warranties regarding materials, workmanship, or use of the Buoy Equipment (the "Manufacturer's Warranty"), if any, are made exclusively by the Manufacturer and not by Poseidon Marine Towing. Customer's exclusive remedy under Manufacturer's Warranty shall be as provided therein and shall lie exclusively against and be obtainable only from the Manufacturer, and Customer expressly agrees that it shall have no claim or cause of action against Poseidon Marine Towing in the event the Manufacturer is for any reason unwilling or unable to perform replacement of parts under the terms of Manufacturer's Warranty.

Damage or loss to Buoy Equipment can be attributed to many factors including Mariner irresponsibility and Mother Nature. There are no factors for control in these instances to warrant responsibility for replacement costs by Poseidon Marine Towing. In the event of any damage or loss of Buoy Equipment once installed, Poseidon Marine Towing will only replace or repair at the cost of the Islamorada Village of Islands.

2023 / 2024
MONROE COUNTY BUSINESS TAX RECEIPT
EXPIRES SEPTEMBER 30, 2024

Business Name: POSEIDON MARINE TOWING CORP
Owner Name: CARLOS GALINDO
Mailing Address: 112 VILLA BELLA DR
ISLAMORADA, FL 33036
Business Location: 112 VILLA BELLA DR
ISLAMORADA, FL 33036
Business Phone: 305-852-6451
Business Type: MARINE REPAIR TOWING & SALVAGE (MARINE TOWING)

RECEIPT# 47143-118893

Employees 2

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
22.00	0.00	22.00	0.00	0.00	0.00	22.00

Paid 318-22-00002976 09/05/2023 22.00

THIS BECOMES A TAX RECEIPT
WHEN VALIDATED

Sam C. Steele, CFC, Tax Collector
PO Box 1129, Key West, FL 33041

THIS IS ONLY A TAX.
YOU MUST MEET ALL
COUNTY AND/OR
MUNICIPALITY
PLANNING, ZONING AND
LICENSING
REQUIREMENTS.

MONROE COUNTY BUSINESS TAX RECEIPT
P.O. Box 1129, Key West, FL 33041-1129
EXPIRES SEPTEMBER 30, 2024

Business Name: POSEIDON MARINE TOWING CORP
Owner Name: CARLOS GALINDO
Mailing Address: 112 VILLA BELLA DR
ISLAMORADA, FL 33036
Business Location: 112 VILLA BELLA DR
ISLAMORADA, FL 33036
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RECEIPT# 47143-118893

Employees 2

Tax Amount	Transfer Fee	Sub-Total	Penalty	Prior Years	Collection Cost	Total Paid
22.00	0.00	22.00	0.00	0.00	0.00	22.00

Paid 318-22-00002976 09/05/2023 22.00

ACORDTM**CERTIFICATE OF LIABILITY INSURANCE**

DATE (MM/DD/YYYY)

11/01/2022

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. 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 any rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Starkweather & Shepley (WE) PO Box 549 Providence, RI 02901-0549 401 596-2212	CONTACT NAME: Linda J. Wagner	
	PHONE (A/C, No, Ext): 401 596-2212	FAX (A/C, No): 401-735-1059
	E-MAIL ADDRESS: lwagner@starshep.com	
INSURED Poseidon Marine Towing Corp 112 Villa Bella Drive Islamorada, FL 33036	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Travelers Propty Casualty Co of America	NAIC # 004461
	INSURER B:	
	INSURER C:	
	INSURER D:	
	INSURER E:	
	INSURER F:	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT 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. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS																								
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:			ZOL31M6904A22ND	10/25/2022	10/25/2023	<table border="1"> <tr><td>EACH OCCURRENCE</td><td>\$1,000,000</td></tr> <tr><td>DAMAGE TO RENTED PREMISES (Ea occurrence)</td><td>\$100,000</td></tr> <tr><td>MED EXP (Any one person)</td><td>\$10,000</td></tr> <tr><td>PERSONAL & ADV INJURY</td><td>\$1,000,000</td></tr> <tr><td>GENERAL AGGREGATE</td><td>\$2,000,000</td></tr> <tr><td>PRODUCTS - COMP/OP AGG</td><td>\$2,000,000</td></tr> <tr><td></td><td>\$</td></tr> <tr><td>COMBINED SINGLE LIMIT (Ea accident)</td><td>\$</td></tr> <tr><td>BODILY INJURY (Per person)</td><td>\$</td></tr> <tr><td>BODILY INJURY (Per accident)</td><td>\$</td></tr> <tr><td>PROPERTY DAMAGE (Per accident)</td><td>\$</td></tr> <tr><td></td><td>\$</td></tr> </table>	EACH OCCURRENCE	\$1,000,000	DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000	MED EXP (Any one person)	\$10,000	PERSONAL & ADV INJURY	\$1,000,000	GENERAL AGGREGATE	\$2,000,000	PRODUCTS - COMP/OP AGG	\$2,000,000		\$	COMBINED SINGLE LIMIT (Ea accident)	\$	BODILY INJURY (Per person)	\$	BODILY INJURY (Per accident)	\$	PROPERTY DAMAGE (Per accident)	\$		\$
EACH OCCURRENCE	\$1,000,000																														
DAMAGE TO RENTED PREMISES (Ea occurrence)	\$100,000																														
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PROPERTY DAMAGE (Per accident)	\$																														
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AGGREGATE	\$																														
	\$																														
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? ☐ Y / N (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		N / A				<table border="1"> <tr><td>PER STATUTE</td><td>OTH-ER</td></tr> <tr><td>E.L. EACH ACCIDENT</td><td>\$</td></tr> <tr><td>E.L. DISEASE - EA EMPLOYEE</td><td>\$</td></tr> <tr><td>E.L. DISEASE - POLICY LIMIT</td><td>\$</td></tr> </table>	PER STATUTE	OTH-ER	E.L. EACH ACCIDENT	\$	E.L. DISEASE - EA EMPLOYEE	\$	E.L. DISEASE - POLICY LIMIT	\$																
PER STATUTE	OTH-ER																														
E.L. EACH ACCIDENT	\$																														
E.L. DISEASE - EA EMPLOYEE	\$																														
E.L. DISEASE - POLICY LIMIT	\$																														
A	P & I			ZOL31M6904A22ND	10/25/2022	10/25/2023	\$1,000,000																								

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

P&I Includes Jones Act, Towers, Collision & Towers Liability

Vessels: 2017 24' Sea Ark, 2007 27'11" Zodiac and 1999 31' Ocean Master

Certificate Holder is included as Additional Insured ATIMA per Written Contract or Agreement

CERTIFICATE HOLDER**CANCELLATION**

Islamorada, Village of Islands
86800 Overseas Hwy
Islamorada, FL 33036

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE



Policy Number: BA090000017536
Effective Date: 05/26/2023



Amended Declarations: Change Coverages
This policy change has resulted in an additional premium of \$24.00
This declarations supersedes any previous declarations bearing the same number for this policy period

BUSINESS AUTO DECLARATIONS

For resolving issues or other information you can contact your agent or Mercury using the below phone numbers:

Issued By: Mercury Indemnity Company of America P.O. BOX 31476 TAMPA, FL 33631 Billing: (888) 637-2176 Claims: (800) 503-3724	Agent: FLORIDA BANKERS INSURANCE 1631 W FLAGLER ST MIAMI, FL 33135 Agent Number: 099875 Agent Phone: (305) 643-2445
---	---

ITEM ONE

GENERAL INFORMATION

Named Insured: POSEIDON MARINE TOWING CORP DBA TOWBOATUS ISLAMORADA

Mailing Address: 112 VILLA BELLA DR,
ISLAMORADA, FL 33036-3309

Policy Period: From 05/11/2023 to 05/11/2024 at 12:01 AM Standard Time at your mailing address

Business Type: Marina

Business Category: Transportation & Public Utility

Form of Business: Corporation

Total Policy Premium: \$4,346.00


Authorized Representative

This policy may be subject to final audit. In return for the payment of the premium, and subject to all the terms of this policy, we agree with you to provide the insurance as stated in this policy.

ENDORSEMENTS ATTACHED TO THIS POLICY

MCA FLCC 07 20 - Common Policy Conditions
MCA FLBA 10 22 - Business Auto Coverage Form
MCA FLBE 10 22 - Mercury Business Auto Broadening
CA 20 48 10 13 - Designated Insured
MCA FLUN 07 20 - Florida Uninsured Motorists Coverage -
MCA FLPI 07 20 - Florida Personal Injury Protection
MCA RRCV 07 20 - Rental Reimbursement Coverage
MCA RSAC 07 20 - Roadside Assistance Coverage
MCA LPCL 07 20 - Loss Payable Clause

Policy Number: BA090000017536
Effective Date: 05/26/2023



WARNING MINIMUM LIMITS: IN SOME CASES, THE POLICY AFFORDS ONLY MINIMUM LIMITS OF LIABILITY FOR BODILY INJURY AND PROPERTY DAMAGE AS SPECIFIED BY THE COMPULSORY OR FINANCIAL RESPONSIBILITY LAW OF THE JURISDICTION WHERE THE LOSS OCCURRED. SUCH MINIMUM LIMITS MAY BE LESS THAN THE STATED POLICY LIMITS.

ITEM TWO

SCHEDULE OF COVERAGES

This policy provides only those coverages where a charge is shown in the premium column below.

Coverages	Limit The Most We Will Pay For Any One Accident Or Loss	Premium
Liability	\$300,000 Combined Single Limit	\$2,144
Personal Injury Protection	\$10,000	\$162
Medical Payments		
Uninsured Motorists	\$300,000 Combined Single Limit, Non-Stacked	\$997
Comprehensive	Actual Cash Value, Cost of Repair or Stated Amount, Whichever is Less, Minus Deductible Shown in ITEM THREE for Each Covered Auto.	\$343
Collision	Actual Cash Value, Cost of Repair or Stated Amount, Whichever is Less, Minus Deductible Shown in ITEM THREE for Each Covered Auto.	\$365
Premium For ITEM FOUR (Hired Auto Coverage)		
Premium For ITEM FIVE (Employer's Non-Ownership Liability)		
Premium For Other Endorsements		\$335.00
Miscellaneous Fees and Expense		
Florida Hurricane Catastrophe Fund Fee		\$0.00
Total Policy Premium		\$4,346.00

Policy Number: BA090000017536
Effective Date: 05/26/2023



ITEM THREE SCHEDULE OF COVERED AUTOS YOU OWN						
Covered Auto No.	Description	Body Type	VIN	Garaging		
				City	ST	Zip Code
1	2019 FORD F250 SUPER DUTY	Pickup	1FT7W2BTOKEF09754	Islamorada	FL	33036
2	2019 CHEVROLET TAHOE	Sport Utility Vehicle	1GNSCBK9KR139021	Islamorada	FL	33036

Covered Auto No.	Radius (In Miles)	Vehicle Use	Business Use	*Stated Amount	Non-Factory Equipment Limit	Loss Payee
1	Up to 100 Miles	Business	Service		\$0	Ford Motor Credit
2	Up to 100 Miles	Personal & Business	Service		\$0	Ally Financial

* Stated Amount coverage is an agreed to limit on your vehicle's actual cash value, including the actual cash value of any Non-Factory Equipment permanently attached to the vehicle that you disclose to us, and is the most we will pay for a loss. Non-Factory Equipment coverage is subject to a sub-limit shown on the Declarations. Be sure to check the Stated Amount and Non-Factory Equipment sub-limit at every renewal in order to receive the best value from your Mercury Business Auto policy.

COVERAGES, PREMIUMS, LIMITS, AND DEDUCTIBLES				
Each of the coverages will apply to a specific Covered Auto if a premium is shown for that specific coverage on that Covered Auto. Absence of a deductible or limit entry in any column below means that the limit or deductible entry in the corresponding ITEM TWO column applies instead.				
Covered Auto No.	Liability Premium	Personal Injury Protection Premium	Auto Medical Payments Premium	Uninsured Motorists Premium
1	\$1,271	\$94		\$529
2	\$873	\$68		\$468

Covered Auto No.	Comprehensive		Collision		Roadside Assistance	
	Deductible	Premium	Deductible	Premium	Limit Per Occurrence	Premium
1	\$500	\$227	\$500	\$200	\$100 per occurrence	\$20
2	\$500	\$116	\$500	\$165	\$100 per occurrence	\$20

Covered Auto No.	Rental Reimbursement		Auto Loan/Lease Gap Premium	Total Vehicle Premium
	Maximum Payment Each Covered Auto	Premium		
1	\$70 per day/30 days max	\$70		\$2,411.00
2	\$70 per day/30 days max	\$70		\$1,780.00

Policy Number: BA090000017536
Effective Date: 05/26/2023



TOTAL PREMIUMS	
Liability	\$2,144
Personal Injury Protection	\$162
Medical Payments	
Uninsured Motorists	\$997
Comprehensive	\$343
Collision	\$365
Roadside Assistance	\$40
Rental Reimbursement	\$140
Loan/Lease Gap	

ITEM FOUR SCHEDULE OF HIRED AUTO COVERAGE AND PREMIUMS

Cost of hire is the total annual amount you incur for the hire of autos you do not own. Cost of hire does not include charges for services performed by motor carriers of property or passengers.

Estimated Annual Cost Of Hire	Liability Coverage	Physical Damage Coverage		Total ITEM FOUR Premium
	Premium	Limit Of Insurance	Premium	
		Actual Cash Value, Cost of Repair or \$100,000, Whichever Is Less, Minus \$500 Deductible For Each Covered Auto.		

ITEM FIVE SCHEDULE FOR EMPLOYER'S NON-OWNERSHIP LIABILITY

Number Of Employees (Including Volunteers)	Total ITEM FIVE Premium

ADDITIONAL INFORMATION

Discounts
• Advance Quote • Multi-Line • Good Payer • Pay in Full

Driver Information	
Listed Drivers	Excluded Drivers
CARLOS GALINDO	
ILENE PEREZ	

Additional Insureds
Islamorada, Village of Islands 86800 Overseas Hwy Islamorada, Florida 33036

Other Endorsements	Premium
Broadening Endorsement	\$130



Council Communication

To: Mayor and Village Council
From: Peter Frezza, Environmental Resources Manager
Date: September 28, 2023
SUBJECT: **Resolution Approving DEP Agreement No. LPA0711 Between the Florida Department of Environmental Protection and the Village Relating to Funding through the Florida Keys Stewardship Act TAB 10**

Background:

On April 14, 2016, General Bill CS/CS/HB 447: Local Government Environmental Financing (the "Florida Keys Stewardship Act") was approved by the Governor of Florida. The Bill became effective July 1, 2016. Pursuant to Chapter 2016-225, Section 6, Laws of Florida, FY 16-17, which established the Florida Keys Stewardship Act, nonrecurring funds in Specific Appropriation 1669 are provided to the Department of Environmental Protection ("FDEP") for the purpose of entering into financial assistance agreements with local governments located in the Florida Keys Area of Critical State Concern. The grants finance or refinance the cost of constructing sewage collection, treatment, and disposal facilities, building projects that protect, restore, or enhance nearshore water quality and fisheries, such as stormwater or canal restoration projects.

Regarding Stewardship Act funds, the Village and the other local governments within Monroe County agreed previously through each agency's respective lobbyists to continue to follow the Wastewater Funding Distribution [of Everglades Bonds] Schedule included in the State Wastewater Funding Distribution Agreement for "Year Two of Four" as passed and adopted by the Village Council through adoption of Resolution No. 13-02-08 at its regular meeting on February 28, 2013.

The State of Florida's FY 2023-24 budget allocated \$20 million for Florida Keys entities under the Stewardship Act. The Village's 17.5% share totals \$3,500,000.00 for 2023-24. The Stewardship Act funding became available July 1, 2023, and staff is seeking authorization from the Council for use of these funds.

Analysis:

Using results from demonstration programs along with water quality data from the Canal Management Master Plan and the Village's updated canal water quality ranking evaluation, Village staff are pursuing moving forward with a backfill restoration project at Canal #147 on Lower Matecumbe Key. Staff is recommending that Stewardship Act funds be utilized to cover the cost of this canal restoration project in the amount of \$2,485,137.62.

The DEP [Grant] Agreement No. LPA0711 attached as Exhibit 1 to the attached Resolution specifies the conditions and terms under which the Village would be reimbursed for costs incurred relating to the canal restoration project as described in Attachment 3 to the

Agreement (the Grant Work Plan). The Grant Work Plan, which was developed and submitted by the Village's Environmental Resources Manager and Finance Department, was further revised by FDEP staff. The attached Resolution would authorize the Village Manager to sign the grant agreement on behalf of the Village.

Budget Impact:

Expenditures related to this project would be accounted for in the Capital Project Fund, and the grant proceeds would be recorded as an offsetting revenue source. Based upon the estimates of costs to be reimbursed and included in the Grant Work Plan, the Village would receive approximately \$2,485,137.62 in reimbursement for costs incurred from this project. This grant is expected to cover the full construction cost of the project.

Staff Impact:

Finance Department staff and the Environmental Resources Manager are acting in the capacity of Grant Managers for the Grantee, and staff would be responsible for providing and submitting the documentation specified in the Grant Agreement.

Recommendation:

It is recommended that the Village Council pass and adopt the attached Resolution, thereby approving DEP Agreement No. LPA0711.

- Attachments:**
1. Resolution_DEP Agrmt LPA0711Approval
 2. Exhibit 1_DEP Agreement LPA0711 drafted

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING DEP AGREEMENT NO. LPA0711 BETWEEN THE STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION AND THE VILLAGE RELATED TO FLORIDA KEYS STEWARDSHIP ACT FUNDING; AUTHORIZING VILLAGE OFFICIALS TO TAKE ALL STEPS NECESSARY TO FINALIZE AND IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on April 14, 2016, General Bill CS/CS/HB 447: Local Government Environmental Financing (the "Florida Keys Stewardship Act") was approved by the Governor of Florida, and became effective July 1, 2016; and

WHEREAS, pursuant to Chapter 2016-225, Section 6, Laws of Florida, FY 16-17, which established the Florida Keys Stewardship Act, the Florida Department of Environmental Protection ("FDEP") is administering a grant program for distribution of funds appropriated by the Florida Legislature in the State of Florida's FY 2023-2024 budgets; and

WHEREAS, for FY23-24, the Florida Legislature appropriated Twenty Million Dollars (\$20,000,000.00) in non-recurring general revenue funds towards the Florida Keys Stewardship Act; and

WHEREAS, Islamorada, Village of Islands (the "Village"), has \$3,500,000.00 available for water quality project-related cost reimbursement on projects started or for expenses incurred effective July 1, 2023; and

WHEREAS, FDEP and the Village desire to enter into DEP Agreement No. LPA0711 for distribution of FY 23-24 Florida Keys Stewardship Acts funds for the Canal #147 Backfill Restoration project; and

WHEREAS, the Village Council finds that it is in the best interest of the Village to approve DEP Agreement No. LPA0711 through which the Village would receive reimbursement for the Canal #147 Backfill Restoration project included in the Grant Work Plan as set forth in the Agreement attached as Exhibit "1" hereto.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Agreement. The Village Council hereby approves DEP Agreement No. LPA0711 between the Village and FDEP for the reimbursement of project costs, together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. Authorization of Village Officials. The Village Manager or designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

Section 4. Execution of Documents. The Village Manager is hereby designated as the authorized representative to execute the Agreement, which will become a binding obligation in accordance with its terms when signed by both parties. The Village Manager is authorized to represent the Village in carrying out the Village's responsibilities under the Agreement. The Village

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Standard Grant Agreement**

Exhibit 1

This Agreement is entered into between the Parties named below, pursuant to Section 215.971, Florida Statutes:

1. Project Title (Project): **Canal 147 Lower Matecumbe Key Backfilling Restoration Project** Agreement Number: **LPA0711**

2. Parties **State of Florida Department of Environmental Protection,
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000** (Department)

Grantee Name: **Islamorada, Village of Islands** Entity Type: **Local Government**
Grantee Address: **86800 Overseas Highway, Islamorada, FL 33036** FEID: **65-0830851**
(Grantee)

3. Agreement Begin Date: **Upon Execution** Date of Expiration: **February 28, 2026**

4. Project Number: Project Location(s): **Lat/Long: (24.8712, -80.7028)**
(If different from Agreement Number)

Project Description: **The Grantee will restore Canal 147 by backfilling to raise the canal bottom to 6 feet below the Mean Sea Level and install an air curtain at the entrance to the canal as a complementary component.**

5. Total Amount of Funding:	Funding Source?	Award #s or Line Item Appropriations:	Amount per Source(s):
\$ 2,485,137.62	☒ State ☐ Federal	Keys, GAA LI 1660A, FY 19-20, LATF	\$ 1,506.62
	☒ State ☐ Federal	Keys, GAA LI 1669, FY 22-23, GR	\$ 1,465,960.90
	☒ State ☐ Federal	Keys, GAA LI 1709, FY 23-24, GR	\$ 1,017,670.10
Total Amount of Funding + Grantee Match, if any:			\$ 2,485,137.62

6. Department's Grant Manager Name: Sarah Louissaint or successor Address: Florida Dept. of Environmental Protection 3900 Commonwealth Blvd. Tallahassee, FL 32399-3000 Phone: 850-245-2916 Email: Sarah.Louissaint@FloridaDEP.gov	Grantee's Grant Manager Name: Peter Frezza or successor Address: 86800 Overseas Highway Islamorada, FL 33036 Phone: 305-664-6427 Email: peter.frezza@islamorada.fl.us
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7. The Parties agree to comply with the terms and conditions of the following attachments and exhibits which are hereby incorporated by reference:

☒ Attachment 1: Standard Terms and Conditions Applicable to All Grants Agreements
☒ Attachment 2: Special Terms and Conditions
☒ Attachment 3: Grant Work Plan
☒ Attachment 4: Public Records Requirements
☒ Attachment 5: Special Audit Requirements
☐ Attachment 6: Program-Specific Requirements
☐ Attachment 7: Grant Award Terms (Federal) *Copy available at https://facts.fldfs.com , in accordance with §215.985, F.S.
☐ Attachment 8: Federal Regulations and Terms (Federal)
☐ Additional Attachments (if necessary):
☒ Exhibit A: Progress Report Form
☐ Exhibit B: Property Reporting Form
☒ Exhibit C: Payment Request Summary Form
☐ Exhibit D: Quality Assurance Requirements
☐ Exhibit E: Advance Payment Terms and Interest Earned Memo
☐ Exhibit F: Common Carrier or Contracted Carrier Attestation Form PUR1808
☐ Additional Exhibits (if necessary):

8.	The following information applies to Federal Grants only and is identified in accordance with 2 CFR 200.331 (a) (1):	
Federal Award Identification Number(s) (FAIN):		
Federal Award Date to Department:		
Total Federal Funds Obligated by this Agreement:		
Federal Awarding Agency:		
Award R&D?	☐ Yes ☐ N/A	

IN WITNESS WHEREOF, this Agreement shall be effective on the date indicated by the Agreement Begin Date unless another date is specified in the grant documents.

Islamorada, Village of Islands

GRANTEE

By _____
(Authorized Signature) Date Signed

Bryan Cook, Interim Village Manager

Print Name and Title of Person Signing

State of Florida Department of Environmental Protection

DEPARTMENT

By _____
Secretary or Designee Date Signed

Angela Knecht, Director, Division of Water Restoration Assistance

Print Name and Title of Person Signing

☒ Additional signatures attached on separate page.

DWRA Additional Signatures

Sarah Louissaint, DEP Grant Manager

Nathan Jagoda, DEP QC Reviewer

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
STANDARD TERMS AND CONDITIONS
APPLICABLE TO GRANT AGREEMENTS**

ATTACHMENT 1

1. Entire Agreement.

This Grant Agreement, including any Attachments and Exhibits referred to herein and/or attached hereto (Agreement), constitutes the entire agreement between the parties with respect to the subject matter hereof and supersedes all prior agreements, whether written or oral, with respect to such subject matter. Any terms and conditions included on Grantee's forms or invoices shall be null and void.

2. Grant Administration.

- a. Order of Precedence. If there are conflicting provisions among the documents that make up the Agreement, the order of precedence for interpretation of the Agreement is as follows:
 - i. Standard Grant Agreement
 - ii. Attachments other than Attachment 1, in numerical order as designated in the Standard Grant Agreement
 - iii. Attachment 1, Standard Terms and Conditions
 - iv. The Exhibits in the order designated in the Standard Grant Agreement
- b. All approvals, written or verbal, and other written communication among the parties, including all notices, shall be obtained by or sent to the parties' Grant Managers. All written communication shall be by electronic mail, U.S. Mail, a courier delivery service, or delivered in person. Notices shall be considered delivered when reflected by an electronic mail read receipt, a courier service delivery receipt, other mail service delivery receipt, or when receipt is acknowledged by recipient. If the notice is delivered in multiple ways, the notice will be considered delivered at the earliest delivery time.
- c. If a different Grant Manager is designated by either party after execution of this Agreement, notice of the name and contact information of the new Grant Manager will be submitted in writing to the other party and maintained in the respective parties' records. A change of Grant Manager does not require a formal amendment or change order to the Agreement.
- d. This Agreement may be amended, through a formal amendment or a change order, only by a written agreement between both parties. A formal amendment to this Agreement is required for changes which cause any of the following:
 - (1) an increase or decrease in the Agreement funding amount;
 - (2) a change in Grantee's match requirements;
 - (3) a change in the expiration date of the Agreement; and/or
 - (4) changes to the cumulative amount of funding transfers between approved budget categories, as defined in Attachment 3, Grant Work Plan, that exceeds or is expected to exceed twenty percent (20%) of the total budget as last approved by Department.A change order to this Agreement may be used when:
 - (1) task timelines within the current authorized Agreement period change;
 - (2) the cumulative transfer of funds between approved budget categories, as defined in Attachment 3, Grant Work Plan, are less than twenty percent (20%) of the total budget as last approved by Department;
 - (3) changing the current funding source as stated in the Standard Grant Agreement; and/or
 - (4) fund transfers between budget categories for the purposes of meeting match requirements.This Agreement may be amended to provide for additional services if additional funding is made available by the Legislature.
- e. All days in this Agreement are calendar days unless otherwise specified.

3. Agreement Duration.

The term of the Agreement shall begin and end on the dates indicated in the Standard Grant Agreement, unless extended or terminated earlier in accordance with the applicable terms and conditions. The Grantee shall be eligible for reimbursement for work performed on or after the date of execution through the expiration date of this Agreement, unless otherwise specified in Attachment 2, Special Terms and Conditions. However, work performed prior to the execution of this Agreement may be reimbursable or used for match purposes if permitted by the Special Terms and Conditions.

4. Deliverables.

The Grantee agrees to render the services or other units of deliverables as set forth in Attachment 3, Grant Work Plan. The services or other units of deliverables shall be delivered in accordance with the schedule and at the pricing outlined in the Grant Work Plan. Deliverables may be comprised of activities that must be completed prior to Department making payment on that deliverable. The Grantee agrees to perform in accordance with the terms and conditions set forth in this Agreement and all attachments and exhibits incorporated by the Standard Grant Agreement.

5. Performance Measures.

The Grantee warrants that: (1) the services will be performed by qualified personnel; (2) the services will be of the kind and quality described in the Grant Work Plan; (3) the services will be performed in a professional and workmanlike manner in accordance with industry standards and practices; (4) the services shall not and do not knowingly infringe upon the intellectual property rights, or any other proprietary rights, of any third party; and (5) its employees, subcontractors, and/or subgrantees shall comply with any security and safety requirements and processes, if provided by Department, for work done at the Project Location(s). The Department reserves the right to investigate or inspect at any time to determine whether the services or qualifications offered by Grantee meet the Agreement requirements. Notwithstanding any provisions herein to the contrary, written acceptance of a particular deliverable does not foreclose Department's remedies in the event deficiencies in the deliverable cannot be readily measured at the time of delivery.

6. Acceptance of Deliverables.

- i. Acceptance Process. All deliverables must be received and accepted in writing by Department's Grant Manager before payment. The Grantee shall work diligently to correct all deficiencies in the deliverable that remain outstanding, within a reasonable time at Grantee's expense. If Department's Grant Manager does not accept the deliverables within 30 days of receipt, they will be deemed rejected.
- ii. Rejection of Deliverables. The Department reserves the right to reject deliverables, as outlined in the Grant Work Plan, as incomplete, inadequate, or unacceptable due, in whole or in part, to Grantee's lack of satisfactory performance under the terms of this Agreement. The Grantee's efforts to correct the rejected deliverables will be at Grantee's sole expense. Failure to fulfill the applicable technical requirements or complete all tasks or activities in accordance with the Grant Work Plan will result in rejection of the deliverable and the associated invoice. Payment for the rejected deliverable will not be issued unless the rejected deliverable is made acceptable to Department in accordance with the Agreement requirements. The Department, at its option, may allow additional time within which Grantee may remedy the objections noted by Department. The Grantee's failure to make adequate or acceptable deliverables after a reasonable opportunity to do so shall constitute an event of default.

7. Financial Consequences for Nonperformance.

- a. Withholding Payment. In addition to the specific consequences explained in the Grant Work Plan and/or Special Terms and Conditions, the State of Florida (State) reserves the right to withhold payment when the Grantee has failed to perform/comply with provisions of this Agreement. None of the financial consequences for nonperformance in this Agreement as more fully described in the Grant Work Plan shall be considered penalties.
- b. Invoice reduction
If Grantee does not meet a deadline for any deliverable, the Department will reduce the invoice by 1% for each day the deadline is missed, unless an extension is approved in writing by the Department.
- c. Corrective Action Plan. If Grantee fails to correct all the deficiencies in a rejected deliverable within the specified timeframe, Department may, in its sole discretion, request that a proposed Corrective Action Plan (CAP) be submitted by Grantee to Department. The Department requests that Grantee specify the outstanding deficiencies in the CAP. All CAPs must be able to be implemented and performed in no more than sixty (60) calendar days.
 - i. The Grantee shall submit a CAP within ten (10) days of the date of the written request from Department. The CAP shall be sent to the Department's Grant Manager for review and approval. Within ten (10) days of receipt of a CAP, Department shall notify Grantee in writing whether the CAP proposed has been accepted. If the CAP is not accepted, Grantee shall have ten (10) days from receipt of Department letter rejecting the proposal to submit a revised proposed CAP. Failure to obtain Department approval of a CAP as specified above may result in Department's termination of this Agreement for cause as authorized in this Agreement.
 - ii. Upon Department's notice of acceptance of a proposed CAP, Grantee shall have ten (10) days to commence implementation of the accepted plan. Acceptance of the proposed CAP by Department does not relieve Grantee of any of its obligations under the Agreement. In the event the CAP fails to correct or eliminate performance deficiencies by Grantee, Department shall retain the right to

require additional or further remedial steps, or to terminate this Agreement for failure to perform. No actions approved by Department or steps taken by Grantee shall preclude Department from subsequently asserting any deficiencies in performance. The Grantee shall continue to implement the CAP until all deficiencies are corrected. Reports on the progress of the CAP will be made to Department as requested by Department's Grant Manager.

- iii. Failure to respond to a Department request for a CAP or failure to correct a deficiency in the performance of the Agreement as specified by Department may result in termination of the Agreement.

8. Payment.

- a. Payment Process. Subject to the terms and conditions established by the Agreement, the pricing per deliverable established by the Grant Work Plan, and the billing procedures established by Department, Department agrees to pay Grantee for services rendered in accordance with section 215.422, Florida Statutes (F.S.).
- b. Taxes. The Department is exempted from payment of State sales, use taxes and Federal excise taxes. The Grantee, however, shall not be exempted from paying any taxes that it is subject to, including State sales and use taxes, or for payment by Grantee to suppliers for taxes on materials used to fulfill its contractual obligations with Department. The Grantee shall not use Department's exemption number in securing such materials. The Grantee shall be responsible and liable for the payment of all its FICA/Social Security and other taxes resulting from this Agreement.
- c. Maximum Amount of Agreement. The maximum amount of compensation under this Agreement, without an amendment, is described in the Standard Grant Agreement. Any additional funds necessary for the completion of this Project are the responsibility of Grantee.
- d. Reimbursement for Costs. The Grantee shall be paid on a cost reimbursement basis for all eligible Project costs upon the completion, submittal, and approval of each deliverable identified in the Grant Work Plan. Reimbursement shall be requested on Exhibit C, Payment Request Summary Form. To be eligible for reimbursement, costs must be in compliance with laws, rules, and regulations applicable to expenditures of State funds, including, but not limited to, the Reference Guide for State Expenditures, which can be accessed at the following web address: <https://www.myfloridacfo.com/docs-sf/accounting-and-auditing-libraries/state-agencies/reference-guide-for-state-expenditures.pdf>.
- e. Invoice Detail. All charges for services rendered or for reimbursement of expenses authorized by Department pursuant to the Grant Work Plan shall be submitted to Department in sufficient detail for a proper pre-audit and post-audit to be performed. The Grantee shall only invoice Department for deliverables that are completed in accordance with the Grant Work Plan.
- f. State Funds Documentation. Pursuant to section 216.1366, F.S., if Contractor meets the definition of a non-profit organization under section 215.97(2)(m), F.S., Contractor must provide the Department with documentation that indicates the amount of state funds:
 - i. Allocated to be used during the full term of the contract or agreement for remuneration to any member of the board of directors or an officer of Contractor.
 - ii. Allocated under each payment by the public agency to be used for remuneration of any member of the board of directors or an officer of the Contractor.The documentation must indicate the amounts and recipients of the remuneration. Such information must be posted on the State's the contract tracking system and maintained pursuant to section 215.985, F.S., and must be posted on the Contractor's website, if Contractor maintains a website.
- g. Interim Payments. Interim payments may be made by Department, at its discretion, if the completion of deliverables to date have first been accepted in writing by Department's Grant Manager.
- h. Final Payment Request. A final payment request should be submitted to Department no later than sixty (60) days following the expiration date of the Agreement to ensure the availability of funds for payment. However, all work performed pursuant to the Grant Work Plan must be performed on or before the expiration date of the Agreement.
- i. Annual Appropriation Contingency. The State's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. This Agreement is not a commitment of future appropriations. Authorization for continuation and completion of work and any associated payments may be rescinded, with proper notice, at the discretion of Department if the Legislature reduces or eliminates appropriations.
- j. Interest Rates. All interest rates charged under the Agreement shall be calculated on the prevailing rate used by the State Board of Administration. To obtain the applicable interest rate, please refer to: www.myfloridacfo.com/Division/AA/Vendors/default.htm.

- k. Refund of Payments to the Department. Any balance of unobligated funds that have been advanced or paid must be refunded to Department. Any funds paid in excess of the amount to which Grantee or subgrantee is entitled under the terms of the Agreement must be refunded to Department. If this Agreement is funded with federal funds and the Department is required to refund the federal government, the Grantee shall refund the Department its share of those funds.

9. Documentation Required for Cost Reimbursement Grant Agreements and Match.

If Cost Reimbursement or Match is authorized in Attachment 2, Special Terms and Conditions, the following conditions apply. Supporting documentation must be provided to substantiate cost reimbursement or match requirements for the following budget categories:

- a. Salary/Wages. Grantee shall list personnel involved, position classification, direct salary rates, and hours spent on the Project in accordance with Attachment 3, Grant Work Plan in their documentation for reimbursement or match requirements.
- b. Overhead/Indirect/General and Administrative Costs. If Grantee is being reimbursed for or claiming match for multipliers, all multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by Grantee exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate.
- c. Contractual Costs (Subcontractors). Match or reimbursement requests for payments to subcontractors must be substantiated by copies of invoices with backup documentation identical to that required from Grantee. Subcontracts which involve payments for direct salaries shall clearly identify the personnel involved, salary rate per hour, and hours spent on the Project. All eligible multipliers used (i.e., fringe benefits, overhead, indirect, and/or general and administrative rates) shall be supported by audit. If Department determines that multipliers charged by any subcontractor exceeded the rates supported by audit, Grantee shall be required to reimburse such funds to Department within thirty (30) days of written notification. Interest shall be charged on the excessive rate. Nonconsumable and/or nonexpendable personal property or equipment costing \$5,000 or more purchased for the Project under a subcontract is subject to the requirements set forth in chapters 273 and/or 274, F.S., and Chapter 69I-72, Florida Administrative Code (F.A.C.) and/or Chapter 69I-73, F.A.C., as applicable. The Grantee shall be responsible for maintaining appropriate property records for any subcontracts that include the purchase of equipment as part of the delivery of services. The Grantee shall comply with this requirement and ensure its subcontracts issued under this Agreement, if any, impose this requirement, in writing, on its subcontractors.
- i. For fixed-price (vendor) subcontracts, the following provisions shall apply: The Grantee may award, on a competitive basis, fixed-price subcontracts to consultants/contractors in performing the work described in Attachment 3, Grant Work Plan. Invoices submitted to Department for fixed-price subcontracted activities shall be supported with a copy of the subcontractor's invoice and a copy of the tabulation form for the competitive procurement process (e.g., Invitation to Bid, Request for Proposals, or other similar competitive procurement document) resulting in the fixed-price subcontract. The Grantee may request approval from Department to award a fixed-price subcontract resulting from procurement methods other than those identified above. In this instance, Grantee shall request the advance written approval from Department's Grant Manager of the fixed price negotiated by Grantee. The letter of request shall be supported by a detailed budget and Scope of Services to be performed by the subcontractor. Upon receipt of Department Grant Manager's approval of the fixed-price amount, Grantee may proceed in finalizing the fixed-price subcontract.
- ii. If the procurement is subject to the Consultant's Competitive Negotiation Act under section 287.055, F.S. or the Brooks Act, Grantee must provide documentation clearly evidencing it has complied with the statutory or federal requirements.
- d. Travel. All requests for match or reimbursement of travel expenses shall be in accordance with section 112.061, F.S.
- e. Direct Purchase Equipment. For the purposes of this Agreement, Equipment is defined as capital outlay costing \$5,000 or more. Match or reimbursement for Grantee's direct purchase of equipment is subject to specific approval of Department, and does not include any equipment purchased under the delivery of services to be completed by a subcontractor. Include copies of invoices or receipts to document purchases, and a properly completed Exhibit B, Property Reporting Form.
- f. Rental/Lease of Equipment. Match or reimbursement requests for rental/lease of equipment must include copies of invoices or receipts to document charges.
- g. Miscellaneous/Other Expenses. If miscellaneous or other expenses, such as materials, supplies, non-excluded phone expenses, reproduction, or mailing, are reimbursable or available for match or reimbursement under the

Attachment 1

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terms of this Agreement, the documentation supporting these expenses must be itemized and include copies of receipts or invoices. Additionally, independent of Grantee's contract obligations to its subcontractor, Department shall not reimburse any of the following types of charges: cell phone usage; attorney's fees or court costs; civil or administrative penalties; or handling fees, such as set percent overages associated with purchasing supplies or equipment.

- h. Land Acquisition. Reimbursement for the costs associated with acquiring interest and/or rights to real property (including access rights through ingress/egress easements, leases, license agreements, or other site access agreements; and/or obtaining record title ownership of real property through purchase) must be supported by the following, as applicable: Copies of Property Appraisals, Environmental Site Assessments, Surveys and Legal Descriptions, Boundary Maps, Acreage Certification, Title Search Reports, Title Insurance, Closing Statements/Documents, Deeds, Leases, Easements, License Agreements, or other legal instrument documenting acquired property interest and/or rights. If land acquisition costs are used to meet match requirements, Grantee agrees that those funds shall not be used as match for any other Agreement supported by State or Federal funds.

10. Status Reports.

The Grantee shall submit status reports quarterly, unless otherwise specified in the Attachments, on Exhibit A, Progress Report Form, to Department's Grant Manager describing the work performed during the reporting period, problems encountered, problem resolutions, scheduled updates, and proposed work for the next reporting period. Quarterly status reports are due no later than twenty (20) days following the completion of the quarterly reporting period. For the purposes of this reporting requirement, the quarterly reporting periods end on March 31, June 30, September 30 and December 31. The Department will review the required reports submitted by Grantee within thirty (30) days.

11. Retainage.

The following provisions apply if Department withholds retainage under this Agreement:

- a. The Department reserves the right to establish the amount and application of retainage on the work performed under this Agreement up to the maximum percentage described in Attachment 2, Special Terms and Conditions. Retainage may be withheld from each payment to Grantee pending satisfactory completion of work and approval of all deliverables.
- b. If Grantee fails to perform the requested work or fails to perform the work in a satisfactory manner, Grantee shall forfeit its right to payment of the retainage associated with the work. Failure to perform includes, but is not limited to, failure to submit the required deliverables or failure to provide adequate documentation that the work was actually performed. The Department shall provide written notification to Grantee of the failure to perform that shall result in retainage forfeiture. If the Grantee does not correct the failure to perform within the timeframe stated in Department's notice, the retainage will be forfeited to Department.
- c. No retainage shall be released or paid for incomplete work while this Agreement is suspended.
- d. Except as otherwise provided above, Grantee shall be paid the retainage associated with the work, provided Grantee has completed the work and submits an invoice for retainage held in accordance with the invoicing procedures under this Agreement.

12. Insurance.

- a. Insurance Requirements for Sub-Grantees and/or Subcontractors. The Grantee shall require its sub-grantees and/or subcontractors, if any, to maintain insurance coverage of such types and with such terms and limits as described in this Agreement. The Grantee shall require all its sub-grantees and/or subcontractors, if any, to make compliance with the insurance requirements of this Agreement a condition of all contracts that are related to this Agreement. Sub-grantees and/or subcontractors must provide proof of insurance upon request.
- b. Deductibles. The Department shall be exempt from, and in no way liable for, any sums of money representing a deductible in any insurance policy. The payment of such deductible shall be the sole responsibility of the Grantee providing such insurance.
- c. Proof of Insurance. Upon execution of this Agreement, Grantee shall provide Department documentation demonstrating the existence and amount for each type of applicable insurance coverage *prior to* performance of any work under this Agreement. Upon receipt of written request from Department, Grantee shall furnish Department with proof of applicable insurance coverage by standard form certificates of insurance, a self-insured authorization, or other certification of self-insurance.
- d. Duty to Maintain Coverage. In the event that any applicable coverage is cancelled by the insurer for any reason, or if Grantee cannot get adequate coverage, Grantee shall immediately notify Department of such cancellation and shall obtain adequate replacement coverage conforming to the requirements herein and provide proof of such replacement coverage within ten (10) days after the cancellation of coverage.

- e. Insurance Trust. If the Grantee's insurance is provided through an insurance trust, the Grantee shall instead add the Department of Environmental Protection, its employees, and officers as an additional covered party everywhere the Agreement requires them to be added as an additional insured.

13. Termination.

- i. Termination for Convenience. When it is in the State's best interest, Department may, at its sole discretion, terminate the Agreement in whole or in part by giving 30 days' written notice to Grantee. The Department shall notify Grantee of the termination for convenience with instructions as to the effective date of termination or the specific stage of work at which the Agreement is to be terminated. The Grantee must submit all invoices for work to be paid under this Agreement within thirty (30) days of the effective date of termination. The Department shall not pay any invoices received after thirty (30) days of the effective date of termination.
- ii. Termination for Cause. The Department may terminate this Agreement if any of the events of default described in the Events of Default provisions below occur or in the event that Grantee fails to fulfill any of its other obligations under this Agreement. If, after termination, it is determined that Grantee was not in default, or that the default was excusable, the rights and obligations of the parties shall be the same as if the termination had been issued for the convenience of Department. The rights and remedies of Department in this clause are in addition to any other rights and remedies provided by law or under this Agreement.
- iii. Grantee Obligations upon Notice of Termination. After receipt of a notice of termination or partial termination unless as otherwise directed by Department, Grantee shall not furnish any service or deliverable on the date, and to the extent specified, in the notice. However, Grantee shall continue work on any portion of the Agreement not terminated. If the Agreement is terminated before performance is completed, Grantee shall be paid only for that work satisfactorily performed for which costs can be substantiated. The Grantee shall not be entitled to recover any cancellation charges or lost profits.
- iv. Continuation of Prepaid Services. If Department has paid for any services prior to the expiration, cancellation, or termination of the Agreement, Grantee shall continue to provide Department with those services for which it has already been paid or, at Department's discretion, Grantee shall provide a refund for services that have been paid for but not rendered.
- v. Transition of Services Upon Termination, Expiration, or Cancellation of the Agreement. If services provided under the Agreement are being transitioned to another provider(s), Grantee shall assist in the smooth transition of Agreement services to the subsequent provider(s). This requirement is at a minimum an affirmative obligation to cooperate with the new provider(s), however additional requirements may be outlined in the Grant Work Plan. The Grantee shall not perform any services after Agreement expiration or termination, except as necessary to complete the transition or continued portion of the Agreement, if any.

14. Notice of Default.

If Grantee defaults in the performance of any covenant or obligation contained in the Agreement, including, any of the events of default, Department shall provide notice to Grantee and an opportunity to cure that is reasonable under the circumstances. This notice shall state the nature of the failure to perform and provide a time certain for correcting the failure. The notice will also provide that, should the Grantee fail to perform within the time provided, Grantee will be found in default, and Department may terminate the Agreement effective as of the date of receipt of the default notice.

15. Events of Default.

Provided such failure is not the fault of Department or outside the reasonable control of Grantee, the following non-exclusive list of events, acts, or omissions, shall constitute events of default:

- a. The commitment of any material breach of this Agreement by Grantee, including failure to timely deliver a material deliverable, failure to perform the minimal level of services required for a deliverable, discontinuance of the performance of the work, failure to resume work that has been discontinued within a reasonable time after notice to do so, or abandonment of the Agreement;
- b. The commitment of any material misrepresentation or omission in any materials, or discovery by the Department of such, made by the Grantee in this Agreement or in its application for funding;
- c. Failure to submit any of the reports required by this Agreement or having submitted any report with incorrect, incomplete, or insufficient information;
- d. Failure to honor any term of the Agreement;
- e. Failure to abide by any statutory, regulatory, or licensing requirement, including an entry of an order revoking the certificate of authority granted to the Grantee by a state or other licensing authority;
- f. Failure to pay any and all entities, individuals, and furnishing labor or materials, or failure to make payment to any other entities as required by this Agreement;

- g. Employment of an unauthorized alien in the performance of the work, in violation of Section 274 (A) of the Immigration and Nationality Act;
- h. Failure to maintain the insurance required by this Agreement;
- i. One or more of the following circumstances, uncorrected for more than thirty (30) days unless, within the specified 30-day period, Grantee (including its receiver or trustee in bankruptcy) provides to Department adequate assurances, reasonably acceptable to Department, of its continuing ability and willingness to fulfill its obligations under the Agreement:
 - i. Entry of an order for relief under Title 11 of the United States Code;
 - ii. The making by Grantee of a general assignment for the benefit of creditors;
 - iii. The appointment of a general receiver or trustee in bankruptcy of Grantee's business or property; and/or
 - iv. An action by Grantee under any state insolvency or similar law for the purpose of its bankruptcy, reorganization, or liquidation.

16. Suspension of Work.

The Department may, in its sole discretion, suspend any or all activities under the Agreement, at any time, when it is in the best interest of the State to do so. The Department shall provide Grantee written notice outlining the particulars of suspension. Examples of reasons for suspension include, but are not limited to, budgetary constraints, declaration of emergency, or other such circumstances. After receiving a suspension notice, Grantee shall comply with the notice. Within 90 days, or any longer period agreed to by the parties, Department shall either: (1) issue a notice authorizing resumption of work, at which time activity shall resume; or (2) terminate the Agreement. If the Agreement is terminated after 30 days of suspension, the notice of suspension shall be deemed to satisfy the thirty (30) days' notice required for a notice of termination for convenience. Suspension of work shall not entitle Grantee to any additional compensation.

17. Force Majeure.

The Grantee shall not be responsible for delay resulting from its failure to perform if neither the fault nor the negligence of Grantee or its employees or agents contributed to the delay and the delay is due directly to acts of God, wars, acts of public enemies, strikes, fires, floods, or other similar cause wholly beyond Grantee's control, or for any of the foregoing that affect subcontractors or suppliers if no alternate source of supply is available to Grantee. In case of any delay Grantee believes is excusable, Grantee shall notify Department in writing of the delay or potential delay and describe the cause of the delay either (1) within ten days after the cause that creates or will create the delay first arose, if Grantee could reasonably foresee that a delay could occur as a result; or (2) if delay is not reasonably foreseeable, within five days after the date Grantee first had reason to believe that a delay could result. **THE FOREGOING SHALL CONSTITUTE THE GRANTEE'S SOLE REMEDY OR EXCUSE WITH RESPECT TO DELAY.** Providing notice in strict accordance with this paragraph is a condition precedent to such remedy. No claim for damages, other than for an extension of time, shall be asserted against Department. The Grantee shall not be entitled to an increase in the Agreement price or payment of any kind from Department for direct, indirect, consequential, impact or other costs, expenses or damages, including but not limited to costs of acceleration or inefficiency, arising because of delay, disruption, interference, or hindrance from any cause whatsoever. If performance is suspended or delayed, in whole or in part, due to any of the causes described in this paragraph, after the causes have ceased to exist Grantee shall perform at no increased cost, unless Department determines, in its sole discretion, that the delay will significantly impair the value of the Agreement to Department, in which case Department may: (1) accept allocated performance or deliveries from Grantee, provided that Grantee grants preferential treatment to Department with respect to products subjected to allocation; (2) contract with other sources (without recourse to and by Grantee for the related costs and expenses) to replace all or part of the products or services that are the subject of the delay, which purchases may be deducted from the Agreement quantity; or (3) terminate Agreement in whole or in part.

18. Indemnification.

- a. The Grantee shall be fully liable for the actions of its agents, employees, partners, or subcontractors and shall fully indemnify, defend, and hold harmless Department and its officers, agents, and employees, from suits, actions, damages, and costs of every name and description arising from or relating to:
 - i. personal injury and damage to real or personal tangible property alleged to be caused in whole or in part by Grantee, its agents, employees, partners, or subcontractors; provided, however, that Grantee shall not indemnify for that portion of any loss or damages proximately caused by the negligent act or omission of Department;
 - ii. the Grantee's breach of this Agreement or the negligent acts or omissions of Grantee.

- b. The Grantee's obligations under the preceding paragraph with respect to any legal action are contingent upon Department giving Grantee: (1) written notice of any action or threatened action; (2) the opportunity to take over and settle or defend any such action at Grantee's sole expense; and (3) assistance in defending the action at Grantee's sole expense. The Grantee shall not be liable for any cost, expense, or compromise incurred or made by Department in any legal action without Grantee's prior written consent, which shall not be unreasonably withheld.
- c. Notwithstanding sections a. and b. above, the following is the sole indemnification provision that applies to Grantees that are governmental entities: Each party hereto agrees that it shall be solely responsible for the negligent or wrongful acts of its employees and agents. However, nothing contained herein shall constitute a waiver by either party of its sovereign immunity or the provisions of section 768.28, F.S. Further, nothing herein shall be construed as consent by a state agency or subdivision of the State to be sued by third parties in any matter arising out of any contract or this Agreement.
- d. No provision in this Agreement shall require Department to hold harmless or indemnify Grantee, insure or assume liability for Grantee's negligence, waive Department's sovereign immunity under the laws of Florida, or otherwise impose liability on Department for which it would not otherwise be responsible. Any provision, implication or suggestion to the contrary is null and void.

19. Limitation of Liability.

The Department's liability for any claim arising from this Agreement is limited to compensatory damages in an amount no greater than the sum of the unpaid balance of compensation due for goods or services rendered pursuant to and in compliance with the terms of the Agreement. Such liability is further limited to a cap of \$100,000.

20. Remedies.

Nothing in this Agreement shall be construed to make Grantee liable for force majeure events. Nothing in this Agreement, including financial consequences for nonperformance, shall limit Department's right to pursue its remedies for other types of damages under the Agreement, at law or in equity. The Department may, in addition to other remedies available to it, at law or in equity and upon notice to Grantee, retain such monies from amounts due Grantee as may be necessary to satisfy any claim for damages, penalties, costs and the like asserted by or against it.

21. Waiver.

The delay or failure by Department to exercise or enforce any of its rights under this Agreement shall not constitute or be deemed a waiver of Department's right thereafter to enforce those rights, nor shall any single or partial exercise of any such right preclude any other or further exercise thereof or the exercise of any other right.

22. Statutory Notices Relating to Unauthorized Employment and Subcontracts.

- a. The Department shall consider the employment by any Grantee of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If Grantee/subcontractor knowingly employs unauthorized aliens, such violation shall be cause for unilateral cancellation of this Agreement. The Grantee shall be responsible for including this provision in all subcontracts with private organizations issued as a result of this Agreement.
- b. Pursuant to sections 287.133, 287.134, and 287.137 F.S., the following restrictions apply to persons placed on the convicted vendor list, discriminatory vendor list, or the antitrust violator vendor list:
 - i. Public Entity Crime. A person or affiliate who has been placed on the convicted vendor list following a conviction for a public entity crime may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a public entity; may not be awarded or perform work as a Grantee, 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, F.S., for CATEGORY TWO for a period of 36 months following the date of being placed on the convicted vendor list.
 - ii. Discriminatory Vendors. An entity or affiliate who has been placed on the discriminatory vendor list may not submit a bid, proposal, or reply on a contract to provide any goods or services to a public entity; may not submit a bid, proposal, or reply on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids, proposals, or replies on leases of real property to a 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.
 - iii. Antitrust Violator Vendors. A person or an affiliate who has been placed on the antitrust violator vendor list following a conviction or being held civilly liable for an antitrust violation may not submit a bid, proposal, or reply on any contract to provide any good or services to a public entity;

Attachment 1

may not submit a bid, proposal, or reply on any contract with a public entity for the construction or repair of a public building or public work; may not submit a bid, proposal, or reply on leases of real property to a public entity; may not be awarded or perform work as a Grantee, supplier, subcontractor, or consultant under a contract with a public entity; and may not transact new business with a public entity.

- iv. **Notification.** The Grantee shall notify Department if it or any of its suppliers, subcontractors, or consultants have been placed on the convicted vendor list, the discriminatory vendor list, or antitrust violator vendor list during the life of the Agreement. The Florida Department of Management Services is responsible for maintaining the discriminatory vendor list and the antitrust violator vendor list and posts the list on its website. Questions regarding the discriminatory vendor list or antitrust violator vendor list may be directed to the Florida Department of Management Services, Office of Supplier Diversity, at (850) 487-0915.

23. Compliance with Federal, State and Local Laws.

- a. The Grantee and all its agents shall comply with all federal, state and local regulations, including, but not limited to, nondiscrimination, wages, social security, workers' compensation, licenses, and registration requirements. The Grantee shall include this provision in all subcontracts issued as a result of this Agreement.
- b. No person, on the grounds of race, creed, color, religion, national origin, age, gender, or disability, shall be excluded from participation in; be denied the proceeds or benefits of; or be otherwise subjected to discrimination in performance of this Agreement.
- c. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.
- d. Any dispute concerning performance of the Agreement shall be processed as described herein. Jurisdiction for any damages arising under the terms of the Agreement will be in the courts of the State, and venue will be in the Second Judicial Circuit, in and for Leon County. Except as otherwise provided by law, the parties agree to be responsible for their own attorney fees incurred in connection with disputes arising under the terms of this Agreement.

24. Build America, Buy America Act (BABA) - Infrastructure Projects with Federal Funding.

This provision does not apply to Agreements that are wholly funded by Coronavirus State and Local Fiscal Recovery Funds under the American Rescue Plan Act. Also, this provision does not apply where there is a valid waiver in place. However, the provision may apply to funds expended before the waiver or after expiration of the waiver.

If applicable, Recipients or Subrecipients of an award of Federal financial assistance from a program for infrastructure are required to comply with the Build America, Buy America Act (BABA), including the following provisions:

- a. All iron and steel used in the project are produced in the United States--this means all manufacturing processes, from the initial melting stage through the application of coatings, occurred in the United States;
- b. All manufactured products used in the project are produced in the United States--this means the manufactured product was manufactured in the United States; and the cost of the components of the manufactured product that are mined, produced, or manufactured in the United States is greater than 55 percent of the total cost of all components of the manufactured product, unless another standard for determining the minimum amount of domestic content of the manufactured product has been established under applicable law or regulation; and
- c. All construction materials are manufactured in the United States--this means that all manufacturing processes for the construction material occurred in the United States.

The Buy America preference only applies to articles, materials, and supplies that are consumed in, incorporated into, or affixed to an infrastructure project. As such, it does not apply to tools, equipment, and supplies, such as temporary scaffolding, brought to the construction site and removed at or before the completion of the infrastructure project. Nor does a Buy America preference apply to equipment and furnishings, such as movable chairs, desks, and portable computer equipment, that are used at or within the finished infrastructure project but are not an integral part of the structure or permanently affixed to the infrastructure project.

25. Investing in America

Grantees of an award for construction projects in whole or in part by the Bipartisan Infrastructure Law or the Inflation Reduction Act, including the following provision:

- i. **Signage Requirements**
 - a. **Investing in America Emblem:** The recipient will ensure that a sign is placed at construction sites supported in whole or in part by this award displaying the official Investing in America emblem and must identify the project as a "project funded by President Biden's Bipartisan

Infrastructure Law” or “project funded by President Biden’s Inflation Reduction Act” as applicable. The sign must be placed at construction sites in an easily visible location that can be directly linked to the work taking place and must be maintained in good condition throughout the construction period.

The recipient will ensure compliance with the guidelines and design specifications provided by EPA for using the official Investing in America emblem available at:

<https://www.epa.gov/invest/investing-america-signage>.

b. Procuring Signs: Consistent with section 6002 of RCRA, 42 U.S.C. 6962, and 2 CFR 200.323, recipients are encouraged to use recycled or recovered materials when procuring signs. Signage costs are considered an allowable cost under this assistance agreement provided that the costs associated with signage are reasonable. Additionally, to increase public awareness of projects serving communities where English is not the predominant language, recipients are encouraged to translate the language on signs (excluding the official Investing in America emblem or EPA logo or seal) into the appropriate non-English language(s). The costs of such translation are allowable, provided the costs are reasonable.

26. Scrutinized Companies.

- i. Grantee certifies that it is not on the Scrutinized Companies that Boycott Israel List or engaged in a boycott of Israel. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- ii. If this Agreement is for more than one million dollars, the Grantee certifies that it is also not on the Scrutinized Companies with Activities in Sudan, Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria as identified in section 287.135, F.S. Pursuant to section 287.135, F.S., the Department may immediately terminate this Agreement at its sole option if the Grantee is found to have submitted a false certification; or if the Grantee is placed on the Scrutinized Companies with Activities in Sudan List, or Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, or engaged with business operations in Cuba or Syria during the term of the Agreement.
- iii. As provided in subsection 287.135(8), F.S., if federal law ceases to authorize these contracting prohibitions, then they shall become inoperative.

27. Lobbying and Integrity.

The Grantee agrees that no funds received by it under this Agreement will be expended for the purpose of lobbying the Legislature or a State agency pursuant to section 216.347, F.S., except that pursuant to the requirements of section 287.058(6), F.S., during the term of any executed agreement between Grantee and the State, Grantee may lobby the executive or legislative branch concerning the scope of services, performance, term, or compensation regarding that agreement. The Grantee shall comply with sections 11.062 and 216.347, F.S.

28. Record Keeping.

The Grantee shall maintain books, records and documents directly pertinent to performance under this Agreement in accordance with United States generally accepted accounting principles (US GAAP) consistently applied. The Department, the State, or their authorized representatives shall have access to such records for audit purposes during the term of this Agreement and for five (5) years following the completion date or termination of the Agreement. In the event that any work is subcontracted, Grantee shall similarly require each subcontractor to maintain and allow access to such records for audit purposes. Upon request of Department’s Inspector General, or other authorized State official, Grantee shall provide any type of information the Inspector General deems relevant to Grantee’s integrity or responsibility. Such information may include, but shall not be limited to, Grantee’s business or financial records, documents, or files of any type or form that refer to or relate to Agreement. The Grantee shall retain such records for the longer of: (1) three years after the expiration of the Agreement; or (2) the period required by the General Records Schedules maintained by the Florida Department of State (available at:

<http://dos.myflorida.com/library-archives/records-management/general-records-schedules/>).

29. Audits.

- a. Inspector General. The Grantee understands its duty, pursuant to section 20.055(5), F.S., to cooperate with the inspector general in any investigation, audit, inspection, review, or hearing. The Grantee will comply with this duty and ensure that its sub-grantees and/or subcontractors issued under this Agreement, if any, impose this requirement, in writing, on its sub-grantees and/or subcontractors, respectively.

- b. **Physical Access and Inspection.** Department personnel shall be given access to and may observe and inspect work being performed under this Agreement, with reasonable notice and during normal business hours, including by any of the following methods:
 - i. Grantee shall provide access to any location or facility on which Grantee is performing work, or storing or staging equipment, materials or documents;
 - ii. Grantee shall permit inspection of any facility, equipment, practices, or operations required in performance of any work pursuant to this Agreement; and,
 - iii. Grantee shall allow and facilitate sampling and monitoring of any substances, soils, materials or parameters at any location reasonable or necessary to assure compliance with any work or legal requirements pursuant to this Agreement.
- c. **Special Audit Requirements.** The Grantee shall comply with the applicable provisions contained in Attachment 5, Special Audit Requirements. Each amendment that authorizes a funding increase or decrease shall include an updated copy of Exhibit 1, to Attachment 5. If Department fails to provide an updated copy of Exhibit 1 to include in each amendment that authorizes a funding increase or decrease, Grantee shall request one from the Department's Grants Manager. The Grantee shall consider the type of financial assistance (federal and/or state) identified in Attachment 5, Exhibit 1 and determine whether the terms of Federal and/or Florida Single Audit Act Requirements may further apply to lower tier transactions that may be a result of this Agreement. For federal financial assistance, Grantee shall utilize the guidance provided under 2 CFR §200.331 for determining whether the relationship represents that of a subrecipient or vendor. For State financial assistance, Grantee shall utilize the form entitled "Checklist for Nonstate Organizations Recipient/Subrecipient vs Vendor Determination" (form number DFS-A2-NS) that can be found under the "Links/Forms" section appearing at the following website: <https://apps.fldfs.com/fsaa>.
- d. **Proof of Transactions.** In addition to documentation provided to support cost reimbursement as described herein, Department may periodically request additional proof of a transaction to evaluate the appropriateness of costs to the Agreement pursuant to State guidelines (including cost allocation guidelines) and federal, if applicable. Allowable costs and uniform administrative requirements for federal programs can be found under 2 CFR 200. The Department may also request a cost allocation plan in support of its multipliers (overhead, indirect, general administrative costs, and fringe benefits). The Grantee must provide the additional proof within thirty (30) days of such request.
- e. **No Commingling of Funds.** The accounting systems for all Grantees must ensure that these funds are not commingled with funds from other agencies. Funds from each agency must be accounted for separately. Grantees are prohibited from commingling funds on either a program-by-program or a project-by-project basis. Funds specifically budgeted and/or received for one project may not be used to support another project. Where a Grantee's, or subrecipient's, accounting system cannot comply with this requirement, Grantee, or subrecipient, shall establish a system to provide adequate fund accountability for each project it has been awarded.
 - i. If Department finds that these funds have been commingled, Department shall have the right to demand a refund, either in whole or in part, of the funds provided to Grantee under this Agreement for non-compliance with the material terms of this Agreement. The Grantee, upon such written notification from Department shall refund, and shall forthwith pay to Department, the amount of money demanded by Department. Interest on any refund shall be calculated based on the prevailing rate used by the State Board of Administration. Interest shall be calculated from the date(s) the original payment(s) are received from Department by Grantee to the date repayment is made by Grantee to Department.
 - ii. In the event that the Grantee recovers costs, incurred under this Agreement and reimbursed by Department, from another source(s), Grantee shall reimburse Department for all recovered funds originally provided under this Agreement and interest shall be charged for those recovered costs as calculated on from the date(s) the payment(s) are recovered by Grantee to the date repayment is made to Department.
 - iii. Notwithstanding the requirements of this section, the above restrictions on commingling funds do not apply to agreements where payments are made purely on a cost reimbursement basis.

30. Conflict of Interest.

The Grantee covenants that it presently has no interest and shall not acquire any interest which would conflict in any manner or degree with the performance of services required.

31. Independent Contractor.

The Grantee is an independent contractor and is not an employee or agent of Department.

32. Subcontracting.

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- a. Unless otherwise specified in the Special Terms and Conditions, all services contracted for are to be performed solely by Grantee.
- b. The Department may, for cause, require the replacement of any Grantee employee, subcontractor, or agent. For cause, includes, but is not limited to, technical or training qualifications, quality of work, change in security status, or non-compliance with an applicable Department policy or other requirement.
- c. The Department may, for cause, deny access to Department's secure information or any facility by any Grantee employee, subcontractor, or agent.
- d. The Department's actions under paragraphs b. or c. shall not relieve Grantee of its obligation to perform all work in compliance with the Agreement. The Grantee shall be responsible for the payment of all monies due under any subcontract. The Department shall not be liable to any subcontractor for any expenses or liabilities incurred under any subcontract and Grantee shall be solely liable to the subcontractor for all expenses and liabilities incurred under any subcontract.
- e. The Department will not deny Grantee's employees, subcontractors, or agents access to meetings within the Department's facilities, unless the basis of Department's denial is safety or security considerations.
- f. The Department supports diversity in its procurement program and requests that all subcontracting opportunities afforded by this Agreement embrace diversity enthusiastically. The award of subcontracts should reflect the full diversity of the citizens of the State. A list of minority-owned firms that could be offered subcontracting opportunities may be obtained by contacting the Office of Supplier Diversity at (850) 487-0915.
- g. The Grantee shall not be liable for any excess costs for a failure to perform, if the failure to perform is caused by the default of a subcontractor at any tier, and if the cause of the default is completely beyond the control of both Grantee and the subcontractor(s), and without the fault or negligence of either, unless the subcontracted products or services were obtainable from other sources in sufficient time for Grantee to meet the required delivery schedule.

33. Guarantee of Parent Company.

If Grantee is a subsidiary of another corporation or other business entity, Grantee asserts that its parent company will guarantee all of the obligations of Grantee for purposes of fulfilling the obligations of Agreement. In the event Grantee is sold during the period the Agreement is in effect, Grantee agrees that it will be a requirement of sale that the new parent company guarantee all of the obligations of Grantee.

34. Survival.

The respective obligations of the parties, which by their nature would continue beyond the termination or expiration of this Agreement, including without limitation, the obligations regarding confidentiality, proprietary interests, and public records, shall survive termination, cancellation, or expiration of this Agreement.

35. Third Parties.

The Department shall not be deemed to assume any liability for the acts, failures to act or negligence of Grantee, its agents, servants, and employees, nor shall Grantee disclaim its own negligence to Department or any third party. This Agreement does not and is not intended to confer any rights or remedies upon any person other than the parties. If Department consents to a subcontract, Grantee will specifically disclose that this Agreement does not create any third-party rights. Further, no third parties shall rely upon any of the rights and obligations created under this Agreement.

36. Severability.

If a court of competent jurisdiction deems any term or condition herein void or unenforceable, the other provisions are severable to that void provision, and shall remain in full force and effect.

37. Grantee's Employees, Subcontractors and Agents.

All Grantee employees, subcontractors, or agents performing work under the Agreement shall be properly trained technicians who meet or exceed any specified training qualifications. Upon request, Grantee shall furnish a copy of technical certification or other proof of qualification. All employees, subcontractors, or agents performing work under Agreement must comply with all security and administrative requirements of Department and shall comply with all controlling laws and regulations relevant to the services they are providing under the Agreement.

38. Assignment.

The Grantee shall not sell, assign, or transfer any of its rights, duties, or obligations under the Agreement, or under any purchase order issued pursuant to the Agreement, without the prior written consent of Department. In the event of any assignment, Grantee remains secondarily liable for performance of the Agreement, unless Department expressly waives such secondary liability. The Department may assign the Agreement with prior written notice to Grantee of its intent to do so.

39. Compensation Report.

If this Agreement is a sole-source, public-private agreement or if the Grantee, through this agreement with the State, annually receive 50% or more of their budget from the State or from a combination of State and Federal funds, the

Grantee shall provide an annual report, including the most recent IRS Form 990, detailing the total compensation for the entities' executive leadership teams. Total compensation shall include salary, bonuses, cashed-in leave, cash equivalents, severance pay, retirement benefits, deferred compensation, real-property gifts, and any other payout. The Grantee must also inform the Department of any changes in total executive compensation between the annual reports. All compensation reports must indicate what percent of compensation comes directly from the State or Federal allocations to the Grantee.

40. Execution in Counterparts and Authority to Sign.

This Agreement, any amendments, and/or change orders related to the Agreement, may be executed in counterparts, each of which shall be an original and all of which shall constitute the same instrument. In accordance with the Electronic Signature Act of 1996, electronic signatures, including facsimile transmissions, may be used and shall have the same force and effect as a written signature. Each person signing this Agreement warrants that he or she is duly authorized to do so and to bind the respective party to the Agreement.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Terms and Conditions
AGREEMENT NO. LPA0711**

ATTACHMENT 2

These Special Terms and Conditions shall be read together with general terms outlined in the Standard Terms and Conditions, Attachment 1. Where in conflict, these more specific terms shall apply.

1. Scope of Work.

The Project funded under this Agreement is Canal 147 Lower Matecumbe Key Backfilling Restoration Project. The Project is defined in more detail in Attachment 3, Grant Work Plan.

2. Duration.

- a. Reimbursement Period. The reimbursement period for this Agreement begins on July 1, 2023 and ends at the expiration of the Agreement.
- b. Extensions. There are extensions available for this Project.
- c. Service Periods. Additional service periods are not authorized under this Agreement.

3. Payment Provisions.

- a. Compensation. This is a cost reimbursement Agreement. The Grantee shall be compensated under this Agreement as described in Attachment 3.
- b. Invoicing. Invoicing will occur as indicated in Attachment 3.
- c. Advance Pay. Advance Pay is not authorized under this Agreement.

4. Cost Eligible for Reimbursement or Matching Requirements.

Reimbursement for costs or availability for costs to meet matching requirements shall be limited to the following budget categories, as defined in the Reference Guide for State Expenditures, as indicated:

<u>Reimbursement</u>	<u>Match</u>	<u>Category</u>
☐	☐	Salaries/Wages
		Overhead/Indirect/General and Administrative Costs:
☐	☐	a. Fringe Benefits, N/A.
☐	☐	b. Indirect Costs, N/A.
☒	☐	Contractual (Subcontractors)
☐	☐	Travel, in accordance with Section 112, F.S.
☐	☐	Equipment
☐	☐	Rental/Lease of Equipment
☐	☐	Miscellaneous/Other Expenses
☐	☐	Land Acquisition

5. Equipment Purchase.

No Equipment purchases shall be funded under this Agreement.

6. Land Acquisition.

There will be no Land Acquisitions funded under this Agreement.

7. Match Requirements

There is no match required on the part of the Grantee under this Agreement.

8. Insurance Requirements

Required Coverage. At all times during the Agreement the Grantee, at its sole expense, shall maintain insurance coverage of such types and with such terms and limits described below. The limits of coverage under each policy maintained by the Grantee shall not be interpreted as limiting the Grantee's liability and obligations under the Agreement. All insurance policies shall be through insurers licensed and authorized to issue policies in Florida, or alternatively, Grantee may provide coverage through a self-insurance program established and operating under the laws of Florida. Additional insurance requirements for this Agreement may be required elsewhere in this Agreement, however the minimum insurance requirements applicable to this Agreement are:

a. Commercial General Liability Insurance.

The Grantee shall provide adequate commercial general liability insurance coverage and hold such liability insurance at all times during the Agreement. The Department, its employees, and officers shall be named as an additional insured on any general liability policies. The minimum limits shall be \$250,000 for each occurrence and \$500,000 policy aggregate.

b. Commercial Automobile Insurance.

If the Grantee's duties include the use of a commercial vehicle, the Grantee shall maintain automobile liability, bodily injury, and property damage coverage. Insuring clauses for both bodily injury and property damage shall provide coverage on an occurrence basis. The Department, its employees, and officers shall be named as an additional insured on any automobile insurance policy. The minimum limits shall be as follows:

\$200,000/300,000	Automobile Liability for Company-Owned Vehicles, if applicable
\$200,000/300,000	Hired and Non-owned Automobile Liability Coverage

c. Workers' Compensation and Employer's Liability Coverage.

The Grantee shall provide workers' compensation, in accordance with Chapter 440, F.S. and employer liability coverage with minimum limits of \$100,000 per accident, \$100,000 per person, and \$500,000 policy aggregate. Such policies shall cover all employees engaged in any work under the Grant.

d. Other Insurance. None.

9. Quality Assurance Requirements.

There are no special Quality Assurance requirements under this Agreement.

10. Retainage.

No retainage is required under this Agreement.

11. Subcontracting.

The Grantee may subcontract work under this Agreement without the prior written consent of the Department's Grant Manager except for certain fixed-price subcontracts pursuant to this Agreement, which require prior approval. The Grantee shall submit a copy of the executed subcontract to the Department prior to submitting any invoices for subcontracted work. Regardless of any subcontract, the Grantee is ultimately responsible for all work to be performed under this Agreement.

12. State-owned Land.

The work will not be performed on State-owned land.

13. Office of Policy and Budget Reporting.

There are no special Office of Policy and Budget reporting requirements for this Agreement.

14. Common Carrier.

- a. Applicable to contracts with a common carrier – firm/person/corporation that as a regular business transports people or commodities from place to place. If applicable, Contractor must also fill out and return PUR 1808 before contract execution] If Contractor is a common carrier pursuant to section 908.111(1)(a), Florida Statutes, the Department will terminate this contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808.
- b. Applicable to solicitations for a common carrier – Before contract execution, the winning Contractor(s) must fill out and return PUR 1808, and attest that it is not willfully providing any service in furtherance of transporting a person into this state knowing that the person unlawfully present in the United States according to the terms of the federal Immigration and Nationality Act, 8 U.S.C. ss. 1101 et seq. The

Attachment 2

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Department will terminate a contract immediately if Contractor is found to be in violation of the law or the attestation in PUR 1808

15. Additional Terms.

None.

Any terms added here must be approved by the Office of General Counsel.

ATTACHMENT 3 GRANT WORK PLAN

PROJECT TITLE: Canal 147 Lower Matecumbe Key Backfilling Restoration Project

PROJECT LOCATION: The Project will be located in Islamorada, Village of Islands within Monroe County; Lat/Long (24.8712, -80.7028). See Figure 1 for a location map.

PROJECT BACKGROUND: Residential canals constructed in the Florida Keys between the 1950s and 1970s were found to have created significant water quality and biological degradation within both the canals themselves and the coastal nearshore waters. A few signs of the water quality degradation include the darkening color of the water, objectionable odors, floating sludge, and periodic fish kills. Previous studies concluded that degraded canal water results in not only the deterioration of the environmental quality of receiving waters but also impacts the adjacent benthic communities including seagrass and coral reefs.

Monroe County, Islamorada, Village of Islands (Grantee) and the City of Marathon contracted Florida International University (FIU) to conduct studies on which canal restoration technology would be the most effective at improving water quality. The studies revealed that for deep canals, water quality in residential canals cannot be improved without reducing canal depth. FIU concluded that through the backfilling technique there was an immediate change in the canal's water quality by significantly improving the water column's Dissolved Oxygen content. The decreased water depth allowed light to penetrate to the sediment. As a result, there were measurable increases in benthic vegetation, fish diversity and abundance and inhabitants of the sea walls. FIU went further in saying that it recommended that bottom elevations within residential canals should be raised to a depth shallower than approximately 7 ft.

The proposed restoration of Canal 147 involves backfilling to raise the canal bottom to 6 feet below the Mean Sea Level, which is the optimum depth to allow for tidal flow in and out of the canal. The installation of an air curtain at the entrance to the canal is a complementary component of the backfill to achieve full restoration as it will limit sargassum, other weed and floating debris from entering the canal. Canal 147 was ranked first for restoration out of the Village's 63 canals during their most recent Updated Canal Water Quality Improvement Project Ranking Evaluation.

PROJECT DESCRIPTION: The Grantee will restore Canal 147 by backfilling to raise the canal bottom to 6 feet below the Mean Sea Level and install an air curtain at the entrance to the canal.

Task 1: Preconstruction Activities

Deliverables: The Grantee will complete the design of Canal 147 Lower Matecumbe Key Backfilling Restoration Project and obtain all necessary permits for construction of the project. The Grantee will also conduct a bathymetric and topographic survey for the affected canal area and surrounding structures within the project boundary, as well as complete ecological and engineering reports to determine site conditions.

Documentation: The Grantee will submit: 1) a signed acceptance of the completed work to date, as provided in the Grantee's Certification of Payment Request; 2) a summary of activities to date, indicating the percentage of design completion for the time period covered in the payment request. For the final documentation, the Grantee will also submit a copy of the design completed with the funding provided for this task and a list of all required permits identifying issue dates and issuing authorities, as well as copies of the bathymetric and topographic survey and engineering and ecological reports.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task 2: Bidding and Contractor Selection

Deliverables: The Grantee will prepare a bid package, publish a public notice, solicit bids, conduct pre-bid meetings, and respond to bid questions in accordance with the Grantee's procurement process, to select one or more qualified and licensed contractors to complete construction of the Canal 147 Lower Matecumbe Key Backfilling Restoration Project.

Documentation: The Grantee will submit: 1) the public notice of advertisement for the bid; 2) the bid package; and 3) a written notice of selected contractor(s).

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement following the conclusion of the task.

Task 3: Project Management

Deliverables: The Grantee will perform project management, to include field engineering services, construction observation, site meetings with construction contractor(s) and design professionals, and overall project coordination and supervision.

Documentation: The Grantee will submit interim progress status summaries including summary of inspection(s), meeting minutes and field notes, as applicable.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

Task 4: Construction

Deliverables: The Grantee will construct the Canal 147 Lower Matecumbe Key Backfilling Restoration Project in accordance with the construction contract documents.

Documentation: The Grantee will submit: 1) a copy of the final design; 2) a signed acceptance of the completed work to date, as provided in the Grantee's Certification of Payment Request; and 3) a signed Engineer's Certification of Payment Request.

Performance Standard: The Department's Grant Manager will review the documentation to verify that the deliverables have been completed as described above. Upon review and written acceptance by the Department's Grant Manager, the Grantee may proceed with payment request submittal.

Payment Request Schedule: The Grantee may submit a payment request for cost reimbursement no more frequently than monthly.

PROJECT TIMELINE & BUDGET DETAIL: The tasks must be completed by, and all documentation received by, the corresponding task end date. Cost reimbursable grant funding must not exceed the budget amounts as indicated below.

Task No.	Task Title	Budget Category	Grant Amount	Task Start Date	Task End Date
1	Preconstruction Activities	Contractual Services	\$61,781.62	07/01/2023	08/30/2025
2	Bidding and Contractor Selection	Contractual Services	\$4,520.00	07/01/2023	08/30/2025
3	Project Management	Contractual Services	\$150,000.00	07/01/2023	08/30/2025
4	Construction	Contractual Services	\$2,268,836.00	07/01/2023	08/30/2025
Total:			\$2,485,137.62		

Figure 1: Location Map



**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Public Records Requirements**

Attachment 4

1. Public Records.

- a. If the Agreement exceeds \$35,000.00, and if Grantee is acting on behalf of Department in its performance of services under the Agreement, Grantee must allow public access to all documents, papers, letters, or other material, regardless of the physical form, characteristics, or means of transmission, made or received by Grantee in conjunction with the Agreement (Public Records), unless the Public Records are exempt from section 24(a) of Article I of the Florida Constitution or section 119.07(1), F.S.
- b. The Department may unilaterally terminate the Agreement if Grantee refuses to allow public access to Public Records as required by law.

2. Additional Public Records Duties of Section 119.0701, F.S., If Applicable.

For the purposes of this paragraph, the term “contract” means the “Agreement.” If Grantee is a “contractor” as defined in section 119.0701(1)(a), F.S., the following provisions apply and the contractor shall:

- a. Keep and maintain Public Records required by Department to perform the service.
- b. Upon request, provide Department with a copy of requested Public Records or allow the Public Records to be inspected or copied within a reasonable time at a cost that does not exceed the cost provided in Chapter 119, F.S., or as otherwise provided by law.
- c. A contractor who fails to provide the Public Records to Department within a reasonable time may be subject to penalties under section 119.10, F.S.
- d. Ensure that Public Records that are exempt or confidential and exempt from Public Records disclosure requirements are not disclosed except as authorized by law for the duration of the contract term and following completion of the contract if the contractor does not transfer the Public Records to Department.
- e. Upon completion of the contract, transfer, at no cost, to Department all Public Records in possession of the contractor or keep and maintain Public Records required by Department to perform the service. If the contractor transfers all Public Records to Department upon completion of the contract, the contractor shall destroy any duplicate Public Records that are exempt or confidential and exempt from Public Records disclosure requirements. If the contractor keeps and maintains Public Records upon completion of the contract, the contractor shall meet all applicable requirements for retaining Public Records. All Public Records stored electronically must be provided to Department, upon request from Department’s custodian of Public Records, in a format specified by Department as compatible with the information technology systems of Department. These formatting requirements are satisfied by using the data formats as authorized in the contract or Microsoft Word, Outlook, Adobe, or Excel, and any software formats the contractor is authorized to access.

f. IF THE CONTRACTOR HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, F.S., TO THE CONTRACTOR’S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THE CONTRACT, CONTACT THE DEPARTMENT’S CUSTODIAN OF PUBLIC RECORDS AT:

Telephone: (850) 245-2118
Email: public.services@floridadep.gov
Mailing Address: Department of Environmental Protection
ATTN: Office of Ombudsman and Public Services
Public Records Request
3900 Commonwealth Boulevard, MS 49
Tallahassee, Florida 32399

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION
Special Audit Requirements
(State and Federal Financial Assistance)**

Attachment 5

The administration of resources awarded by the Department of Environmental Protection (*which may be referred to as the "Department", "DEP", "FDEP" or "Grantor", or other name in the agreement*) to the recipient (*which may be referred to as the "Recipient", "Grantee" or other name in the agreement*) may be subject to audits and/or monitoring by the Department of Environmental Protection, as described in this attachment.

MONITORING

In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and Section 215.97, F.S., as revised (see "AUDITS" below), monitoring procedures may include, but not be limited to, on-site visits by DEP Department staff, limited scope audits as defined by 2 CFR 200.425, or other procedures. By entering into this Agreement, the recipient agrees to comply and cooperate with any monitoring procedures/processes deemed appropriate by the Department of Environmental Protection. In the event the Department of Environmental Protection determines that a limited scope audit of the recipient is appropriate, the recipient agrees to comply with any additional instructions provided by the Department to the recipient regarding such audit. The recipient further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Chief Financial Officer (CFO) or Auditor General.

AUDITS

PART I: FEDERALLY FUNDED

This part is applicable if the recipient is a State or local government or a non-profit organization as defined in 2 CFR §200.330

1. A recipient that expends \$750,000 or more in Federal awards in its fiscal year, must have a single or program-specific audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F. EXHIBIT 1 to this Attachment indicates Federal funds awarded through the Department of Environmental Protection by this Agreement. In determining the federal awards expended in its fiscal year, the recipient shall consider all sources of federal awards, including federal resources received from the Department of Environmental Protection. The determination of amounts of federal awards expended should be in accordance with the guidelines established in 2 CFR 200.502-503. An audit of the recipient conducted by the Auditor General in accordance with the provisions of 2 CFR Part 200.514 will meet the requirements of this part.
2. For the audit requirements addressed in Part I, paragraph 1, the recipient shall fulfill the requirements relative to auditee responsibilities as provided in 2 CFR 200.508-512.
3. A recipient that expends less than \$750,000 in federal awards in its fiscal year is not required to have an audit conducted in accordance with the provisions of 2 CFR Part 200, Subpart F-Audit Requirements. If the recipient expends less than \$750,000 in federal awards in its fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR 200, Subpart F-Audit Requirements, the cost of the audit must be paid from non-federal resources (i.e., the cost of such an audit must be paid from recipient resources obtained from other federal entities).
4. The recipient may access information regarding the Catalog of Federal Domestic Assistance (CFDA) via the internet at <https://sam.gov/content/assistance-listings>.

Attachment 5

1 of 6

PART II: STATE FUNDED

This part is applicable if the recipient is a nonstate entity as defined by Section 215.97(2), Florida Statutes.

1. In the event that the recipient expends a total amount of state financial assistance equal to or in excess of \$750,000 in any fiscal year of such recipient (for fiscal years ending June 30, 2017, and thereafter), the recipient must have a State single or project-specific audit for such fiscal year in accordance with Section 215.97, F.S.; Rule Chapter 69I-5, F.A.C., State Financial Assistance; and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. EXHIBIT 1 to this form lists the state financial assistance awarded through the Department of Environmental Protection by this agreement. In determining the state financial assistance expended in its fiscal year, the recipient shall consider all sources of state financial assistance, including state financial assistance received from the Department of Environmental Protection, other state agencies, and other nonstate entities. State financial assistance does not include federal direct or pass-through awards and resources received by a nonstate entity for Federal program matching requirements.
2. In connection with the audit requirements addressed in Part II, paragraph 1; the recipient shall ensure that the audit complies with the requirements of Section 215.97(8), Florida Statutes. This includes submission of a financial reporting package as defined by Section 215.97(2), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
3. If the recipient expends less than \$750,000 in state financial assistance in its fiscal year (for fiscal year ending June 30, 2017, and thereafter), an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, is not required. In the event that the recipient expends less than \$750,000 in state financial assistance in its fiscal year, and elects to have an audit conducted in accordance with the provisions of Section 215.97, Florida Statutes, the cost of the audit must be paid from the non-state entity's resources (i.e., the cost of such an audit must be paid from the recipient's resources obtained from other than State entities).
4. For information regarding the Florida Catalog of State Financial Assistance (CSFA), a recipient should access the Florida Single Audit Act website located at <https://apps.fldfs.com/fsaa> for assistance. In addition to the above websites, the following websites may be accessed for information: Legislature's Website at <http://www.leg.state.fl.us/Welcome/index.cfm>, State of Florida's website at <http://www.myflorida.com/>, Department of Financial Services' Website at <http://www.fldfs.com/> and the Auditor General's Website at <http://www.myflorida.com/audgen/>.

PART III: OTHER AUDIT REQUIREMENTS

(NOTE: This part would be used to specify any additional audit requirements imposed by the State awarding entity that are solely a matter of that State awarding entity's policy (i.e., the audit is not required by Federal or State laws and is not in conflict with other Federal or State audit requirements). Pursuant to Section 215.97(8), Florida Statutes, State agencies may conduct or arrange for audits of State financial assistance that are in addition to audits conducted in accordance with Section 215.97, Florida Statutes. In such an event, the State awarding agency must arrange for funding the full cost of such additional audits.)

PART IV: REPORT SUBMISSION

1. Copies of reporting packages for audits conducted in accordance with 2 CFR Part 200, Subpart F-Audit Requirements, and required by PART I of this form shall be submitted, when required by 2 CFR 200.512, by or on behalf of the recipient directly to the Federal Audit Clearinghouse (FAC) as provided in 2 CFR 200.36 and 200.512
 - A. The Federal Audit Clearinghouse designated in 2 CFR §200.501(a) (the number of copies required by 2 CFR §200.501(a) should be submitted to the Federal Audit Clearinghouse), at the following address:

By Mail:

Federal Audit Clearinghouse
Bureau of the Census
1201 East 10th Street
Jeffersonville, IN 47132

Submissions of the Single Audit reporting package for fiscal periods ending on or after January 1, 2008, must be submitted using the Federal Clearinghouse's Internet Data Entry System which can be found at <http://harvester.census.gov/facweb/>

2. Copies of financial reporting packages required by PART II of this Attachment shall be submitted by or on behalf of the recipient directly to each of the following:

- A. The Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

- B. The Auditor General's Office at the following address:

Auditor General
Local Government Audits/342
Claude Pepper Building, Room 401
111 West Madison Street
Tallahassee, Florida 32399-1450

The Auditor General's website (<http://flauditor.gov/>) provides instructions for filing an electronic copy of a financial reporting package.

3. Copies of reports or management letters required by PART III of this Attachment shall be submitted by or on behalf of the recipient directly to the Department of Environmental Protection at one of the following addresses:

By Mail:

Audit Director

Florida Department of Environmental Protection
Office of Inspector General, MS 40
3900 Commonwealth Boulevard
Tallahassee, Florida 32399-3000

Electronically:

FDEPSingleAudit@dep.state.fl.us

4. Any reports, management letters, or other information required to be submitted to the Department of Environmental Protection pursuant to this Agreement shall be submitted timely in accordance with 2 CFR 200.512, section 215.97, F.S., and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.

Attachment 5

3 of 6

5. Recipients, when submitting financial reporting packages to the Department of Environmental Protection for audits done in accordance with 2 CFR 200, Subpart F-Audit Requirements, or Chapters 10.550 (local governmental entities) and 10.650 (non and for-profit organizations), Rules of the Auditor General, should indicate the date and the reporting package was delivered to the recipient correspondence accompanying the reporting package.

PART V: RECORD RETENTION

The recipient shall retain sufficient records demonstrating its compliance with the terms of the award and this Agreement for a period of **five (5)** years from the date the audit report is issued, and shall allow the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General access to such records upon request. The recipient shall ensure that audit working papers are made available to the Department of Environmental Protection, or its designee, Chief Financial Officer, or Auditor General upon request for a period of **three (3)** years from the date the audit report is issued, unless extended in writing by the Department of Environmental Protection.

EXHIBIT – 1

FUNDS AWARDED TO THE RECIPIENT PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

Note: If the resources awarded to the recipient represent more than one federal program, provide the same information shown below for each federal program and show total federal resources awarded

Federal Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
Federal Program A				\$	
Federal Program B					

Note: Of the resources awarded to the recipient represent more than one federal program, list applicable compliance requirements for each federal program in the same manner as shown below:

Federal Program	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
Federal Program A	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	
Federal Program B	First Compliance requirement: i.e.: (what services of purposes resources must be used for)	
	Second Compliance requirement: i.e.: (eligibility requirement for recipients of the resources)	
	Etc.	
	Etc.	

Note: If the resources awarded to the recipient for matching represent more than one federal program, provide the same information shown below for each federal program and show total state resources awarded for matching.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Matching Resources for Federal Programs:					
Federal Program A	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category
Federal Program B	Federal Agency	CFDA	CFDA Title	Funding Amount	State Appropriation Category

Note: If the resources awarded to the recipient represent more than one state project, provide the same information shown below for each state project and show total state financial assistance awarded that is subject to section 215.97, F.S.

State Resources Awarded to the Recipient Pursuant to this Agreement Consist of the Following Resources Subject to Section 215.97, F.S.:					
State Program A	State Awarding Agency	State Fiscal Year ¹	CSFA Number	CSFA Title or Funding Source Description	State Appropriation Category
Original Agreement	Department of Environmental Protection	2019-2020	37.039	Statewide Water Quality Restoration Projects - LI 1660A	141115
Original Agreement	Department of Environmental Protection	2022-2023	37.039	Statewide Water Quality Restoration Projects - LI 1669	141115
Original Agreement	Department of Environmental Protection	2023-2024	37.039	Statewide Water Quality Restoration Projects - LI 1709	141115
State Program B	State Awarding Agency	State Fiscal Year ²	CSFA Number	CSFA Title or Funding Source Description	State Appropriation Category

Total Award	\$2,485,137.62
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Note: List applicable compliance requirement in the same manner as illustrated above for federal resources. For matching resources provided by the Department for DEP for federal programs, the requirements might be similar to the requirements for the applicable federal programs. Also, to the extent that different requirements pertain to different amount for the non-federal resources, there may be more than one grouping (i.e. 1, 2, 3, etc.) listed under this category.

For each program identified above, the recipient shall comply with the program requirements described in the Catalog of Federal Domestic Assistance (CFDA) [<https://sam.gov/content/assistance-listings>] and/or the Florida Catalog of State Financial Assistance (CSFA) [<https://apps.fldfs.com/fsaa/searchCatalog.aspx>], and State Projects Compliance Supplement (Part Four: State Projects Compliance Supplement [https://apps.fldfs.com/fsaa/state_project_compliance.aspx]). The services/purposes for which the funds are to be used are included in the Agreement's Grant Work Plan. Any match required by the Recipient is clearly indicated in the Agreement.

¹ Subject to change by Change Order.

² Subject to change by Change Order.

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Exhibit A
Progress Report Form**

DEP Agreement No.:	LPA0711
Project Title:	Canal 147 Lower Matecumbe Key Backfilling Restoration Project
Grantee Name:	Islamorada, Village of Islands
Grantee's Grant Manager:	Peter Frezza
Reporting Period:	Select Quarter Select Year

Provide the following information for all tasks identified in the Grant Work Plan:

Summarize the work completed within each task for the reporting period, provide an update on the estimated completion date for each task, and identify any anticipated delays or problems encountered. Use the format provided below and use as many pages as necessary to cover all tasks. Each quarterly progress report is due no later than twenty (20) days following the completion of the quarterly reporting period.

Task 1: Preconstruction Activities

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 2: Bidding and Contractor Selection

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 3: Project Management

- Progress for this reporting period:
- Identify delays or problems encountered:

Task 4: Construction

- Progress for this reporting period:
- Identify delays or problems encountered:

Completion Status for Tasks:

Indicate the completion status for the following tasks, if included in the Grant Work Plan. For construction, the estimated completion percentage should represent the work being funded under this Agreement.

Design (Plans/Submittal): 30% ☐, 60% ☐, 90% ☐, 100% ☐

Permitting (Completed): Yes ☐, No ☐

Construction (Estimated): _____ %

This report is submitted in accordance with the reporting requirements of the above DEP Agreement number and accurately reflects the activities associated with the project.

Signature of Grantee's Grant Manager
(*Original Ink or Digital Timestamp*)

Date

**STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION**

**Exhibit C
Payment Request Summary Form**

The **Payment Request Summary Form** for this grant can be found on our website at this link:

<https://floridadep.gov/wra/wra/documents/payment-request-summary-form>

Please use the most current form found on the website, linked above, for each payment request.



Council Communication

To: Mayor and Village Council
From: Sheila Denoncourt, Chief Building Official
Date: September 28, 2023
SUBJECT: **Resolution Approving Second Amendment to Work Authorization No. 3 with M.T. Causley, LLC., for Building Services Department Support Services TAB 11**

Background:

At its regular meeting on June 14, 2018, the Village Council passed and adopted Resolution No. 18-06-47, thereby approving non-exclusive continuing services agreements (CSAs) for general support services for the Building Services Department with two (2) firms that provided proposals in response to Request for Proposals (RFP 18-12) which the Village published on March 16, 2018. M. T. Causley, Inc. ("MTC"), was one of the two firms that responded, and the Village has been actively utilizing MTC's services under the CSA to supplement permanent staff positions and perform inspections and provide plans examiner services.

The CSA was effective on June 19, 2018 and remained in effect for five (5) years through June 18, 2023, unless terminated sooner. On October 25, 2022, the Village Council adopted Resolution No. 22-10-113 changing the termination of the CSA so that services continue unless either party provides 30 days' written notice to terminate.

Pursuant to the current CSA with MTC, the Village should enter into a Project Agreement (Work Authorization) with MTC specifying the scope of services, deliverables, time, schedule of performance, term, amount of compensation, and personnel assigned. On October 25, 2022, the Village Council adopted Resolution No. 22-10-114 approving Work Authorization No. 3 with MTC for services in fiscal year 2022-2023.

Subsequently, the Village Council adopted Resolution No. 23-03-15 on March 2, 2023, approving the First Amendment to Work Authorization No. 3 to amend and update the services provided through Exhibit "1" relating to mandatory structural inspections for condominium and cooperative buildings to comply with a new law passed by the Florida legislature (F. S. 553.899) in response to the collapse of the Champlain Towers South in Surfside, Florida.

Analysis:

Work Authorization No. 3 provides for a not to exceed amount of \$525,000.00 as compensation for the performance of services. Expenditures through August 31, 2023 under Work Authorization No. 3 total \$498,697.08. Compensation for the performance of services for September 2023 is anticipated to not exceed \$56,000.00.

Adoption of the proposed Resolution would approve the Second Amendment to Work Authorization No. 3 to increase the not to exceed cost for service under the Work Authorization from \$525,000.00 to \$555,000.00.

Budget Impact:

Payments to MTC would continue to be reflected in the Professional Services account in the Building Fund with a primary revenue source of Building Permit Fees. The FY 2022-2023 approved budget for Professional Services in the Building Services Fund includes \$487,500.00. A year end budget amendment will be presented to the Village Council at a future meeting to increase the budget for this account as needed based upon actual costs incurred.

Staff Impact:

The Village's Chief Building Official would be responsible for scheduling MTC inspectors each week and monitoring costs incurred against the not-to-exceed limit.

Recommendation:

Staff recommends that the Village Council adopt the attached Resolution, thereby approving a Second Amendment to Work Authorization No. 3 under the CSA with MTC.

- Attachments:**
1. 2_Reso_M T Causley WA#3_102522 RVCM (FINAL)
 2. 3_MT Causley_WA#3_FY22-23_102522 RVCM (FINAL)
 3. 4_Exhibit 1 to WA #3

RESOLUTION NO. 22-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 3 BETWEEN M. T. CAUSLEY, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 3; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on March 18, 2018, Islamorada, Village of Islands (the "Village"), published a Request for Proposals for General Support Services for the Building Services and Code Compliance Departments (RFP 18-12); and

WHEREAS, on June 14, 2018, the Village Council of Islamorada, Village of Islands (the "Village Council") adopted Resolution No. 18-06-47, thereby approving the final rankings and recommendations of the RFP 18-12 Selection Committee whereby M. T. Causley, LLC ("MTC"), was selected to provide building support services to the Village; and

WHEREAS, the Village subsequently entered into a Continuing Services Agreement (the "Agreement") with MTC for building support services effective June 19, 2018, for a five (5) year period; and

WHEREAS, on May 20, 2021, the Village Council adopted Resolution No. 21-05-43, thereby approving Work Authorization No. 1 between the Village and MTC to provide building support services for fiscal year 2020-2021; and

WHEREAS, on November 18, 2021, the Village Council adopted Resolution No. 21-11-106, thereby approving Work Authorization No. 2 between the Village and MTC to provide building support services for fiscal year 2021-2022; and

WHEREAS, the Village and MTC desire to enter into Work Authorization No. 3 under the Agreement to provide building support services for fiscal year 2022-2023; and

WHEREAS, the Village Council finds that approval of the Work Authorization No. 3 with MTC is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. **Approval of Work Authorization.** The Village Council hereby approves Work Authorization No. 3 between MTC and the Village for provision of General Support Services for the Building Services Department for FY 2022-2023 (the "Work Authorization"), a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. **Authorization of Village Officials.** The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Work Authorization.

Section 4. **Authorization of Fund Expenditure.** Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the Work Authorization.

Section 5. **Execution of Work Authorization.** The Village Manager is authorized to execute the Work Authorization on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the Work Authorization and to execute any extensions and/or amendments to the Work Authorization, subject to the approval as to form and legality by the Village Attorney.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

Motion to adopt by _____, second by _____.

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Pete Bacheler	_____
Vice Mayor Henry Rosenthal	_____
Councilman Mark Gregg	_____
Councilman Joseph B. Pinder III	_____
Councilman David Webb	_____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2022.

PETE BACHELER, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGALITY FOR THE USE AND BENEFIT
OF ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

**PROJECT AGREEMENT
(Work Authorization No. 3)**

Between

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

And

M. T. CAUSLEY, LLC

for

**GENERAL SUPPORT SERVICES FOR THE
BUILDING SERVICES DEPARTMENT
FY 2022-2023**

**PROJECT AGREEMENT
Between**

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

And

M. T. CAUSLEY, LLC

For

Work Authorization No. 3

General Support Services for the Building Services Department

Pursuant to the provisions contained in the "Continuing Services Agreement" between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (the "VILLAGE") and M. T. CAUSLEY, LLC., ("CONSULTANT") dated June 19, 2018, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The VILLAGE and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide general support services to the VILLAGE'S Building Services Department as described in Exhibit "1."

1.2 The scope of services, project schedule, and tasks to be provided by the CONSULTANT for this Work Authorization are those services and tasks as listed in Exhibit "1."

1.3 The VILLAGE may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

As part of the Scope of Services and Project Schedule, the CONSULTANT shall provide to the VILLAGE the Deliverables as discussed under the heading "Scope of Services and Project Schedule" shown in Exhibit "1".

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Project Agreement shall include all services from October 1, 2022 (the "Commencement Date") and shall continue in full force and effect through September 30, 2023, unless otherwise, extended by the VILLAGE, terminated pursuant to Section 6 or other applicable provisions of this Project Agreement.

3.2 **Contract Time.** CONSULTANT shall commence services to the VILLAGE on the Commencement Date, and shall continuously perform services to the VILLAGE, without interruption, in accordance with the time frames set forth under the heading "Project Schedule," in Exhibit "1," a copy of which is attached and incorporated into this Agreement. The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.3 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Hourly Not-To-Exceed Compensation.** VILLAGE agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "1" **AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$525,000.00, FOR Contract Time for THE 2022-2023 FISCAL YEAR.**

4.2 **Reimbursable and Travel Expenses.** Reimbursable and travel expenses shall be compensated pursuant to Sections 1.2 and 1.5 of the Continuing Services Agreement.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 **Hourly Not-To-Exceed Compensation.** CONSULTANT shall submit invoices on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed in accordance with the provisions set forth in Exhibit "1", to this Project Agreement for Fiscal Year 2022-2023. Invoices for each month shall not exceed amounts allocated to each month of the Project plus reimbursable expenses accrued during each month. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the VILLAGE. The VILLAGE shall pay CONSULTANT within thirty (30) calendar days of approval by the Village Manager of any invoices submitted by CONSULTANT to the VILLAGE.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the VILLAGE for payment to the CONSULTANT is disputed, or additional backup documentation is required, the VILLAGE shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the VILLAGE with additional backup documentation within five (5) working days of the date of the VILLAGE'S notice. The VILLAGE may request additional

information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The VILLAGE shall pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

5.3 **Suspension of Payment.** In the event that the VILLAGE becomes credibly informed that any representations of the CONSULTANT, provided pursuant to Subparagraph 5.1, hereof are wholly or partially inaccurate, or in the event that the CONSULTANT is not in compliance with any term or condition of this Project Agreement or the Continuing Services Agreement, the VILLAGE may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of Project Agreement or Continuing Services Agreement, and the cause thereof, is corrected to the VILLAGE's reasonable satisfaction.

5.4 **Final Payment.** Submission of the CONSULTANT'S invoice for final payment and reimbursement shall constitute the CONSULTANT'S representation to the VILLAGE that, upon receipt from the VILLAGE of the amount invoiced, all obligations of the CONSULTANT to others, including its consultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the VILLAGE all documents requested by the VILLAGE evidencing payments to any and all subcontractors, and all final specifications, plans, or other documents as dictated in Exhibit "1" under the heading the Scope of Services and Deliverable. Acceptance of final payment shall constitute a waiver of any and all claims against the VILLAGE by the CONSULTANT.

SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This Project Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Project Agreement or causes it to be terminated by the VILLAGE, the CONSULTANT shall indemnify the VILLAGE against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the VILLAGE for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 of this Project Agreement and the provision of Section 6.2 shall apply.

6.2 **For Convenience.** This Project Agreement may be terminated by the VILLAGE for convenience upon fourteen (14) calendar days' written notice to the CONSULTANT. In the event of termination, the CONSULTANT shall incur no further obligations in connection with the Project and shall, to the extent possible, terminate any outstanding subconsultant obligations. The CONSULTANT shall be compensated for all services performed to the satisfaction of the VILLAGE and for reimbursable expenses incurred prior to the date of termination. The CONSULTANT shall promptly submit its invoice for final payment and reimbursement and the invoice shall comply

with the provisions of Paragraph 5.1 of this Project Agreement. Under no circumstances shall the VILLAGE make any payment to the CONSULTANT for services which have not been performed.

6.3 **Assignment upon Termination.** Upon termination of this Project Agreement, a copy of all of the Consultant's work product shall become the property of the VILLAGE and the CONSULTANT shall, within ten (10) working days of receipt of written direction from the VILLAGE, transfer to either the VILLAGE or its authorized designee, a copy of all work product in its possession, including but not limited to designs, specifications, drawings, studies, reports and all other documents and data in the possession of the CONSULTANT pertaining to this Project Agreement. Further, upon the VILLAGE'S request, the CONSULTANT shall assign its rights, title and interest under any subcontractor's agreements to the VILLAGE.

6.4 **Suspension for Convenience.** The VILLAGE shall have the right at any time to direct the CONSULTANT to suspend its performance, or any designated part thereof, for any reason whatsoever or without reason, for a cumulative period of up to thirty (30) calendar days. If any such suspension is directed by the VILLAGE, the CONSULTANT shall immediately comply with same. In the event the VILLAGE directs a suspension of performance as provided for herein through no fault of the CONSULTANT, the VILLAGE shall pay to the CONSULTANT its reasonable costs, actually incurred and paid, of demobilization and remobilization, as full compensation for any such suspension.

SECTION 7. INCORPORATION OF TERMS AND CONDCTIONS OF CONTINUING SERVICE AGREEMENT

7.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated June 19, 2018, as amended between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the Continuing Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.]

ATTEST:

ISLAMORADA, VILLAGE OF ISLANDS

Marne McGrath, Village Clerk

By: _____
Ted Yates, Village Manager

Date: _____

Approved as to form and legality
for the use and benefit of
Islamorada, Village of Islands only:

John J. Quick, Interim Village Attorney

ATTEST:

M. T. CAUSLEY, LLC

Secretary

By: _____
Michael T. Causley, President

Please type name of Secretary

Date: _____

(CORPORATE SEAL)

WITNESSES:

Print Name: _____

Print Name: _____

EXHIBIT "1"
To Project Agreement (WA #3)

Time tracked will start when Consultant checks in at the Village at first inspection site.

SERVICE	STANDARD HOURLY RATE	BEYOND 5PM & SATURDAYS**
<u>Rates effective 10/1/2022 through 6/18/2023</u>		
Building Official	\$120.00 per hour with a four (4) hour minimum	\$160.00 per hour with a four (4) hour minimum
Multi-certified Plans Examiner & Inspector Excludes natural disaster events	\$95.00 per hour with a four (4) hour minimum	\$142.50 per hour with a four (4) hour minimum
Single trade Plans Examiner & Inspector Excludes natural disaster events	\$85.00 per hour with a four (4) hour minimum	\$127.50 per hour with a four (4) hour minimum
Permit Processing Support Services Excludes natural disaster events	\$45.00 per hour with a four (4) hour minimum	\$67.50 per hour with a four (4) hour minimum
<u>Natural Disaster Events</u>		
Village will be provided with licensed, qualified staff to conduct damage assessment services	\$95.00 per hour with a four (4) hour minimum, plus expenses*	\$142.50 per hour with a four (4) minimum, plus expenses*
Additional Permit Processing Support Services	\$50.00 per hour with a four (4) hour minimum plus expenses*	\$75.00 per hour with a four (4) hour minimum plus expenses*
<u>Rates effective 6/19/2023 through 9/30/2023</u>		
Building Official	\$132.00 per hour with a four (4) hour minimum	\$176.00 per hour with a four (4) hour minimum
Multi-certified Plans Examiner & Inspector Excludes natural disaster events	\$104.50 per hour with a four (4) hour minimum	\$156.75 per hour with a four (4) hour minimum
Single trade Plans Examiner & Inspector Excludes natural disaster events	\$93.50 per hour with a four (4) hour minimum	\$140.25 per hour with a four (4) hour minimum
Permit Processing Support Services Excludes natural disaster events	\$49.50 per hour with a four (4) hour minimum	\$74.25 per hour with a four (4) hour minimum
<u>Natural Disaster Events</u>		
Village will be provided with licensed, qualified staff to conduct damage assessment services	\$104.50 per hour with a four (4) hour minimum, plus expenses*	\$156.75 per hour with a four (4) minimum, plus expenses*
Additional Permit Processing Support Services	\$55.00 per hour with a four (4) hour minimum plus expenses*	\$82.50 per hour with a four (4) hour minimum plus expenses*

* Expenses = lodging, travel and meals when additional staff is relocated to provide additional support

** Services requested for US Federal Recognized Holidays and Sundays will be provided at two (2) times the standard hourly rate.



Council Communication

To: Mayor and Village Council
From: Sheila Denoncourt, Chief Building Official
Date: September 28, 2023
SUBJECT: **Resolution Approving Work Authorization No. 4 with M.T. Causley, LLC. for Building Services Department Support Services TAB 12**

Background:

At its regular meeting on June 14, 2018, the Village Council passed and adopted Resolution No. 18-06-47, thereby approving non-exclusive continuing services agreements (CSAs) for general support services for the Building Services Department with two (2) firms that provided proposals in response to Request for Proposals (RFP 18-12), which the Village published on March 16, 2018. M. T. Causley, Inc. ("MTC"), was one of the two firms that responded, and the Village has been actively utilizing MTC's services under the CSA to supplement permanent staff positions and perform inspections and provide plans examiner services since 2018. The CSA was effective on June 19, 2018 to remain in effect for five (5) years through June 18, 2023. On October 25, 2022, the Village Council adopted Resolution No. 22-10-113 changing the termination of the CSA so that effective term continues unless either party provides 30 days' written notice to terminate.

Analysis:

Through the CSA, the Village has engaged MTC to provide the equivalent of four (4) full-time positions that perform building, electrical, family 1 and 2, mechanical and plumbing inspections as well as provide plans examiner services. Pursuant to the current CSA with MTC, each fiscal year the Village and MTC should enter into a Project Agreement (Work Authorization) with MTC specifying the scope of services and a not-to-exceed dollars amount consistent with the approved annual budget for the Building Fund.

Work Authorization No. 4 between the Village and MTC, attached as Exhibit A to the attached Resolution for Village Council consideration and approval, establishes a not-to-exceed contract amount for the services from MTC during fiscal year 2023-2024 of \$400,000.00. Exhibit "1" to Work Authorization No. 3 provides MTC's hourly rates for services effective October 1, 2023 through the termination date of the Work Authorization No. 4, September 30, 2024.

Budget Impact:

Fiscal Year 2023-2024 payments to MTC would be reflected in the Professional Services account in the Building Fund with a primary revenue source of Building Permit Fees. The FY 2023-2024 approved budget for Professional Services in the Building Services Fund is \$833,000.00 and includes an estimate of \$400,000.00 for the services of MTC.

Staff Impact:

The Village's Chief Building Official would be responsible for scheduling MTC inspectors each week and monitoring costs incurred against the not-to-exceed amount.

Recommendation:

Staff recommends that the Village Council adopt the attached Resolution, thereby approving Work Authorization No. 4 under the CSA with MTC for services in FY 2023-2024.

Attachments: 1. Resolution M T Causley WA#4 092823 RVCM with exhibit

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 4 BETWEEN M. T. CAUSLEY, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL SUPPORT SERVICES TO THE BUILDING SERVICES DEPARTMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 4; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on March 18, 2018, Islamorada, Village of Islands (the "Village"), published a Request for Proposals for General Support Services for the Building Services and Code Compliance Departments (RFP 18-12); and

WHEREAS, on June 14, 2018, the Village Council of Islamorada, Village of Islands (the "Village Council") adopted Resolution No. 18-06-47, thereby approving the final rankings and recommendations of the RFP 18-12 Selection Committee whereby M. T. Causley, LLC ("MTC"), was selected to provide building support services to the Village; and

WHEREAS, the Village subsequently entered into a Continuing Services Agreement (the "Agreement") with MTC for building support services effective June 19, 2018, for a five (5) year period; and

WHEREAS, on May 20, 2021, the Village Council adopted Resolution No. 21-05-43, thereby approving Work Authorization No. 1 between the Village and MTC to provide building support services for fiscal year 2020-2021; and

WHEREAS, on November 18, 2021, the Village Council adopted Resolution No. 21-11-106, thereby approving Work Authorization No. 2 between the Village and MTC to provide building support services for fiscal year 2021-2022; and

WHEREAS, on October 25, 2022, the Village Council adopted Resolution No. 22-10-113, thereby approving a First Amendment to the Agreement thereby changing the term of the agreement to remain effective unless either party provides thirty (30) days written notice to terminate; and

WHEREAS, on October 25, 2022, the Village Council adopted Resolution No. 22-10-114, thereby approving Work Authorization No. 3 between the Village and MTC to provide building support services for fiscal year 2022-2023; and

WHEREAS, on March 2, 2023, the Village Council adopted Resolution No. 23-03-25, thereby approving a First Amendment to Work Authorization No. 3 under the Agreement to add a rate for Remote Structural Plan Review Services; and

WHEREAS, the Village and MTC desire to enter into Work Authorization No. 4 under the Agreement to provide building support services for fiscal year 2023-2024 in an amount not to exceed Four Hundred Thousand Dollars (\$400,000.00); and

WHEREAS, the Village Council finds that approval of Work Authorization No. 4 with MTC is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Work Authorization. The Village Council hereby approves Work Authorization No. 4 between MTC and the Village, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. Authorization of Village Officials. The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of Work Authorization No. 4.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of Work Authorization No. 4.

Section 5. Execution of Work Authorization. The Village Manager is authorized to execute Work Authorization No. 4 on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of Work Authorization No. 4 and to execute any extensions and/or amendments to to Work Authorization No. 4, subject to the approval as to form and legality by the Village Attorney.

Section 6. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion to adopt by _____, second by _____.

**FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS**

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER, III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGALITY FOR THE USE AND BENEFIT
OF ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

**PROJECT AGREEMENT
(Work Authorization No. 4)**

Between

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

And

M. T. CAUSLEY, LLC

for

**GENERAL SUPPORT SERVICES FOR THE
BUILDING SERVICES DEPARTMENT
FY 2023-2024**

**PROJECT AGREEMENT
Between**

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

And

M. T. CAUSLEY, LLC

For

Work Authorization No. 4

General Support Services for the Building Services Department

Pursuant to the provisions contained in the "Continuing Services Agreement" between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (the "VILLAGE") and M. T. CAUSLEY, LLC, ("CONSULTANT") dated June 19, 2018 and as amended by the First Amendment dated November 3, 2022, this Project Agreement authorizes the CONSULTANT to provide the services as set forth below:

The VILLAGE and CONSULTANT agree as follows:

SECTION 1. SCOPE OF SERVICES

1.1 The CONSULTANT shall provide general support services to the VILLAGE'S Building Services Department as described in Exhibit "1."

1.2 The scope of services, project schedule, and tasks to be provided by the CONSULTANT for this Work Authorization are those services and tasks as listed in Exhibit "1."

1.3 The VILLAGE may request changes that would increase, decrease, or otherwise modify the Scope of Services. Such changes must be contained in a written change order executed by the parties in accordance with the provisions of the Continuing Services Agreement, prior to any deviation from the terms of the Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

As part of the Scope of Services and Project Schedule, the CONSULTANT shall provide to the VILLAGE the Deliverables as discussed under the heading "Scope of Services and Project Schedule" shown in Exhibit "1".

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Project Agreement shall include all services from October 1, 2023 (the "Commencement Date") and shall continue in full force and effect through September 30, 2024, unless otherwise, extended by the VILLAGE, terminated pursuant to Section 6 or other applicable provisions of this Project Agreement.

3.2 **Contract Time.** CONSULTANT shall commence services to the VILLAGE on the Commencement Date, and shall continuously perform services to the VILLAGE, without interruption, in accordance with the time frames set forth under the heading "Project Schedule," in Exhibit "1," a copy of which is attached and incorporated into this Agreement. The number of calendar days from the Commencement Date, through the date set forth in the Project Schedule for completion of the Project or the date of actual completion of the Project, whichever shall last occur, shall constitute the Contract Time.

3.3 All limitations of time set forth in this Agreement are of the essence.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 **Hourly Not-To-Exceed Compensation.** VILLAGE agrees to pay CONSULTANT as compensation for performance of all services described in Exhibit "1" **AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED FOUR HUNDRED THOUSAND DOLLARS (\$400,000.00), FOR Contract Time for THE 2023-2024 FISCAL YEAR.**

4.2 **Reimbursable and Travel Expenses.** Reimbursable and travel expenses shall be compensated pursuant to Sections 1.2 and 1.5 of the Continuing Services Agreement.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 **Hourly Not-To-Exceed Compensation.** CONSULTANT shall submit invoices on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed in accordance with the provisions set forth in Exhibit "1", to this Project Agreement for Fiscal Year 2023-2024. Invoices for each month shall not exceed amounts allocated to each month of the Project plus reimbursable expenses accrued during each month. The statement shall show a summary of fees with accrual of the total and credits for portions previously paid by the VILLAGE. The VILLAGE shall pay CONSULTANT within thirty (30) calendar days of approval by the Village Manager of any invoices submitted by CONSULTANT to the VILLAGE.

5.2 **Disputed Invoices.** In the event that all or a portion of an invoice submitted to the VILLAGE for payment to the CONSULTANT is disputed, or additional backup documentation is required, the VILLAGE shall notify the CONSULTANT within fifteen (15) working days of receipt of the invoice of such objection, modification or additional documentation request. The CONSULTANT shall provide the VILLAGE with additional backup documentation within five (5) working days of the date of the VILLAGE'S notice. The VILLAGE may request additional

information, including but not limited to, all invoices, time records, expense records, accounting records, and payment records of the CONSULTANT. The VILLAGE shall pay to the CONSULTANT the undisputed portion of the invoice. The parties shall endeavor to resolve the dispute in a mutually agreeable fashion.

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SECTION 6. TERMINATION/SUSPENSION

6.1 **For Cause.** This Project Agreement may be terminated by either party upon five (5) calendar days written notice to the other party should the other party fail substantially to perform in accordance with its material terms through no fault of the party initiating the termination. In the event that CONSULTANT abandons this Project Agreement or causes it to be terminated by the VILLAGE, the CONSULTANT shall indemnify the VILLAGE against any loss pertaining to this termination. In the event that the CONSULTANT is terminated by the VILLAGE for cause and it is subsequently determined by a court of competent jurisdiction that such termination was without cause, such termination shall thereupon be deemed a termination for convenience under Section 6.2 of this Project Agreement and the provision of Section 6.2 shall apply.

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with the provisions of Paragraph 5.1 of this Project Agreement. Under no circumstances shall the VILLAGE make any payment to the CONSULTANT for services which have not been performed.

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7.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated June 19, 2018, as amended between the parties as though fully set forth herein. In the event that any terms or conditions of this Project Agreement conflict with the Continuing Services Agreement, the provisions of this specific Project Agreement shall prevail and apply.

[THE REST OF THIS PAGE INTENTIONALLY LEFT BLANK.]

ATTEST:

ISLAMORADA, VILLAGE OF ISLANDS

Marne McGrath, Village Clerk

By: _____
Bryan Cook, Interim Village Manager

Date: _____

Approved as to form and legality
for the use and benefit of
Islamorada, Village of Islands only:

John J. Quick, Interim Village Attorney

ATTEST:

M. T. CAUSLEY, LLC

Secretary

By: _____
Michael T. Causley, President

Please type name of Secretary

Date: _____

(CORPORATE SEAL)

WITNESSES:

Print Name: _____

Print Name: _____

EXHIBIT "1"
To Project Agreement (WA #4)

Time tracked will start when Consultant checks in at the Village at first inspection site.

SERVICE	STANDARD HOURLY RATE	BEYOND 5PM & SATURDAYS**
<u>Rates effective 10/1/2023 through 9/30/2024</u>		
Building Official	\$132.00 per hour with a four (4) hour minimum	\$176.00 per hour with a four (4) hour minimum
Multi-certified Plans Examiner & Inspector Excludes natural disaster events	\$104.50 per hour with a four (4) hour minimum	\$156.75 per hour with a four (4) hour minimum
Single trade Plans Examiner & Inspector Excludes natural disaster events	\$93.50 per hour with a four (4) hour minimum	\$140.25 per hour with a four (4) hour minimum
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<u>Natural Disaster Events</u>		
Village will be provided with licensed, qualified staff to conduct damage assessment services	\$104.50 per hour with a four (4) hour minimum, plus expenses*	\$156.75 per hour with a four (4) minimum, plus expenses*
Additional Permit Processing Support Services	\$55.00 per hour with a four (4) hour minimum plus expenses*	\$82.50 per hour with a four (4) hour minimum plus expenses*

* Expenses = lodging, travel and meals when additional staff is relocated to provide additional support

** Services requested for US Federal Recognized Holidays and Sundays will be provided at two (2) times the standard hourly rate.



Council Communication

To: Mayor and Village Council
From: Sheila Denoncourt, Chief Building Official
Date: September 28, 2023
SUBJECT: **Resolution Approving FY 2023-2024 Expenditures through a Cooperative Professional Services Agreement with All Aspects Inspection Services, LLC. for Building Services Department Support Services TAB 13**

Background:

The Village has an existing Cooperative Professional Services Agreement with All Aspects Inspection Services, LLC. ("All Aspects"), for plans review and building permit inspection services to supplement the staffing needs of the Building Department. The services are in addition to those contracted from M.T. Causley, LLC.. the firm that has provided plans review and building permit inspection services through a continuing Services Agreement since 2018. In 2023, M.T. Causley began to experience similar challenges as the Village with filling positions, and at times being unable to provide contract staffing for some specialties. All Aspects, which is based in Key West, was brought on as an additional resource for plans review and building inspection services utilizing a piggyback to a Key West agreement with All Aspects that was procured through its municipal bidding process. The term of the Cooperative Professional Services Agreement is in effect until terminated by the Village or All Aspects upon thirty (30) days written notice.

Analysis:

All Aspects has reliably and professionally provided building department support services through the Cooperative Professional Services Agreement. The attached Resolution would approve FY 2023-2024 expenditures from All Aspects at a not to exceed cost of \$180,000.00 through the existing Cooperative Professional Services Agreement.

Budget Impact:

Payments to All Aspects Inspection Services, LLC, would be reflected in the Professional Services account in the Building Fund with a primary revenue source of Building Permit Fees. The FY 2023-2024 approved budget for Professional Services in the Building Services Fund is \$833,000.00 and includes \$180,000.00 for the services of All Aspects.

Staff Impact:

The Village's Chief Building Official would be responsible for scheduling inspectors each week and monitoring costs incurred against the total budget.

Recommendation:

Staff recommends that the Village Council adopt the attached Resolution, thereby approving FY 2023-2024 expenditures for services from All Aspects Inspection Services, LLC. for building department support services.

Attachments: 1. Resolution All Aspects FY23-24 with exhibit

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING FISCAL YEAR 2023-2024 EXPENDITURES THROUGH A COOPERATIVE PROFESSIONAL SERVICES AGREEMENT BETWEEN ALL ASPECTS INSPECTION SERVICES, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE BUILDING PERMIT PLANS REVIEW AND INSPECTION SERVICES TO THE BUILDING SERVICES DEPARTMENT; APPROVING THE WAIVER OF COMPETITIVE BIDDING; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village's Building Services Department desires certain building permit plan review and inspection services (the "Services"); and

WHEREAS, pursuant to Section 2-328(2) of the Village's Code of Ordinances concerning waiver of competitive bidding, the requirements of Section 2-327 relating to competitive bidding requirements may be waived by use of an existing contract with another municipality ("piggyback") when such contract was awarded by a competitive bidding process and the contract extends the prices, terms and conditions for such goods or services to the state's municipalities; and

WHEREAS, the Village utilized a piggyback to a City of Key West agreement with All Aspects Inspection Services, LLC. ("All Aspects") that was procured through its municipal bidding process through RFP No. 001-21 on November 21, 2020 and competitively awarded a contract to All Aspects Inspection Services, LLC, pursuant to that RFP; and

WHEREAS, the Village and All Aspects entered into a Cooperative Professional Services Agreement (the "Agreement") on May 4, 2023, attached hereto as Exhibit ("1") to enable All Aspects to provide the Services to the Village; and

WHEREAS, the Village desires to continue the Services through the Agreement during FY 2023-2024 for an amount not to exceed One Hundred Eighty Thousand Dollars (\$180,000.00); and

WHEREAS, the Village Council finds that approval of the FY 2023-2024 expenditures for All Aspects Inspection Services, LLC., and the waiver of competitive bidding is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Fiscal Year Expenditures. The Village Council hereby approves expenditures from All Aspects at an amount not to exceed One Hundred Eighty Thousand Dollars (\$180,000.00).

Section 3. Approval of Waiver of Competitive Bidding. In accordance with Sections 2-328(1) and 2-328(2) of the Village Code, the Village Council hereby approves the waiver of competitive bidding to utilize the services of All Aspects.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds for the Services.

Section 5. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion to adopt by _____, second by _____.

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III _____
Vice Mayor Sharon Mahoney _____
Councilwoman Elizabeth Jolin _____
Councilman Mark Gregg _____
Councilman Henry Rosenthal _____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER, III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND
LEGALITY FOR THE USE AND BENEFIT
OF ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, INTERIM VILLAGE ATTORNEY

COOPERATIVE PROFESSIONAL SERVICES AGREEMENT

BETWEEN

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

AND

ALL ASPECTS INSPECTION SERVICES, LLC

THIS AGREEMENT (this "Agreement") is made effective as of the 4th day of May, 2023 (the "Effective Date"), by and between **ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA**, a Florida municipal corporation, (the "Village") and **ALL ASPECTS INSPECTION SERVICES, LLC**, a Florida limited liability company (hereinafter, the "Contractor"). Collectively, the Village and the Contractor are referred to as "Parties."

WHEREAS, the Village desires certain Building Permit Plan Review and Inspection Services; and

WHEREAS, the City of Key West, Florida, issued RFP No. 001-21 on November 21, 2020, (the "Services") and competitively awarded a contract to Contractor pursuant to the RFP, which contract is attached hereto as Exhibit "A" (the "Key West Contract"); and

WHEREAS, the Parties wish to incorporate the terms and conditions of the Key West Contract in this Agreement, except as otherwise modified or amended herein; and

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Village and the Contractor agree as follows:

1. **Incorporation of Contract.** The terms and conditions of the Key West Contract attached hereto and made a part hereof as Exhibit "A" and is incorporated as though fully set forth herein. Except as otherwise specifically set forth or modified herein, all terms in the Key West Contract are hereby ratified and affirmed and shall remain unmodified and in full force and effect in accordance with its terms.
2. **Conflicts.** In the event of any conflict or ambiguity between the terms and provisions of this Agreement and the terms and provisions of the Key West Contract, the terms and provisions of this Agreement shall control.
3. **Defined Terms.** All initial capitalized terms used in this Agreement shall have the same meaning as set forth in the Key West Contract unless otherwise provided in this Agreement. All references to the City of Key West shall be replaced with Islamorada, Village of Islands where applicable, and all references to the City ETrakit system shall be replaced with Village CityView system.
4. **Counterparts.** This Agreement may be executed in several counterparts, each of which shall be deemed an original and such counterparts shall constitute one and the same instrument.

5. **Amending Page 8 of City of Key West Contract.** Page 8, under the heading "Rates" of the Key West Contract is hereby amended as follows:

2nd Paragraph: Inspections will be billed at \$80.00 per inspection.

Hourly Rates Schedule: Plans Examiner Rate will be \$100.00 per hour.

6. **Amending Page 9 of City of Key West Contract.** The language on Page 9 under the heading Term of the City of Key West Contract regarding the Term of the Agreement is hereby deleted in its entirety and replaced as follows:

Term

This Agreement shall commence on the date this instrument is fully executed by all parties and shall continue in full force and effect unless terminated by either party for cause, or terminated by either party for convenience, upon thirty (30) days written notice in which event the CONTRACTOR shall be paid its compensation for services performed to termination date. In the event that the CONTRACTOR abandons this Agreement or causes it to be terminated, the CONTRACTOR shall indemnify the VILLAGE against any loss pertaining to this termination. All finished or unfinished documents, data, studies, plans, surveys, and reports prepared by CONTRACTOR shall become the property of VILLAGE and shall be delivered by CONTRACTOR to VILLAGE.

7. **Additional Provisions.** In addition to the provisions set forth in the City of Key West Contract the following provisions shall apply:

7.1. **Public Entity Crimes Affidavit.** Contractor shall comply with Section 287.133, Florida Statutes (Public Entity Crimes Statute), notification of which is hereby incorporated herein by reference, including execution of any required affidavit.

7.2. **Scrutinized Companies.** Consultant certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Agreement at its sole option if the Consultant or its subconsultants are found to have submitted a false certification; or if Consultant, or its subconsultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.

7.3. **E-Verify Affidavit.** In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system. The contracting entity must provide of its proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participationenrollment-in-e-verify>. By entering into this

Agreement, the Contractor acknowledges that it has read Section 448.095, Florida Statutes; will comply with the E-Verify requirements imposed by Section 448.095, Florida Statutes, including but not limited to obtaining E-Verify affidavits from subcontractors; and has executed the required affidavit attached hereto and incorporated herein.

7.4. Public Records. Village is a public agency subject to Chapter 119, Florida Statutes. To the extent that Village is acting on behalf of Village pursuant to Section 119.0701, Florida Statutes, Village shall:

- a. Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by Village were Village performing the services under this Agreement;
- b. Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;
- c. Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- d. Meet all requirements for retaining public records and transfer to Village, at no cost, all public records in possession of the Village upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the Village.

8. Notices/Authorized Representatives. Whenever any party desires to give notice unto any other party, it must be given by written notice, sent by registered United States mail, with return receipt requested, addressed to the party for whom it is intended and the remaining party, at the places last specified, and the places for giving of notice shall remain such until they shall have been changed by written notice in compliance with the provisions of this section. For the present, the Contractor and the Village designate the following as the respective places for giving of notice:

Village: Village Manager
Attn: Ted Yates
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036
villagemanager@islamorada.fl.us

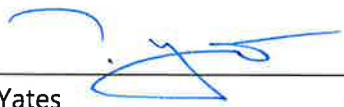
Copy To: Village Attorney
Attn.: John J. Quick
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036
jquick@wsh-law.com

Contractor: All Aspects Inspection Services, LLC
Attn: James C. Reynolds, Managing Partner
24478 Overseas Highway
Summerland Key, FL 33042

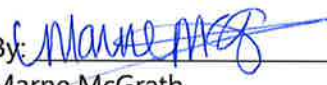
[Remainder of page intentionally left blank. Signature pages follow.]

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

ISLAMORADA, VILLAGE OF ISLANDS

By: 
Ted Yates
Village Manager

Attest:

By: 
Marne McGrath
Village Clerk

Approved as to form and legal sufficiency:

By: 
Weiss Serota Helfman Cole & Bierman, P.L.
Village Attorney

CONTRACTOR

By: 
Name: James C. Reynolds

Title: Managing Partner

Entity: All Aspects Inspection Services

E-VERIFY AFFIDAVIT

In accordance with Section 448.095, Florida Statutes, the Village requires all contractors doing business with the Village to register with and use the E-Verify system to verify the work authorization status of all newly hired employees. The Village will not enter into a contract unless each party to the contract registers with and uses the E-Verify system.

The contracting entity must provide proof of enrollment in E-Verify. For instructions on how to provide proof of the contracting entity's participation/enrollment in E-Verify, please visit: <https://www.e-verify.gov/faq/how-do-i-provide-proof-of-my-participation/enrollment-in-e-verify>

By signing below, the contracting entity acknowledges that it has read Section 448.095, Florida Statutes and will comply with the E-Verify requirements imposed by it, including but not limited to obtaining E-Verify affidavits from subcontractors.

☐ Check here to confirm proof of enrollment in E-Verify has been attached to this Affidavit.

In the presence of:

Signed, sealed and delivered by:

Witness #1 Print Name: Kyle Cabrera

Print Name: James C. Reynolds

Witness #2 Print Name: Mia Santos

Title: Managing Partner

Entity Name: All Aspects Inspection Services, Inc.

ACKNOWLEDGMENT

State of Florida

County of Florida

The foregoing instrument was acknowledged before me by means of ☒ physical presence or ☐ online notarization, this 7th day of April, 2023, by James C. Reynolds (name of person) as Managing Partner (type of authority) for Managing partner (name of party on behalf of whom instrument is executed).



Mia Santos Notary Public (Print, Stamp, or Type as Commissioned)

- ☒ Personally known to me; or
- ☒ Produced identification (Type of Identification: _____)
- ☒ Did take an oath; or
- ☐ Did not take an oath

EXHIBIT A
COPY OF CITY OF KEY WEST CONTRACT

PLANS REVIEW AND INSPECTION SERVICES AGREEMENT

OWNER: City of Key West
1300 White Street, Key West, Fl.

DATE: March 5, 2021

ALL ASPECTS INSPECTIONS SERVICES, LLC (CONTRACTOR) operates in accordance with the State of Florida Alternative Plans Review and Inspection Program, as described in Florida Statutes 553.791 and shall provide building permit plans review and inspection services for the City of Key West, Fl. These services will be performed as an extension of the Building Department Staff and will coordinate directly with the Building Official and Assistant City Manager. The Building Official is the Authority Having Jurisdiction (AHJ) and CONTRACTOR will be providing a supporting role.

Plans Review Services

As and when requested by the City, CONTRACTOR will review plans as required by the Florida Building Code, typically performed by City of Key West Building Department personnel. Plan review would be limited to structural, building, mechanical, electrical, fuel gas, accessibility and plumbing disciplines. Each discipline will be reviewed by a plans examiner or engineer licensed by the State of Florida. State of Florida registered structural engineers, certified by the State of Florida will review structural plans.

CONTRACTOR will review the project documents for compliance with applicable Florida building codes. Plan review comments, if any, shall be communicated to the client through the City eTrakit system. Upon completion and approval of the project documents, CONTRACTOR will provide signed and sealed Plan Compliance Affidavits for all disciplines to the City certifying the documents have been reviewed for Florida Building Code compliance.

Proposed Commercial and Residential Plans Review Services:

- Architectural Plans Review/ADA
- Structural Plans Review
- Mechanical, Electrical and Plumbing Plans Review
- Shop Drawing and NOA review (must be included in the initial, second or third reviews)

Plans Review Procedures and Requirements:

- Plan review shall be provided on an expedited basis.
- Electronic signed and sealed plans, NOA's, calculations, and all other supporting documents in PDF format shall be supplied to CONTRACTOR to initiate the plan review process.
- Upon approval of all disciplines, CONTRACTOR will provide signed and sealed Plan Compliance Affidavits for those disciplines
- Fire plan review must be processed through the Fire Department.
- Plans review will be conducted/completed within the time frames described on Exhibit B attached hereto unless there is a mutually agreed deviation.

Inspection Services

CONTRACTOR will perform inspections required by the Florida Building Code, typically performed by the City of Key West Building Department personnel with State of Florida licensed inspectors or Engineers. Inspections will be performed on an "as requested" basis through the City's eTrakit system.

Inspections will be performed upon issuance of the required permits by the City of Key West Building Official. Required revisions and shop drawings will be reviewed and approved by the City and available on the job site.

Proposed Inspection Services:

- Building Inspections (i.e. drywall, insulation, framing, fire penetration, window, door buck, final)
- Roofing Inspections (i.e. insulation, in-progress, and final for membrane, additional inspections may be required depending on the roof type)
- Mechanical Inspections (i.e. rough, final, ductwork (if required)
- Electrical Inspections (i.e. rough, low voltage, underground, final)
- Plumbing Inspections (i.e. rough and final)

Inspection Procedures and Requirements:

- The City and the CONTRACTOR shall mutually establish a time limitation the day prior to inspection by which the CONTRACTOR shall receive inspection requests from the eTrakit system.
- Inspection results will be entered directly into the eTrakit system by CONTRACTOR staff.
- Threshold Inspections are not included in the scope of this Agreement.
- Inspections and results will be conducted /reported within the turn around times set forth on Exhibit B unless there is a mutually agreed deviation.

Terms and Conditions

- Invoices will be submitted on the 1st of each month and paid within 30 days of receipt.
- The General Contractor of record will be responsible for meeting all of the requirements of the most current Edition of The Florida Building Code as well as complying with all of the guidelines and restrictions of local regulations and ordinances.
- All Contractors including subcontractors shall carry and submit upon request all local and state licenses and copies of Insurance.
- The Contractor, including subcontractors, will be responsible for maintaining a current state license, competency card, and insurance throughout the duration of project.
- Inspections cannot be performed for any trade if license or insurance is expired or voided.
- All services not specifically indicated in the scope of services will be considered Additional Services and will be billed at \$110.00 per hour for inspectors and plan reviewers, and \$180.00 per hour for Engineers.

Indemnification

CONTRACTOR expressly agrees to indemnify and hold harmless the City of Key West, their officers, directors, agents, and employees (herein called the "indemnities") from liabilities, damages, losses and costs, including, but not limited to, 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, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of CONTRACTOR, its Subcontractors or persons employed or utilized by them in the performance of the Contract.

Insurance

INSURANCE REQUIREMENTS

1.0 GENERAL INSURANCE REQUIREMENTS:

- 1.01 During the Term of the Agreement, the Contractor shall provide, pay for, and maintain with insurance companies satisfactory to the City of Key West, Florida ("City"), the types of insurance described herein.
- 1.02 All insurance shall be from responsible insurance companies eligible to do business in the State of Florida. The required policies of insurance shall be performable in Monroe County, Florida, and shall be construed in accordance with the laws of the State of Florida.
- 1.03 The City shall be specifically included as an additional insured on the Contractor's Liability policies with the exception of the Contractor's Professional Liability policies (if required) and shall also provide the "Severability of Interest" provision (a/k/a "Separation of Insured's" provision). The City's additional insured status should be extended to all Completed Operations coverages.
- 1.04 The Contractor shall deliver to the City, prior to commencing work/activities under the Agreement, properly executed "Certificate(s) of Insurance" setting forth the insurance coverage and limits required herein. The Certificates must be signed by the authorized representative of the insurance company(s) shown on the Certificate of Insurance. In addition, certified, true, and exact copies of the insurance policies required herein shall be provided to the City, on a timely basis, if requested by the City.
- 1.05 If the Contractor fails to provide or maintain the insurance coverages required in this Agreement at any time during the Term of the Agreement and if the Contractor refuses or otherwise neglects to deliver the required Certificate(s) of Insurance signed by the authorized representative of the insurance company(s) to the City, the City may, at the City's sole discretion, terminate or suspend this Agreement and seize the amount of Contractor's performance bond, letter of credit, or other security acceptable to the City.
- 1.06 The Contractor shall take immediate steps to make up any impairment to any Aggregate Policy Limit upon notification of the impairment. If at any time the City requests a written statement from the insurance company(s) as to any impairment to the Aggregate Limit, the Contractor shall promptly authorize and have delivered such statement to the City.
- 1.07 The Contractor authorizes the City and/or its insurance consultant to confirm all information furnished to the City, as to its compliance with its Bonds and Insurance Requirements, with the Contractor's insurance agents, brokers, surety, and insurance carriers.

- 1.08 All insurance coverage of the Contractor shall be primary to any insurance or self-insurance program carried by the City. The City's insurance or self-insurance programs or coverage shall not be contributory with any insurance required of the Contractor in this Agreement.
- 1.09 The acceptance of delivery to the City of any Certificate of Insurance evidencing the insurance coverage and limits required in the Agreement does not constitute approval or agreement by the City that the insurance requirements in the Agreement have been met or that the insurance policies shown in the Certificates of Insurance are in compliance with the Agreement requirements.
- 1.10 No work/activity under this Agreement shall commence or continue unless and until the required Certificate(s) of Insurance are in effect and the written Notice to Proceed is issued by the City.
- 1.11 The insurance coverage and limits required of the Contractor under this Agreement are designed to meet the minimum requirements of the City. They are not designed as a recommended insurance program for the Contractor. The Contractor alone shall be responsible for the sufficiency of its own insurance program. Should the Contractor have any question concerning its exposures to loss under this Agreement or the possible insurance coverage needed therefore, it should seek professional assistance.
- 1.12 During the Term of this Agreement, the City and its agents and contractors may continue to engage in necessary business activities during the operations of the Contractor. No personal property owned by City used in connection with these business activities shall be considered by the Contractor's insurance company as being in the care, custody, or control of the Contractor.
- 1.13 Should any of the required insurances specified in this Agreement provide for a deductible, self-insured retention, self-insured amount, or any scheme other than a fully insured program, the Contractor shall be responsible for all deductibles and self-insured retentions.
- 1.14 All of the required insurance coverages shall be issued as required by law and shall be endorsed, where necessary, to comply with the minimum requirements contained herein.
- 1.15 All policies of insurance required herein shall require that the insurer give the City thirty (30) days advance written notice of any cancellation, intent not to renew any policy and/or any change that will reduce the insurance coverage required in this Agreement, except for the application of the Aggregate Limits Provisions.
- 1.16 Renewal Certificate(s) of Insurance shall be provided to the City at least twenty (20) days prior to expiration of current coverage so that there shall be no termination of the Agreement due to lack of proof of the insurance coverage required of the Contractor.

- 1.17 If the Contractor utilizes contractors or sub-contractors to perform any operations or activities governed by this Agreement, the Contractor will ensure all contractors and sub-contractors to maintain the same types and amounts of insurance required of the Contractor. In addition, the Contractor will ensure that the contractor and sub-contractor insurances comply with all the Insurance Requirements specified for the Contractor contained within this Agreement. The Contractor shall obtain Certificates of Insurance comparable to those required of the Contractor from all contractors and sub-contractors. Such Certificates of Insurances shall be presented to the City upon request. Contractor's obligation to ensure that all contractor's and sub- contractor's insurance as provided herein shall not exculpate Contractor from the direct primary responsibility Contractor has to the City hereunder. The City will look directly to Contractor for any such liability hereunder and shall not be obligated to seek recovery from any contractor or subcontract or under such contractor's or sub-contractor's insurance coverages.

2.0 SPECIFIC INSURANCE COVERAGES AND LIMITS:

- 2.01 All requirements in this Insurance Section shall be complied with in full by the Contractor unless excused from compliance in writing by the City.
- 2.02 The amounts and types of insurance must conform to the following minimum requirements. Current Insurance Service Office (ISO) or National Council on Compensation Insurance (NCCI) policies, forms, and endorsements or broader shall be used where applicable. Notwithstanding the foregoing, the wording of all policies, forms, and endorsements must be acceptable to the City.

Workers' Compensation and Employers' Liability Insurance shall be maintained in force during the Term of this Agreement for all employees engaged in this work under this Agreement, in accordance with the laws of the State of Florida. The minimum acceptable limits shall be:

Workers' Compensation	Florida Statutory Requirements
Employer's Liability	\$1,000,000.00 Limit Each Accident
	\$1,000,000.00 Limit Disease Aggregate
	\$1,000,000.00 Limit Disease Each Employee

If the Contractor has less than four (4) employees and has elected not to purchase Workers' Compensation/Employers Liability coverage as permitted by *Florida Statutes*, the Contractor will be required to issue a formal letter (on the Contractor's letterhead) stating that it has less than four (4) employees and has elected not to purchase Workers' Compensation/Employers Liability coverage as permitted by *Florida Statutes*. This exception does **not** apply to firms engaged in construction activities.

Commercial General Liability Insurance shall be maintained by the Contractor on a Full Occurrence Form. Coverage shall include, but not be limited to, Premises and Operations, Personal Injury, Contractual for this Agreement, Independent Contractors, and Products & Completed Operations Coverage. The limits of such coverage shall not be less than:

Bodily Injury &	\$1,000,000.00
Property Damage Liability	
Combined Single Limit each Occurrence and Aggregate	

Completed Operations Liability Coverage shall be maintained by the Contractor for a period of not less than four (4) years following expiration or termination of this Agreement.

The use of an Excess, Umbrella and/or Bumbershoot policy shall be acceptable if the level of protection provided by the Excess, Umbrella and/or Bumbershoot policy is equal to or more comprehensive than the Primary Commercial General Liability policy.

Business Automobile Liability Insurance shall be maintained by the Contractor as to ownership, maintenance, use, loading and unloading of all owned, non-owned, leased, or hired vehicles with limits of such coverage of not less than:

Bodily Injury	\$1,000,000.00
Limit Each Accident	
Property Damage Liability	\$1,000,000.00
Limit Each Accident	

or

Bodily Injury &	
Property Damage Liability	\$1,000,000.00 Combined Single Limit Each Accident

If the Contractor does not own any vehicles, this requirement can be satisfied by having the Contractor's Commercial General Liability policy endorsed with "Non-Owned and Hired Automobile" Liability coverage.

Professional Liability Insurance shall be maintained by the Contractor which will respond to damages resulting from any claim arising out of the performance of professional services or any error or omission of the Contractor arising out of activities governed by this Agreement. The minimum acceptable limits of liability shall be \$1,000,000 per Occurrence and \$2,000,000 Annual Aggregate. If the policy is structured on a "Claims Made" basis, the policy must contain a "Retroactive Date" of no later than the commencement date of the Agreement and will have an extended reporting period of four (4) years following expiration or termination of the Agreement.

FEMA

1. The terms and conditions contained in attached Exhibit "A", FEMA requirements, are incorporated herein for those inspections required for city projects generated by damages resulting from storms or other calamities resulting in a declaration of emergency by the governor of the State of Florida.

Rates

Plan Reviews are billed based on an hourly rate for Standard Building Plans Reviewers and Engineers for services provided Monday through Friday during regular business hours.

Inspections will be billed at \$75.00 per inspection. It is anticipated that there will typically be at least 10 inspections per day.

Fees for Additional Services: Additional services will be performed at the request of the city and include plan review services, attendance at meetings, consultations, reimbursable expenses such as copy costs, etc. Essentially any service requested by the city not directly related to an inspection and entering the results into the eTrakit system. Discussions or questions related to any particular inspection are not considered additional services.

	Hourly Rates			
	Plans Examiner	Inspector/ PM	Engineer	Principal
Plan reviews for master building permit Hourly rate.	<u>\$110.00/hr</u>		<u>\$180.00/hr</u>	
Shop Drawings (not included in the initial, second or third review for master permit)	<u>\$110.00/hr</u>		<u>\$180.00/hr</u>	
Review of revisions to the permitted Drawings	<u>\$110.00/hr</u>		<u>\$180.00/hr</u>	
Meetings	<u>\$110.00/hr</u>	<u>\$110.00/hr</u>	<u>\$180.00/hr</u>	<u>\$195.00/hr</u>
Plans Coordinator Services	<u>\$65.00</u> per hour			
Reimbursable Expenses†	Cost plus <u>15%</u>			

†Includes copies and Fed-Ex/UPS delivery charges.

The hourly rates stated above are based on services provided Monday thru Friday during regular business hours. Although no services are anticipated to be performed on Weekends, Holidays, or overtime, any service requested after 5 pm, Monday thru Friday, will be charged at 1.5 times the standard rate. Services requested on a weekend or holiday will be charged 1.5 times the standard rate.

A Cancelled inspection shall not be billable.

Single trade inspections shall be billed as one inspection and may include multiple items such as plumbing shower pans, plumbing pressure tests and similar same trade inspections.

Term

This Agreement shall be for a term of three (3) years with up to three (1) one -year options to renew at the discretion of the City. City may terminate the Agreement at any time.

Acceptance

The parties have read the foregoing, understand the agreement completely and scope of work, and willingly enter into this agreement which will become effective on the date signed below by the CITY.

WAIVER OF BREACH AND MATERIALITY

1. Failure by CITY to enforce any provision of this Agreement shall not be deemed a waiver of such provision or modification of this Agreement. A waiver of any breach of a provision of this Agreement shall not be deemed a waiver of any subsequent breach and shall not be construed to be a modification of the terms of this Agreement.

2. CITY and CONTRACTOR agree that each requirement, duty, and obligation set forth herein is substantial and important to the formation of this Agreement and, therefore, is a material term hereof.

COMPLIANCE WITH LAWS

CONTRACTOR shall comply with federal, state, and local laws, codes, ordinances, rules, and regulations in performing its duties, responsibilities, and obligations related to this Agreement applicable at the time the scope of services was drafted for this agreement. In addition, at the time each service is executed, any revisions to applicable federal state, and local laws, codes, ordinances, rules and regulations shall apply.

SEVERABILITY

In the event this Agreement or a portion of this Agreement is found by a court of competent jurisdiction to be invalid, the remaining provisions shall continue to be effective unless CITY or CONTRACTOR elects to terminate this Agreement.

JOINT PREPARATION

Preparation of this Agreement has been a joint effort of CITY and CONTRACTOR and the resulting document shall not, solely as a matter of judicial construction, be construed more severely against one of the parties than any other.

PRIORITY OF PROVISIONS

If there is a conflict or inconsistency between any term, statement, requirement, or provision of any exhibit attached hereto, any document or events referred to herein, or any document incorporated into this Agreement by reference and a term, statement, requirement, or provision of this Agreement, the term, statement, requirement, or provision contained in pages 1 through 6 of this Agreement shall prevail and be given effect.

APPLICABLE LAW AND VENUE

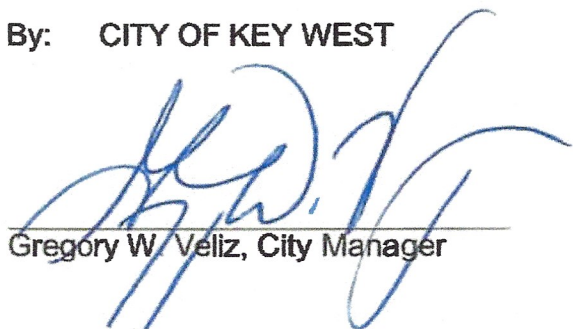
The laws of the State of Florida govern the validity of this Agreement, its interpretation and performance, and any claims related to it. The venue for mediation, arbitration or any other legal proceeding shall be Monroe County, Florida. Trial by Jury is waived by the parties.

COUNTERPARTS

This Agreement may be executed in two (2) counterparts, each of which shall be deemed to be an original.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under each signature.

By: CITY OF KEY WEST



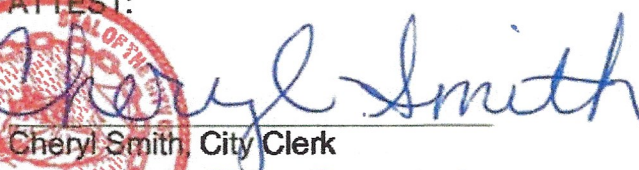
Gregory W. Veliz, City Manager

By: ALL ASPECTS
INSPECTION SERVICES, LLC,
as Contractor



Name: JAMES C. REYNOLDS, LLC
Title: MANAGING PARTNER

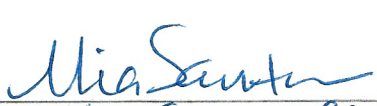
ATTEST:



Cheryl Smith, City Clerk

Date: 3-5-2021

ATTEST:



Witness: Mia Santos, Office Manager

Date: 3/15/21

Exhibit A

2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, Required Contract Clauses

Requirements under the Uniform Rules. A non-Federal entity's contracts must contain the applicable contract clauses described in Appendix II to the Uniform Rules (Contract Provisions for non-Federal Entity Contracts Under Federal Awards), which are set forth below. 2 C.F.R. § 200.326. For some of the required clauses we have included sample language or a reference a non-Federal entity can go to in order to find sample language. Please be aware that this is sample language only and that the non-Federal entity alone is responsible ensuring that all language included in their contracts meets the requirements of 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II. We do not include sample language for certain required clauses (remedies, termination for cause and convenience, changes) as these must necessarily be written based on the non-Federal entity's own procedures in that area.

1. Remedies.

- a. Standard: Contracts for more than the simplified acquisition threshold (\$150,000) must address administrative, contractual, or legal remedies in instances where contractors violate or breach contract terms, and provide for such sanctions and penalties as appropriate. See 2 C.F.R. Part 200, Appendix II, ¶ A.
- b. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.

2. Termination for Cause and Convenience.

- a. All contracts in excess of \$10,000 must address termination for cause and for convenience by the non-Federal entity including the manner by which it will be effected and the basis for settlement. See 2 C.F.R. Part 200, Appendix II, ¶ B.
- b. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.

3. Equal Employment Opportunity.

- a. Standard. Except as otherwise provided under 41 C.F.R. Part 60, all contracts that meet the definition of "federally assisted construction contract" in 41 C.F.R. § 60-1.3 must include the equal opportunity clause provided under 41 C.F.R. § 60-1.4(b), in accordance with Executive Order 11246, *Equal Employment Opportunity* (30 Fed. Reg. 12319, 12935, 3 C.F.R. Part, 1964-1965 Comp., p. 339), as amended by Executive Order 11375, *Amending Executive Order 11246 Relating to Equal Employment Opportunity*, and implementing regulations at 41 C.F.R. Part 60 (Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor). See 2 C.F.R. Part 200, Appendix II, ¶ C.
- b. Key Definitions.

- (1) Federally Assisted Construction Contract. The regulation at 41 C.F.R. § 60-1.3 defines a “federally assisted construction contract” as any agreement or modification thereof between any applicant and a person for construction work which is paid for in whole or in part with funds obtained from the Government or borrowed on the credit of the Government pursuant to any Federal program involving a grant, contract, loan, insurance, or guarantee, or undertaken pursuant to any Federal program involving such grant, contract, loan, insurance, or guarantee, or any application or modification thereof approved by the Government for a grant, contract, loan, insurance, or guarantee under which the applicant itself participates in the construction work.
 - (2) Construction Work. The regulation at 41 C.F.R. § 60-1.3 defines “construction work” as the construction, rehabilitation, alteration, conversion, extension, demolition or repair of buildings, highways, or other changes or improvements to real property, including facilities providing utility services. The term also includes the supervision, inspection, and other onsite functions incidental to the actual construction.
- c. Applicability. This requirement applies to all FEMA grant and cooperative agreement programs.
- d. The regulation at 41 C.F.R. Part 60-1.4(b) requires the insertion of the following contract clause:
- “During the performance of this contract, the contractor agrees as follows:
- (1) The contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, or national origin. The contractor will take affirmative action to ensure that applicants are employed, and that employees are treated during employment without regard to their race, color, religion, sex, or national origin. Such action shall include, but not be limited to the following: Employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of this nondiscrimination clause.
 - (2) The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive considerations for employment without regard to race, color, religion, sex, or national origin.
 - (3) The contractor will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice to be provided advising the said labor union or workers' representatives of the contractor's commitments under this section,

and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

- (4) The contractor will comply with all provisions of Executive Order 11246 of September 24, 1965, and of the rules, regulations, and relevant orders of the Secretary of Labor.
- (5) The contractor will furnish all information and reports required by Executive Order 11246 of September 24, 1965, and by rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to his books, records, and accounts by the administering agency and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.
- (6) In the event of the contractor's noncompliance with the nondiscrimination clauses of this contract or with any of the said rules, regulations, or orders, this contract may be canceled, terminated, or suspended in whole or in part and the contractor may be declared ineligible for further Government contracts or federally assisted construction contracts in accordance with procedures authorized in Executive Order 11246 of September 24, 1965, and such other sanctions as may be imposed and remedies invoked as provided in Executive Order 11246 of September 24, 1965, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.
- (7) The contractor will include the portion of the sentence immediately preceding paragraph (1) and the provisions of paragraphs (1) through (7) in every subcontract or purchase order unless exempted by rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246 of September 24, 1965, so that such provisions will be binding upon each subcontractor or vendor. The contractor will take such action with respect to any subcontract or purchase order as the administering agency may direct as a means of enforcing such provisions, including sanctions for noncompliance: Provided, however, That in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or vendor as a result of such direction by the administering agency the contractor may request the United States to enter into such litigation to protect the interests of the United States."

4. Davis Bacon Act and Copeland Anti-Kickback Act.

- a. Applicability of Davis-Bacon Act. The Davis-Bacon Act only applies to the emergency Management Preparedness Grant Program, Homeland Security Grant Program, Nonprofit Security Grant Program, Tribal Homeland Security Grant Program, Port Security Grant Program, and Transit Security Grant Program. **It does not apply to other FEMA grant and cooperative agreement programs, including the Public Assistance Program.**
- b. All prime construction contracts in excess of \$2,000 awarded by non-Federal entities must include a provision for compliance with the Davis-Bacon Act (40

U.S.C. §§ 3141-3144 and 3146-3148) as supplemented by Department of Labor regulations at 29 C.F.R. Part 5 (Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction)). See 2 C.F.R. Part 200, Appendix II, ¶ D.

- c. In accordance with the statute, contractors must be required to pay wages to laborers and mechanics at a rate not less than the prevailing wages specified in a wage determination made by the Secretary of Labor. In addition, contractors must be required to pay wages not less than once a week.
- d. The non-Federal entity must place a copy of the current prevailing wage determination issued by the Department of Labor in each solicitation. The decision to award a contract or subcontract must be conditioned upon the acceptance of the wage determination. The non-Federal entity must report all suspected or reported violations to the Federal awarding agency.
- e. In contracts subject to the Davis-Bacon Act, the contracts must also include a provision for compliance with the Copeland “Anti-Kickback” Act (40 U.S.C. § 3145), as supplemented by Department of Labor regulations at 29 C.F.R. Part 3 (Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States). The Copeland Anti-Kickback Act provides that each contractor or subrecipient must be prohibited from inducing, by any means, any person employed in the construction, completion, or repair of public work, to give up any part of the compensation to which he or she is otherwise entitled. The non-Federal entity must report all suspected or reported violations to FEMA.
- f. The regulation at 29 C.F.R. § 5.5(a) does provide the required contract clause that applies to compliance with both the Davis-Bacon and Copeland Acts. However, as discussed in the previous subsection, the Davis-Bacon Act does not apply to Public Assistance recipients and subrecipients. **In situations where the Davis-Bacon Act does not apply, neither does the Copeland “Anti-Kickback Act.”** However, for purposes of grant programs where both clauses do apply, FEMA requires the following contract clause:

“Compliance with the Copeland “Anti-Kickback” Act.

- (1) Contractor. The contractor shall comply with 18 U.S.C. § 874, 40 U.S.C. § 3145, and the requirements of 29 C.F.R. pt. 3 as may be applicable, which are incorporated by reference into this contract.
- (2) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clause above and such other clauses as the FEMA may by appropriate instructions require, and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for the compliance by any subcontractor or lower tier subcontractor with all of these contract clauses.

(3) Breach. A breach of the contract clauses above may be grounds for termination of the contract, and for debarment as a contractor and subcontractor as provided in 29 C.F.R. § 5.12.”

5. Contract Work Hours and Safety Standards Act.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Where applicable (see 40 U.S.C. § 3701), all contracts awarded by the non-Federal entity in excess of \$100,000 that involve the employment of mechanics or laborers must include a provision for compliance with 40 U.S.C. §§ 3702 and 3704, as supplemented by Department of Labor regulations at 29 C.F.R. Part 5. See 2 C.F.R. Part 200, Appendix II, ¶ E.
- c. Under 40 U.S.C. § 3702, each contractor must be required to compute the wages of every mechanic and laborer on the basis of a standard work week of 40 hours. Work in excess of the standard work week is permissible provided that the worker is compensated at a rate of not less than one and a half times the basic rate of pay for all hours worked in excess of 40 hours in the work week.
- d. The requirements of 40 U.S.C. § 3704 are applicable to construction work and provide that no laborer or mechanic must be required to work in surroundings or under working conditions which are unsanitary, hazardous or dangerous. These requirements do not apply to the purchases of supplies or materials or articles ordinarily available on the open market, or contracts for transportation or transmission of intelligence.
- e. The regulation at 29 C.F.R. § 5.5(b) provides the required contract clause concerning compliance with the Contract Work Hours and Safety Standards Act:

“Compliance with the Contract Work Hours and Safety Standards Act.

- (1) Overtime requirements. No contractor or subcontractor contracting for any part of the contract work which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek.
- (2) Violation: liability for unpaid wages; liquidated damages. In the event of any violation of the clause set forth in paragraph (1) of this section the contractor and any subcontractor responsible therefor shall be liable for the unpaid wages. In addition, such contractor and subcontractor shall be liable to the United States (in the case of work

done under contract for the District of Columbia or a territory, to such District or to such territory), for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph (1) of this section, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph (1) of this section.

(3) Withholding for unpaid wages and liquidated damages. The (write in the name of the Federal agency or the loan or grant recipient) shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2) of this section.

(4) Subcontracts. The contractor or subcontractor shall insert in any subcontracts the clauses set forth in paragraph (1) through (4) of this section and also a clause requiring the subcontractors to include these clauses in any lower tier subcontracts. The prime contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs (1) through (4) of this section.”

6. Rights to Inventions Made Under a Contract or Agreement.

- a. Stafford Act Disaster Grants. This requirement **does not apply to the Public Assistance**, Hazard Mitigation Grant Program, Fire Management Assistance Grant Program, Crisis Counseling Assistance and Training Grant Program, Disaster Case Management Grant Program, and Federal Assistance to Individuals and Households – Other Needs Assistance Grant Program, as FEMA awards under these programs do not meet the definition of “funding agreement.”
- b. If the FEMA award meets the definition of “funding agreement” under 37 C.F.R. § 401.2(a) and the non-Federal entity wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of experimental, developmental, or research work under that “funding agreement,” the non-Federal entity must comply with the requirements of 37 C.F.R. Part 401 (Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements), and any implementing regulations issued by

FEMA. See 2 C.F.R. Part 200, Appendix II, ¶ F.

- c. The regulation at 37 C.F.R. § 401.2(a) currently defines “funding agreement” as any contract, grant, or cooperative agreement entered into between any Federal agency, other than the Tennessee Valley Authority, and any contractor for the performance of experimental, developmental, or research work funded in whole or in part by the Federal government. This term also includes any assignment, substitution of parties, or subcontract of any type entered into for the performance of experimental, developmental, or research work under a funding agreement as defined in the first sentence of this paragraph.
7. Clean Air Act and the Federal Water Pollution Control Act. Contracts of amounts in excess of \$150,000 must contain a provision that requires the contractor to agree to comply with all applicable standards, orders, or regulations issued pursuant to the Clean Air Act (42 U.S.C. §§ 7401-7671q) and the Federal Water Pollution Control Act as amended (33 U.S.C. §§ 1251-1387). Violations must be reported to FEMA and the Regional Office of the Environmental Protection Agency. See 2 C.F.R. Part 200, Appendix II, ¶ G.
- a. The following provides a sample contract clause concerning compliance for contracts of amounts in excess of \$150,000:

“Clean Air Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. § 7401 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.
- (3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.

Federal Water Pollution Control Act

- (1) The contractor agrees to comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251 et seq.
- (2) The contractor agrees to report each violation to the (name of the state agency or local or Indian tribal government) and understands and agrees that the (name of the state agency or local or Indian tribal

government) will, in turn, report each violation as required to assure notification to the (name of recipient), Federal Emergency Management Agency, and the appropriate Environmental Protection Agency Regional Office.

(3) The contractor agrees to include these requirements in each subcontract exceeding \$150,000 financed in whole or in part with Federal assistance provided by FEMA.”

8. Debarment and Suspension.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Non-federal entities and contractors are subject to the debarment and suspension regulations implementing Executive Order 12549, *Debarment and Suspension* (1986) and Executive Order 12689, *Debarment and Suspension* (1989) at 2 C.F.R. Part 180 and the Department of Homeland Security’s regulations at 2 C.F.R. Part 3000 (Nonprocurement Debarment and Suspension).
- c. These regulations restrict awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs and activities. See 2 C.F.R. Part 200, Appendix II, ¶ H; and *Procurement Guidance for Recipients and Subrecipients Under 2 C.F.R. Part 200 (Uniform Rules): Supplement to the Public Assistance Procurement Disaster Assistance Team (PDAT) Field Manual* Chapter IV, ¶ 6.d, and Appendix C, ¶ 2 [hereinafter *PDAT Supplement*]. A contract award must not be made to parties listed in the SAM Exclusions. SAM Exclusions is the list maintained by the General Services Administration that contains the names of parties debarred, suspended, or otherwise excluded by agencies, as well as parties declared ineligible under statutory or regulatory authority other than Executive Order 12549. SAM exclusions can be accessed at www.sam.gov. See 2 C.F.R. § 180.530; *PDAT Supplement*, Chapter IV, ¶ 6.d and Appendix C, ¶ 2.
- d. In general, an “excluded” party cannot receive a Federal grant award or a contract within the meaning of a “covered transaction,” to include subawards and subcontracts. This includes parties that receive Federal funding indirectly, such as contractors to recipients and subrecipients. The key to the exclusion is whether there is a “covered transaction,” which is any nonprocurement transaction (unless excepted) at either a “primary” or “secondary” tier. Although “covered transactions” do not include contracts awarded by the Federal Government for purposes of the nonprocurement common rule and DHS’s implementing regulations, it does include some contracts awarded by recipients and subrecipient.
- e. Specifically, a covered transaction includes the following contracts for goods or services:

- (1) The contract is awarded by a recipient or subrecipient in the amount of at least \$25,000.
- (2) The contract requires the approval of FEMA, regardless of amount.
- (3) The contract is for federally-required audit services.
- (4) A subcontract is also a covered transaction if it is awarded by the contractor of a recipient or subrecipient and requires either the approval of FEMA or is in excess of \$25,000.

- d. The following provides a debarment and suspension clause. It incorporates an optional method of verifying that contractors are not excluded or disqualified:

“Suspension and Debarment

- (1) This contract is a covered transaction for purposes of 2 C.F.R. pt. 180 and 2 C.F.R. pt. 3000. As such the contractor is required to verify that none of the contractor, its principals (defined at 2 C.F.R. § 180.995), or its affiliates (defined at 2 C.F.R. § 180.905) are excluded (defined at 2 C.F.R. § 180.940) or disqualified (defined at 2 C.F.R. § 180.935).
- (2) The contractor must comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C and must include a requirement to comply with these regulations in any lower tier covered transaction it enters into.
- (3) This certification is a material representation of fact relied upon by (insert name of subrecipient). If it is later determined that the contractor did not comply with 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C, in addition to remedies available to (name of state agency serving as recipient and name of subrecipient), the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment.
- (4) The bidder or proposer agrees to comply with the requirements of 2 C.F.R. pt. 180, subpart C and 2 C.F.R. pt. 3000, subpart C while this offer is valid and throughout the period of any contract that may arise from this offer. The bidder or proposer further agrees to include a provision requiring such compliance in its lower tier covered transactions.”

9. Byrd Anti-Lobbying Amendment.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. Contractors that apply or bid for an award of \$100,000 or more must file the required certification. See 2 C.F.R. Part 200, Appendix II, ¶ I; 44 C.F.R. Part 18; *PDAT Supplement*, Chapter IV, 6.c; Appendix C, ¶ 4.
- c. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or

attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant or any other award covered by 31 U.S.C. § 1352. Each tier must also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the non-Federal award. See *PDAT Supplement*, Chapter IV, ¶ 6.c and Appendix C, ¶ 4.

d. The following provides a Byrd Anti-Lobbying contract clause:

“Byrd Anti-Lobbying Amendment, 31 U.S.C. § 1352 (as amended)

Contractors who apply or bid for an award of \$100,000 or more shall file the required certification. Each tier certifies to the tier above that it will not and has not used Federal appropriated funds to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal contract, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose any lobbying with non-Federal funds that takes place in connection with obtaining any Federal award. Such disclosures are forwarded from tier to tier up to the recipient.”

APPENDIX A, 44 C.F.R. PART 18 – CERTIFICATION REGARDING LOBBYING

Certification for Contracts, Grants, Loans, and Cooperative Agreements

(To be submitted with each bid or offer exceeding \$100,000)

The undersigned [Contractor] certifies, to the best of his or her knowledge, that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

2. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or

cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

3. The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31, U.S.C. § 1352 (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

The Contractor, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the Contractor understands and agrees that the provisions of 31 U.S.C. § 3801 *et seq.*, apply to this certification and disclosure, if any.

Signature of Contractor's Authorized Official

Name and Title of Contractor's Authorized Official

Date"

10. Procurement of Recovered Materials.

- a. Applicability: This requirement applies to all FEMA grant and cooperative agreement programs.
- b. A non-Federal entity that is a state agency or agency of a political subdivision of a state and its contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act at 42 U.S.C. § 6962). See 2 C.F.R. Part 200, Appendix II, ¶ J; 2 C.F.R. § 200.322; *PDAT Supplement*, Chapter V, ¶ 7.
- c. The requirements of Section 6002 include procuring only items designated in guidelines of the EPA at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of

competition, where the purchase price of the item exceeds \$10,000 or the value of the quantity acquired by the preceding fiscal year exceeded \$10,000; procuring solid waste management services in a manner that maximizes energy and resource recovery; and establishing an affirmative procurement program for procurement of recovered materials identified in the EPA guidelines.

- d. The following provides the clause that a state agency or agency of a political subdivision of a state and its contractors can include in contracts meeting the above contract thresholds:

“(1) In the performance of this contract, the Contractor shall make maximum use of products containing recovered materials that are EPA-designated items unless the product cannot be acquired—

(i) Competitively within a timeframe providing for compliance with the contract performance schedule;

(ii) Meeting contract performance requirements; or

(iii) At a reasonable price.

(2) Information about this requirement, along with the list of EPA-designate items, is available at EPA’s Comprehensive Procurement Guidelines web site, <https://www.epa.gov/smm/comprehensive-procurement-guideline-cpg-program>.”

11. Additional FEMA Requirements.

- a. The Uniform Rules authorize FEMA to require additional provisions for non-Federal entity contracts. FEMA, pursuant to this authority, requires or recommends the following:

- b. Changes.

To be eligible for FEMA assistance under the non-Federal entity’s FEMA grant or cooperative agreement, the cost of the change, modification, change order, or constructive change must be allowable, allocable, within the scope of its grant or cooperative agreement, and reasonable for the completion of project scope. FEMA recommends, therefore, that a non-Federal entity include a changes clause in its contract that describes how, if at all, changes can be made by either party to alter the method, price, or schedule of the work without breaching the contract. The language of the clause may differ depending on the nature of the contract and the end-item procured.

- c. Access to Records.

All non-Federal entities must place into their contracts a provision that all contractors and their successors, transferees, assignees, and subcontractors acknowledge and

agree to comply with applicable provisions governing Department and FEMA access to records, accounts, documents, information, facilities, and staff. See DHS Standard Terms and Conditions, v 3.0, ¶ XXVI (2013).

d. The following provides a contract clause regarding access to records:

“Access to Records. The following access to records requirements apply to this contract:

(1) The contractor agrees to provide (insert name of state agency or local or Indian tribal government), (insert name of recipient), the FEMA Administrator, the Comptroller General of the United States, or any of their authorized representatives access to any books, documents, papers, and records of the Contractor which are directly pertinent to this contract for the purposes of making audits, examinations, excerpts, and transcriptions.

(2) The Contractor agrees to permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(3) The contractor agrees to provide the FEMA Administrator or his authorized representatives access to construction or other work sites pertaining to the work being completed under the contract.”

12. DHS Seal, Logo, and Flags.

- a. All non-Federal entities must place in their contracts a provision that a contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval. See DHS Standard Terms and Conditions, v 3.0, ¶ XXV (2013).
- b. The following provides a contract clause regarding DHS Seal, Logo, and Flags:
“The contractor shall not use the DHS seal(s), logos, crests, or reproductions of flags or likenesses of DHS agency officials without specific FEMA pre-approval.”

13. Compliance with Federal Law, Regulations, and Executive Orders.

- a. All non-Federal entities must place into their contracts an acknowledgement that FEMA financial assistance will be used to fund the contract along with the requirement that the contractor will comply with all applicable federal law, regulations, executive orders, and FEMA policies, procedures, and directives.
- b. The following provides a contract clause regarding Compliance with Federal Law, Regulations, and Executive Orders: “This is an acknowledgement that FEMA financial assistance will be used to fund the contract only. The contractor

Current as of 1-9-17

will comply with all applicable federal law, regulations, executive orders, FEMA policies, procedures, and directives.”

14. No Obligation by Federal Government.

- a. The non-Federal entity must include a provision in its contract that states that the Federal Government is not a party to the contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.
- b. The following provides a contract clause regarding no obligation by the Federal Government: “The Federal Government is not a party to this contract and is not subject to any obligations or liabilities to the non-Federal entity, contractor, or any other party pertaining to any matter resulting from the contract.”

15. Program Fraud and False or Fraudulent Statements or Related Acts.

- a. The non-Federal entity must include a provision in its contract that the contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to its actions pertaining to the contract.

The following provides a contract clause regarding Fraud and False or Fraudulent or Related Acts: “The contractor acknowledges that 31 U.S.C. Chap. 38 (Administrative Remedies for False Claims and Statements) applies to the contractor’s actions pertaining to this contract

EXHIBIT B

1) PLAN REVIEW SERVICES

a) General requirements

- i) All plan reviews that return a result other than "APPROVED" shall consist of a specific written description of deficiency(s) that reference Code section citations where applicable.
- ii) Disputes between the contract plans examiner and applicant shall be referred to the Building Official for examination upon the Contractor's request. Time to resolve disputes shall not be considered in the turn-around time of a plan review.

b) Plan review maximum turn-around time as per the below table:

PLAN REVIEW SERVICES

MAXIMUM REVIEW TURN-AROUND TIMES

Review type	Working Days*
Residential plan review maximum turn-around time	
Simple trade* permits	2
Complex trade permits	5
Remodel/renovation	5
Addition	5
Demolition	2
New Const	8
Commercial Plan Review maximum turn-around time	
Simple trade permits	2
Complex trade permits	5
Remodel/renovation	10
Addition	10
Demolition	5
New Const ≤ 5,000 SF up to two stories	10
New Const > 5,000 SF or > two stories	15
Re-check plan after initial review	
Residential – 2 working days	2
Commercial – 5 working days	5

* Working days exclude weekends and holidays.

** Trades include: Mechanical, Electrical, Plumbing, Fuel Gas, Roofing, Pool, Fire Sprinklers or Suppression.

2) INSPECTION SERVICES

a) General requirements

- i) Contractor shall not edit or alter any record other than to record the result of assigned inspections and to upload documentation and comments related to inspections assigned to the Contractor.
- ii) Contractor shall not create or add inspections to permit records.
- iii) Contractor shall not assign any inspections to staff or principals of the Contractor other than those already assigned by City staff to the Contractor.
- iv) Inspections with a result of CANCELLED shall not be invoiced. A reason for cancellation shall be recorded in the record.

- v) Inspections with a result of NO ACCESS WP, shall include a photo of the property front with the street number visible if possible.
- b) SCHEDULING of inspections
 - i) CONTRACTOR shall retrieve inspection assignments for each scheduled workday no later than 7:00am. Any scheduling conflicts must be reported to the City as soon as possible and in no case, later than 8:30am on the scheduled day.
 - (1) Note that next-day inspection requests are currently received and scheduled until 8:00 pm the day prior to the inspection. Any request received after 8:00pm will be scheduled for the second workday after the request is received. This may be subject to change by mutual agreement between the parties.
- c) PERFORMANCE of inspections
 - i) Results of inspections shall be posted to TRAKiT on the same day the inspection is performed.
 - ii) The inspector will provide a written description of deficiencies for any inspection that is not approved. This description should be in the REMARKS or NOTES section of the inspection result in TRAKiT.



Council Communication

To: Mayor and Village Council
From: Terry Abel, Fire Chief
Date: September 28, 2023
SUBJECT: **Resolution Approving Purchase of Three Personal Protective Gear Washer/Extractor Units Funded through FEMA Assistance to Firefighters Grant TAB 14**

Background:

Each year, the Department of Homeland Security ("DHS") through the Federal Emergency Management Agency ("FEMA") provides federal funding to fire departments, municipalities and EMS organizations through the Assistance to Firefighters ("AFG") Program to fulfill traditional missions of fire departments. The purpose of the AFG Program is to fund critically needed resources to equip and train emergency personnel, enhance efficiencies and support community resilience.

The Village applied for 2021 AFG funds in the amount of \$88,265.00 to purchase an Air Compressor/Cascade/Fill Station for self-contained breathing apparatus ("SCBA") at a cost of \$59,765.00 and three Personal Protective Equipment ("PPE") Extractor units, one for each fire station, at a total cost of \$28,500.00. The Village was selected to receive a FY 2021 AFG award for a total amount of \$84,061.90 with a local match amount of \$4,203.10.

On October 6, 2022, the Village Council adopted Resolution 22-10-105 approving Grant Award Agreement #EMW-2021-FG-07729 to fund the purchases described. The SCBA was procured through Village issued Request for Proposals ("RFP") 23-01 and the adoption of Resolution 23-03-18. The equipment has been ordered for delivery later this calendar year.

Analysis:

In accordance with Sec. 2-327(b) and (c)(4) of the Village's Purchasing Guidelines in the Village Code of Ordinances and with Contract Documents for federally funded projects, the Village issued Invitation to Bid ("ITB") 23-09 on May 31, 2023 to solicit proposals from qualified vendors for the purchase and installation of a PPE Washer/Extractor Units. In addition to the standard advertising of a Village bid, the document was emailed directly to known vendors that provide similar equipment to fire departments. No proposals were received in response to ITB 23-09 on or after the submittal deadline of July 5, 2023.

Village staff inquired with FEMA grant advisors regarding receiving no proposals and was informed that a cooperative purchase or "piggyback" agreement would satisfy the purchasing requirements of the AFG Grant. Village staff then sought an eligible source of for a piggyback purchase, identified Municipal Energy Services ("MES") and received a quote for the three extractor units for a total of \$25,166.00 including shipping costs. The cost is below the \$28,500.00 funding amount available through the grant.

Adoption of the proposed Resolution would approve the purchase of the three PPE Extractor Units from MES and authorize the Village Manager to expend budget funds for the purchase.

Budget Impact:

With actual equipment costs \$2,834.00 below the grant funded maximum amount, the Village will need to consult with the FEMA grant project administrator regarding an adjustment to the grant funding amount of \$88,265.00 and the local match amount of \$4,203.10. The FY 2023-2024 Capital Project Fund, Capital Outlay – Fire Rescue budget will be amended to add the actual cost of the purchases offset by the grant funding. The local match amount would be paid for with local government discretionary sales surtax, the primary revenue source of the Capital Project Fund.

Staff Impact:

The Fire Chief would finalize the purchase and oversee installation of the equipment. The Village's Procurement and Grants Administrator would ensure the Village complies with reporting requirements of the grant and would submit the Village's cost reimbursement request to FEMA by the deadlines.

Recommendation:

It is recommended that the Village Council adopt the proposed resolution thereby approving the the purchase PE Extractor Units from MES per the quote provided as Exhibit "1" to the proposed resolution.

Attachments: 1. Resolution with exhibits-Washer Extractor Units

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE PURCHASE OF PROTECTIVE PERSONAL EQUIPMENT EXTRACTOR UNITS FOR THE ISLAMORADA FIRE RESCUE DEPARTMENT; APPROVING THE WAIVER OF COMPETITIVE BIDDING; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") provides fire prevention, suppression, emergency management, emergency medical services, and hazmat operation response to the community through its Fire Rescue Department; and

WHEREAS, on October 6, 2022, the Village Council adopted Resolution No. 22-10-105 accepting Grant Award Agreement #EMW-2021-FG-07729 (the "Grant Agreement") from the Federal Emergency Management Agency ("FEMA") through the Assistance to Firefighters Grant ("AFG") program that provides funding for critically needed resources to equip and train emergency personnel, enhance efficiencies and support community resilience; and

WHEREAS, the specific equipment to be purchased through the Grant Agreement includes an Air Compressor/Cascade/Fill Station for self-contained breathing apparatus ("SCBA") and three Personal Protective Equipment ("PPE") Extractor units, one for each fire station (the "Project"); and

WHEREAS, the SCBA was procured through Village issued Request for Proposals ("RFP") 23-01 and the adoption of Resolution 23-03-18, and

WHEREAS, on May 31, 2023, the Village issued Invitation to Bid ("ITB") 23-09 to solicit proposals from qualified firms for the purchase and installation of the PPE Extractor Units (the "Purchase"); and

WHEREAS, no proposals were received in response to ITB 23-09; and

WHEREAS, the Village identified an existing contract with another municipal agency that would satisfy the purchasing requirements of the AFG Grant and received a quote for the Purchase in the amount of Twenty Five Thousand One Hundred Sixty Six and 00/100 Dollars (\$25,166.00); and

WHEREAS, the Purchase costs do not exceed the funding amount to be provided through Grant Award Agreement #EMW-2021-FG-07729 as approved and accepted by the Village Council; and

WHEREAS, the Village Council finds that approval of the Purchase from MES and the waiver of competitive bidding is in the best interest of the Village and its residents.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this Reference.

Section 2. **Approval of Purchase.** The Village Council hereby approves the Purchase from MES for an amount not to exceed Twenty Five Thousand One Hundred Sixty Six and 00/100 Dollars (\$25,166.00) per the quote attached hereto as Exhibit "1".

Section 3. **Approval of Waiver of Competitive Bidding.** In accordance with Sections 2-328(2) of the Village Code, the Village Council hereby approves the waiver of competitive bidding for the purchase from MES through an existing contract procured through a competitive bid by Lake County, Contract Number 22-730G, attached hereto as Exhibit "2".

Section 4. **Authorization of Fund Expenditures.** Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is hereby authorized to expend budgeted funds for the Purchase.



(877) 637-3473

Quote

Exhibit "1"

Quote # QT1723412
Date 09/12/2023
Expires 10/13/2023
Sales Rep Cool, Troy K
Shipping Method FedEx Ground
Customer ISLAMORADA FIRE RESCUE DEPARTMENT
Customer # C48432

Bill To

ISLAMORADA VILLAGE OF ISLANDS
86800 OVERSEAS HWY
Islamorada FL 33036

Ship To

Station 20
ISLAMORADA FIRE RESCUE
DEPARTMENT
81850 Overseas Hwy
Islamorada FL 33036
United States

Item	Alt. Item #	Units	Description	QTY	Unit Price	Amount
EW30			Extractor 30	3	\$7,822.00	\$23,466.00

Freight & lift gate included

Pricing per Lake County Contract #22-730G

Subtotal \$23,466.00

Shipping Cost \$1,700.00

Tax Total \$0.00

Total \$25,166.00

This Quotation is subject to any applicable sales tax and shipping and handling charges that may apply. Tax and shipping charges are considered estimated and will be recalculated at the time of shipment to ensure they take into account the most current information.

All returns must be processed within 30 days of receipt and require a return authorization number and are subject to a restocking fee.

Custom orders are not returnable. Effective tax rate will be applicable at the time of invoice.



QT1723412



EW30

INTRODUCING EXTRACTOR

EW30

- ✓ Meets NFPA 1851:2020 Requirements
- ✓ Front load design
- ✓ Commercial quality construction
- ✓ 30 lb capacity / 3-4 sets of gear
- ✓ Automatic soap dispenser compatible**
- ✓ Utilizes standard plumbing hookups
- ✓ Requires only 120v electrical
- ✓ Soft-mount design, easy install
- ✓ Easy to use, preprogrammed wash cycles
- ✓ Dimensions: 29.0" L x 32.0" D x 40.8" H
- ✓ Weight: 221.0 lbs

ELECTRICAL SPECIFICATIONS:

120V/60HZ - Recommended Breaker - 20 amp



*Extractor color may vary slightly

Part #	Shipping Dimensions	Shipping Weight
EW30	40.0" L x 48.0" D x 51.0"H*	300.0 lbs*

*Shipping dimensions and weight subject to change

**Not Included

FOLLOW US AT:



☎ 800.991.2120

✉ SALES@GROVES.COM

🌐 WWW.READYRACK.COM

📍 818 TRAKK LN, WOODSTOCK, IL 60098





PRODUCT INFORMATION SHEET

PRODUCT NAME: Extractor Washer 30LB

PRODUCT NUMBER(S): EW30: Grey

SIZE: 29.0" L x 32.0" D x 40.8" H
Depth with door open: 53.9"

73.6 cm L x 81.2 cm D x 103.6 cm H
Depth with door open: 136.9 cm

WEIGHTS: 221.0 lbs
100.2 kg

DESCRIPTION: *Commercial Extractor tumbles PPE gear with a front load design and soft mount installation.*

PRODUCT INFO:

- Can wash 6 pieces of turnout gear per load
- Runs on 120 volts (watts per load: 110-160 watt hours)
- Stainless steel inner tub (capacity: 5.2 cu. Ft)
- Easy soft-mount installation
- With fewer overall moving parts; Promotes longer life expectancy
- Meets NFPA 1851:2020 Requirements
- Complete with manual /manufacturer's warranty
- Hot and Cold hoses come with unit
- Spin Cycle G-Force: Under 100 Gs
- A backflow preventer is built into the supply dispenser
- GFCI protected outlet compatible

WASH CYCLES:

BLOOD BOURNE: Use for hot water washing of heavily soiled clothing.
Cycle: Total time - 27 minutes

OUTER SHELLS: Use for warm washing for heavy external fabrics.
Cycle: Total time - 50 minutes

COLD: Use for cold washing for sturdy fabrics, such as in station clothing.

Cycle: Total time - 44 minutes

LINERS: Use for warm washing internal fabrics.

Cycle: Total time - 44 minutes

SUPER WASH: Use for heavier soiled fabrics.

Cycle: Total time – 57 minutes

Water usage on average will be about 7 gallons for the Blood Borne cycle and 13-17 gallons for the other cycles. This will vary depending on water absorption of the fabric.

Hot/Cold Water Lines: 3/4" Coupling x 60" L

SHIPPING INFORMATION:

Groves Incorporated

818 Trakk Ln

Woodstock, IL 60098

SHIPPING DIMENSIONS: 40.0" L x 48.0" D x 51.0" H

101.6 cm L x 121.9 cm D x 129.5 cm H

SHIPPING WEIGHT: 300.0 lbs

136.0 kg

MANUFACTURED BY:

LG Commercial

**MODIFICATION OF CONTRACT**

Modification Number: Two (2) Effective Date: 8/1/2023	Contract Number: 22-730G Title: Fire Equipment, Supplies, and Services Effective Date: 08/01/2022
Contracting Officer: Gretchen Bechtel, CPPB E-mail: gretchen.bechtel@lakecountyfl.gov Telephone Number: 352-343-9765	Contractor Name and Address: Name: Municipal Emergency Services, Inc Address: 12 Turnberry Ln, 2nd Floor City: Sandy Hook, CT 06482 ATTENTION: jrobinson@mesfire.com; rmclester@mesfire.com
Issued By: Procurement Services Lake County Administration Building 315 W. Main St., Suite 441 Tavares, Florida 32778-7800	
INSTRUCTIONS: Contractor shall sign Signature Block showing acceptance of the below written modification and <u>return this form to Procurement Services within ten (10) days after receipt.</u> Once fully executed, a copy of this modification will be returned to the Contractor to attach to the original Contract.	
DESCRIPTION OF MODIFICATION: Contract modification to extend the agreement for two annual terms to expire on 07/31/2025.	
CONTRACTOR SIGNATURE BLOCK Signature: <u>Ward Petrie</u> Print Name: <u>Ward Petrie</u> Title: <u>SVP Finance</u> Date: <u>4/10/23</u> E-mail: <u>wpetrie@mesfire.com</u> Secondary E-mail: _____	LAKE COUNTY SIGNATURE BLOCK Signature: _____ Print Name: Gretchen Bechtel, Title: Contracting Officer II Date: _____ Digitally signed by Gretchen Bechtel, Contracting Officer II Date: 2023.04.11 07:59:40 -04'00'
Distribution: Original – Bid File Copy – Contractor Contracting Officer	



MODIFICATION OF CONTRACT

Modification Number: One (1) Effective Date: 9/13/2022	Contract Number: 22-730G Title: Fire Equipment, Supplies, and Services Effective Date: 08/01/2022
Contracting Officer: Gretchen Bechtel, CPPB E-mail: gretchen.bechtel@lakecountyfl.gov Telephone Number: 352-343-9765	Contractor Name and Address: Name: Municipal Emergency Services, Inc Address: 12 Turnberry Ln, 2nd Floor City: Sandy Hook, CT 06482 ATTENTION: jrobinson@mesfire.com; rmclester@mesfire.com
Issued By: Procurement Services Lake County Administration Building 315 W. Main St., Suite 441 Tavares, Florida 32778-7800	
INSTRUCTIONS: Contractor shall sign Signature Block showing acceptance of the below written modification and <u>return this form to Procurement Services within ten (10) days after receipt</u> . Once fully executed, a copy of this modification will be returned to the Contractor to attach to the original Contract.	
DESCRIPTION OF MODIFICATION: Contract modification to add the highlighted manufacturers and pricing per the attached.	
CONTRACTOR SIGNATURE BLOCK Signature: _____ Print Name: <u>Jamie Robinson</u> Title: <u>Regional Vice President</u> Date: <u>9/13/22</u> E-mail: <u>jrobinson@mesfire.com</u> Secondary E-mail: _____	LAKE COUNTY SIGNATURE BLOCK Signature: _____ Print Name: Gretchen Bechtel, CPPB, Title: Contracting Officer II Date: _____ Digitally signed by Gretchen Bechtel, CPPB, Contracting Officer II Date: 2022.09.15 08:19:49 -04'00'
Distribution: Original – Bid File Copy – Contractor Contracting Officer	

<i>Municipal Emergency Services</i>			
ITEM #	SAVE AND SUBMIT AS AN EXCEL FILE		
1	www.mesfire.com		
	SHOP LOCATION		
2a	3789 62 Ave North Pinellas Park FL 33781		
2b	Jamie Robinson		
2c	Labor for Equipment Repair (not under warranty)	\$0.00	per hour
2d	Pickup or delivery services offered?	Yes	
2e	Pick up / delivery fee for Equipment	\$0.00	per call

The following information is required for price redetermination consideration.

Assuming prices quoted include costs for vehicles, maintenance, repair, insurance, fuel, wages, insurances, other employee benefits, materials, overhead, operating expenses, etc., what percentage of the rate is directly attributed to the cost of fuel?	0
Which does the firm use: Diesel fuel or Gasoline?	
Assuming prices quoted include costs for vehicles, maintenance, repair, insurance, fuel, wages, materials, overhead, operating expenses, etc., what percentage of the rate is directly attributed to the cost of wages?	0
Assuming prices quoted include costs for vehicles, maintenance, fuel, wages, insurances, other employee benefits, materials, overhead, operating expenses, etc., what percentage of the rate is directly attributed to the cost of materials?	0

Lake County is exempt from all taxes (Federal, State, Local). A Tax Exemption Certificate will be furnished upon request for any direct purchasing. Contractor will be responsible for payment of taxes on all materials purchased by the Contractor for the project.

LIST MANUFACTURER SUPPORTED.

3	MANUFACTURER	Hourly Service Rate	Factory Authorized Service Center? YES/NO
	Hurst ED/EWXT/E3 service - per tool	\$250.00	Yes
	Hurst High Pressure service - per tool	\$140.00	Yes
	Hurst Low Pressure service - per tool	\$140.00	Yes
	Hurst High Pressure pump service - per pump	\$525.00	Yes
	Hurst Low Pressure pump service - per pump	\$525.00	Yes
	Hurst extension hose - flush	\$125.00	Yes
	Hurst extension hose - visual inspection	\$50.00	Yes
	Hurst cord reel - flush	\$175.00	Yes
	Hurst cord reel - visual inspection	\$50.00	Yes
	Hurst non warranty repairs - labor rate per hour	\$160.00	Yes
	Lift bag set inspection (1 regulator, 1 controller, hoses)	\$100.00	Yes

[illegible]

<i>Municipal Emergency Services</i>				
SAVE AND SUBMIT AS AN EXCEL FILE				
FIRM'S WEBSITE:		www.mesfire.com		
Warehouse Location(s):	3789 62nd Avenue North Pinellas Park, FL 33781 AZ, CA, CO, CT, IL, IN, MD, MI, NC, NE, NY, TX, WA			
Contact Information For Emergency/Disaster Services (24/7)				
Name:		Jamie Robinson		
Email:		jrobinson@mesfire.com		
Emergency Phone:		727-686-0020		
List manufacturer brands supported.				
MANUFACTURER	Percent Off List	In Stock / Lead Time	Freight Included	WEBSITE
3M Company	15%		No	
5.11	20%		No	
Able 2 Sho Me	10%		No	
Action	25%		No	
AH Stock	10%		No	
Ajax	5%		No	
Akron Brass	20%		No	
Alcolite (Sam Carbis)	10%		No	
Amerex	List+10%		No	
American Firewear	15%		No	
Anchor Industries	10%		No	
Angus	20%		No	
Ansul Foam	15%		No	
Avon Manufacturing	5%		No	
B&B Enterprises	15%		No	
Bates (Wolverine)	10%		No	
Bayco/NightStick	10%		No	
Black Diamond	15%		No	
Blackinton	10%		No	
Blauer	List		No	
Boston Leather	20%		No	
Bullard - helmets	20%		No	
Bullard - other	10%		No	
CET Pumps	15%		No	
Chemguard	10%		No	
Circul Air	List		No	
CMC Rescue	10%		No	
Code 3	20%		No	
Collins Dynamics (Rom Corp)	22%		No	

Council Tools	20%		No	
Crew Boss	20%		No	
Danner/LaCrosse	5%		No	
Decon Systems (Saunaray)	List		No	
Dicke Tool	15%		No	
Dragonfire (J Scott Solutions)	20%		No	
DuPont	5%		No	
Dutyman	5%		No	
Eastern Fire Equipment Services	5%		No	
Edison	20%		No	
Edwards & Cromwell	10%		No	
Edwards MFG	10%		No	
Elbeco	5%		No	
Elkhart Brass	20%		No	
Energizer	List		No	
Ergodyne	20%		No	
ESS	20%		No	
Euramco	15%		No	
EVAC Systems	5%		No	
Fechheimer/Flying Cross	5%		No	
Federal Signal Corp	20%		No	
Fire Hooks Unlimited	List+10%		No	
Fire Innovations	10%		No	
Fire Research (FRC)	15%		No	
Fire Soaps	5%		No	
Fire Wipes	5%		No	
Firecom	5%		No	
Firecraft - gloves	10%		No	
Firecraft - Sensit	5%		No	
Fire-Dex	10%		No	
First Tactical	10%		No	
Flamefighter	20%		No	
Fol-Da-Tank	20%		No	
Foxfire	10%		No	
FoxFury	10%		No	
Fresh Gear	5%		No	
FSI North America	List		No	
Gemtor	20%		No	
GH Armor	Per NASPO		No	
Glassmaster Wehr	15%		No	
Grace Industries	List		No	
Groves/Ready Rack	List		No	
Hale Fire Pumps	List		No	
Hammerhead (Gear Keeper)	15%		No	
Hannay Reels	10%		No	
Harrington	25%		No	
Hebert	List		No	
Hero Wipes	5%		No	
Hero's Pride	5%		No	
HexArmor	15%		No	
Homeland 6 (H6 Tactical)	10%		No	
Honeywell - boots	10%		No	
Honeywell - helmets & parts	10%		No	

Honeywell Analytics	List+5%		No	
Honeywell/Morning Pride - PPE	10%		No	
Hot Shields	5%		No	
Hotstick	List		No	
Humat	List		No	
Hurst	5%		No	
Husky	25%		No	
Hydra Shield	12%		No	
Industrial Scientific - accessories	List		No	
Industrial Scientific - monitors	10%		No	
J-Tek/CMJ manufacturing	List		No	
Justrite	20%		No	
Kappler	List		No	
Kochek	25%		No	
Koehler Mfg	20%		No	
Kroll	10%		No	
Kussmaul	List		No	
Lakeland	10%		No	
Leatherhead Tools	20%		No	
Lightning X	10%		No	
Lion Uniforms	10%		No	
Little Giant	5%		No	
Mag Instruments	10%		No	
Majestic Hoods	20%		No	
Majestic Hoods - Gore	List		No	
Makita	List		No	
Matex	15%		No	
Mechanix Gloves	10%		No	
Mustang Survival	10%		No	
Natale (Circle D)	15%		No	
National Foam	5%		No	
National River Supply (NRS)	10%		No	
Norco Gas	List		No	
NUPLA	15%		No	
OHD	List		No	
Pacific Helmets	5%		No	
Pacific Reflex	15%		No	
Paul Conway Shields	10%		No	
Pelican	List+10%		No	
Performance Advantage Company (PAC)	10%		No	
Petzl	20%		No	
PGI	5%		No	
Pigeon Mountain Industries (PMI)	10%		No	
Plastix Plus	5%		No	
PMI Rope	10%		No	
Point Blank	Per NASPO		No	
Propper	5%		No	
Protective Industrial Products (PIP)	10%		No	
R&B Fabricators	10%		No	
Radians	10%		No	
RAE Systems	5%		No	
Redback Boots	15%		No	
Rescue 42	5%		No	

Rescue Technology	5%		No	
RevolveAir	List		No	
Rice Hydro	10%		No	
Ringers	List		No	
RIT Safety Solutions	10%		No	
Rock N Rescue	10%		No	
Royce Shields	5%		No	
Salomon	10%		No	
Samuel Broome	5%		No	
San Mar	10%		No	
Savox	List		No	
SCBAS	15%		No	
Scott Safety- gas detection	5%		No	
Scott Safety- SCBA and parts	List		No	
Scott Safety- thermal imager parts	List		No	
Scott Safety- thermal imagers	5%		No	
Scotty Firefighter	15%		No	
Seek Thermal	5%		No	
Sensible Mounts	15%		No	
Shelby Gloves	List		No	
Silent Partner Technologies	List		No	
Simulaids	List		No	
SM Smith	5%		No	
Snap Tite/All-American/Firequip	10%		No	
Solutions Safety (Citrosqueeze)	5%		No	
South Park	20%		No	
Spiewak	5%		No	
Stallion Air	List		No	
Statpacks	10%		No	
Steck	10%		No	
Sterling Rope	15%		No	
Streamlight	15%		No	
Supervac	5%		No	
Survival Armor	Per NASPO		No	
Target Solutions	List		No	
Task Force Tips (TFT)	5%		No	
Task Force Tips- Blitzfire/G-Force Series	List		No	
Team Equipment	List		No	
Team Wendy	List		No	
Teledyne	5%		No	
Teelite	5%		No	
Tempest - VS series batteries & access.	List+5%		No	
Tempest/Leader Fans	10%		No	
Thorogood/Weinbrenner boots	15%		No	
TNT Tools	10%		No	
Topps	List+10%		No	
True North	10%		No	
Tru-Spec	10%		No	
Turtle Plastics	List		No	
Tyco	10%		No	
UltraTec Special Effects	15%		No	
Under Armour	5%		No	
Underwater Kinetics	List		No	

Various mfgs - compressor service parts	5%		No	
Veridian - PPE	25%		No	
Veridian- gloves, hoods, accessories	10%		No	
Vetter	List		No	
VF Imagewear	5%		No	
Vizcon	List		No	
Warthog	5%		No	
Waterous	List		No	
Weldon	25%		No	
Whelen Engineering	15%		No	
Williams Foam	List		No	
Workrite	10%		No	
Yates	5%		No	
Zephyr	List		No	
Ziamatic/Zico	List		No	



CONTRACT NO. 22-730G
For
Fire Equipment, Supplies, and Services

LAKE COUNTY, FLORIDA, a political subdivision of the State of Florida, through its Board of County Commissioners (hereinafter "County") does hereby accept, with noted modifications, if any, the bid of **Municipal Emergency Services, Inc.** (hereinafter "Contractor") to supply **Fire Equipment, Supplies, and Services** to the County pursuant to County Bid number 22-730 with any included addenda (hereinafter "Bid"), with an opening date of 4/28/2022, and Contractor's Bid response dated 4/25/2022, thereto with all County Bid provisions governing.

A copy of the Contractor's signed Bid is attached hereto and incorporated herein, thus making it a part of this Contract except that any items not awarded have been struck through. The attachments noted below (if any) are attached hereto and are also made a part of this Contract.

ATTACHMENTS:

Addendum 1 & 2, Exhibit A – Scope of Work, Exhibit B – Insurance Requirements, Attachment 1 – Submittal Form with General Terms & Conditions acceptance, Attachment 2 – Pricing Sheet

No financial obligation under this Contract shall accrue against the County until a specific purchase transaction is completed pursuant to the terms and conditions of this Contract.

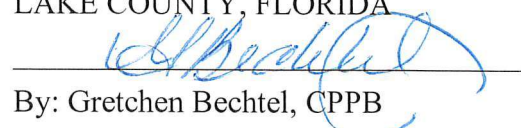
Contractor shall submit the documents hereinafter listed prior to commencement of this Contract: N/A

The County's Procurement Services Director shall be the sole judge as to the fact of the fulfillment of this Contract, and upon any breach thereof, shall, at his option, declare this Contract terminated, and for any loss or damage by reason of such breach, whether this Contract is terminated or not, said Contractor and their surety for any required bond shall be liable.

This Contract is effective from 8/1/2022 through 7/31/2023, except the County reserves the right to terminate this Contract immediately for cause and/or lack of funds and with thirty (30) day written notice for the convenience of the County. This Contract provides for two (2) two (2) year renewals at Lake County's sole option at the terms noted in the Bid.

Any and all modifications to this Contract must be in writing signed by the County's Procurement Services Director.

LAKE COUNTY, FLORIDA


By: Gretchen Bechtel, CPPB

Contracting Officer II

Date: 07/26/2022

Distribution: Original-Bid File
Copy-Contractor
Copy-Department



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: **Resolution Approving One Year Extension to GrayRobinson Agreement for State Lobbying Services TAB 15**

Background:

Since 2012, Village officials made frequent visits to Tallahassee and Washington D.C. to lobby for Islamorada's interests, especially with regard to wastewater matters and wastewater funding. In 2013, Florida Keys municipalities and entities began working collectively to lobby for the remaining \$150 million Mayfield Grant funding and entered into a mutually agreed upon State Wastewater Funding Distribution Agreement. Capitol Insight represented Monroe County's interests in the State Capitol and was uniquely familiar with the State Wastewater Funding Distribution Agreement.

On October 13, 2013, the Village entered into an Agreement for Professional State Lobbying Services with Capitol Insight; The Agreement authorized successive one-year renewals and was renewed for additional years with approval of the First and Second Amendments to the Agreement in 2014 and 2015.

During the 2016 legislative session, the lobbying efforts of Capitol Insight were essential to the Village successfully securing funding through the passage of the Florida Keys Stewardship Act ("FKSA"). In May 2016, Capitol Insight joined with GrayRobinson, P.A. ("GrayRobinson") a full-service law firm with fifteen (15) offices throughout the State of Florida. GrayRobinson proposed to continue to provide the Village with the same scope of lobbying services as did Capitol Insight.

In September 2016, the Village Council adopted Resolution No. 16-09-65, originally approving an Agreement with GrayRobinson, P.A. for professional state lobbying services, which authorized successive one-year renewals. The GrayRobinson agreement was renewed 5 times.

On September 15, 2023, the Village Council adopted Resolution No. 22-09-98 approving a new agreement with GrayRobinson which also authorizes successive one-year renewals ("Agreement").

Analysis:

GrayRobinson's government relations and lobbying practice is the largest such practice of any law firm in Florida and one of the largest groups of legislative and executive branch lobbyists in the State of Florida. GrayRobinson engages a full staff of professional lobbyists with experience and expertise to achieve results for the Village.

State lobbying efforts during the 2024 Florida Legislative Session are considered essential to the Village and the Florida Keys. GrayRobinson is expected to work closely with Village staff in promoting legislation to address environmental and water quality issues facing the Village, including funding, land acquisition, canal restoration and stormwater infrastructure.

A renewal of the Agreement provides for the same scope of services, specifically, consulting and representing the Village's interests before the Florida Legislature and any executive branch, body and other agencies and governmental entities (the "Services"). The scope is not limited, thereby allowing the Village to benefit from the broad knowledge of GrayRobinson's professional lobbyists. Renewal of the Agreement would continue the Services for an additional one (1) year term through September 30, 2024.

Budget Impact:

The Village's adopted 2023-2024 Budget already includes \$110,000.00 in the Village Council Professional Services budget for lobbying services. Authorized travel and other authorized expenses would be reimbursed as provided for in the Agreement, also through the Village Council Professional Services operating budget.

Staff Impact:

The Village Attorney and the Village Manager would continue to consult and work with the lobbyist regarding legislative issues.

Recommendation:

It is recommended that the Village Council adopt the attached resolution, thereby approving a one-year renewal of the Agreement.

- Attachments:**
1. 451939602-Resolution-Lobbyist GrayRobinson 2023
 2. Exhibit 1 - Gray Robinson_Lobbying Svcs_FY22-23 (fully executed)

RESOLUTION NO.

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A ONE YEAR RENEWAL OF THE AGREEMENT FOR PROFESSIONAL STATE LOBBYING SERVICES BETWEEN GRAYROBINSON, P.A. AND ISLAMORADA, VILLAGE OF ISLANDS; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE PROFESSIONAL SERVICES AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE PROFESSIONAL SERVICES AGREEMENT; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") has engaged the services of a professional state lobbying firm since April 2010; and

WHEREAS, on September 15, 2023, the Village Council adopted Resolution No. 22-09-98, approving an agreement with GrayRobinson, P.A. for professional state lobbying services (the "Agreement"); and

WHEREAS, state lobbying efforts during the 2024 Florida Legislative Session will be essential to the Village and the Florida Keys; and

WHEREAS, GrayRobinson's government relations and lobbying practice is the largest such practice of any law firm in Florida and one of the largest groups of legislative and executive branch lobbyists in the state; and

WHEREAS, GrayRobinson engages a full staff of professional lobbyists with experience and expertise to achieve results for the Village; and

WHEREAS, GrayRobinson desires to continue to provide the same scope of lobbying services to the Village as under the current agreement with GrayRobinson, specifically, consulting and representing the Village's interests before the Florida Legislature and any executive branch, body and other agencies and governmental entities (the "Services"); and

WHEREAS, the term of the current agreement with GrayRobinson runs through September 30, 2023; and

WHEREAS, the Village and GrayRobinson desire to renew the Agreement for an additional one (1) year, commencing on October 1, 2023, in an amount not to exceed \$108,000.00 annually (the "Agreement"); and

WHEREAS, Section 2-328(1) of the Village Code provides that competitive bidding requirements may be waived by the Village Council upon a finding that the purchase of the goods or services without competitive bidding is in the best interests of the Village; and

WHEREAS, the Village Council finds that a one (1) year renewal of the Agreement with GrayRobinson, attached as Exhibit 1, and a waiver of competitive bidding for the Services to be provided is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and incorporated into this Resolution by this reference.

Section 2. Approval of Agreement Renewal. The Village Council hereby approves a one (1) year renewal of the Agreement for Professional State Lobbying Services, a copy of which is attached as Exhibit 1.

Section 3. Authorization of Village Officials. The Village Manager and/or his/her designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

Section 4. Authorization of Fund Expenditure. Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is authorized to expend budgeted funds to implement the terms and conditions of the Agreement.

Section 5. **Waiver of Competitive Bidding.** In accordance with Section 2-328(1) of the Village Code, the Village Council waives the competitive bidding purchasing provision of the Village Code.

Section 6. **Effective Date.** This Resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 28th day of September, 2023.

Motion to adopt by _____. Seconded by _____.

Remainder of this page intentionally left blank.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III ___
Vice Mayor Sharon Mahoney ___
Councilman Mark Gregg ___
Councilwoman Elizabeth Jolin ___
Councilman Henry Rosenthal ___

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, VILLAGE ATTORNEY

**PROFESSIONAL STATE LOBBYING CONSULTING SERVICES AGREEMENT
BETWEEN
ISLAMORADA, VILLAGE OF ISLANDS
AND
GRAYROBINSON, P.A.**

THIS AGREEMENT is made between GRAYROBINSON, P.A., a Florida Corporation, (the "Consultant"), and **ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA**, a Florida municipal corporation (the "Village").

WHEREAS, the Consultant and the Village, through mutual negotiation, have agreed upon Scope of Services and Fee for Professional State Lobbying Services for the Village as set forth and incorporated herein; and

WHEREAS, the Village desires to engage the Consultant to perform the Services specified below.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, the Consultant and the Village agree as follows.

1. **Scope of Services (the "Services").**

- 1.1 The Consultant agrees to provide consulting and representative services for the Village before the Florida Legislature, the executive branch of the Florida Government and various regional and governmental entities.
- 1.2 Specifically, the Consultant shall provide the following Services.
 - 1.2.1 Assist the Village in developing a wastewater oriented legislative program.
 - 1.2.2 Monitor and report on all programs of interest to the Village, especially those related to wastewater funding matters.
 - 1.2.3 Represent the Village's interests before the Florida Legislature and any executive branch, body and/or other entity that could be of benefit to the Village's interests.
 - 1.2.4 Monitor and track all legislation of interest to the Village.
 - 1.2.5 Provide reports no less than weekly during the legislative sessions and periodic reports as appropriate during non-session months to the Village Manager and Village Attorney on all legislation being tracked. During the legislative session, more frequent reports may be

provided on specific bills identified by the Consultant as having a direct impact on the Village. All such reports shall be sent electronically.

1.2.6 Host Village officials who visit Tallahassee on Village business and arrange all necessary and appropriate meetings.

1.2.7 Attend staff meetings, workshops or Council meetings in Islamorada at the Village Manager's request.

2. Terms/Commencement Date.

2.1 Unless otherwise terminated pursuant to Section 4, this Agreement shall be effective October 1, 2022 and shall continue through September 30, 2023 (the "Term").

2.2 Notwithstanding the above defined Term, the Village Council may, at any time, conduct a review of the Consultant's performance and may elect to terminate the Agreement in accordance with Section 4.1.

2.3 The Village shall have an option to extend the term of this Agreement for successive one (1) year periods (the "Renewal Terms(s)).

2.4 Each Renewal Term shall be effective upon receipt of a written notice from the Village Manager to the Consultant, received no later than the date of expiration of the current Term or Renewal Term.

3. Compensation and Payment.

3.1 For all of the Services provided by the Consultant as described in Section 1, the Village shall pay the Consultant compensation of One Hundred and Eight Thousand Dollars (\$108,000.00) for the Term payable monthly in twelve (12) equal payments of Nine Thousand Dollars (\$9,000.00). Compensation for any Renewal Term shall be by mutual written agreement of the parties.

3.2 The Consultant shall additionally be entitled to reimbursement of reasonable expenses, including travel expenses and lobbyist registration fees incurred directly on behalf of the Village, provided that any such expense is first approved in writing by the Village Manager.

3.3 The Consultant shall remit monthly invoices for services rendered and shall include any approved travel reimbursements with appropriate receipts for the same to document the expense.

3.4 Compensation to the Consultant shall be payable in accordance with the Florida Prompt Payment Act in Chapter 218, Florida Statutes.

4. Termination.

4.1 Notwithstanding the provisions of Section 2, either party may terminate this Agreement at any time upon thirty (30) days advance written notice to the other party.

4.2 In the event of such termination, the Village shall be obligated to the Consultant only for the pro-rated monthly compensation incurred prior to the termination date.

5. Insurance.

5.1 The Consultant shall secure and maintain throughout the duration of this Agreement insurance of such types and in such amounts as specified below naming the Village as an additional insured entity, underwritten by a firm qualified to do business in the State of Florida and have agents upon whom service of process may be made in the State of Florida. The insurance coverage shall include a minimum of the following.

5.1.1 Commercial General Liability. Commercial general liability insurance with limits of liability not less than One Million Dollars (\$1,000,000.00).

5.1.2 Worker's Compensation and Employer's Liability Insurance. Worker's Compensation Insurance for statutory limits as required by applicable State and Federal laws.

5.1.3 Employer's Liability Insurance. Employer's Liability Insurance shall be provided at the statutory coverage amount with a minimum of One Hundred Thousand Dollars (\$100,000.00) per accident. The Consultant shall agree to be responsible for the employment, conduct and control of its employees and for any injury sustained by such employees in the course of their employment.

5.2 Certificates of insurance shall be provided to the Village at the time of execution of this Agreement as well as certified copies, as requested. Each policy certificate shall be endorsed with a provision that not less than thirty (30) calendar days' written notice shall be provided to the Village before any policy or coverage is cancelled or restricted.

6. Nondiscrimination.

6.1 During the term of this Agreement, the Consultant shall not discriminate against any of its employees or applicants for employment because their race, color, religion, sex, or national origin, and agrees to abide by all Federal and State laws regarding nondiscrimination.

7. Waiver of Jury Trial.

7.1 In the event of any litigation arising out of this Agreement, each party hereby knowingly, irrevocably, voluntarily and intentionally waives its right to a trial by jury.

8. Indemnification.

8.1 The Consultant shall defend, indemnify and hold harmless the Village, its officers, agents and employees, from and against any and all demands, claims, losses, suits, liabilities, causes of action, judgment or damages, directly caused by the Consultant's negligent acts, errors, or omissions in the performance or non-performance of any provisions of this Agreement, including but not limited to, liabilities arising from contracts between the Consultant and its employees, volunteers or agents. The Consultant shall reimburse the Village for all its expenses including reasonable attorneys' fees and costs incurred in and about the defense of any claim or investigation and for any judgment or damages directly caused by the Consultant's negligent acts, errors, or omissions in the performance or non-performance of this Agreement.

8.2 Nothing in this Agreement shall be deemed or treated as a waiver by the Village of any immunity to which it is entitled by law, including but not limited to the Village's sovereign immunity as set forth in Section 768.28, Florida Statutes.

8.3 The provisions of this Section shall survive termination of this Agreement.

9. Notices/Authorized Representatives.

9.1 Any notices required by this Agreement shall be in writing and shall be deemed to have been properly given if transmitted by hand-delivery, by private postal service or by registered or certified mail with postage prepaid return receipt requested, addressed to the parties (or their successors) at the following addresses.

For The Village: Village Manager
Islamorada, Village of Islands, Florida
86800 Overseas Highway
Islamorada, Florida 33036

For The Consultant: Dean Cannon, Executive Vice-President
and Statewide Chairman of Government Affairs
GrayRobinson, P.A.
301 South Bronough Street
Suite 500
Tallahassee, Florida 32301

10. Governing Law.

10.1 This Agreement shall be construed in accordance with and governed by the laws of the State of Florida. Exclusive venue for any litigation arising out of this Agreement shall be in Monroe County, Florida, Upper Keys Division of the Circuit Court or, if in Federal Court, the Southern District of Florida.

11. Entire Agreement/Modification/Amendment.

11.1 This writing contains the entire Agreement of the parties and supersedes any prior oral or written representations. No representations were made or relied upon by either party, other than those that are expressly set forth herein.

11.2 No agent, employee, or other representative of either party is empowered to modify or amend the terms of this Agreement, unless executed with the same formality as this Agreement.

12. Ownership and Access to Records and Audits.

12.1 The Consultant shall comply with the applicable provisions of Chapter 119, Florida Statutes.

12.2 The Village may cancel this Agreement for refusal by the Consultant to allow access by the Village Manager or his designee to any records pertaining to Services performed under this Agreement that are subject to the provisions of Chapter 119, Florida Statutes.

13. Non-assignability.

13.1 This Agreement shall not be assignable by the Consultant. Although this agreement is with the Consultant, the parties agree that the Village is relying upon the apparent qualifications and personal expertise of the

Consultant's lobbyists, Dean Cannon, Ryan Matthews, and Joseph Salzverg, and that the Consultant's lobbyists shall be designated by the Consultant to perform the Services under this Agreement. In the event that the Consultant's lobbyists can no longer perform the Services under this Agreement, this Agreement shall automatically terminate. This Agreement shall not be subject to assignment by the Consultant without written permission of the Village Council

14. Severability.

- 14.1 If any term or provision of this Agreement, shall, to any extent, be held invalid or unenforceable, the remainder of this Agreement shall not be affected thereby and each remaining term and provision of this Agreement shall be valid and be enforceable to the fullest extent permitted by law.

15. Independent Contractor.

- 15.1 The Consultant and its employees, volunteers and agents shall be and remain independent contractors and not agents or employees of the Village with respect to all of the acts and Services performed by and under the terms of this Agreement. This Agreement shall not in any way be construed to create a partnership, association or any other kind of joint undertaking, enterprise or venture between the parties.
- 15.2 The Consultant shall be responsible for all compensation, tax responsibilities, insurance benefits, other employee benefits, and any other status or rights of its employees during the course of their employment with Consultant.

16. Conflict of Interest.

- 16.1 The Consultant shall not be prohibited from representing or providing like services to other persons and entities other than the Village, so long as the Consultant shall avoid any representation or relation which would create an adversarial position or conflict of interest, as first determined by the Village Attorney and Village Council.
- 16.2 The Consultant shall not take on any client or matter that would jeopardize the Consultant's ability to devote the time, resources, and efforts necessary to fulfill its obligations to the Village.
- 16.3 The Village acknowledges that the Consultant represents other local governments in Monroe County, specifically, the following: specifically, the following: Monroe County, the City of Key West, and the College of

the Florida Keys Foundation. The Consultant shall not represent any additional local government, political subdivision or special district located in Monroe County without the prior authorization of the Village Council.

17. **Compliance with Laws.**

17.1 The Consultant shall comply with all applicable laws, ordinances, rules, regulations, and lawful orders of public authorities relating to the Services.

18. **Waiver.**

18.1 The failure of either party to this Agreement to object to or to take affirmative action with respect to any conduct of the other which is in violation of the terms of this Agreement, shall not be construed as a waiver of the violation or breach, or of any future violation, breach or wrongful conduct.

19. **Survival of Provisions.**

19.1 Any terms or conditions of either this Agreement that require acts beyond the date of the term of the Agreement, shall survive termination of the Agreement, shall remain in full force and effect unless and until the terms or conditions are completed and shall be fully enforceable by either party.

20. **Prohibition of Contingency Fees.**

20.1 The Consultant warrants that it has not employed or retained any company or person(s), other than a bona fide employee working solely for the Consultant, to solicit or secure this Agreement, and that it has not paid or agreed to pay any person(s), company, corporation, individual or firm, other than a bona fide employee working solely for the Consultant, any fee, commission, percentage, gift, or any other consideration, contingent upon or resulting from the award or making of this Agreement.

21. **Public Records.** Village is a public agency subject to Chapter 119, Florida Statutes. To the extent that Consultant is acting on behalf of Village pursuant to Section 119.0701, Florida Statutes, Consultant shall:

21.1 Keep and maintain public records that ordinarily and necessarily would be required to be kept and maintained by Village were Village performing the services under this agreement;

21.2 Provide the public with access to such public records on the same terms and conditions that the County would provide the records and at a cost that

does not exceed that provided in Chapter 119, Florida Statutes, or as otherwise provided by law;

- 21.3 Ensure that public records that are exempt or that are confidential and exempt from public record requirements are not disclosed except as authorized by law; and
- 21.4 Meet all requirements for retaining public records and transfer to Village, at no cost, all public records in possession of the Consultant upon termination of this Agreement and destroy any duplicate public records that are exempt or confidential and exempt. All records stored electronically must be provided to the Village.
- 21.5 **IF CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS AGREEMENT, CONTACT THE CUSTODIAN OF PUBLIC RECORDS AT 305-664-6412, Clerk@islamorada.fl.us, or by mail: Village Clerk, 868800 Overseas Highway, Islamorada, FL 33036.**

- 23. **E-Verify.** Consultant shall comply with Section 448.095, Fla. Stat., "Employment Eligibility," including the registration and use of the E-Verify system to verify the work authorization status of employees. Failure to comply with Section 448.095, Fla. Stat. shall result in termination of this Contract. Any challenge to termination under this provision must be filed in the Circuit Court no later than 20 calendar days after the date of termination. If this Agreement is terminated for a violation of the statute by Consultant, Consultant may not be awarded a public contract for a period of 1 year after the date of termination.

- 24. **Scrutinized Companies.**

- 24.1 Consultant certifies that it and its subconsultants are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the City may immediately terminate this Agreement at its sole option if the Consultant or its subconsultants are found to have submitted a false certification; or if Consultant, or its subconsultants are placed on the Scrutinized Companies that Boycott Israel List or is engaged in the boycott of Israel during the term of the Agreement.
- 24.2 Consultant agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Agreement.

24.3 As provided in Subsection 287.135(8), F.S., if federal law ceases to authorize the above-stated contracting prohibitions then they shall become inoperative.

25 **Counterparts.**

25.1 This Agreement may be executed in several counterparts, each of which shall be signed by each party and be deemed original and such counterparts shall constitute one and the same instrument.

IN WITNESS WHEREOF, the parties execute this Agreement on the respective dates under each signature: The Village, signing by and through its Village Manager, attested to by its Village Clerk, and by Consultant by and through its principal set forth below.

Attest :

ISLAMORADA, VILLAGE OF ISLANDS


Marne McGrath, Village Clerk

By: 
Ted Yates, Village Manager

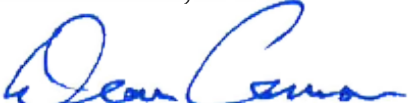
Date: 10.17.22

Approved as to Form and Legality
For the Use and Benefit of Islamorada,
Village of Islands Only



Village Attorney

GRAYROBINSON, P.A.

By: 
Dean Cannon, Jr., Executive Vice-President

Date: October 17, 2022



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: Ordinance Relating to Trespass on Public Property TAB 16

Background:

The Monroe County Sheriff's Office requested that the Village add a provision to its Code which would enable them to issue trespass warnings on public property of the Village when necessary.

Analysis:

The proposed ordinance gives authority to the Sheriff's Office to issue trespass warnings on public property in the Village. The proposed ordinance also provides for an appeal process.

Budget Impact:

N/A

Staff Impact:

N/A

Recommendation:

Staff recommends adopting the proposed ordinance.

Attachments: 1. Ordinance Relating to Trespass for Public Property

ORDINANCE NO. ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 50 "STREETS, SIDEWALKS AND OTHER PUBLIC PLACES", ARTICLE I "GENERAL", CREATING SECTION 50-2 TO BE ENTITLED "TRESPASS WARNINGS; AUTHORIZATION TO ISSUE TRESPASS WARNING FOR PUBLIC PROPERTY; AND APPEAL PROCESS" OF THE VILLAGE CODE RELATING TO TRESPASS ON PUBLIC PROPERTY WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to Chapter 166, Florida Statutes, authorizes municipalities to have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal services, and may exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village") desires to provide for the issuance of trespass warnings to any individual who violates any county or Village ordinance or state law which was committed while on or within a Village Facility, as such term is hereinafter defined, for the specific Village Facility where the violation occurred; and

WHEREAS, the Village Council desires to provide for an appeals procedure relating to such trespass warnings; and

WHEREAS, the Village Council finds that including such regulations in the Village Code is in the best interests of the Village and its residents.

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF
ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:**

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Addition to the Code. That a new Section 50-2, "Trespass warnings; authorization to issue trespass warning for public property; and appeal process," of Article I, "General" of Chapter 50, "Streets, Sidewalks and Other Public Places," of the Village Code is hereby added as follows: ¹

CHAPTER 50 – STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE I. – GENERAL.

Section. 50-2. - Trespass warnings; authorization to issue trespass warning for public property; and appeal process.

- (a) Scope. For purposes of this section, the term "Village Facility" shall mean any parcel of property owned or leased by the Islamorada, Village of Islands, Florida ("Village"), including but not limited to administration centers, community centers, vacant parcels, fire stations, libraries, parks, and beaches. A "Village Facility" does not include a Village maintained right-of-way.
- (b) The village manager and any Village employee designated by the Village Manager to have control over a Village Facility are authorized to issue a trespass warning to any individual who violates any village ordinance, rule or regulation, or state law or lawful directive of a Village employee or deputy sheriff, if said violation is committed while on or within a Village Facility for the specific property where the violation occurred.

¹ Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

- (c) When no Village employee designated by the Village Manager is present at a Village Facility, the sheriff and his/her deputies, or any state or municipal law enforcement officer present is authorized to issue a trespass warning to any individual who violates any county or Village ordinance or state law which was committed while on or within a Village Facility for the specific Village Facility where the violation occurred.
- (d) Trespass warnings shall be issued as follows:
 - (1) For the first violation, the individual may be issued a trespass warning for a period not to exceed one year.
 - (2) For a second or subsequent violation, the individual may be issued a trespass warning for a period not to exceed two years.
- (e) A copy of the trespass warning shall be provided by mail or hand delivery to the individual and to the Village employee or deputy having control over the Village Facility. The written trespass warning shall advise of the right to appeal and the manner for filing the appeal.
- (f) Any person found on or within any Village Facility in violation of a trespass warning may be arrested for trespassing, except as otherwise provided in this section.
- (g) The Village Manager may authorize an individual who has received a trespass warning to enter the property or premises to exercise his or her First Amendment rights if there is no other reasonable alternative location to exercise such rights or to conduct necessary Village business. Such authorization must be in writing, shall specify the duration of the authorization and any conditions thereof and shall not be unreasonably denied.
- (h) This section shall not be construed to limit the authority of any Village employee or sheriff's deputy to issue a trespass warning to any person for any lawful reason for any Village property, including rights-of-way when closed to general vehicular or pedestrian use, when necessary or appropriate in the sole discretion of the Village employee or deputy.
- (i) Appeal of trespass warning. A person to whom a trespass warning is issued under this section shall have the right to appeal as follows:
 - (1) An appeal of the trespass warning must be filed, in writing within three business days of the issuance of the warning, and shall include the appellant's name, address, and phone number, if any. No fee shall be charged for filing the appeal.

- (2) The appeal shall be filed at the office of the Village Manager, located at 86800 Overseas Highway, Islamorada, FL 33036.
- (3) Appeals shall be heard by the Village Manager or his/her designee.
- (4) Within five business days following the filing of the appeal, the Village Manager or his/her designee shall schedule a hearing. Notice of the hearing shall be provided to the appellant by:
 - a. Written notification sent to an address provided by the individual to the Village Manager; and
 - b. Posting the notice at Village Manager's Office;
 - c. If appellant cannot be reached by mail, then notice posted at the Village Manager's office shall be sufficient.
- (5) The Village Manager or his/her designee shall hold the hearing as soon as possible. In no event shall the hearing be held sooner than seven days following the filing of the appeal and no later than 15 days from the filing of the appeal.
- (6) Copies of documents in the Village's control which are intended to be used at the hearing, and which directly relate to the issuance of the trespass warning to the appellant, shall be made available upon request to the appellant at no cost.
- (7) At his or her own expense, the appellant shall have the right to attend with an attorney, the right to testify, to call witnesses, to cross-examine witnesses and to present evidence. The appellant shall have the right to bring a court reporter, at their own expense.
- (8) The Village Manager or his/her designee shall consider the testimony, reports or other documentary evidence, and any other evidence presented at the hearing. Formal rules of evidence shall not apply, but fundamental due process shall govern the proceedings.
- (9) The Village shall bear the burden of proof by a preponderance of the evidence that the trespass warning was properly issued pursuant to the criteria of this section.
- (10) If the appellant fails to attend a scheduled hearing, the Village Manager or his/her designee shall review the evidence presented and determine if the trespass warning was properly issued pursuant to the criteria of this section.
- (11) Within five business days of the hearing, the Village Manager or his/her designee shall issue a written decision on the appeal which shall be mailed

to the appellant at the address provided. If no address is provided, a copy of the decision shall be posted at the information desk of the Village Manager.

- (12) The decision of the Village Manager or his/her designee shall be final and the appellant shall be deemed to have exhausted all administrative remedies. Such decision may be subject to judicial review in the manner provided by law by the appellant.
- (13) The trespass warning shall remain in effect during the appeal and review process, including any judicial review.

Section 3. Repeal of Conflicting Provisions. The provisions of the Code and all ordinances or parts of ordinances in conflict with the provisions of this Ordinance are hereby repealed.

Section 4. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 5. Inclusion in the Code. It is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code, that the sections of the Ordinance may be renumbered or relettered to accomplish such intentions, and that the word "Ordinance" shall be changed to "Section" or other appropriate word where applicable.

Section 6. Effective Date. This Ordinance shall be effective immediately upon adoption.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____

PASSED on first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: **Ordinance Calling for a Referendum to Increase Council Compensation TAB 17**

Background:

At its regular meeting on September 7, 2023, the Village Council gave direction to the Village Attorney to prepare an Ordinance proposing an increase in Council compensation.

Analysis:

The proposed ordinance would create a ballot item for the March 19, 2024 election which would ask the voters to approve an increase in Council pay from \$1,000 per month to \$3,000 per month.

Budget Impact:

If this is approved by the voters, compensation per Councilmember would increase from \$12,000 per year to \$36,000 per year. The total annual increase would be \$120,000.

Staff Impact:

N/A.

Recommendation:

Attachments: 1. 479653402-Ordinance calling for referendum increasing compensation of Council

ORDINANCE NO. __

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, PROVIDING FOR AN INCREASE IN COMPENSATION FOR VILLAGE COUNCIL MEMBERS; PROVIDING FOR REFERENDUM TO BE HELD WITH THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION IN MARCH 19, 2024; PROVIDING FOR SUBMISSION TO THE ELECTORS OF A PROPOSED AMENDMENT TO THE VILLAGE CHARTER PERTAINING TO INCREASED COMPENSATION FOR COUNCIL MEMBERS; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER/CONFORMITY OF AMENDMENT; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Section 5(5) of the Charter of Islamorada, Village of Islands, Florida (the "Village"), provides that the Village Council of Islamorada, Village of Islands (the "Village Council") shall initially be compensated at the rate of \$300 per month; and

WHEREAS, Section 5(5) of the Charter also provides that the Village Council may elect to provide for an increase in compensation to Council members by the adoption of an ordinance with no less than four affirmative votes; and

WHEREAS, Section 5(5) of the Charter also provides that no such ordinance establishing compensation shall take effect until the date of commencement of the terms of Council members selected at the next regular election which follows the adoption of said ordinance; and

WHEREAS, in 2005, the Village Council adopted Ordinance No. 05-23, thereby increasing Village Council compensation to \$1,000.00 per month, which subsequently became effective in March 2006 after referendum and approval by the voters; and

WHEREAS, at its regular meeting on September 7, 2023, the Village Council gave direction to the Village Attorney to prepare an Ordinance proposing an increase in Council compensation; and

WHEREAS, pursuant to Section 11(1) of the Charter and Section 166.031, Florida Statutes, the Village Council is authorized to provide by ordinance for the submission of proposed amendment to the Village Charter to the electorate of the Village for acceptance or rejection; and

WHEREAS, the Village Council desires to submit to the electors of the Village the following proposed amendment.

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Code Amendment. Pursuant to Section 5(5) of the Village Charter, and Section 166.031, Florida Statutes, the following section of the Village Charter of Islamorada, Village of Islands, is hereby amended to reads as follows:

If Question No. 1 is approved by referendum:

Compensation and expenses. Village councilmembers shall initially be compensated at the rate of ~~\$300~~ \$3,000¹ per month and, shall be entitled to receive reimbursement in accordance with Florida Statutes for authorized travel and per diem expenses incurred in the performance of their official duties. The village council, by not less than four affirmative votes, may elect to provide for an increase in compensation by ordinance. However, no such ordinance establishing or increasing compensation shall take effect until approved by a majority of the village electors at the next regular election which follows the adoption of said ordinance.

Section 3. Election Called. A referendum vote is hereby called along with the Presidential Preference Primary Election, to be held on March 19, 2023, to present to the electors of Islamorada, Village of Islands, the ballot question provided in Section 5 of this Ordinance.

¹ Deleted text is indicated by a ~~strike through~~ and added text is indicated by an underline.

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. at the regular polling places for Village elections. All qualified Village electors who are timely registered in accordance with law shall be entitled to vote. If authorized by statute, early voting shall be available.

Section 5. Form of Ballot.

(a) That the form of the Ballot Questions for the proposed Charter amendment provided for in Section 2 of this Ordinance shall be substantially as follows:

Question No. 1

Increasing Amount of Councilmember Compensation from \$1,000 per month to \$3,000 per month

It is proposed that the Village Charter be amended to provide for the amount of monthly compensation to Councilmembers be increase from \$1,000 per month to \$3,000 per month.

Shall the above described Charter amendment be adopted?

Yes []

No []

(b) The Village Clerk and the Village Attorney are authorized to make any nonmaterial changes to the proposed text of the Ballot Questions to carry out the intention of the Village Council in order to comply with applicable state law requirements pertaining to referenda found in Chapter 101, Florida Statutes.

Section 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Islamorada, Village of Islands, Florida; that the sections of this Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. Repeal of Conflicting Provisions. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 9. Effective Date. This Ordinance shall be effective on the date of commencement of the terms of Council members selected at the next regular election that follows the date of the adoption of this Ordinance.

[Remainder of the page intentionally left blank.]

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED on first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____. and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: **Ordinance Calling for a Referendum to Provide for 2 year Staggered Terms, Eliminate Seat Assignments, and Revising Term Limits TAB 18**

Background:

At its regular meeting on September 7, 2023, the Village Council gave direction to the Village Attorney to prepare an Ordinance to remove seat assignments for Village Councilmembers, to provide for staggered terms of office, and to modify Council term limits.

Analysis:

The proposed ordinance would bring forth three (3) separate ballot questions for the voters to consider.

The first would eliminate Council seat assignments and would, instead, result in a single election where all candidates run on the same ballot. Under this proposal, the top voter getters would be elected to the open Council seats.

The second question proposes to create staggered two-year terms for each Councilmember. Since the Village does not currently have staggered terms, the 2024 general election would be the first to create this staggering. As a result, if approved, the 2024 election would result in the top three vote getters being elected to two-year terms, with the fourth and fifth place vote getters being elected to one-year terms.

Finally, the third question, if approved, would change the current Council term limits from eight (8) consecutive years to six (6) years, regardless of whether those years are consecutive in nature. As drafted, the proposal would also apply retroactively.

Budget Impact:

N/A

Staff Impact:

Recommendation:

Attachments: 1. 479662702-Ordinance calling for referendum providing for 2 year staggered terms

ORDINANCE NO. ____

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CALLING FOR A REFERENDUM VOTE TO BE HELD WITH THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION ON TUESDAY, MARCH 19, 2024; PROVIDING FOR SUBMISSION TO THE ELECTORS OF PROPOSED AMENDMENTS TO THE VILLAGE CHARTER PERTAINING TO SEAT ASSIGNMENTS, TERM LIMITS, AND STAGGERING OF TERMS; PROVIDING FOR PLACEMENT ON THE BALLOT; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR NOTICE OF ELECTION; PROVIDING FOR AUTHORIZATION OF VILLAGE CLERK AND FOR VILLAGE CANVASSING BOARD; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER/CONFORMITY OF AMENDMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Village Charter of Islamorada, Village of Islands (the "Village") provides that the term of office for Council members shall be at the same time for two years, for each of 5 separate seats, and for no more than eight consecutive terms; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council"), gave direction to the Village Attorney to prepare an Ordinance to remove seat assignments for Village Councilmembers, to provide for staggered terms of office, and to provide lifetime term limits of six years on Village Councilmembers; and

WHEREAS, pursuant to Section 11(1) of the Charter and Section 166.031, Florida Statutes, the Village Council is authorized to provide by ordinance for the submission of proposed amendments to the Village Charter to the electorate of the Village for acceptance or rejection; and

WHEREAS, the Village Council desires to submit to the electors of the Village the following proposed Charter Amendments.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Charter Amendments. Pursuant to Section 11(1) of the Village Charter, and Section 166.031, Florida Statutes, Sections 5(1)(b), 8(6) and 5(2) of the Village Charter of Islamorada, Village of Islands, is hereby amended to reads as follows: ¹

If Question No. 1 is approved by referendum:

Section 5(1)(b) There shall be five ~~separate~~ council seats to be designated as Seat 1, Seat 2, Seat 3, Seat 4, and Seat 5. Candidates must qualify for council elections for any vacant seat by seat, and the councilmembers elected to those vacant seats shall hold them until such councilmember term is complete or otherwise removed ~~Seats 1 through 5~~ respectively.

Section 8(6) *Determination of election to office.* ~~If only one candidate qualifies for a seat, said candidate shall be deemed to be elected to office for that particular seat. If two or more candidates qualify for a seat, t~~The names of all those candidates shall be placed on the ballot, for all by seats to become vacant, at the general election. The candidates receiving the highest number of the votes cast for each seats to become vacant in the election shall be elected to such

¹ Deleted text is indicated by a strikethrough and added text is indicated by an underline.

office. If the vote at the election results in a tie, the outcome shall be determined by lot.

If Question No. 2 is approved by referendum:

Section 5(2) *Term of office.* The term of office for councilmembers shall be two years. Each councilmember shall remain in office until a successor is elected and assumes the duties of the position, except as otherwise provided herein. No councilmember shall serve more than eight consecutive years in office. In order to provide for staggered terms of office, the term of office for the candidates elected at the November 2024 election only shall be split with three candidates serving two-year terms, and two candidates serving one-year terms.

Any candidate elected in November 2024, the three (3) candidates receiving the highest number of votes respectively shall be elected to a two-year term of office ending in November 2026 and the remaining two (2) elected candidates shall be elected to a one-year term of office ending in 2025. Thereafter, all elections will be for a two-year term of office.

If Question No. 3 is approved at referendum:

Section 5(2) *Term of office.* The term of office for councilmembers shall be two years. Each councilmember shall remain in office until a successor is elected and assumes the duties of the position, except as otherwise provided herein. No councilmember shall serve more than ~~eight consecutive~~ six years in office, as measured from the councilmember's first election to the office of councilmember. This provision shall apply both retroactively and prospectively.

Section 3. Election Called. A referendum vote is hereby called along with the Presidential Preference Primary Election, to be held on Tuesday, March 19, 2024, to present to the electors of Islamorada, Village of Islands, the ballot questions provided in Section 5 of this Ordinance.

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. at the regular polling places for Village elections. All qualified Village electors who are timely registered in accordance with law shall be entitled to vote. If authorized by statute and the Village Code, early voting shall be available. Vote-by-Mail shall be available.

Section 5. Form of Ballot.

(a) That the form of the Ballot Questions for the proposed Charter amendments provided for in Section 2 of this Ordinance shall be substantially as follows:

Question No. 1

Eliminating separate councilmember seats assignments for purposes of election

It is proposed that the Village Charter be amended to provide for Councilmembers to be elected to any vacant seat without the need to be elected to a particular seat. Shall the above described Charter amendment be adopted?

Yes []

No []

Question No. 2

Providing For Councilmember Staggered Terms

It is proposed that the Village Charter be amended to provide for Councilmembers to be elected at a staggered transition by which no more than three candidates elected receiving the highest number of votes in the November 2024 election receive a two-year term and the remaining elected candidates

receive a one-year term. Shall the above described Charter amendment be adopted?

Yes ☐

No ☐

Question No. 3

Lifetime Term Limits for Councilmembers.

It is proposed that the Village Charter be amended retroactively to provide for a six-year lifetime term limit, whether consecutive or not, that is measured from the elected official's first election to the Office of Councilmember, instead of an eight-year consecutive limit.

Shall the above described Charter amendment be adopted?

Yes ☐

No ☐

(b) The Village Clerk and the Village Attorney are authorized to make any nonmaterial changes to the proposed text of the Ballot Questions to carry out the intention of the Village Council in order to comply with applicable state law requirements pertaining to referenda found in Chapter 101, Florida Statutes.

Section 6. Notice of Election.

(a) Notice of said election shall be published in accordance with Section 100.342, Florida Statutes, in a newspaper of general circulation within the Village or on the Village's website at least thirty (30) days prior to said election, the first

publication to be in the fifth week prior to the election, and the second publication to be in the third week prior to the election.

- (b) The notice of election shall be in substantially the following form:

NOTICE OF SPECIAL ELECTION

PUBLIC NOTICE IS HEREBY GIVEN THAT PURSUANT TO ORDINANCE NO. _____ ADOPTED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (THE "VILLAGE") AN ELECTION HAS BEEN CALLED AND ORDERED TO BE HELD WITHIN THE VILLAGE ON TUESDAY, MARCH 19, 2024, BETWEEN THE HOURS OF 7:00 A.M. AND 7:00 P.M., AT WHICH TIME THE FOLLOWING CHARTER AMENDMENT PROPOSALS SHALL BE SUBMITTED TO THE QUALIFIED ELECTORS OF THE VILLAGE.

Question No. 1

Eliminating separate councilmember seats assignments for purposes of election

It is proposed that the Village Charter be amended to provide for Councilmembers to be elected to any vacant seat without the need to be elected to a particular seat. Shall the above described Charter amendment be adopted?

Yes []

No []

Question No. 2

Providing For Councilmember Staggered Terms

It is proposed that the Village Charter be amended to provide for Councilmembers to be elected at a staggered transition by which no more than three candidates elected receiving the

highest number of votes in the November 2024 election receive a two-year term and the remaining elected candidates receive a one-year term. Shall the above described Charter amendment be adopted?

Yes []

No []

Question No. 3

Lifetime Term Limits for Councilmembers.

It is proposed that the Village Charter be amended retroactively to provide for a six-year lifetime term limit, whether consecutive or not, that is measured from the elected official's first election to the Office of Councilmember, instead of an eight-year consecutive limit.

Shall the above described Charter amendment be adopted?

Yes []

No []

The Village Clerk and the Village Attorney are authorized to make any non-material changes to the proposed text of the Ballot Questions to carry out the intention of the Village Council in order to comply with applicable state law requirements pertaining to referenda found in Chapter 101, Florida Statutes.

Polling place information and the full text of the proposed Village Charter amendment are available at the Office of the Village Clerk, 86800 Overseas Highway, Islamorada, Florida 33036.

Village Clerk

Section 7. Authorization of Village Clerk. The Village Clerk, with necessary assistance from the Monroe County Supervisor of Elections, is hereby authorized to take

all appropriate actions necessary to carry into effect and accomplish the electoral provisions of this Ordinance.

Section 8. Village Canvassing Board. This election shall be canvassed by the Village Clerk in accordance with the provisions of Section 8(a)(7) of the Village Charter and any applicable provisions of the general election laws.

Section 9. Effectiveness. Adoption of the proposed Charter Amendments shall occur if a majority of the electors voting in the referendum vote for its adoption. The adopted Charter Amendments shall be considered adopted and effective upon certification of the election results.

Section 10. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 11. Inclusion in the Charter/Conformity of Amendment. Following adoption of one or more of the Charter Amendments, the Village Clerk shall have the Charter Amendments incorporated into the Village Charter and shall file the revised Charter with the Department of State. In the event that some, but not all of the Charter Amendment(s) are approved by the electors, conforming amendment(s) shall be deemed

to be adopted and the Village Clerk is authorized to revise the Charter, including the provisions of the transitional provisions, to the extent necessary to ensure that all adopted amendment(s) conform to one another.

Section 12. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____

PASSED on first reading this _____ day of _____, 2023.

[Remainder of the page intentionally left blank.]

The foregoing Ordinance was offered by _____, who moved its adoption on second reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilwoman Elizabeth Jolin	_____
Councilman Mark Gregg	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER, III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: Ordinance Relating to Campaign Expenditures Cap TAB 19

Background:

At its regular meeting on September 7, 2023, the Village Council gave direction to the Village Attorney to prepare an Ordinance proposing to restrict campaign expenditures.

Analysis:

The proposed ordinance would create a campaign expenditure limit of \$5,000 per candidate for each Village Council election. However, it is important to note that section 106.08(11)(a), Florida Statutes, sets forth a state preemption which expressly prohibits any local government from limiting or otherwise restricting campaign expenditures for electioneering communications or independent expenditures.

"Independent expenditures" constitute expenditures done outside of the campaign, such as political action committee expenditures. "Independent expenditures" are defined in section 106.011(12), Florida Statutes, and include, in part, expenditures which are not controlled by, coordinated with, or made in consultation with any candidate. In addition, "electioneering communication" is defined in section 106.011(8), Florida Statutes. Examples of some items which would not be considered "electioneering communications" are rental of office space, campaign signs, hiring of campaign staff, or printing costs. Practically, speaking, many campaign expenditures fall in the category of "electioneering communications."

Based on the state preemptions, the impact of this potential charter change could be significantly limited. In addition, this potential change could inadvertently drive most campaign expenditures through political action committees, rather than the candidates themselves.

Budget Impact:

N/A

Staff Impact:

N/A

Recommendation:

Attachments: 1. 47A157902-Ordinance Providing for Campaign Expenditures Limitations

ORDINANCE NO. __

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, PROVIDING FOR A LIMITATION ON CAMPAIGN EXPENDITURES FOR VILLAGE COUNCIL CANDIDATES; PROVIDING FOR REFERENDUM TO BE HELD WITH THE PRESIDENTIAL PREFERENCE PRIMARY ELECTION IN MARCH 19, 2024; PROVIDING FOR SUBMISSION TO THE ELECTORS OF A PROPOSED AMENDMENT TO THE VILLAGE CHARTER PERTAINING TO A LIMITATION ON CAMPAIGN EXPENDITURES FOR VILLAGE COUNCIL CANDIDATES; PROVIDING FOR REQUISITE BALLOT LANGUAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CHARTER/CONFORMITY OF AMENDMENT; PROVIDING FOR THE REPEAL OF CONFLICTING PROVISIONS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, the Florida Legislature has provided under Chapter 106, entitled Campaign Finance, specifically under Section 106.08(11)(a)3, Florida Statutes, in relevant part, that a municipality, or any other local governmental entity is expressly preempted from enacting or adopting any limitation or restriction on expenditures for an electioneering communication or an independent expenditure (the "Campaign Finance Act"); and

WHEREAS, Section 106.011(8) defines "electioneering communication" generally as a text message or communication that is publicly distributed by a television station, radio station, cable television system, satellite system, newspaper, magazine, direct mail, or telephone that refers to or depicts an identified candidate for office without advocating for the election or defeat of such candidate but only appeals to vote for or against a specific candidate; and

WHEREAS, at its regular meeting on September 7, 2023, the Village Council gave direction to the Village Attorney to prepare an Ordinance proposing a limitation on campaign expenditures by Council candidates; and

WHEREAS, pursuant to Section 11(1) of the Charter and Section 166.031, Florida Statutes, the Village Council is authorized to provide by ordinance for the submission of proposed amendment to the Village Charter to the electorate of the Village for acceptance or rejection; and

WHEREAS, the Village Council desires to submit to the electors of the Village the following proposed amendment.

NOW THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. Code Amendment. Pursuant to Section 11(1) of the Village Code of Ordinances and Section 166.031, Florida Statutes, the following Section 8(9) of the Village Charter of Islamorada, Village of Islands, is hereby created to reads as follows:

If Question No. 1 is approved by referendum:

(9) *Campaign Expenditure Limitation.* Any candidate for the office of Village Council shall during the pendency of the campaign for office not expend any funds in excess of \$5,000.00 for their campaign, except for an electioneering communications, as defined in Section 106.011, Florida Statutes.

Section 3. Election Called. A referendum vote is hereby called along with the Presidential Preference Primary Election, to be held on March 19, 2024, to present to the electors of Islamorada, Village of Islands, the ballot question provided in Section 2 of this Ordinance.

Section 4. Balloting. That balloting shall be conducted between the hours of 7:00 a.m. and 7:00 p.m. at the regular polling places for Village elections. All qualified Village electors who are timely registered in accordance with law shall be entitled to vote. If authorized by statute, early voting shall be available.

Section 5. Form of Ballot.

(a) That the form of the Ballot Questions for the proposed Charter amendment provided for in Section 2 of this Ordinance shall be substantially as follows:

Question No. 1

Limitation on campaign expenditures

It is proposed that the Village Charter be amended to provide for a limitation on campaign expenditures for a candidate for Village Council of \$5,000, except for electioneering communications, as defined in Section 106.011, Florida Statutes.

Shall the above described Charter amendment be adopted?

Yes []

No []

(b) The Village Clerk and the Village Attorney are authorized to make any nonmaterial changes to the proposed text of the Ballot Questions to carry out the intention of the Village Council in order to comply with applicable state law requirements pertaining to referenda found in Chapter 101, Florida Statutes.

Section 6. Severability. The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall be held to be invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 7. Inclusion in the Code. It is the intention of the Village Council, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Islamorada, Village of Islands, Florida; that the sections of this

Ordinance may be renumbered or re-lettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 8. Repeal of Conflicting Provisions. All ordinances or parts of ordinances in conflict with this Ordinance are hereby repealed to the extent of said conflict.

Section 9. Effective Date. This Ordinance shall be effective on the date of commencement of the terms of Council members selected at the next regular election that follows the date of the adoption of this Ordinance.

[Remainder of the page intentionally left blank.]

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____, and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED on first reading this ____ day of _____, 2023.

The foregoing Ordinance was offered by _____, who moved its adoption on first reading. This motion was seconded by _____. and upon being put to a vote, the vote was as follows:

Mayor Joseph B. Pinder III	_____
Vice Mayor Sharon Mahoney	_____
Councilman Mark Gregg	_____
Councilwoman Elizabeth Jolin	_____
Councilman Henry Rosenthal	_____

PASSED AND ADOPTED on the second reading this ____ day of _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS ONLY

JOHN J. QUICK, VILLAGE ATTORNEY



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: **Resolution Approving Settlement Agreement in the Matter of Glynn Heirs v. Islamorada, Village of Islands TAB 20**

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments:

1. 46Q9157-Resolution approving Settlement Agreement
2. 46S5799-Settlement Agreement Glynn
3. Glynn Request for 163.3181 Fla. Stat Dispute Resolution and Relief Under 70.51 Fla. Stat

RESOLUTION _____

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE MEDIATED SETTLEMENT AGREEMENT RELATING TO THE GLYNN PROPERTY DESCRIBED HEREIN; AUTHORIZING VILLAGE OFFICIALS TO EXECUTE, DELIVER AND IMPLEMENT THE TERMS AND CONDITIONS OF THE SETTLEMENT AGREEMENT; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, in 2006, R. Jay Glynn, William Graham Glynn, Sally Lefew, Nancy Wilson, Peggy Williams, and Maritza Fonseca (the "Glynn Heirs") inherited the land described in the deed attached to the Mediated Settlement Agreement ("Agreement") which agreement is attached hereto as Exhibit A. The property consists of 99 more or less acres of land located within the Village, spanning from U.S. 1 to Florida Bay (the "Glynn Property"); and

WHEREAS, the predecessor in title, Jay Glynn, purchased the Glynn Property in the 1960's by which time it had been platted for commercial development along its U.S. 1 frontage and for residential development similar to that of the neighboring Venetian Shores subdivision; and

WHEREAS, the State of Florida (without the consent of Jay Glynn) subsequently listed a substantial portion of the Glynn Property on the Florida Forever acquisition list (a.k.a. the C.A.R.L.) list; Monroe County designated the Glynn property as conservation land in its comprehensive planning process, and upon its incorporation, Islamorada, the Village of Islands (the "Village") did so as well; and

WHEREAS, the Jay Glynn Trust and/or the Glynn Heirs have attempted to obtain limited development approval for upland area along the U.S. 1 frontage of the Glynn Property through companion applications submitted to the Village for small scale comprehensive plan

amendment and associated rezoning to allow affordable housing development, but these applications were formally denied by the Village in November 2019; and

WHEREAS on or about December 20, 2019, Petitioners filed a Request for §163.3181 Florida Statutes Dispute Resolution & Relief under §70.51 Florida Statutes ("Petition") in connection with the Village's November 2019 denial of the Glynn Heirs' (and their co-applicant buyer's) Application for Future Land Use Map and Zoning Amendment; and

WHEREAS, on April 24, 2023, the Parties participated in the §163.3181 mediation sought by the Glynn Heirs' Petition, and agreed to the terms described in the Settlement Agreement attached hereto as Exhibit "A," subject to consideration by the Village Council of the Village (the "Village Council") at its next available duly noticed public hearing, and if approved by the Village Council, the terms shall become a binding Settlement Agreement; and

WHEREAS, the Village Council finds that the Settlement Agreement and this Resolution are in the best interest and welfare of the residents of the Village.

NOW THEREFORE BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and are incorporated herein by this reference.

Section 2. **Approval of the Settlement Agreement.** The Village Council hereby approves the terms and conditions of the Settlement Agreement attached hereto as Exhibit "A" together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. Execution of Agreement. The Village Manager is authorized to execute the Settlement Agreement on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the Settlement Agreement, subject to the approval as to form and legality by the Village Attorney.

Section 4. Authorization of Village Officials. The Village Manager and/or his/her designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Settlement Agreement.

Section 5. Effective Date. This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this 6th day of July, 2023.

Motion to adopt by _____. Seconded by _____.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III	___
Vice Mayor Sharon Mahoney	___
Councilman Mark Gregg	___
Councilwoman Elizabeth Jolin	___
Councilman Henry Rosenthal	___

Remainder of this page intentionally left blank.

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, VILLAGE ATTORNEY

**R. JAY GLYNN, WILLIAM GRAHAM GLYNN, SALLY LEFEW,
NANCY WILSON, PEGGY WILLIAMS, and
MARITZA FONSECA**

Petitioners,

v.

ISLAMORADA, VILLAGE OF ISLANDS

Respondent.

_____ /

MEDIATED SETTLEMENT AGREEMENT

This Mediated Settlement Agreement (“Agreement”) is entered into on May ___, 2023, by and between R. Jay Glynn, William Graham Glynn, Sally Lefew, Nancy Wilson, Peggy Williams, and Maritza Fonseca (“Glynn Heirs”) and Islamorada, Village of Islands (“Village”), a Florida municipal corporation (collectively, the “Parties”).

RECITALS

WHEREAS, in 2006, the Glynn Heirs inherited the land described in the deed attached hereto as Exhibit A by conveyance out of the Jay Glynn Trust (hereafter the “Glynn Property”). The Glynn Property consists of 99 more or less acres of land located within the Village, spanning from U.S. 1 to Florida Bay; and

WHEREAS, the predecessor in title, Jay Glynn, purchased the Glynn Property in the 1960’s by which time it had been platted for commercial development along its U.S. 1 frontage and for residential development similar to that of the neighboring Venetian Shores subdivision. A copy of the plat is attached hereto as Exhibit B; and

WHEREAS, the State of Florida (without the consent of Jay Glynn) subsequently listed a substantial portion of the Glynn Property on the Florida Forever acquisition list (a.k.a. the

C.A.R.L.) list; Monroe County designated the Glynn property as conservation land in its comprehensive planning process, and upon its incorporation, the Village did so as well; and

WHEREAS, the Jay Glynn Trust and/or the Glynn Heirs have attempted to obtain limited development approval for upland area along the U.S. 1 frontage of the Glynn Property through companion applications submitted to the Village for small scale comprehensive plan amendment and associated rezoning to allow affordable housing development, but these applications were formally denied by the Village in November 2019; and

WHEREAS on or about December 20, 2019, Petitioners filed a Request for §163.3181 Florida Statutes Dispute Resolution & Relief under §70.51 Florida Statutes (“Petition”) in connection with the Village’s November 2019 denial of the Glynn Heirs’ (and their co-applicant buyer’s) Application for Future Land Use Map and Zoning Amendment (“Application”); and

WHEREAS, on April 24, 2023, the Parties participated in the §163.3181 mediation sought by the Glynn Heirs’ Petition, and agreed to the terms described below, subject to consideration by the Village Council of Islamorada, Village of Islands (“Village Council”) at its next available duly noticed public hearing, and if approved by the Village Council, the following terms shall become a binding settlement agreement (“Agreement”); and

WHEREAS, the Parties wish to toll any statutes of limitations periods which may be running, without acknowledging or conceding liability of any kind, in order to allow time for Village Council and/or Monroe County Land Authority (“MCLA”) consideration of the terms of this settlement agreement and for any appraisal work that may be necessary, without the press of claim filing deadlines and associated expense to the Parties; similarly, the Parties wish to continue extension of the deadline for the Village’s response to the Petition; and

NOW THEREFORE, in consideration of their mutual promises contained herein, the value of which is hereby acknowledged as sufficient, the Parties agree as follows, subject to approval by the Village Council:

TERMS

1. **Incorporation of Recitals.** The Parties hereby agree and acknowledge that the foregoing Recitals to this Agreement are true and correct and are hereby incorporated into and made part of this Agreement as if fully set forth herein.

2. **Partial Donation of Glynn Property.** In aid of settlement of and without prejudice to all potential claims arising out of the regulation of the Glynn property and denial of applications for development, the Glynn Heirs agree to convey the Glynn Property to the Village for conservation purposes at the donative price of \$2,000,000.00. The Glynn Heirs shall be responsible to pay: (i) documentary stamps to be affixed to the warranty deed, subject to the exemption under 12B-4.014 F.A.C. for settlements with government entities; (ii) costs of procuring a title update, title commitment, lien letters, and title insurance; and (iii) cost to cure any title defect up to a cap of \$5,000. If the cost to cure any title defects exceeds \$5,000 Buyer shall either pay costs in excess of \$5,000 or shall have the right to terminate this transaction. The Village shall be responsible to pay or reimburse for: (i) the cost of the title insurance policy premium, (ii) its costs associated with its inspections of the Property, (iii) all recording costs (except for instruments required to cure title as set forth above).

3. **Charitable Contribution.** The Parties acknowledge that the Village will need to procure appraisal(s) of the Glynn Property in connection with implementing this Agreement, and that the Glynn Heirs may procure an appraisal as well. The Parties agree that any amount by which the highest of the Parties' appraisals exceeds \$2,000,000.00 shall be considered a charitable

contribution by the Glynn Heirs, and the Village agrees to provide such documentation as reasonably required by the Glynn Heirs to evidence the contribution including, without limitation, the Village's execution of IRS Form 8283 that acknowledges receipt of the Glynn Property having a value in excess of the donative price of \$2,000,000.00.

4. **Conservation Oriented Use and Naming of Preserve.** The Village, its successors or assigns shall maintain the use of the Glynn Property as conservation land and/or public open space. The Glynn family shall be referenced in the naming of the preserve, park or flyway that the Glynn Property becomes and shall be displayed on signage typical of County or Village parks and in all promotional materials, whether on-line or hard copy brochures provided to the public.

5. **Timeframe for Closing.** Closing on the conveyance contemplated by this Agreement shall occur no sooner than October 1, 2023 and no later than December 31, 2023, unless otherwise extended by the Parties. Closing on the conveyance under this paragraph means clearance of the \$2,000,000 cash component of the transaction and execution of a deed conveying the Glynn property to the Village or its assignee as provided herein.

6. **Assignability to Monroe County Land Authority.** The Village may assign its rights under this Agreement or any associated purchase contract to the Monroe County Land Authority ("MCLA") so long as the MCLA also undertakes all of the obligations of the Village under this Agreement, including but not limited to closing no later than December 31, 2023.

7. **Internal Allocation by the Village.** Subject to the requirements of paragraph 2 above, the Village reserves the right to internally allocate the cash component of the proposed conveyance across the entire Glynn Parcel as it sees fit and to assign or re-convey any or all of the Glynn Parcel to the MCLA, or such governmental authority as may purchase the property for conservation purposes.

8. **Continuance of the § 163.3181 Mediation & Deadline for Response to Petition.**

The mediation commenced on April 24, 2023 shall be continued and held open pending the public hearing date during which the Village Council shall consider the terms of this Agreement. Similarly, the Parties stipulation to extend the deadline for the Village's response to the Glynn Heir's Petition shall be extended to 30 days after the sooner of December 31, 2023 or any decision by the Village Council declining to approve the terms of this Agreement.

9. **Reservation of Glynn Heirs' Claims & Tolling of Limitation Periods.** The Glynn Heirs believe the Village's actions in denying their companion applications in November 2019 and subsequently eliminating TDR availability for the mangrove areas of the Glynn Property, among other things, gives rise to claims under the Takings Clauses of the state and federal constitutions and potentially other claims including but not limited to claims under Chapter 70, Florida Statutes. The Village disputes any such claims in their entirety. The Parties, however, agree that such claims and disputes would be mooted in the event this Agreement is approved by the Village Council and closing occurs as provided herein, and further, that it is in their respective best interests to agree to toll any statute of limitations periods which may be running on such claims in order to conserve the resources of the Parties. Accordingly, the Parties agree that the execution of neither the April 24, 2023 Mediation Agreement or this Agreement by the Glynn Heirs shall constitute a waiver with respect to claims the Glynn Heirs had or have as of the April 24, 2023 (the date upon which the Parties' Mediation Agreement was executed), and further, that all applicable statutes of limitation, and related deadlines, and any other arguments based on the passage of time, including the defense of laches, and any other limitations period imposed by statute, contract, common law, or equity are tolled as of April 24, 2023 through December 31, 2023 ("Tolling Period"). The Parties agree that the tolling provisions of this paragraph shall have

no effect on any time related defenses that may be available to the other prior to April 24, 2023. Nothing herein shall preclude a party from asserting any time related defenses to the extent such defenses already existed as of April 24, 2023 and nothing in this paragraph shall be deemed to revive claims that were barred as of April 24, 2023.

10. **No Admissions and Non-Admissibility.** By entering into this Agreement, neither of the Parties admits to any liability, nor does either of the Parties waive any defense to claims that may be raised by the other. Any appraisal procured by the Glynn Heirs in connection with the conveyance of the Glynn Property contemplated herein shall be inadmissible in any legal proceeding absent written consent of the Glynn Heirs. Neither this Agreement or its terms shall be admissible in any court proceeding except for purposes of proving the basis for a claimed tax exemption or if necessary to enforce the terms of the tolling provision in which case the Agreement shall be redacted to show only terms fairly related to establishing a tax deduction or enforcing the tolling provisions herein.

11. **Conditional General Release.** Subject to and conditioned upon approval of this Agreement by the Village Council, compliance by the Village with all of its obligations under this Agreement, and closing on the conveyance contemplated herein on or before December 31, 2023, the Glynn Heirs (collectively and individually) hereby voluntarily release, waive, and forever discharge any and all claims, rights, demands, actions, or causes of actions, of any kind arising from the Village's regulation of the Glynn Property, known or unknown, foreseen or unforeseen, foreseeable or unforeseeable, and any consequences thereof, which they have or may have against the Village and its agents in their official and individual capacities (including but not limited to, its officials, elected officials, employee, agents, law enforcement officers and attorneys) from the beginning of the world until the date of execution of this Agreement by an authorized official of

the Village. It is the intention of the Glynn Heirs (collectively and individually) to fully, finally and forever resolve and release any and all disputes they may have or believe themselves to have against the Village and its agents in their official and individual capacities (including but not limited to, its officials, elected officials, employees, agents, law enforcement officers, and attorneys) arising from the Village's land use regulation of the Glynn Property. Notwithstanding anything to the contrary in this paragraph, however, the Glynn Heirs do not waive or release claims or actions to enforce the terms of this Agreement or for its breach.

12. **Adequate Consideration.** The Glynn Heirs agree that the mutual promises and consideration as set forth in this Agreement constitute adequate and ample consideration for the rights and obligations created by this Agreement as well as the rights and claims the Glynn Heirs are waving and/or releasing under paragraph 9 of this Agreement.

13. **Attorneys' Fees and Costs.** Parties shall bear its own attorneys' fees and costs in connection with the Petition, mediation, and negotiation of this Agreement. The Village shall bear the closing costs, if this Agreement is approved by the Village Council, consistent with paragraph 2.

14. **Execution & Effective Date.** This Agreement will become effective upon the execution of this Agreement by the Glynn Heirs and an authorized official of Village in the event of approval by Village Council at a duly noticed public hearing. Execution by an authorized official of the Village shall take place within 5 business days of approval by the Village Council at a duly noticed public hearing.

15. **Public Record.** The Glynn Heirs understand and agree that under the Florida Public Records Law, Chapter 119, Florida Statutes, the Village is required to, and shall upon

request by any third party, disclose the terms of this Agreement, and the Village shall comply with all federal, state, and local laws requiring disclosure of public records.

16. **Governing Law and Interpretation.** This Agreement shall be governed and construed in accordance with the laws of the State of Florida. If any provision of this Agreement is declared illegal or unenforceable by any court of competent jurisdiction, and it cannot be modified to be enforceable, the other terms of this Agreement (except for those in paragraphs 8 and 9 above) shall be null and void as well, absent separate written agreement of the Parties to preserve such other terms. Venue for any litigation arising from this Agreement will be in Monroe County, Florida.

17. **Amendment.** This Agreement may not be amended except by written agreement signed by all the parties, and approval by Village Council.

18. **Headings.** Section headings are used herein for convenience of reference only and shall not affect the meaning of any provisions of this Agreement

Dated: This ____ day of June, 2023.

The undersigned are authorized to enter into this Settlement Agreement.

Ted Yates Village Manager Islamorada, Village of Islands Islamorada Administrative Center, and Public Safety Headquarters 86800 Overseas Highway Islamorada, FL 33036 <i>For Islamorada, Village of Islands</i> By: _____	R. Jay Glynn <i>Petitioners' Authorized Representative</i> By: _____
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R. JAY GLYNN, WILLIAM GRAHAM GLYNN,
SALLY LEFFEW, NANCY WILSON, PEGGY WILLIAMS,
and MARITZA FONSECA,

Petitioners,

v.

VILLAGE OF ISLAMORADA,

Respondent

REQUEST FOR § 163.3181 FLA. STAT. DISPUTE RESOLUTION
& RELIEF UNDER § 70.51 FLA. STAT.

Petitioners, R. Jay Glynn, William Graham Glynn, Sally Leffew, Nancy Wilson, Peggy Williams, and Maritza Fonseca (collectively “Glynn”), through undersigned counsel and pursuant to §§163.3181(4) and 70.51 Fla. Stat. (2019), respectfully petition the Village of Islamorada (“Village”) for consolidated dispute resolution in connection with denial of Glynn’s November 28, 2017 Application for Future Land Use Map and Zoning Amendment (“Application”), a copy of which is attached hereto as Exhibit A) by vote of the Village Council on November 21, 2019. As grounds for this request, Glynn respectfully submits:

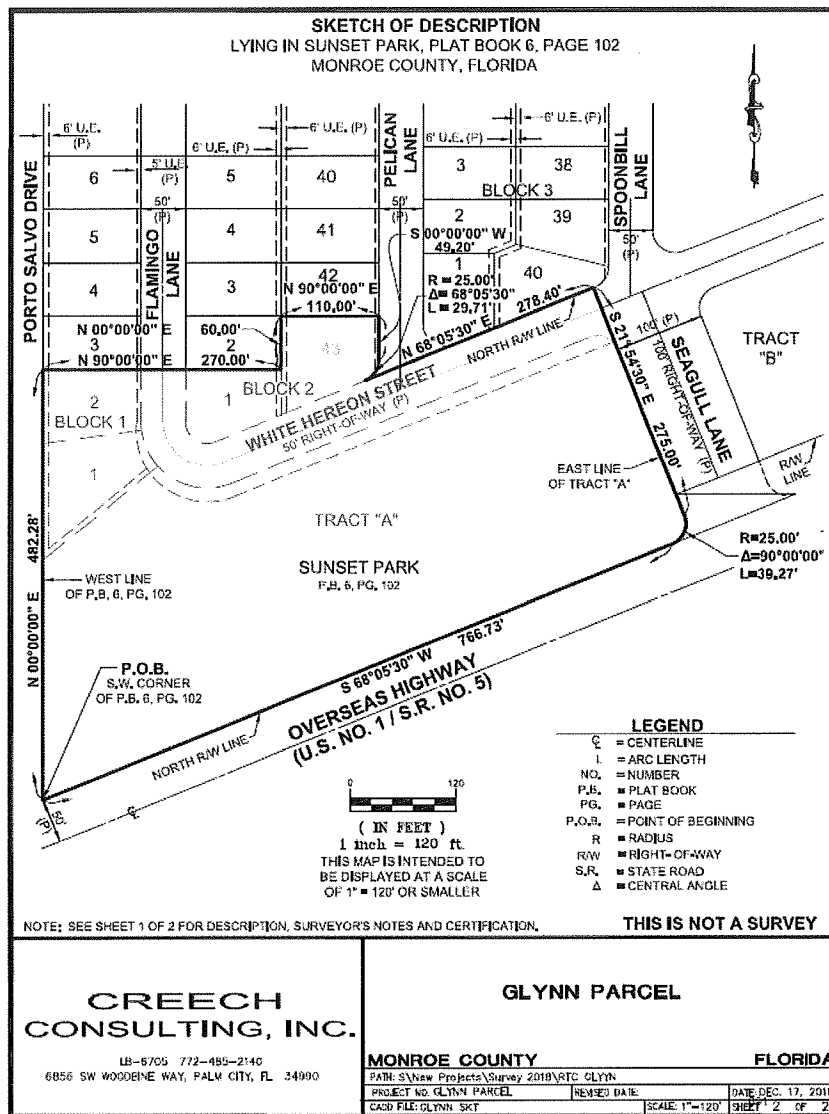
1. Glynn is the record owner of approximately 95 acres of platted real property (including both residential and commercial lots) located within the jurisdictional limits of the Village on Overseas Highway (roughly Mile Marker 86), more specifically described in the Application and shown on the following aerial (“Property”):



2. Glynn sought companion small scale comprehensive plan map and text amendments, zoning amendments, and a variance to allow development on only 4.91 acres of

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A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

the Property fronting on Overseas Highway. The area on which the Application proposed development is depicted on the following survey ("Development Parcel):



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ATTORNEYS AT LAW

3. Glynn sought to develop the Development Parcel with roughly 45 affordable housing units for which there is significant demand in the keys and in the Village.

4. Under the current Village Code at least 37 dwelling units are available for transfer from platted residential lots for clustering within the property.

5. The Development Parcel was under contract for sale to a reputable affordable housing developer during the pendency of the Application and at the time of the November 21, 2019 denial. The denial of the Application will prevent closing on the sale contract for the Development Parcel.

6. The denial of the Application was unreasonable and/or unfairly burdens the use of the Property because it deprives Glynn of any economically viable use of the Property as a whole.

7. The denial of the Application was unreasonable and/or unfairly burdens the use of the Property particularly because the Glynn family acquired the Property prior to imposition of the conservation regulations upon which the Village based the denial.

8. The denial of the Application was unreasonable and/or unfairly burdens the use of the Property particularly in light of the history of attempts by the Glynn family to make reasonable use of the property, some of which is summarized at pages 75-87 and 92-96 of the Application.

9. The rationales expressed by Council members for their unanimous vote to deny the Application uniformly reflected an intention by the Village to preserve the entire 95 acre Property and disallow any development of the Property whatsoever.

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A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

10. The Village Council's November 21, 2017 denial of the quasi judicial agenda items identified as items VIII D and F on the Council Meeting Agenda attached as Exhibit B (relating to Glynn's request for comprehensive plan amendments) entitle Glynn to request mediation or other dispute resolution under §163.3181(4) Fla. Stat. (2019),

11. The Village Council's November 21, 2017 denial of the quasi judicial agenda items identified as items VIII E and G on the Council Meeting Agenda attached as Exhibit B (relating to Glynn's request for zoning changes) constitute a "development order" as defined by § 70.51(2)(a) and therefore entitle Glynn to request relief under § 70.51 Fla. Stat. (2019).

12. On information and belief, the Village Council's denial of Exhibit B Agenda items VIII D, E, F, and G has not yet been documented by published minutes, as reflected on the following December 20, 2019 screenshot of the Village's "Agendas & Minutes" webpage available at http://www.islamorada.fl.us/departments/village_clerk/minutes.php:

RELATED PAGES

- Agendas & Minutes
- Ordinances
- Public Notices
- Resolutions
- Village Council Elections
- Village Council
- Village Code
- Monroe County Property Appraiser
- Monroe County Tax Collector
- Monroe County Clerk of the Court
- Monroe County Government

Searchable Council Meeting Minutes 2010-2019

Date	Meeting Type	Agenda	Minutes	Video
12/18/18	2018 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/17/17	2017 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/15/16	2016 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/15/15	2015 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/14/14	2014 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/13/13	2013 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/12/12	2012 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/11/11	2011 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
12/10/10	2010 Village Council Meeting Minutes (searchable)	Agenda	Minutes	
2019				
12/12/19	Regular Village Council Meeting	Agenda	Minutes	Video
11/21/19	Regular Village Council Meeting	Agenda	Minutes	Video
10/24/19	Regular Village Council Meeting	Agenda	Minutes	Video
10/10/19	Regular Village Council Meeting	Agenda	Minutes	Video
09/19/19	Regular Village Council Meeting	Agenda	Minutes	Video
09/19/19	Special Call - First Budget Hearing	Agenda	Minutes	Video
09/04/19	Special Call - First Budget Hearing	Agenda	Minutes	Video
08/25/19	Regular Village Council Meeting	Agenda	Minutes	Video

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ATTORNEYS AT LAW

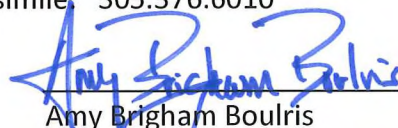
13. Glynn is filing this petition within 30 days of the November 21, 2019 denial of of Exhibit B Agenda items VIII D, E, F, and G in the abundance of caution, without prejudice to supplement the petition with the documentation of the Village's development order required by § 70.51(6)(b).

WHEREFORE, Glynn requests all the relief provided under § 163.3181(4) and § 70.51 Fla. Stat. (2019), including but not limited to, consolidated mediation under § 163.3181(4) and § 70.51(17)(a) and further hearing before the appointed special magistrate if necessary.

Respectfully submitted,

Gunster, Yoakley & Stewart, P.A.
Brickell World Center, Suite 3500
600 Brickell Avenue
Miami, FL 33131
Telephone: 305.376.6000
Facsimile: 305.376.6010

By:



Amy Brigham Boulris
Florida Bar No.: 772836
aboulris@gunster.com
Counsel for Petitioner

GUNSTER, YOAKLEY & STEWART, P.A.
A PROFESSIONAL ASSOCIATION
ATTORNEYS AT LAW

CERTIFICATE OF FILING & SERVICE

I HEREBY CERTIFY that an original of the foregoing petition was hand delivered to the Mayor of Islamorada c/o the Village Clerk at 86800 Overseas Highway, Islamorada and that a true copies were furnished via electronic mail to the following listed persons this 20th day of December, 2019:

Mike Forster, Mayor Mike.Forster@islamorada.fl.us Islamorada, Village of Islands, 86800 Overseas Highway Islamorada, FL 33036 Telephone: (305) 664-6400	Roget V. Bryan, Esquire Village Attorney, Village of Islamorada roget.bryan@islamorada.fl.us
Kelly S. Toth Clerk, Village of Islamorada Clerk@islamorada.fl.us	

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ATTORNEYS AT LAW

EXHIBIT-A

SPOTTSWOOD, SPOTTSWOOD, SPOTTSWOOD & STERLING, PLLC

ATTORNEYS AND COUNSELORS AT LAW

500 FLEMING STREET

KEY WEST, FLORIDA 33040

JOHN M. SPOTTSWOOD, JR.
ERICA HUGHES STERLING
CRISTINA L. SPOTTSWOOD
WILLIAM B. SPOTTSWOOD, JR.
RICHARD J. McCHESNEY

Telephone | 305-294-9556
Facsimile | 305-504-2696

OF COUNSEL:

JOHN M. SPOTTSWOOD (1920 – 1975)
ROBERT A. SPOTTSWOOD (of Counsel)
WILLIAM B. SPOTTSWOOD (of Counsel)

November 22, 2017

Ms. Cheryl Cioffari
Director of Planning
Village of Islamorada
86800 Overseas Highway
Islamorada, Florida 33036

Subject: Glynn Property:

Dear Cheryl:

The purpose of this letter is to submit the attached application for amending the Future Land Use Map (FLUM) for a portion of the Glynn property on Plantation Key as is allowed by the Village Land Development Regulations, Village Comprehensive Plan and Florida statute 163.3187. As you know, Florida statute 163.3187 was written, in part, to allow a Future Land Use Map and the Comprehensive Plan text change when, in the Florida Keys, the change involves the creation of an opportunity to create affordable housing. This portion of state law provides for an expedited review of small areas of a local jurisdiction proposed for such change and is known generally as the "Small Scale Amendment" Process.

Contained with this application is a request to amend the Land Development Regulations and a change of the Zoning of the part of the parcel considered for the FLUM Change to implement the proposed Future Land Use Map change. The Zoning of that portion of the property is proposed to become Medium Residential versus its present designation of Conservation. The change of the Land Development Regulations and Zoning will depend upon the local and state approval of the FLUM Map and Comprehensive Plan text change, and would become effective then.

Once the above changes are implemented, the Owner will apply for the Development Agreement required by the proposed Comprehensive Plan Text Amendment and will submit an application for Conditional Use approval of an Affordable Housing Project.

Previously we had met with staff to discuss methods whereby the Glynn property could be used in part for affordable housing. Having found no clear easy direction to achieve the affordable housing through the existing Land Development Regulations and Comprehensive Plan, the team consisting of our firm, Wendover Housing Partners of Altamonte Springs, Florida, the owner of the property Mr. Jay Glynn and his attorneys from the Gunster Law Firm has proposed the method described above in order to resolve the impasse that has prevented the realization of an affordable housing project for at least five years.

The change proposed to the text of the Comprehensive Plan resolves the clearing ratio for hardwood hammocks issue without harming the clearing ratios the LDRs apply to other parcels in the Village.

We look forward to working with you and staff to process the application and take it to the required public hearing to move forward. We will meet with you at your request to discuss all parts of the application.

Sincerely and respectfully,

Donald Leland Craig, AICP
Land Use Director

cc. Mr. Jay Glynn, Ms. Amy Boulris, Mr. Jonathan Wolfe, Mr. Jeffrey Sharkey and Ms. Erica Hughes-Sterling.

Copy of Letter and Application Materials to Mr. Roget Bryan, Village Attorney



ISLAMORADA, VILLAGE OF ISLANDS
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

APPLICATION FOR MAP AMENDMENT

Pursuant to Chapter 30, Article IV, Divisions 8 & 9

Application Type:	Application Fee:	*Deposit	Total Fee
☒ Future Land Use and Zoning	\$5,120.00	\$1000.00	\$6,120.00
☐ Zoning only	\$2,500.00	\$1000.00	\$3,500.00
☐ Request concurrent Future Land Use and Zoning hearings pursuant to §163.3184(12), Florida Statutes			

PLEASE NOTE: THIS APPLICATION ACCEPTED BY APPOINTMENT ONLY.

An application must be deemed complete and in compliance with the Village Code by Staff prior to the items being scheduled for review. See the Submittal Requirements below for a list of required submittals and documents.

APPLICANT / AGENT (if applicable): Property owner must submit a notarized letter authorizing the applicant/agent to act on their behalf including the agent's name, address and phone number.

Name: Donald L. Craig AICP Land Use Director Spottswood, Spottswood, Spottswood and Sterling

Mailing Address: 500 Fleming Street

City: Key West

State: Florida

Zip: 33040

Home/Mobile Phone: 305 924 0249

Office: 305 294 9556

Fax: 305 504 2696

Email: _____

PROPERTY OWNER:

Name: Jay R Glynn et al. - See property record cards

Mailing Address: 4430 Meager Circle

City: Port Charlotte

State: Florida

Zip: 33948-9495

Home/Mobile Phone: 941 625 6824/941 815 8955

Office: _____

Fax: _____

Email: jayglynn11@gmail.com

LEGAL DESCRIPTION OF PROPERTY: If in metes and bounds, attach legal description on separate sheet.

Physical Address: 86000 Overseas Highway

Mile Marker: 86

Lot: several Block: several Subdivision: Sunset Park

☒ Plantation Key

☐ Windley Key

☐ Upper Matecumbe Key

☐ Lower Matecumbe Key

Real Estate (RE) Number: see list

Alternate Key: see list

PROPERTY DESCRIPTION:

Total Land Area: 255,261

Square Feet 5.86

Acres

Existing Use of Property: Vacant

Has an Application for Map Amendment been submitted for this site within the past two (2) years? ☐ Yes ☒ No

If yes, provide name and date of application: _____

PROPOSED MAP AMENDMENT:

Current Future Land Use Category: Conservation

Current Zoning District: Conservation

Proposed Future Land Use Category: Residential Medium

Proposed Zoning District: Residential Medium

Application for Map Amendment

SUBMITTAL REQUIREMENTS:

- ☒ **Correct application fee.** Check or money order to "Islamorada, Village of Islands".
- ☒ **Notarized agent authorization letter**, if applicable, including the agent's name, address and phone number authorizing the applicant/agent to act on all property owners' behalf.
- ☒ **Proof of ownership** e.g. warranty deed, lease or pending sale contract.
- ☒ **Property record card** from the Monroe County Property Appraiser.
- ☒ **Copy of current Future Land Use Map** clearly marking the boundaries of the property. Map may be request from Planning and Development Service Department prior to application submittal.
- ☒ **Copy of current Official Zoning Map** clearly marking the boundaries of the property. Map may be request from Planning and Development Service Department prior to application submittal.
- ☒ **Photographs** of the site taken from adjacent streets.
- ☒ **Signed and sealed survey** prepared by a Florida registered surveyor. The survey shall include elevations and location of all existing structures, paved areas, location of all utility structures, all easements, all bodies of water on and adjacent to the site, docks, piers, mean high water line and total acreage by habitat (please provide a digital copy in addition to the signed and sealed survey).
- ☒ **Data and analysis (including a land use need analysis)** pursuant to Comprehensive Plan Policy 1-2.1.13, demonstrating there is a need for the amount of development allowed by the proposed FLUM designations in order to accommodate the Comprehensive Plan's projected population growth within the planning timeframe of the Comprehensive Plan.
- ☒ **Explanation** of how the application satisfies each of the applicable criteria in the Land Development Regulations, Comprehensive Plan and Principles for Guiding Development pursuant to § 380.0552(7), Florida Statutes. See Attachment A for list of criteria.

If deemed necessary to complete a full review of the application, the Planning and Development Services Department reserves the right to request additional information.

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate. I certify that all information required has been provided.

Signature of Applicant or Agent

Date

Print Name:

STATE OF

COUNTY OF

Sworn to and subscribed before me this

28th

day of

November

20¹⁷

by

as

for

Donald Craig

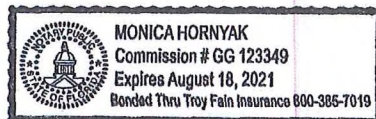
(name of person signing the application)

(type of authority...e.g. officer, manager/member, trustee, attorney in fact)

(name of entity or party on behalf of whom application was executed).

Signature of Notary Public - State of Florida

SEAL:



☒ Personally Known

☐ Produced Identification

Type of ID

ATTACHMENT A

Future Land Use Map (FLUM) Amendment Criteria. The applicant shall submit all information required to adequately address the filing requirements adopted by the Florida Department of Economic Opportunity ("DEO"). In addition, the applicant shall submit all other information necessary to address the comprehensive planning criteria of the Village.

Pursuant to the DEO State Coordinated Review Submittal Guidelines, in the case of FLUM amendments, the following information must be provided:

1. A description of the availability of and the demand on the following public facilities: sanitary sewer, solid waste, drainage, potable water, traffic circulation, schools and recreation, as appropriate; and
2. Information regarding the compatibility of the proposed land use amendments with the Comprehensive Plan future land use element objectives and policies, and those of other affected elements.

All proposed FLUM amendments must be consistent with the Principles for Guiding Development within the Florida Keys Area of Critical State Concern, pursuant to § 380.0552(7), Florida Statutes. The Principles are listed below.

- (a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.
- (b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.
- (c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.
- (d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.
- (e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.
- (f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.
- (g) Protecting the historical heritage of the Florida Keys.
- (h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:
 1. The Florida Keys Aqueduct and water supply facilities;
 2. Sewage collection, treatment, and disposal facilities;
 3. Solid waste treatment, collection, and disposal facilities;
 4. Key West Naval Air Station and other military facilities;
 5. Transportation facilities;
 6. Federal parks, wildlife refuges, and marine sanctuaries;
 7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
 8. City electric service and the Florida Keys Electric Co-op; and
 9. Other utilities, as appropriate.
- (i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; and the installation and proper operation and maintenance of onsite sewage treatment and disposal systems.
- (j) Ensuring the improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of § 381.0065(4)(l) and 403.086(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.
- (k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.

Application for Map Amendment

- (l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.
- (m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post-disaster reconstruction plan.
- (n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

The Village Council shall make its determination on proposed FLUM amendments on legitimate public purpose based on one or more of the following factors:

1. Demand for the proposed FLUM category in the village in relation to the amount of land currently assigned the FLUM designation and available to accommodate that demand;
2. Compatibility of the site's physical, geological, hydrological and other environmental features, with the uses permitted in the proposed FLUM category;
3. Data errors, including errors in mapping, vegetative types and natural features described in the comprehensive plan;
4. New issues;
5. Recognition of a need for additional detail or comprehensiveness

However, in no event shall an amendment be approved which will result in an adverse community change.

Official Zoning Map Amendment Criteria. The purpose of this application is to provide a means for changing the Official Zoning Map. It is not intended to relieve particular hardships, nor to confer special privileges or rights on any person, nor to permit a change in community character, as analyzed in the Comprehensive Plan, but only to make necessary adjustments in light of changed conditions. In determining whether to grant a requested amendment, the Village Council shall consider the factors set forth below and the consistency of the proposed amendment with the provisions and intent of the Comprehensive Plan.

The Village Council must find that the application is consistent with the Comprehensive Plan, that the applicant has complied with all procedural requirements of the Code and that the maintenance of the existing zoning on the property does not accomplish a legitimate public purpose. The Village Council shall make its determination on legitimate public purpose based on one or more of the following factors:

1. Demand for the proposed zoning district in the Village in relation to the amount of land currently zoned and available to accommodate that demand;
2. Compatibility of the site's physical, geological, hydrological and other environmental features, with the uses permitted in the proposed zoning district;
3. Data errors, including errors in mapping, vegetative types and natural features described in the Comprehensive Plan;
4. New issues;
5. Recognition of a need for additional detail or comprehensiveness; or
6. Compatibility of the proposed district with the property surrounding the site of the requested rezoning and any applicable neighborhood or redevelopment plan.

However, in no event shall an amendment be approved which will result in an adverse community change.

This instrument was prepared by:
Thomas J. Matkov, Esq.
DUNWODY WHITE & LANDON, P.A.
550 Biltmore Way, Suite 810
Coral Gables, FL 33134

Folio Number: (See attached Schedule of Account Nos.)

Doc# 1570637 03/13/2006 2:59PM
Filed & Recorded in Official Records of
MONROE COUNTY DANNY L. KOLHAGE

03/13/2006 2:59PM
DEED DOC STAMP CL: PW \$0.70

Doc# 1570637
Bk# 2193 Pg# 50

TRUSTEE'S and PERSONAL REPRESENTATIVE'S DEED

THIS INDENTURE, made and entered into this 2ND day of February, 2006, by **Coconut Grove Bank, as Trustee of the Jay Glynn Trust under Trust Agreement dated September 6, 2001, and as Personal Representative of the Estate of Jay Glynn, deceased,** whose post office address 2701 S. Bayshore Drive, 7th Floor, Miami, FL 33133 ("Grantor"), to **Maritza Fonseca, R. Jay Glynn, William Graham Glynn, Peggy Williams, Sally Leffew and Nancy Wilson,** whose post office address is, in care of R. Jay Glynn, 4430 Meager Circle, Port Charlotte, FL 33948 (the "Grantees").

WITNESSETH:

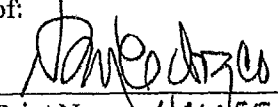
THAT Grantor, for and in consideration of the sum of \$10.00 and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto Grantees, their heirs, personal representatives, successors and assigns, all that certain land situate in Monroe County, Florida, as described as follows:

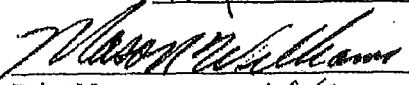
See Exhibit "A" attached hereto and made a part hereof.

SUBJECT TO covenants, conditions, easements, reservations, restrictions, limitations and other matters of record, if any, all zoning and land use regulations, and also subject to taxes for the year 2005 and subsequent years.

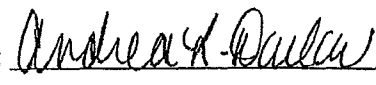
IN WITNESS WHEREOF, Grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in the presence of:


Print Name: HAYDEE OROZCO


Print Name: NANCY WILSON

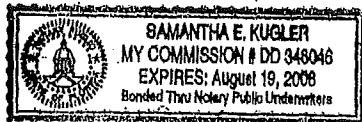
COCONUT GROVE BANK, as Trustee of the Jay Glynn Trust under Trust Agreement dated September 6, 2001, and as Personal Representative of the Estate of Jay Glynn, deceased

By: 
Name: Andrea L. Darlow
Title: Vice President and Trust Officer

STATE OF FLORIDA)
COUNTY OF MIAMI-DADE)

The foregoing instrument was acknowledged before me this 2nd day of February, 2006 by, Andrea L. Darlow, as Vice President and Trust Officer of **COCONUT GROVE BANK**, as **Trustee aforesaid** and as **Personal Representative aforesaid**, on behalf of the corporation. She is personally known to me (yes) or (no) or has produced _____ as identification.

My Commission Expires:



Samantha E. Kugler
NOTARY PUBLIC
Samantha E. Kugler
Printed Name of Notary

m:\real estate\glynn, jay\dee trusteepr deed.doc

Doc# 1570637
Bk# 2193 Pg# 52

EXHIBIT A

This will serve to certify that Lawyers Title Insurance Corporation has caused to be made a search of the Public Records of Monroe County, Florida, ("Public Records") as contained in the office of the Clerk of the Circuit Court of said County, from September 8, 1973 at 8:00 a.m. through December 14, 2005 at 8:00 a.m., as to the following described real property lying and being in the aforesaid County, to-wit:

All that portion of Government Lot 3 in Section 24, Township 63 South, Range 37 East lying Northwesternly of the Northwesternly Right of Way line of Overseas Highway U.S. No. 1, S.R. No. 5, TOGETHER WITH that portion of the Southeast quarter of the Southwest quarter of Section 13, Township 63 South, Range 37 East, which lies Northwesternly of said Northwesternly Right of Way line, TOGETHER WITH a portion of Government Lot 3 of said Section 13, all lying and being situated on Plantation Key, Monroe County, Florida, and being more particularly described by metes and bounds as follows:

Begin at the point of intersection of the Northwesternly Right of Way line of Overseas Highway (S.R. No. 5, U.S. No. 1), with the West line of Government Lot 3 of Section 24, Township 63 South, Range 37 East, said West line also being a prolongation of the West line of the said Southeast quarter of the Southwest quarter; thence run North along said West line for 1802.28 feet; thence run East 110.00 feet; thence run North 35.00 feet; thence run East 50.00 feet to the point of curvature of a circular curve concave to the Northeast; thence run along the arc of said curve, having for its elements a central angle of 90° and a radius of 25.00 feet (for 39.27 feet), to the point of tangency; thence run East 1135.08 feet to the point of intersection with the East line of Government Lot 3, of said Section 13, Township 63 South, Range 37 East, said East line being a prolongation of the East line of said Southeast quarter of the Southwest quarter of Section 13, Township 63 South, Range 37 East; thence run South along said East line for 1227.50 feet to the point of intersection with the Northwesternly Right of Way line of Overseas Highway (U.S. No. 1, S.R. No. 5); thence run South 68° 05' 30" West along said Right of Way line for 651.21 feet to the point of intersection with the North line of Government Lot 3, of said Section 24, Township 63 South, Range 37 East; thence run East along said North line for 134.00 feet; thence run South 68° 05' 30" West for 916.05 feet to the Point of Beginning. AND the land lying North adjacent to Heron Street, known as Florida Bay Tract A, B, C, D and E, SUNSET PARK, described as: All of Government Lot 3 in Section 13, Township 63 South, Range 37 East, LESS that portion platted as SUNSET PARK, according to the Plat thereof, recorded in Plat Book 6, Page 102, of the Public Records of Monroe County, Florida.

Doc# 1570637
Bk# 2193 Pg# 53

SCHEDULE OF ACCOUNT NOS.

Account #	Account #	Account #	Account #	Account #
1106020	1504629	1504475	1504173	1504327
1106038	1504637	1504483	1504181	1504335
8822278	1504645	1504491	1504190	1504343
1503304	1504653	1504505	1504203	1504351
1503312	1504661	1504513	1504211	1504360
1503321	1504670	1504521	1504220	1504378
1503339	1504688	1504530	1504238	1504386
1503347	1504696	1504548	1504246	1504394
1503355	1504700	1504556	1504254	1504408
1503363	1504718	1504564	1504262	1504416
1503371	1504726	1504572	1504271	1504424
1503380	1504734	1504581	1504289	1504432
1503398	1504742	1504599	1504297	1504441
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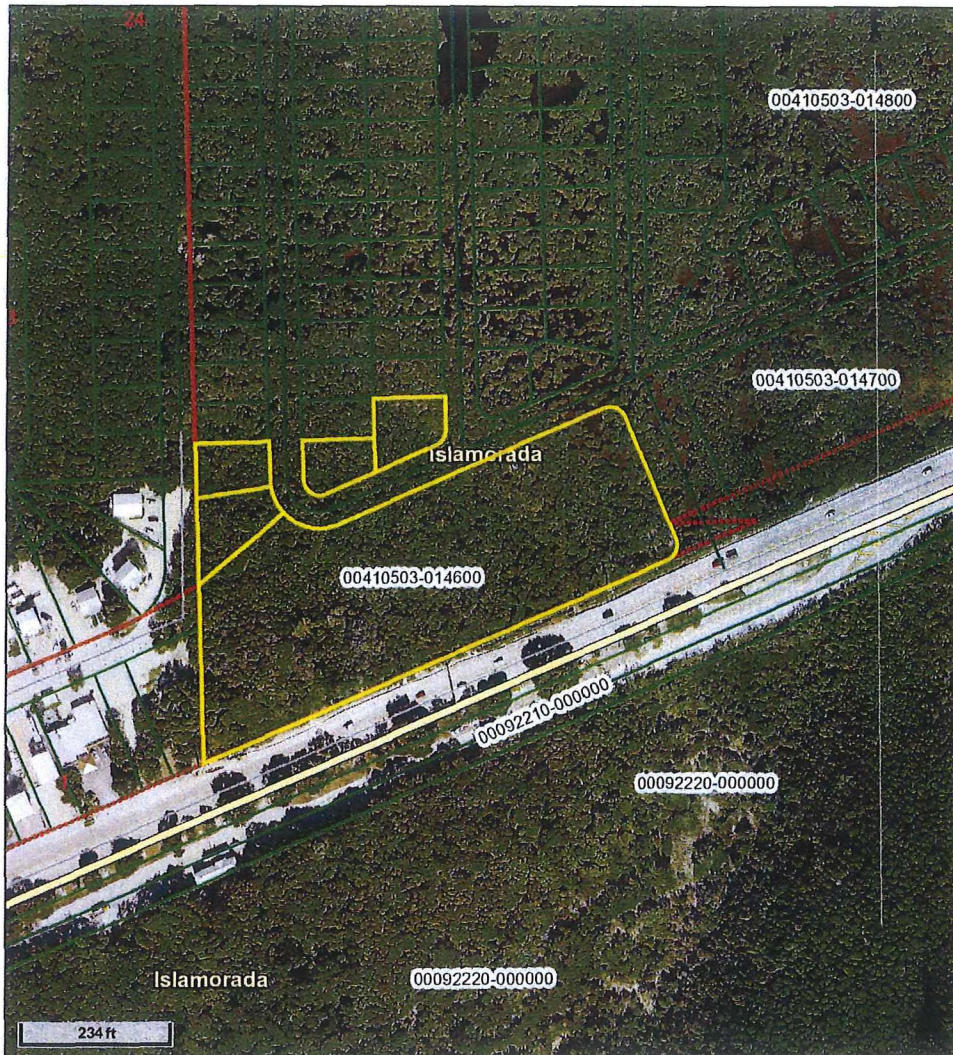
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1503517	1504114	1503967	1503819	1503665
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1503533	1504131	1503983	1503835	1503681
1503541	1504149	1503991	1503843	1503690
1503550	1504157	1504009	1503851	1503703
1503568	1504165	1504017	1503860	1503711





Glynn Parcel Proposed for Residential Medium
parcel selection

Created by: Donald Craig



Overview



Legend

-  Major Roads
-  Centerline
-  Hooks
-  Road Center
-  Rights of Way
-  Condo Building
-  Conservation Easement
-  Key Names
-  Subdivisions
-  Parcels

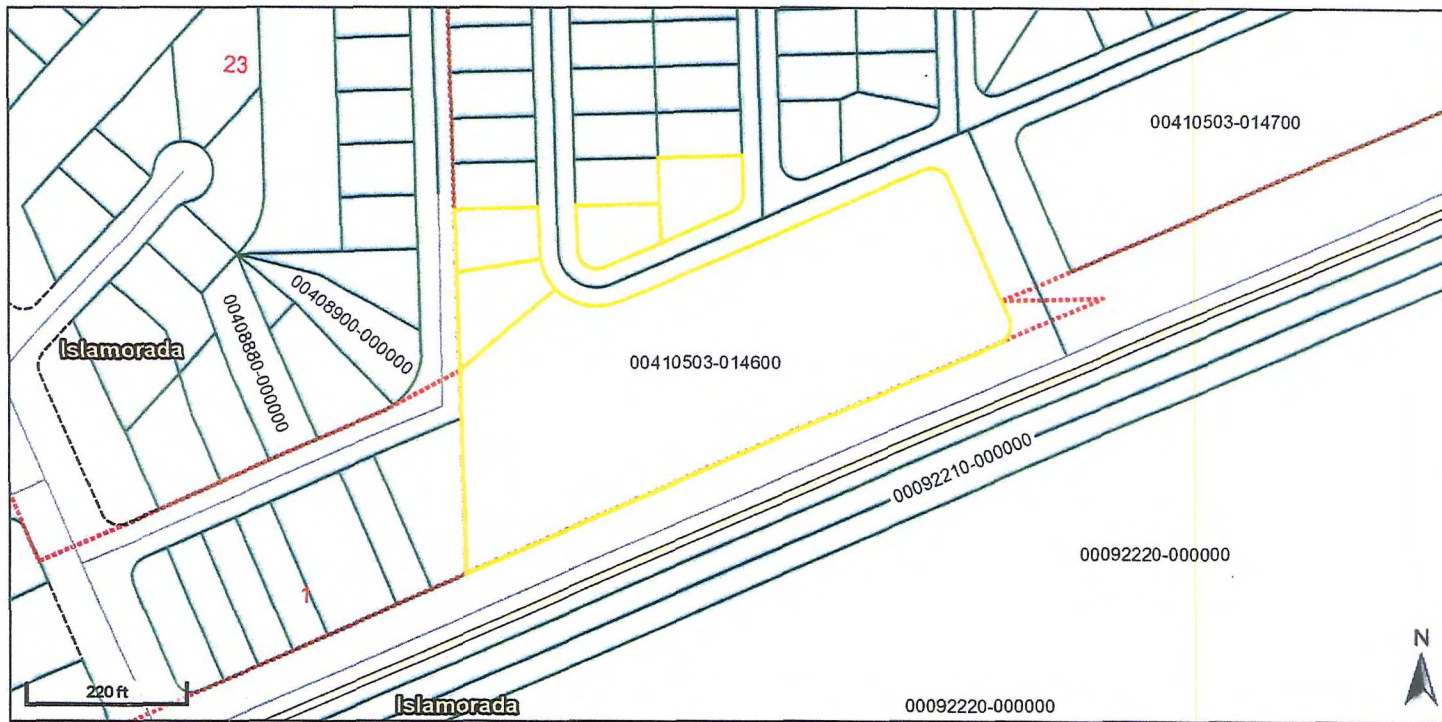
Date created: 7/13/2017
Last Data Uploaded: 7/13/2017 2:43:27 AM

 Developed by
The Schneider Corporation

Glynn Parcels Proposed for FLUM Change to Residential

Parcels and Undeveloped Roadway shown in Yellow

Created by: Donald Leland Craig AICP



Overview



Legend

-  Major Roads
-  Centerline
-  Hooks
-  Road Center
-  Rights of Way
-  Condo Building
-  Conservation Easement
-  Key Names
-  Subdivisions
-  Parcels

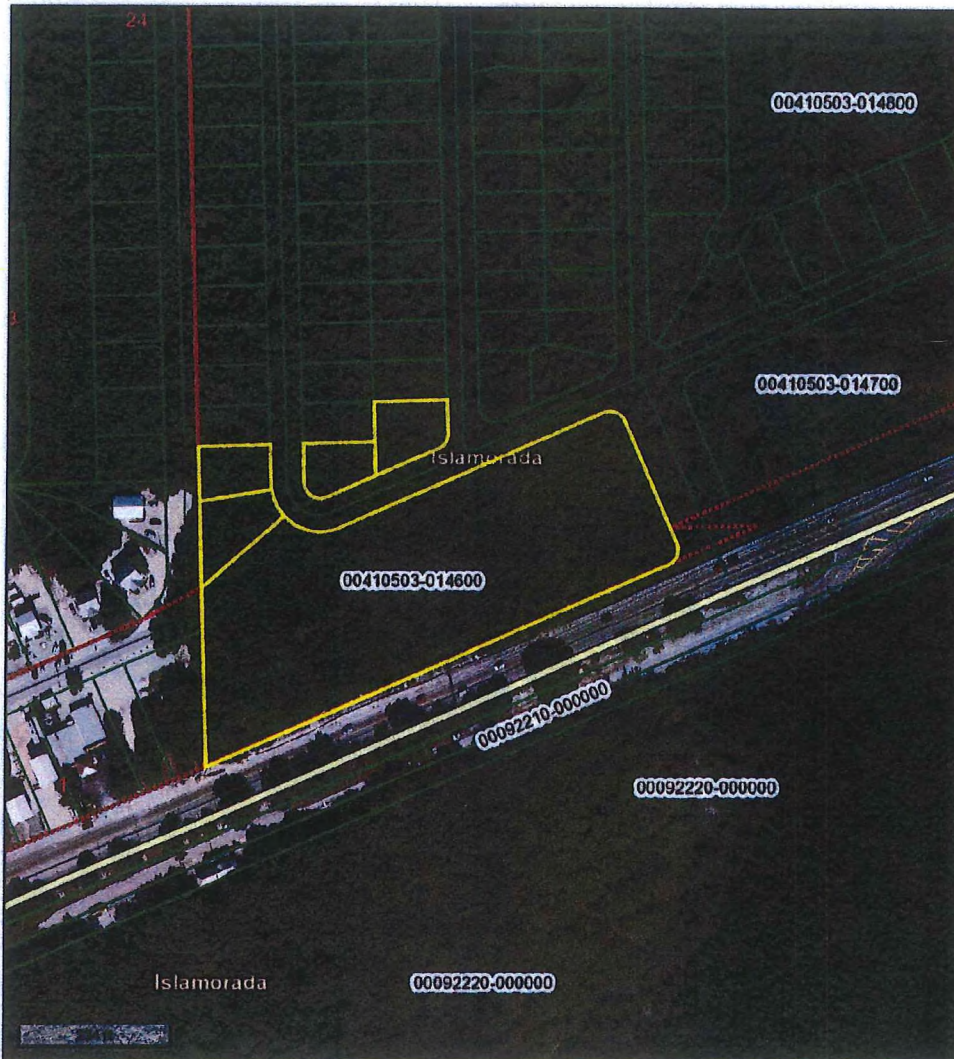
Date created: 7/13/2017
Last Data Uploaded: 7/13/2017 2:43:27 AM



Developed by
The Schneider Corporation

**Glynn Parcel Proposed for Residential Medium
parcel selection**

Created by: Donald Craig



Overview



Legend

-  Major Roads
-  Centerline
-  Hooks
-  Road Center
-  Rights of Way
-  Condo Building
-  Conservation Easement
-  Key Names
-  Subdivisions
-  Parcels

Date created: 7/13/2017
Last Data Uploaded: 7/13/2017 2:43:27 AM

 Developed by
The Schneider Corporation

VEGETATION SURVEY **HABITAT ANALYSIS**

of

**Glynn Acreage Tract, Sunset Park SD, Plantation Key
Village of Islamorada, Monroe County, Florida
RE: 00410503-000010 thru 014800; 00091920&30-000000
Sec 13-Twn 63-Rge 37**

for

**Donald L. Craig, AICP
Land Use Director
Spottswood, Spottswood & Spottswood**

**Field Quadrat Survey Conducted 8/8/12
Survey Updated, Delineation & Marked 7/11/16**

Conducted by: Harry A. DeLashmutt - Biosurveys, Inc.
794 26th Street
Marathon, Florida 33050
Phone – (305) 942-9221
Email – hdelashmutt@comcast.net

Vegetation Survey

A habitat assessment and delineation was conducted at the subject tract by the undersigned on October 30, 2008. At that time, a development was planned but did not materialize. Again in 2012 a Vegetation Survey with habitat analysis meeting the protocols of the Village of Islamorada was conducted by the undersigned. The two assessments identified predominantly low elevation land with mangrove and saltmarsh wetlands extending from the Overseas Highway (southern boundary) to Florida Bay to the north. In addition, two elevation changes of limestone bedrock found on the tract that are high enough to support tropical hardwood hammock vegetative habitat. The transition to these two habitats include a surrounding band of saltmarsh & Green Buttonwood ecotones. These separate habitats were delineated on-site and mapped in the 2012 report.

An update to these reports was requested by Don Craig with Spottswood, Spottswood & Spottswood. A detailed reconnaissance of the tract on July 11, 2016 by the undersigned found no significant environmental changes since the 2008 & the 2012 reports. The two high elevation areas are the focus of this update survey and are depicted on the aerial photo below as white hatch marks. A careful and exhaustive search of the entire tract revealed no other areas of similar elevation or upland habitat. The two habitats are best described in this report as the Southwest (SW) Corner Hammock and the Southeast (SE) Hammock immediately to the north of the Suburban Gas property on the Overseas Highway. The Southwest Corner Hammock is bordered on the south by the Highway rights-of-way and the west by clearing and development.



MC Palmis Aerial – White Hatching Areas are the Two Upland High Elevation Areas Found on the Subject Tract

Methods:

The survey concentrated on delineating tropical hardwood hammock areas in the predominant wetland environment of the overall large acreage tract. The uplands were identified from the wetland areas using plant indicator species identification, grade elevation changes, hydrology and soil hydric indicators. The wetlands were identified using protocols found in the State of Florida Statute - Chapter 62-340, *Delineation of the Landward Extent of Wetlands and Surface Waters*. References used upland habitat identification are *Native Trees and Shrubs of the Florida Keys* by J. Paul Scurlock; and *Trees of Everglades National Park and the Florida Keys* by George Stevenson. Reference support also used *Identification & Biology of Non-Native Plants in Florida's Natural Areas* by Langeland & Burks. Soils and substrate were assessed using *Soil Survey of Monroe County, Keys Area, Florida*, by the US Department of Agriculture.

A delineation line was developed for the two hammock areas using a handheld compass and GPS unit. Points were placed on a field map using an aerial photograph for reference. Field lines were drawn from the points using a hand held compass to form the hammock boundary. Measurements of the line were taken from a measure wheel and checked with a tape for redundancy check. Two lines (one on the east property line and the other on the west) of the total tract acreage were walked from the south to the north along old survey cuts in the mangrove wetlands to determine any other changes in grade elevation to find any support for upland or hammock vegetation. There were no other areas besides the two upland areas found on the subject tract by the undersigned.

The two elevated land areas are surrounded by saltmarsh and buttonwood habitat as a transitional ecotone. This ranges approximately 30 to 50 feet wide before dropping in elevation to a habitat of homogeneous cover of mature mangroves and sparse saltmarsh wetlands. The further north toward open water - the taller growth patterns of the mature mangrove forests were found. This northern area of the tract is lower in land elevation and it is mostly submerged with tidally influenced Florida Bay waters. The majority of the land area to the north is considered submerged. The habitat north of the two upland areas can be classified as "High Quality Red Flag Wetlands-612". A quadrat/transect approach to determining the size, diversity, and density of hammock habitat in the SW corner of the Tract was used to further classify and analyze the vegetation and habitat. See the below quadrat surveying method results.

Vegetative Analysis of Tract:

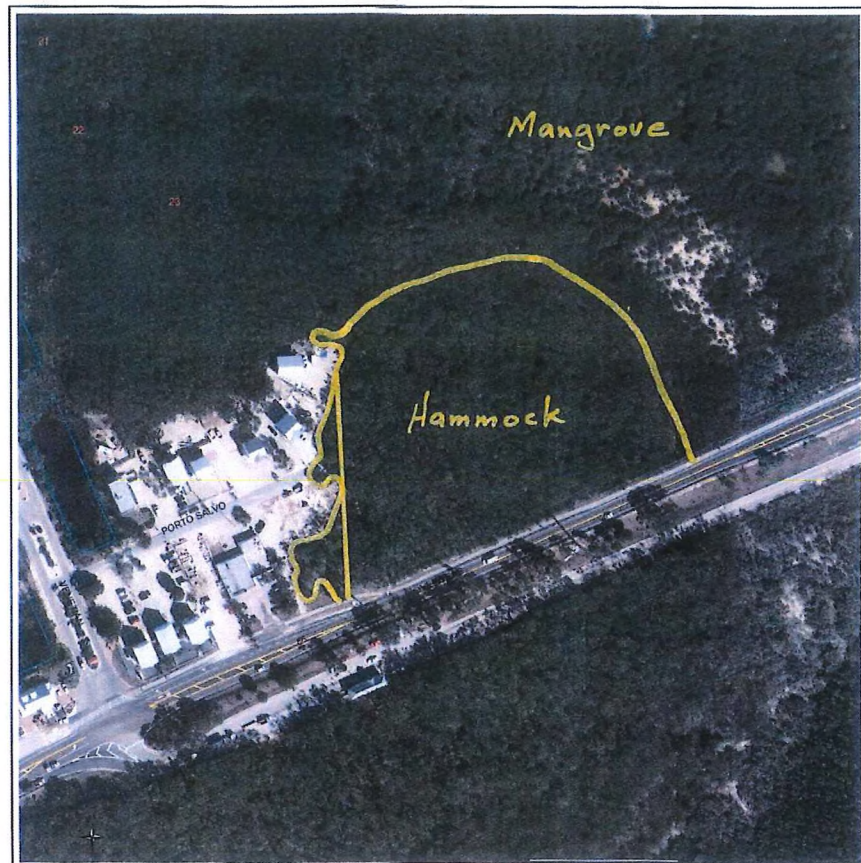
The wetland area of the Tract is dominated by Red, White, and Black Mangroves. A transitional wetland ecotone exists between the mangrove habitat and the two high elevation upland areas on this Tract. A tropical hardwood hammock exists in two areas where the base limestone bedrock – common to the Florida Keys increases with elevation. Some low mangrove forests with scrub mangroves comprise the interior areas with less tidal waters. Most of the land is submerged or tidally inundated. The saltmarsh buttonwood – (640.) ecotones support the dominant species of Buttonwood (*Conocarpus erectus*), Saltwort (*Batis maritima*), Sea Daisy (*Borrchia frutescens*), Glasswort (*Salicornia spp.*), Salt grass (*Distichlis spicata*), and Sea Purslane (*Sesuvium spp.*). The vegetative habitat on the higher land bordering the ecotone is characterized by low hardwood hammock (426) plant species such as Blackbead (*Pithecellobium guadalupens*), West Indies Mahogany (*Swietenia mahogany*), Darling Plum (*Reynosa septentrionalis*), Sea Grape (*Coccoloba uvifera*), Poisonwood (*Metopium toxiferum*), Gumbo Limbo (*Bursera simaruba*), Saffron Plum (*Bumelia celastrina*), and Spanish Stopper (*Eugenia foetida*). The high hammock on the greater

bedrock grade elevation of the hammock areas contain the species - Blolly (*Guapita longifolia*), Strangler Fig (*Ficus aurea*), Strongbark (*Bourreria ovata*), West Indies Mahogany (*Swietenia mahagoni*), Cats Claw (*Pithecellobium guadalupense*), Crabwood (*Ateramnus lucidus*), Gumbo Limbo (*Bursera simaruda*), Jamaica Dogwood (*Piscidia piscipula*), and Wild Tamarind (*Lysiloma latisiliquum*). These are all dominant woody species along with moderate density of understory and a low density of ground cover. The two hammocks are connected by undisturbed wetland habitat and are approximately five acres or greater in size making them both automatically classified as “High Quality Hardwood Hammock – 426” in accord with the Village Land Development Regulations protocols. The SE hammock can best be characterized or classified as “Low Hardwood Hammock” habitat due to the smaller size mature vegetative cover, lower bedrock elevation (3 – 5’) and plant species indicators. The SW corner hammock area has a band of Low Hammock and characteristic high hardwood hammock habitat as the bedrock elevation rises. Elevations are estimated at 10 feet at the maximum limestone bedrock height.

The invasive exotics Brazilian Pepper (*Schinus terebinthifolius*), Lead Tree (*Leucaena leucocephala*), and Australian Pine (*Casuarina equisetifolia*) are very sparse and insignificant in numbers for the SW corner hammock. They are primarily only along the Tract boundaries R.O.W. to the Overseas Highway side and scattered along the western Tract boundary. None exist in the ecotones or saltmarsh areas. The invasive exotic plants are of concern in the smaller SE hammock area and its boundary edges of the hammock. In this area, the exotic disturbance is at 18% - 24% overall canopy cover. The dominant invasive plant there is Australian Pine. It is best depicted in the recent aerial photos as the lighter green vegetative cover. This disturbance and man-caused issues found there characterizes the SE vegetative habitat as “Disturbed with Hammock” – 740.1” Except for the southeastern hammock area, invasive exotic vegetation is not a significant factor in disturbance to the overall tract and the SW corner hammock habitat.



West Edge of SW Hammock – End of Porto Salvo Rd Cleared Area & Connected Hammock – SE Corner
Note the clearing of understory in hammock immediately adjacent to the Glynn Tract Western Boundary – Overseas Highway is in background. Photo taken from Porto Salvo Rd. looking south. By hd 7/16



Southwest Corner Hammock – Straight Line is the Tract Boundary – Curved northerly line is the marked upland / wetland line. Outside boundary areas west are connected hammock canopy trees - Aerial 2006 Photo (MC Palmis)



Southwest Corner Hammock Discussion:

The southwest corner hammock contains high hammock species on higher elevations and low hammock typical of lower elevations from the transitional ecotone from saltmarsh mangrove wetlands. The line is depicted above with the entire hammock shown including that outside of the property boundary line. The total hammock area as measured by Solaria Design, Inc. within the tract is 213,879 sq. ft. or 4.91 acres in size. That area of connected hammock outside of the property line is approximately 11,755 sq. ft. (measured by the undersigned). Total hammock area (inside and out of the tract) identified as the southwestern hammock measures approximately 225,635 sq. ft. or 5.18 acres in size. This area is the connective upland hammock habitat for determining quality classification. Significant undisturbed native wetland vegetative habitat on the Tract is also connected to this hammock habitat.

The total distance along the overseas highway from the origination point near the concrete base of the high voltage power-line pole to the flagged wetland line is 665 linear feet. Red flagging ribbons mark these points. The delineation lines as depicted on the above aerial have been tagged at turning points with GPS coordinates and compass readings. This curved line is marked for field reference with pink flagging tape labeled "Wetland Delineation" at chest height approximately every 40 feet along the line.

In the northwest corner of the tract hammock, a land survey property stake was found and recorded by the coordinates - 24° 40.376'N and 81° 11.881'W. The wetland line originates on the tract boundary 30 feet north of this stake and proceeds to the east around the base of the upland hammock. The easterly origination point of the wetland / hammock line on the Overseas Highway right of way is 24° 57.342'N and 81° 34.785'W (665' from Tract SW corner survey pin). The low hammock habitat extends into the corner habitat approximately 90' uniformly following the delineation curve.

The low hammock vegetation is relatively small in diameter of tree trunks and contains a low density of "Regulated – (3.5" dia or greater) trees. Darling Plum, Blackbead, Spanish Stopper, Pigeon Plum, Saffron Plum, and Sea Grape make up the dominant woody plant species.

Higher elevations support the typical high hammock characterized with larger canopy trees of Mahogany, Wild Tamarind, Gumbo Limbo, Jamaica Dogwood, Poisonwood, Black Ironwood, Strangler Fig, and Willow Busic. There is evidence of past clearing and dumping of rock /debris on the hammock floor. The hardwoods represent second growth but are mature and healthy. There are no significant disturbances to the habitat and only a minor man-caused intrusion located in a cleared area for parking at a residence in the northwest corner of the upland area. This intrusion is vegetative clearing and fill gravel for approximately 12 feet into the Tract.

Southeast Hammock Discussion:

The southeast hammock area contains predominantly low hammock species on higher elevation lands from the transitional ecotone between saltmarsh mangrove habitat and the sparse hammock. The line is depicted below in gold with the entire hammock shown including that outside of the property line (to the right of the straight dividing line). The total SE upland area of hammock within the Glynn property is approximately 80,586 sq. ft. or 1.85 acres. The connected or contiguous hammock area (that to the right in photo) on the southeastern area, measures

approximately 165,980 sq. ft. Most of this area has been developed since this 2012 assessment and photo. The total distance along the property line or the eastern edge of the hammock is 400 feet. Pink flagging ribbons (Wetland Delineation) mark the wetland delineation line and turning points approximately every 40 feet.

In the northeast corner of the tract SE hammock, a common survey point (stake) was found and recorded by the coordinates $24^{\circ} 40.560'N$ and $81^{\circ} 11.658'W$. The stake is marked by red and blue survey flagging. The southerly point mark by the surveyor at the corner of Suburban Gas, and the Glynn property could not be found. The hammock point here is recorded as $24^{\circ} 40.431'N$ and $81^{\circ} 11.643'W$. (NAD83 Datum). A more detailed summary of the habitat / vegetative survey on the SE upland area follows the quadrat analysis of the SW potential development area later in this Survey.



Southeast Hammock Area Delineated to the Left Side of Overall Area Connected – Note the Propane Gas Transfer Station Property to the South and Overseas Hwy below. 2006 Aerial Photo – Palmis



SE Hammock Area – “740.1 Disturbed with Hammock” Habitat. Note Australian Pine Intrusion indicated by the light color green canopy mixed with native trees. Recent development has removed a significant portion of connected hammock habitat to the east – adjoining parcel. Google Aerial photo taken 12/16/14

The total upland hammock area (two hammock upland sites combined) found on the Glynn Tract as computed by Solaria Designs (6/27/11 aka K2m Design & Engineering) is 6.76 acres. They indicated the total area of the Tract (upland and wetlands) as 97.57 acres. The proposed site for possible development area which is depicted on the “Vegetation Survey map” area attached is the southwest hammock – 4.91 acre upland.

Note: All field measurements and locations were taken using the best practice available by the undersigned. The measurements contained in this report are as accurate as possible but are approximate, and should not be relied upon without a professional surveyor checking the marked delineation lines and turning points and determining the accurate measurements certified of the marked areas.



Wetland Delineation Along Hammock Edge



Typical Mangrove Wetland 30' Waterward of Line

Proposed Development Area Vegetation Survey (Upland Hammock):

The area proposed to be developed is the 4.91 acre hammock area located in the southwestern corner of the subject Tract. Following the assessment and delineation of the wetland line surrounding the hammock area, a comprehensive grid inspection of the hammock was walked to determine any sub-habitat areas or anomalies, disturbances, invasive exotic plants, changes in plant density, wildlife habitat indicators, and overall hammock health. It was determined that the hammock quality gradually increased with elevation from the wetland line to the southwest corner. This feature is considered common in the Keys since the saline saturated soils and rock prevail through wicking action of the subterranean water in the lower elevations. The affect is smaller trees of the same age, lower health, and lower density of understory / ground cover. The hammock demonstrated this factor uniformly as the elevation changed toward the southwest corner.

Since the upland hammock habitat is consistent in vegetative cover throughout the area, there are no remarkable visible disturbances and the density / species makeup is very typical of similar habitat in the Plantation Key Area. With this consistency a transect/quadrat approach to the vegetative inventory and ratio of regulated / listed trees is developed for the lower hammock area compared to the upper elevation hammock to better represent the vegetation. Three 50 foot (2,500 sf) quadrats were randomly selected inside the hammock and marked off by string and flagging. Coordinates were taken (GPS) at the southwest corner of each quadrat for future locating. All quadrats (A, B, & C) are oriented in a north-south direction and measurements taken from marked points on the hammock boundary. See field map of quadrat locations in relation to the hammock boundaries attached in this report.



Corner of Quadrat & Marking of a Listed Tree (Paint)



Typical Vegetation Inside Quadrat A – Note Sparse Ground Cover and Small Size Understory

Quadrat Data:

Each 50 ft. plot or transect was visually graded as to canopy, understory, and ground cover density in a scale of 1 to 10 (10 being unable to see 50 ft. at eye level). All regulated and listed plants were measured and marked with orange tree marking paint. All vegetation in the plots was inventoried and plant lists developed. A summary of data follows each report of the quadrat findings and a comparative analysis made. The maps and results of the transect data development follow:

Alpha codes on the following plant lists are as follows:

E – Endangered Species T – Threatened Species RI – Regionally Important
N – Native Species IEX – Invasive Exotic Species DBH – Diameter at Breast Height

Quadrat A:

This quadrat or transect was positioned in the hammock 60 feet from the tract boundary line and in visual line with the east-west crest of the building roof adjacent and west of the tract. The quadrat is located beyond 50 feet landward of the delineated wetland line. See the Survey field map (attached) for its relative location. The area is undisturbed by human activity and invasive exotic vegetation. Density of Canopy ranks 6 out of 10, understory plants - 7, and ground cover - 2. Health of trees is good, size measured in diameter is relatively small compared to the upper elevation area trees. Diversity is fair with 14 regulated trees marked and 31 listed (protected) plants inventoried. The ground cover is mostly leaf litter and very few plants noted. The largest tree found was a 12.5 inch DBH West Indies Mahogany. The following plant species were inventoried in this quadrat:

Vegetative Species List - A

Common Name	Scientific Name	Status	Map Symb.
Blackbead	<i>Pithecellobium guadalupense</i>	N – T	BB
Black Ironwood	<i>Krugiodendron ferreum</i>	N – RI	BI
Blolly	<i>Guapita longifolia</i>	N	BL
Darling Plum	<i>Reynosia septentrionalis</i>	N – T	DP
Greenbriar Vine	<i>Smilax auriculata</i>	N	
Gumbo Limbo	<i>Bursera simaruda</i>	N	G
Jamaica Caper	<i>Capparis cynophallophora</i>	N	
Jamaica Dogwood	<i>Piscidia piscipula</i>	N	J
Limber Caper	<i>Capparis flexuosa</i>	N	
Marlberry	<i>Ardisia escallonioides</i>	N	
Mouses Pineapple	<i>Morinda royoc</i>	N	
Pigeon Plum	<i>Coccoloba diversifolia</i>	N	PP
Poisonwood	<i>Metopium toxiferum</i>	N	P
Saffron Plum	<i>Bumelia celastrina</i>	N	SP
Spanish Stopper	<i>Eugenia foetida</i>	N	
Strongbark	<i>Bouffieria ovata</i>	N	
West Indies Mahogany	<i>Swietenia mahagoni</i>	N – E	M
White Stopper	<i>Eugenia axillaries</i>	N	

Dominant Vegetation at the Site:

Blolly	<i>Guapita longifolia</i>	N
Blackbead	<i>Pithecellobium guadalupense</i>	N - T
Spanish Stopper	<i>Eugenia foetida</i>	N

Invasive Exotics or Other Disturbance:

None

Quadrat B:

Quadrat B was positioned in the hammock on the same east-west line with A and 85 feet east of Quadrat A. It is greater than 50 feet landward from the wetland line in upland habitat. See the Field Map (attached) for its relative location. The area is undisturbed by human activity and invasive exotic vegetation. Density of Canopy ranks 8 out of 10, understory plants - 8, and ground cover - 3. Health of trees is good; size measured in diameter is relatively small compared to the upper elevation area trees. Diversity is good with 12 regulated trees marked and 36 listed (protected) plants inventoried. The ground cover is mostly leaf litter and very few plants noted. The largest tree found was a 10 inch DBH West Indies Mahogany. There are more Buttonwoods on this site and a single Wild Dilly tree is located - leaning to the north (threatened species). The following plant species were inventoried in this Quadrat:

Vegetative Species List – Quadrat B

Common Name	Scientific Name	Status	Map Symb.
Buttonwood	<i>Conocarpus erectus</i>	N	B
Blackbead	<i>Pithecellobium guadalupense</i>	N – T	BB
Black Ironwood	<i>Krugiodendron ferreum</i>	N – RI	BI
Blolly	<i>Guapita longifolia</i>	N	BL
Crabwood	<i>Gymnanthes lucida</i>	N	
Darling Plum	<i>Reynosia septentrionalis</i>	N – T	DP
Greenbriar Vine	<i>Smilax auriculata</i>	N	
Gumbo Limbo	<i>Bursera simaruda</i>	N	G
Jamaica Dogwood	<i>Piscidia piscipula</i>	N	J
Limber Caper	<i>Capparis flexuosa</i>	N	
Marlberry	<i>Ardisia escallonioides</i>	N	
Mouses Pineapple	<i>Morinda royoc</i>	N	
Pigeon Plum	<i>Coccoloba diversifolia</i>	N	PP
Poisonwood	<i>Metopium toxiferum</i>	N	P
Saffron Plum	<i>Bunelia celastrina</i>	N	
Spanish Stopper	<i>Eugenia foetida</i>	N	
Strongbark	<i>Bouffieria ovata</i>	N	
West Indies Mahogany	<i>Swietenia mahagoni</i>	N – E	M
Wild Dilly	<i>Manikara bahamensis</i>	N – T	WD

Dominant Vegetation at the Site:

Blolly	<i>Guapita longifolia</i>	N
Blackbead	<i>Pithecellobium guadalupense</i>	N
Buttonwood	<i>Conocarpus erectus</i>	N

Invasive Exotics or Other Disturbance:

None

Quadrat C:

Quadrat C was located randomly by finding a point on the south boundary at the 200 ft. mark from the southwest property corner. At the mark, the quadrat corner was begun at a southwest corner of it - 60 feet from the south property line mark. See the Field Map (attached) for its relative location. The area is undisturbed by human activity and invasive exotic vegetation. Density of Canopy ranks 9 out of 10, understory plants - 6, and ground cover - 9. Health of trees is excellent; size measured in diameter is larger than Quadrat A or B. Diversity is fair with 6 regulated trees marked and 18 listed (protected) plants inventoried. The ground cover is heavy with vines and shrubs. Snowberry bushes are thick and the cover prevents saplings from emerging. There is deep leaf litter. The largest tree found was a 13 inch DBH Strangler Fig. There are taller and larger trees on this site with less small diameter understory trees. Canopy is denser, higher, and closed. Diversity is much higher than the lower elevation Quadrats A&B. There are no Blackbead trees, but Inkwoods (Regionally Important), and a single Florida Boxwood (endangered) are notable species found growing within the Quadrat C. Wild Tamarind trees are located in this Quadrat as well and they are found only in the upper elevation area. They are large and with 40 – 50 ft. crowns forming a closed canopy above. The following plant species were inventoried in this Quadrat:

Vegetative Species List – Quadrat C

Common Name	Scientific Name	Status	Map Symb.
Blackbead	<i>Pithecellobium guadalupense</i>	N - T	
Black Ironwood	<i>Krugiodendron ferreum</i>	N – RI	BI
Blolly	<i>Guapita longifolia</i>	N	
Everglades Velvetseed	<i>Guettarda elliptica</i>	N	
Florida Boxwood	<i>Schaefferia frutescens</i>	N – E	FB
Greenbriar Vine	<i>Smilax auriculata</i>	N	
Gumbo Limbo	<i>Bursera simaruda</i>	N	G
Indigoberry	<i>Randia aculeate</i>	N	
Inkwood	<i>Exothea paniculata</i>	N – RI	I
Jamaica Dogwood	<i>Piscidia piscipula</i>	N	J
Jamaica Caper	<i>Capparis cynophallophora</i>	N	
Lanternvine	<i>Herissantia crispa</i>	N	
Limber Caper	<i>Capparis flexuosa</i>	N	
Marlberry	<i>Ardisia escallonioides</i>	N	
Mouses Pineapple	<i>Morinda royoc</i>	N	
Pigeon Plum	<i>Coccoloba diversifolia</i>	N	
Poisonwood	<i>Metopium toxiferum</i>	N	P
Saffron Plum	<i>Bunelia celastrina</i>	N	
Seagrape	<i>Coccoloba uvifera</i>	N	
Snowberry	<i>Chiococca alba</i>	N Thick as Understory	
Spanish Stopper	<i>Eugenia foetida</i>	N	

Strangler Fig	<i>Ficus aurea</i>	N	SF
Strongbark	<i>Bourreria ovata</i>	N	
West Indies Mahogany	<i>Swietenia mahogany</i>	N – T	M
White Indigoberry	<i>Randia aculeata</i>	N	
White Stopper	<i>Eugenia axillaris</i>	N	
Wild Bamboo	<i>Lasclacis divaricate</i>	N	
Wild Coffee	<i>Psychotria nervosa</i>	N	
Wild Lantana	<i>Lantana involucre</i>	N	
Wild Lime	<i>Zanthoxylum fagara</i>	N	
Wild Tamarind	<i>Lysiloma latisiliquum</i>	N	WT

Dominant Vegetation at the Site:

West Indies Mahogany	<i>Swietenia mahogany</i>	N - E
Bolly	<i>Guapita longifolia</i>	N
Snowberry	<i>Chiococca alba</i>	N
Spanish Stopper	<i>Eugenia foetida</i>	N

Invasive Exotics or Other Disturbances:

None (Note – a single large Australian Pine is located 43feet west of this Quadrat)



Floor of Hammock at Quadrat C – Note Understory



Quadrat C Ground Cover and Understory - Typical

Quadrats Analysis:

The quadrat or transect approach was developed in order to compare density and diversity of habitat within the overall hammock environment. Changes occur due to soils, elevation, saline intrusion of soils, and disturbances. The three transects determined that there are minor changes in the hammock plant species found there but not to the degree that future development would be affected. The differences between the Quadrats confirm poorer soil composition and increased soil saline wicking at lower elevations of the hammock resulting in less diversity and density than at the higher elevations. Future siting of development appropriate for the current land use zoning district in which the subject parcel is included should not be affected by clustering requirements. There was no indication of disturbance within the hammock by invasive exotic vegetation and only minor human influence by historical dumping of rock and fill in the upper elevation southwest corner. When the parcel proposed for development contains only one habitat type (as this upland area

represents), any development shall be clustered within the least ecologically valuable area of the habitat (Sec. 30-1616(b)(2). Although the buildable upland is covered with hardwood, it is homogeneous throughout and no one site is least ecologically valuable than another on the proposed upland development area. The tropical hardwood hammock can be classified as Class I – “Tropical Hardwood Hammock- 426.0” in accordance with the Village LDR. The quadrats determine a high hardwood hammock in the high elevations and a low hammock habitat in the lower areas based on the plant species found. The Quadrat C is representative of a closed canopy high hammock that is mature and healthy.

Summary of Habitat Analysis – SE Upland Hammock Area

The upland area measures approximately 80,586 sf or 1.85 acres in size. The area shows signs scattered all over of historical fill / rock dumping and cut tree refuse dumping. Vegetation is second growth evidenced by the small size of dominant woody plants. Disturbance of emerging low hammock is primarily from the invasive exotic tree – Australian Pine (*Casuarina equisetifolia*). Some Brazilian Pepper is found along the perimeter to the east and south of the site. The disturbance is significant and is spreading. Total impact is 18% to 24% of the vegetative canopy area in this low hammock habitat. This is significant enough to properly classify or characterize the upland habitat as “Disturbed with Hammock – 740.1”. Based on the plant species indicator and size of dominant trees this vegetation is considered “Low Hammock” habitat. The dominant woody species and larger trees is the West Indies Mahogany. Other major woody species are the Jamaica Dogwood, Gumbo Limbo, Black Ironwood, Pigeon Plum, Inkwood, Poisonwood, Buttonwood, Sea Grape, Wild Dilly, Darling Plum, Saffron Plum, Spanish Stopper, and Strangler Fig. Ground cover is sparse to none and the hammock lacks vines and scrubs in the understory. DBH is small overall indicating second growth hardwood habitat. The surrounding ecotone that forms the transition to mangrove wetlands is typical saltmarsh and Buttonwood association with Salt Wort, Sea Purslane, Sea Daisy, Glasswort, and Saltgrass as the ground cover species. The following is an inventory of the upland hammock plant species found on this acreage site:

Vegetative Habitat Species List – Low Hammock

Common Name	Scientific Name	Status	Notes
Green Buttonwood	<i>Conocarpus erectus</i>	N	
Beggars Tick	<i>Desmodium canum</i>	N	
Blackbead	<i>Pithecellobium keyensis</i>	N – T Common	
Black Ironwood	<i>Krugiodendron ferreum</i>	N – RI	
Black Torch	<i>Erithalis fruticose</i>	N – T Common	
Blolly	<i>Guapita longifolia</i>	N	
Blue Porterweed	<i>Stachytarpheta jamaicensis</i>	N	
Bracken Fern	<i>Pteridium aquilinum</i>	N	
Golden Creeper	<i>Ernodea littoralis</i>	N	
Greenbriar Vine	<i>Smilax auriculata</i>	N	
Gumbo Limbo	<i>Bursera simaruba</i>	N	
Indigo Berry	<i>Randia aculeata</i>	N	
Inkwood	<i>Exothea paniculata</i>	N – RI Common	

Jamaica Dogwood	<i>Piscidia piscipula</i>	N
Jamaica Caper	<i>Capparis cynophallophora</i>	N
Joewood	<i>Jacquinia keyensis</i>	N – T Rare
Wild Lantana	<i>Lantana involucrata</i>	N
Lantern Vine	<i>Herissantia crispa</i>	N
Limber Caper	<i>Capparis flexuosa</i>	N
Morning Glory	<i>Ipomoea muscari</i>	N
Mouses Pineapple	<i>Morinda royoc</i>	N
Myrsine	<i>Myrsine floridana</i>	N
Paradise Tree	<i>Simarouba glauca</i>	N – RI Rare, Small
Pigeon Plum	<i>Cocoloba diversifolia</i>	N
Poisonwood	<i>Metopium toxiferum</i>	N
Rosey Fleabane	<i>Pluchea odorata</i>	N
Saffron Plum	<i>Bumelia celastrina</i>	N
Sandspur	<i>Cenchrus echinatus</i>	N
Scorpion tail	<i>Heliotropium angiospermum</i>	N
Sea Daisy	<i>Borrchia arborescens</i>	N
Sea Grape	<i>Coccoloba uvifera</i>	N
Spanish Needles	<i>Bidens alba</i>	N
Spider Lilly	<i>Hymenocallis crassifolia</i>	N
Snowberry	<i>Chiococca parvifolia</i>	N
Strangler Fig	<i>Ficus citrifolia</i>	N
Stopper, Spanish	<i>Eugenia foetida</i>	N
Stopper, White	<i>Eugenia axillaries</i>	N
Tillandsia	<i>Tillandsia flexouosa</i>	N Epiphyte Common
Wild Dilly	<i>Manilkara jaimiqui</i>	N – T Common
Willow Bustic	<i>Sideroxylon salicifolium</i>	N
Yellow Joyweed	<i>Alternanthera flavescens</i>	N
Yellowtop	<i>Flaveria linearis</i>	N

Invasive Exotic Plants:

Australian Pine	<i>Casuarina spp.</i>	IEX I
Brazilian Pepper	<i>Schinus terebinthifolius</i>	IEX I
Seaside Mahoe	<i>Thespesia populnea</i>	IEX I

Wildlife List: (Observed)

Cloudless Sulphur Butterfly	<i>Phoebis sennae</i>
Crab Spider	<i>Casteracantha cancriformis</i>
Cuban Anole	<i>Anolis sagrei</i>
Mockingbird	<i>Mimus polyglottos</i>
Ringed Turtle Dove	<i>Streptopelia risoria</i>
No Evidence or observation of Tree Snails	

Plant Codes for This Vegetative Species List are:

Protected (P); Invasive Exotic (IEX); Exotic (EX); Native plant codes are (N) followed by their status or value as a wetland indicator. FAC – Facultative; FACW – Facultative Wet; and OBL – Obligate. These three types of vegetation status form the basis of a unified statewide methodology for the delineation of wetlands to satisfy the mandate of Section 373.421 Florida Statutes and codified in 62.340, Florida Administrative Code – “Delineation of the Landward Extent of Wetlands and Surface Waters”.

Vegetative Species List – Salt Marsh & Buttonwood Habitat - Wetland Ecotones on Perimeter of Upland Areas

Common Name	Scientific Name	Status	Notes
Bay Cedar	<i>Suriana maritima</i>	FAC	
Beach Carpet	<i>Philoxerus vermicularis</i>	FACW	
Blackbead	<i>Pithecellobium keyense</i>	N - T	
Black Mangrove	<i>Avicennia germinans</i>	P	OBL
Black Torch	<i>Erithalis fruticosa</i>	N – T, FACW	
Christmasberry	<i>Lycium carolinianum</i>	N - RI, FACW	
Green Buttonwood	<i>Conocarpus erectus</i>	N - FACW	
Panic Grass	<i>Panicum amarum</i>	N	
Glasswort	<i>Salicornia bigelovii</i>	OBL	
Heleiotrope	<i>Heliotropium polyphyllum</i>	FAC	
Hurricane Grass	<i>Fimbristylis spathacea</i>	FACW	
Joewood	<i>Jacquinia keyensis</i>	N – T, FACW	
Key Grass	<i>Monanthochloe littoralis</i>	OBL	
Marsh Aster	<i>Aster sabulatus</i>	OBL	
Mayten	<i>Maytenus phyllanthoides</i>	T, FACW	
Poisonwood	<i>Metopium toxiferum</i>	N	
Red Mangrove	<i>Rhizophora mangle</i>	P	OBL
Saffron Plum	<i>Bumelia celastrina</i>	N Transitional	
Saltmarsh Cordgrass	<i>Spartina patens</i>	FACW	
Saltwort	<i>Batis maritima</i>	OBL	
Samphire	<i>Blutaparon vermiculare</i>	OBL	
Sea Daisy	<i>Borrichia frutescens</i>	OBL	
Seashore Paspalum	<i>Paspalum vaginatum</i>	FAC	
Sea Blite	<i>Suaeda linearis</i>	OBL	
Sea Oxeye	<i>Borrichia arborescens</i>	OBL	
Sea Purslane	<i>Sesuvium portulacastrum</i>	FACW	
Seashore Saltgrass	<i>Distichlis spicata</i>	OBL	
Seashore Rush Grass	<i>Sporobolus virginicus</i>	OBL	
Seaside Gentian	<i>Eustoma exaltatum</i>	N	
Small Fruited Beak Rush	<i>Rhynchospora microcarpa</i>	OBL	
Spike Rush	<i>Fimbristylis cymosa</i>	OBL	
Spurge	<i>Chamaesyce Spp.</i>	N	

White Mangrove	<i>Laguncularia racemosa</i>	P OBL
Wild Dilly	<i>Manikara bahamensis</i>	N – T, FAC
Yellowtop	<i>Flaveria linearis</i>	N - FACW

Listed and Endangered Animal Species on Both Upland Sites:

These Quadrat sites do not contain suitable habitat for the threatened or endangered Florida Tree Snail, the White Crown Pigeon, the Key Largo Woodrat, the Black-whiskered vireo. The Schaus Swallowtail Butterfly is known to frequent this Key. Wild Lime (*Zanthoxylum fagara*), is a primary larval food source for several butterfly species including the Schaus. Two small Wild Lime plants were identified in one quadrat (C) and numerous Wild Limes were found in the higher elevation area of the SW corner site. The US Fish and Wildlife Biological Opinion stipulates other features necessary for the Butterfly of which this parcel is lacking. These quadrat sites and hammock have the potential habitat for the Red Rat Snake and the Black Indigo Snake even though there were no signs of either reptile. The area of upland is not large enough range to sustain the Black Indigo Snake. The Snake does not use wetlands for habitat. The food source attractants for the White Crown Pigeon are Poisonwood and *Ficus* or Fig species. The Poisonwood is moderately abundant but there are very few *Ficus* species found in the hammock. While there is transiting and foraging use of this hammock by the Pigeon, there is no nesting habitat identified. White Crown Pigeons require offshore island rookeries for nesting habitat and only forage in the high food source hammocks of the main Keys. The berry producing plant species in this hammock are relatively average to Plantation Key hammocks and are important for wildlife sustainability overall.

Listed plants found in the hammock development site are common to the area and there are no remarkable findings. The endangered West Indies Mahogany is plentiful and appears in normal densities compared to surrounding hammocks on Plantation Key. Darling Plum (threatened), Wild Dilly (threatened), and Blackbead (threatened) are present as understory primarily in the lower elevations of the hammock. Florida Boxwood (endangered) is not common and appears only sparsely in the upper elevation area of the hammock. The one Boxwood plant measuring 17 feet tall was found in Quadrat C.

Wildlife Observation:

During the time spent in the hammock area the undersigned made the following observations relative to wildlife or any signs there may be wildlife using the development hammock area:

Cloudless Sulphur Butterfly	<i>Phoebis sennae</i>
Crab Spider	<i>Casteracantha cancriformis</i>
Cuban Anole	<i>Anolis sagrei</i>
Giant Swallowtail Butterfly	<i>Papilio cresphontes</i>
Gray Squirrel	<i>Sciurus carolinensis</i>
Julia Butterfly	<i>Dryas iulia</i>
Mockingbird	<i>Mimus polyglottos</i>
Red Cockaded Woodpecker	<i>Dendrocopos borealis</i>
Tri-colored Blackbird	<i>Agelaius tricolor</i>
Little Sulfur Butterfly	<i>Eurema lisa</i>

The butterflies were observed feeding on nectar from the flowering Spanish Stopper and Strongbark. There were no nests or rookery areas observed and no critical wildlife habitat noted.

No arboreal snails were found on any tree species. Comprehensive inspections were conducted on all Wild Tamarind trees and *Ficus spp.* for empty shells or live snails, but no evidence was found.

Soils and Substrate:

Soils are shallow to non-existent in the hammock area. Miami Limestone bed-rock is near the surface and restricts nutrient availability to the plants. In many areas the rock is visible through the leaf litter. The deepest organic soil over the bedrock appears to be at the higher elevations. The Limestone rock is at the surface in the wetland areas. This will affect transplanting as a means for any mitigation with future development planning.

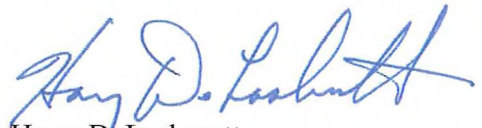
Summary and Conclusion:

The three Quadrat sites (A, B & C) were randomly positioned to sample vegetation in the large upland hammock area of the subject acreage tract. This area has been identified as a future site for development. The results of the vegetation survey using the Transects identified the upland hammock as "Class I, Tropical Hardwood Hammock – 426." The Monroe County GIS mapping also identified this and the smaller SE upland as Hammock habitat (see map copy attached). The hammock is undisturbed and the quadrats determined that the vegetation is homogeneous throughout and no one site or area in the hammock is least ecologically valuable than another. The wetland line has been delineated using the State of Florida's determination protocol and marked with pink wetland delineation flagging.

The Habitat Analysis for this Tract found that there is connectivity with other undisturbed natural vegetative habitat both on and off the large Tract and this area is greater than the minimum area of five (5) contiguous acres in size. The five acres or greater size determination automatically identifies a hammock as a "High Quality Hardwood Hammock" (LDRs). This determination requires a development area size to open space area ratio of 10% to 90%. The contiguous natural habitat on this Tract appears to be large enough to meet and exceed the density ratio prescribed by the Village LDRs for any development in the upland hammock that is subject of this Vegetation Survey and analysis. There is no significant disturbance from invasive exotic vegetation – note the triangle symbols and alpha letters denoting the three exotic species found on the perimeter of the hammock area (see Field Map) – (A) Australian Pine, (B) Brazilian Pepper, and (L) Lead Tree.

Contact:

Please contact Harry DeLashmutt at (305) 942-9221 for any further analysis, recommendations or questions concerning this Vegetation Survey, habitat delineation, and Classification.

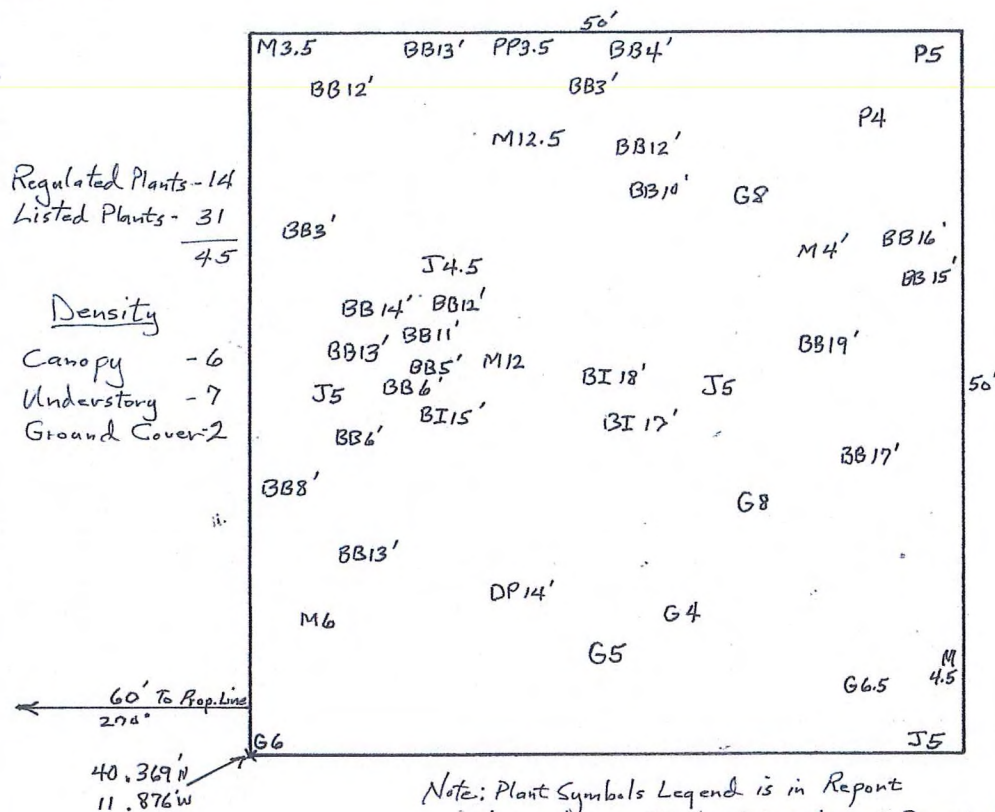


Vegetation Survey, Analysis, and Delineation conducted by Harry DeLashmutt
Consulting Biologist July 11, 2016
Biosurveys, Inc.

Field Map, Photos, Quadrat Mapping, and Land Data attachments on following pages –

Hammock Transect Site A Glynn Tract - P.K.

Scale
1"=10'
GPS-83NAD



Note: Plant Symbols Legend is in Report
Numerals are Inches Diameter at Breast Height
(') ft. Symbol with Numeral is Overall Height in Feet

Survey by: H. DeLoach
Biosurveys, Inc.
8/8/12
8/9/12

Scale
1" = 10'

GPS-83 NAD

$$\begin{array}{r} .369 \\ .845 \\ \hline \end{array}$$

Survey by: H. DeLashmuth
Biosurveys, Inc.
8/8/12

Hammock Transect Site C Glynn Tract - P.K.



Scale
1"=10'
GPS-83NAD

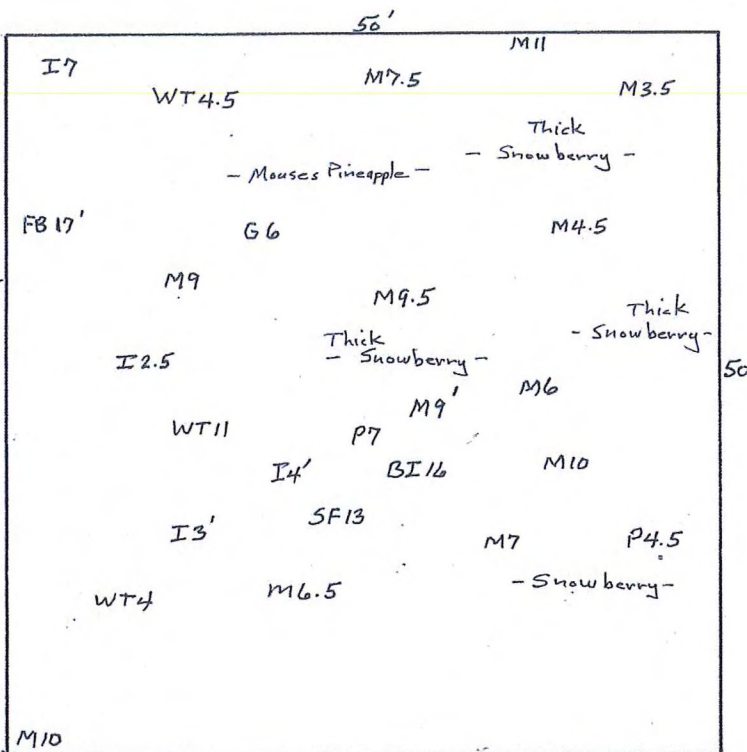
Regulated Plants - 6
Listed Plants - 18
24

Thick Shrubs
& Ground Cover

Density

Canopy	9
Understory	6
Ground Cover (Shrubs)	9

24° 40.346' N
81° 11.880' W



Note: Plant Symbols Legend in Report
Numerals are inches diameter at breast height
(') ft. symbol denotes height in feet

Survey by: H. DeLoshmatt
Biosurveys, Inc.
8/8/12
[Signature]
8/8/12



Monroe County GIS Map Documenting Hammock Habitat – Two Upland Areas Red Hatched Area



Property Boundary Hammock Edge – SE Hammock



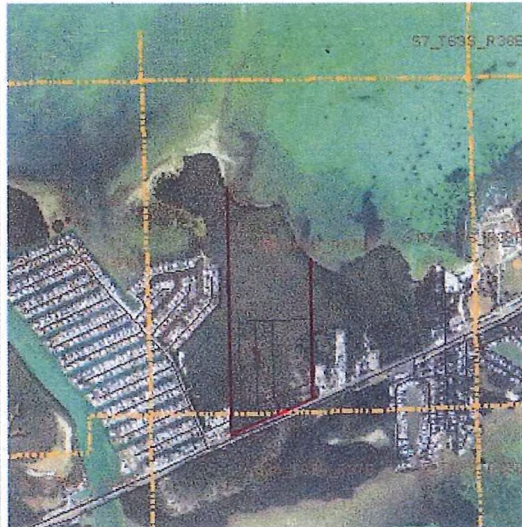
Typical Internal View of Low Hammock – SE Site



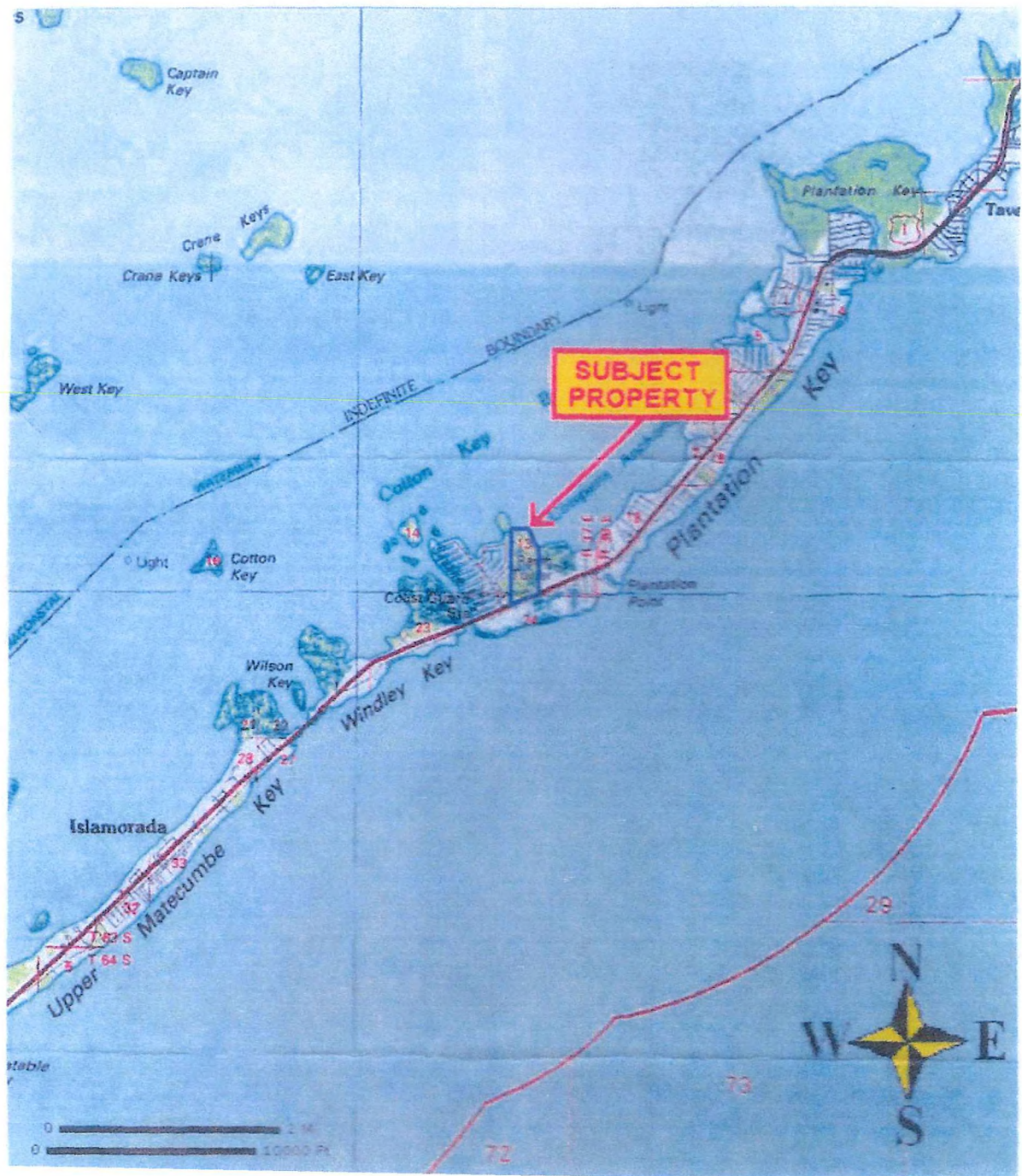
Internal Low Hammock – Disturbed w Australian Pine



Typical Dumping Pile – Rock Rubble on SE Area

Property Record Card -
Map portion under construction.**Alternate Key: 1106020 Parcel ID: 00091920-000000***(+ Other ID Numbers for the large tract)***Ownership Details****Mailing Address:**
GLYNN R JAY
4430 MEAGER CIR
PORT CHARLOTTE, FL 33948**All Owners:**
FONSECA MARITZA , LEFFEW SALLY, WILSON NANCY T/C,
GLYNN WILLIAM GRAHAM, WILLIAMS PEGGY, GLYNN R JAY**Property Details****PC Code:** 99 - NON AG ACREAGE 5 AC OR MORE
Millage Group: 50VI
Affordable Housing: No
Section-Township-Range: 13-63-37
Property Location: VACANT LAND PLANTATION KEY
Legal Description: 13-63-37 PLANTATION KEY OR LONG ISLAND PT GOV LOT 3 OR551-750 OR787-1295-1296 OR2193-42D/C OR2193-50/53P/R OR2193-54/61A/F

Show Parcel Map that can launch map - Must have Adobe Flash Player 10.3 or higher



Description of Property

The Glynn property is a large holding, spanning from Overseas Highway to Florida Bay, consisting of subdivided residential lots and commercial parcels of the Sunset Park Subdivision and adjacent other parcels. The total size of the property is approximately 90 acres. Please see the attached aerial photos, photos of the site and the Monroe County Property Appraiser parcel identification numbers. The property consists of 150 separate parcels and tracts subdivided in 1960's and 1970's.

The large site contains both upland areas, transitional wetland areas and wetland areas. Much of the site consists of regulated wetlands, so allowing some reasonable use of the uplands near the highway has become the means by which the current owners hope to avoid a takings dispute, and in a manner that serves the public interest as well. The area proposed for development of affordable housing is that which is the larger of the two upland areas. See the Vegetation Analysis of the property in the supporting documents to the application. The following page is an aerial photo with the upland hammock area outlined in yellow, which is the area proposed for both development and change of Future Land Use Map (FLUM) designation. It is in total area less than 10 acres, as required by Florida Statute 163.3187 where a "Small Area" amendment is proposed. The remainder of the property will retain its existing Future Land Use Map designation of Conservation.

While site plans have yet to be developed for the property subject to the proposed change, access will be from an existing road from the Venetian Shores area rather than from US Highway 1 directly. Only the upland portions of the property will be proposed for development.

The proposed Future Land Use Map designation covers an area of approximately 5 acres. The proposed FLUM designation is Residential Medium.

Justification of Amendments as required by the Land Development Regulations, Florida Statutes and Florida Administrative Code

The Village requires all Applications for Amendment of the Comprehensive Plan justify the change according to state and local law, including those that proposes a change of density upward. The amendment must also demonstrate compatibility with other sections of the Comprehensive Plan, inclusive of concurrency if the amendment would result in new development. On the following pages are discussions of how the proposed amendments meet these criteria.

Summary of Justifications

Housing Need

For nearly three decades Monroe County and all its municipalities, as well as special and school districts have struggled with the need to supply more affordable housing up and down the Keys. Report after report have been written and committee after committee have met to make recommendations as to how to make more housing available to the County's workforce and to lower the price of providing it.

Notable examples of these efforts and studies and data which support the proposed changes are:

1. Islamorada Village of Islands Workforce Housing Support Study, Clarion Associates and Dr. James C. Nicholas, September 2007.
2. Monroe County Workforce Housing Stakeholder Assessment Report , April 2015
3. The Affordable Housing Advisory Committee Resolution 01-2016, containing 33 recommendations
4. The 2014, 2015 and 2016 Florida Keys Area of Critical State Concern Annual Report .
5. The State of the County Report 20116/17 by Monroe County by County Administrator Roman Gastesi
6. The United Way of Florida ALICE –Asset Limited, Income Constrained , Employed – Study of Financial Hardship 2017 Update
7. The 2011-2015 American Community Survey Housing Data for Monroe County and Islamorada , Florida Housing Data Clearing House
8. City Data.com Islamorada profile 2105.
9. Islamorada Comprehensive Plan 2014 Update Data and Analysis
10. 2015 US! Arterial Travel Time and Delay Study for Monroe County Florida by the URS Corporation September , 2015

These and other publications and research referenced in them are available to staff and the Village Council and therefore, not re-produced here in their entirety.

The conclusions drawn from the data and analyses of these reports are significant.

- After the Great Recession of 2007-2008 by 2015 and certainly into 2017, the real estate market has re-bounded putting extreme price pressure on all sectors of the housing market.
- As reported by the United Way ALICE 2017 update for Florida, Monroe County, fully 59% of the total Renter –Occupied House Holds pay more than 30% of their income for housing.
- While the 2007 Affordable Housing Study did not identify a specific number of units of Affordable Housing needed community wide , it did calculate the need by employee and employment type based on findings such as the following,

“Table II.5: Existing Home Sales by Price Range, Village of Islamorada, 2000-2005, provides information about the availability of housing units over the past six years being sold in the local housing market that the workforce in Islamorada can afford (see Appendix A for an even more detailed breakdown of housing sales prices). To establish a base for comparison, the total sales are divided into those residential units sold below \$400,000 and those that sold for \$400,000 or higher. In 2000, 79.2 percent of all existing home sales in Islamorada were below \$400,000. The average price for all units that year was \$286,872. In 2003, 53.4 percent of residential sales were below \$400,000. By 2005 prices had increased dramatically and only 15.4 percent of sales were under \$400,000. Mobile homes and condominiums are increasing their roles as being the provider of lower price housing – to the extent that \$400,000 can be considered to be low price for a single-family home. Probably of greatest relevance to median income members of the workforce, sales of homes under \$200,000 went from 246 in 2000 to twelve (12) in 2005 (see Table II.5: Existing Home Sales by Price Range, Village of Islamorada, 2000-2005). Of those twelve (12) homes under \$200,000, seven (7) were single family, none (0) of the homes were mobile homes and five (5) were condominiums”

- Seven years later the problem has only become worse in Islamorada with the following relevant facts in 2016(the latest data set available):
1. Forty-four percent (44%) of the Village households are “cost burdened” paying more than 30% of their income on housing cost.
 2. Twenty –Nine percent (29%) of all households pay more 50% of their income on housing costs.

3. Forty-five percent (45%) of the Village elderly pay more than 30% of their income on housing costs.
4. Fifty-one per cent (51%) of renters pay more than 30% of their income on housing costs.
5. The average sales price of all homes has risen to \$1,054,024.
6. The median gross rent is \$1402.
7. The median home value is \$743,534.
8. Forty-two percent (42%) pay more than \$1500 in gross rent.
9. While the Village median household income has risen from \$41,522 in 2000 to \$62,507, using the normal underwriting guidelines that household would not qualify for the average lowest cost non mobile home unit in Islamorada which is approximately \$460,214 in 2015.
10. Numerous residential structures in the Village were damaged or destroyed by recent hurricane Irma. Many of those structures housed members of the workforce. Those units must be repaired and or replaced.

All Departments of the Village are acquainted with these facts as are the appointed and elected officials. All have been supportive of building needed affordable housing within the Village at appropriate locations. The entire focus of the proposed amendments to the FLUM Designation, Comprehensive Plan text , Land development Regulation text and Zoning map are to stimulate the creation of affordable housing in a central locations in the Village to serve the workforce.

Conservation Regulations and Available Alternative Sites

Other parts of the Comprehensive plan and Land development regulations provide protection for natural areas, inclusive of upland hammock forest areas. The proposed amendments , if adopted would specifically implement existing comprehensive plan polic Number 3-1.1.1.3, which requires the Village to amended plan developments regulations to promote the creation of affordable housing. The proposed amendments take a slight change in the comprehensive plan and landed on regulation that would allow use of the subject property for affordable housing, with the result that the remainder of the environmentally sensitive lands would be preserved. In addition because of the requirements described within the amendments any clearing Hardwood Hammock Forest be mitigated and replaced on the same property with the intention that it be tended, enhanced to become high quality hammock and preserved via appropriate conservation easements or dedication.

Given the wording of the proposed amendments and the criteria that identifies the lands eligible for the implementation of the amendments no other lands in the village would comply with the basic requirements of the amendment.

The criteria for consideration of a comprehensive plan amendment requires the consideration of alternate parcels within the Village where the proposed amendments purpose could be implemented. There are several reasons why alternative sites are not feasible, available or appropriate.

First, is the fact that a major component of the feasibility providing affordable housing is the availability of land at a price which supports the creation of affordable housing. Because Glynn property has been owned by the same family for decades allows the property value to be supportive of the provision of affordable housing.

Second, an analysis of parcels of 4 to 10 acres - the size required for the creation of 5 that best fits a mixed income workforce housing project of 45-60 units reveals a number of problems with considering such alternative sites as affordable housing to be developed by a private entity. The list of the parcels analyzed is attached.

The parcels surveyed were determine to be unsuitable as alternative sites because of the following:

1. Ownership –One cannot force an owner to sell property to another for affordable housing simply because an entity believes that it is more suitable for such housing. Additionally, of the properties in the Village which are the size required- 4-10 acres, eleven of the 21 surveyed are owned by the state of Florida or the Village and are used for conservation, recreation or road right of way. One is the Tavernaero airport property.
2. The price of properties of this size is much greater, given the present economy than can be successfully sustained for affordable housing development.
3. Current Land Development Regulations involving density, clearing, building height and impervious ratio, all mitigate against the feasibility of affordable housing development. Because of these the limiting regulations the amendments are proposed.

Consistency Statements

Florida Statutes

Florida Statute 380.0554 (7) is the Area of Critical State Concern that is applicable to the Village of Islamorada. Because the “Principles” are Important and the primary device that the state uses to determine the necessity of amending local Comprehensive plans, the statute is stated below with corresponding responses as to how the proposed amendments are consistent.:

(7) PRINCIPLES FOR GUIDING DEVELOPMENT.—State, regional, and local agencies and units of government in the Florida Keys Area shall coordinate their plans and conduct their

programs and regulatory activities consistent with the principles for guiding development as specified in chapter 27F-8, Florida Administrative Code, as amended effective August 23, 1984, which is adopted and incorporated herein by reference. For the purposes of reviewing the consistency of the adopted plan, or any amendments to that plan, with the principles for guiding development, and any amendments to the principles, the principles shall be construed as a whole and specific provisions may not be construed or applied in isolation from the other provisions. However, the principles for guiding development are repealed 18 months from July 1, 1986. After repeal, any plan amendments must be consistent with the following principles:

(a) Strengthening local government capabilities for managing land use and development so that local government is able to achieve these objectives without continuing the area of critical state concern designation.

Response: The proposed amendments will assist the Village to stabilize the workforce by the provision of sustainable housing at a central location which can serve the housing needs of local industry workers and working professionals.

(b) Protecting shoreline and marine resources, including mangroves, coral reef formations, seagrass beds, wetlands, fish and wildlife, and their habitat.

Response: The proposed amendments provide a process for the protection of at least 85 acres of environmentally sensitive lands and the restoration of 2 to 3 acres of Hammock forest with concomitant conservation easements over both. The site of the proposed FLUM and Zoning Change will allow development on uplands only and through applying setbacks and best drainage practices will protect wetlands.

(c) Protecting upland resources, tropical biological communities, freshwater wetlands, native tropical vegetation (for example, hardwood hammocks and pinelands), dune ridges and beaches, wildlife, and their habitat.

Response: See response to item b above.

(d) Ensuring the maximum well-being of the Florida Keys and its citizens through sound economic development.

Response: See response to item a above. The construction of up to 60 units of sustainable affordable housing will place workers in units not susceptible to sea level and hurricane force winds so that a stable labor force for many sectors of the economy can be sustained.

(e) Limiting the adverse impacts of development on the quality of water throughout the Florida Keys.

Response: Sufficient sewer capacity is available for the development and the increased property values will provide additional monies when need for upgrades and other improvements. There is a direct correlation between the provision of enhanced septic sewage

disposal and the health of Florida Bay. The creation of at least 85 acres of secured wetlands habitat with management and conservation easements will protect adjacent Keys waters.

(f) Enhancing natural scenic resources, promoting the aesthetic benefits of the natural environment, and ensuring that development is compatible with the unique historic character of the Florida Keys.

Response: *See response to item b above. There are no historic resources on site. The size of the property to be rezoned and the clearing allowances enabled will require sufficient buffers along this stretch of US Highway 1 unlike adjacent lands previously developed.*

(g) Protecting the historical heritage of the Florida Keys.

Response: *There are no structural historic or archaeological resources on the site.*

(h) Protecting the value, efficiency, cost-effectiveness, and amortized life of existing and proposed major public investments, including:

1. The Florida Keys Aqueduct and water supply facilities;
2. Sewage collection, treatment, and disposal facilities;
3. Solid waste treatment, collection, and disposal facilities;
4. Key West Naval Air Station and other military facilities;
5. Transportation facilities;
6. Federal parks, wildlife refuges, and marine sanctuaries;
7. State parks, recreation facilities, aquatic preserves, and other publicly owned properties;
8. City electric service and the Florida Keys Electric Co-op; and
9. Other utilities, as appropriate.

Response: *There is adequate capacity and levels of service for all utilities serving the site. There are employers including the Village Offices and parks within easy bicycle or walking distance of the site. The site is more than 80 miles from the Naval Air Station. There are no parks or recreation facilities. The implementation of the amendments will see the creation of an environmental preserve on at least 85 acres.*

(i) Protecting and improving water quality by providing for the construction, operation, maintenance, and replacement of stormwater management facilities; central sewage collection; treatment and disposal facilities; the installation and proper operation and maintenance of onsite sewage treatment and disposal systems; and other water quality and water supply projects, including direct and indirect potable reuse.

Response: *The affordable housing enabled by the amendments will connect to the Village central sewage system and will use the LDR requirements for all drainage and best practices encouraged by them. The design of the affordable units will meet at least a pre-requisite LEED designation and will be constructed at least one foot above the required base flood elevation.*

(j) Ensuring The improvement of nearshore water quality by requiring the construction and operation of wastewater management facilities that meet the requirements of ss. [381.0065](#)(4)(l) and [403.086](#)(10), as applicable, and by directing growth to areas served by central wastewater treatment facilities through permit allocation systems.

Response: *See response item i above.*

(k) Limiting the adverse impacts of public investments on the environmental resources of the Florida Keys.

Response: *All development will take place on private property. Sewer service line and power lines are adjacent to the site. Any clearing done on site , inclusive of upland hammock will be mitigated by the re-creation of upland hammock and transformation of disturbed areas elsewhere on the site.*

(l) Making available adequate affordable housing for all sectors of the population of the Florida Keys.

Response: *The entire focus of the proposed amendments to both the Comprehensive plan and the Land Development Regulations is to provide affordable housing and to implement a policy of the current Comprehensive Plan that requires the Village to consider changes to the Land Development Regulations that will stimulate the creation of Affordable housing.*

(m) Providing adequate alternatives for the protection of public safety and welfare in the event of a natural or manmade disaster and for a post-disaster reconstruction plan.

Response: *The development enabled by the proposed changes will comply with all emergency management requirements. Because the development will be designed to LEED standards and placed above the required base flood elevations , it will be more resilient than much of the current work force housing available in the community.*

(n) Protecting the public health, safety, and welfare of the citizens of the Florida Keys and maintaining the Florida Keys as a unique Florida resource.

Response: *Providing new affordable housing and protecting more than 80 acres of environmentally sensitive lands using creative techniques allowed by the proposed amendments , especially after a hurricane has damaged or destroyed much work force housing meets these community goals.*

Local Requirements and the Florida Department of Economic Opportunity Guidelines for the Consideration and Adoption of Amendments are:

1. A description of the availability of and the demand on the following public facilities: sanitary sewer, solid waste, drainage, potable water, traffic circulation, schools and recreation, as appropriate.

Response:

•Sanitary Sewer – The Village Wastewater system includes a vacuum collection system with a vacuum pump station located in each of the following areas: Lower Matecumbe Key, Upper Matecumbe Key, South Plantation Key, Middle Plantation Key, and on Sunshine Blvd. in North Plantation Key. In addition, there is another vacuum pump station and a re-pump station located in North Plantation Key. In some areas of the Village vacuum collection is not feasible and those specific areas are served with a low pressure collection system.

Once collected, all effluent is transmitted via force main to KLWTD for treatment and disposal. The Treatment Plant capacity of 3.45 Million Gallons, and according to an Agreement with the KLWTD an allocation of 1.104 Million gallons is allocated to the Village.

The level of development that would be supported by the proposed would be 50-60 units of affordable housing. Using Industry and KLWTD conservative standards a multi-family residential units creates 150 gallons of wastewater per day 60 units would create 9000 gallons of waste water per day. This is less than 0.008% of the capacity allocated to the Village. There is sufficient reserve capacity in the system to accommodate the additional BPAS allocations awarded the Village in 2012 – also the year the agreement between the Village and KLWTD. The proposed additional affordable housing would come from the those BPAS allocations.

• Solid Waste- Residential and Commercial Solid Waste, Yard Waste and Recycling collection and disposal services are provided through an Agreement with Advanced Disposal Services(ADS). ADS collects the waste and ships it to one of it landfill locations on the mainland. There is no indication in the contract between ADS and the Village that the solid waste facility could not accommodate the 60 x 10 lbs. = 600 lbs. created per day at the development enabled by the proposed changes. These figures do not identify re-cycling component and are conservative.

•Drainage- The drainage system created by the development enabled by the proposed changes will be to the specifications of the Village Land Regulations and the Stormwater Design Criteria Technical Manual dated February 2000. If in the future the Village provided a central drainage system, the development will connect as required.

• Potable Water- The Florida Key Aqueduct Authority delivers 17,000,000 gallons of water per day to the Florida Keys. The 60 Affordable units enabled by the proposed changes would create 150 gpd/unit or 9000 gallons per day. This is 0.0005% of the daily flow to the Keys. This amount is within the water conservation recovery rates established by the Authority.

Traffic Circulation – The site is on Plantation Key at Mile Marker 86 at the beginning of US Highway 1 Road Segment 21 which runs from mile marker 86 to mile marker 91.5. In the 2015 US 1 Arterial Travel Time and Delay Study completed by Monroe County in September 2015, Segment 21 had a calculated Reserve Trip Capacity of 1057 trips. In 2013, using the same methodology , the reserve capacity in 2013 was 4226 trips. Using the Institute of Traffic Engineering 10th Edition Trip Generation Manual, an apartment such as that

which would be enabled by the Proposed changes would create 7.32 daily trips per unit and 0.56 at the pm peak hour. Using this ratio the maximum 60 units of workforce housing at site would create total daily trips of 439. There is sufficient reserve capacity to serve the site. The measured level of Service for this Segment is "C" which meet the Village adopted level of service.

- Education - Monroe County schools presently have an enrollment of 8708 children inclusive of County sponsored charter schools and all public schools. Using the Census reported number o households for 2016, of 28,910, an average number of children per household is 0.30. Assuming conservatively 90% of the households at the development enabled by the proposed amendments would have school aged children in their family make-up, $60 \times 90\% = 54 \times 0.30 = 16$ children. The nearest school is Plantation Key School. Enrollment has dropped from 584 students in 2008 to 495 in 2016. The school has a student/teacher ratio of 12.7. The school has excess capacity . The 16 children generated represent 3% of the current enrollment and 2.7% of the capacity in 2008. There is sufficient capacity in the local school.

Property History and Previous Application History

The property subject of this small-scale plan amendment application is part of a larger tract, spanning from the Overseas Highway to Florida Bay, originally acquired by Jay Graham Glynn for mixed use development. Mr. Glynn pursued his vision by obtaining plat approval for a residential subdivision containing finger canals with bay access and many water-front lots, as well as separately platted commercial parcels fronting Overseas Highway. (To this day, ad valorem tax folios are defined by these platted lots.) The topography of Mr. Glynn's tract and style of his subdivision were virtually identical to the neighboring Venetian Shores subdivision, but due to an unfortunate health crisis from which he never fully recovered, Mr. Glynn was not able to commence development (as had Venetian Shores) prior to enactment of the Hendersen Wetlands Protection Act in 1984. After Mr. Glynn's death, there was a period of time that the property was subject of some probate litigation, and ultimately his heirs, including his namesake nephew, Ralph Jay Glynn have sought to make some reasonable use of this large tract by seeking to develop a small portion of uplands near the highway and by selling the balance of the site to the state (or other interested agencies) for conservation. Without approval of some development, however, mere conservation value will not bring a reasonable return on this asset to the Glynn heirs. The small scale comprehensive plan amendment proposed in this application provides an opportunity for addressing the acute need for affordable housing in Monroe County and making sale of this Florida Forever listed property economically feasible for its current owners.

Specifically, in 2004, the family contacted the Craig Company of Key West Florida to undertake preliminary discussions of the development potential of the property. The first application seeking direction on the type and amount of development that could possibly be placed on the site was the subject of a pre-application meeting that took place on September 9, 2011. The results of that meeting were described in a letter from the Village Planning Director, dated October 7, 2011. A copy of that letter and the site plan that generated the conference is attached to this application. Ralph Jay Glynn

On March 9, 2016 Donald Craig, now Land Use Director of the Spottswood Law Firm sent an email to the Village Planning Director requesting a discussion of the possibility of an Affordable Housing project on the site. On May 17, 2016 Mr. Craig met with the Planning Director to review the Land Development Regulations and the Comprehensive Plan policies applicable to the development of the property. A July 6, 2016 letter to the Planning Director described a possible process of "transferring" clearing ratios from one hardwood forest hammock to another in order to allow construction in the hammock area nearest US Highway 1. On August 11, 2016 Mr. Craig and the owner's attorney Ms. Amy Boulris of the Gunster Law Firm met with the Planning Director and the Village Attorney to discuss a possible variance to the clearing ratios that is contained in the landscaping section of the

Land Development Regulations. That section of the Village Code contains the specific limitation on the clearing of lands within the Village. Following the meeting the Mr. Craig sent a memorandum explain the approach discussed to the Village. Pertinent parts of the memorandum summarizing the meeting are:

"In order to allow the staff to solidly ground themselves in the LDRs to recommend approval of the clearing of the 2.25 acres necessary for the housing, I have identified a potential alternative method for such approval. That is by variance.

Section 30-221 (a) of the LDRs controls how variances are applied to the standards of the Code,

*(a) A variance is relaxation of the terms of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for height, setbacks, parking, and loading requirements, **and landscaping**, unless otherwise specified in this chapter. Under no circumstances shall the director of planning and development services or the village council grant a variance to permit a floor area ratio or a use not permitted under the terms of this chapter. Emphasis added.*

Section 30-823 of the Land Development Regulations deals with **removal** of vegetation. That section reads *"(a) Removal or major pruning of any native or naturalized tree equal or greater than eight inches in diameter at breast height or the removal of any vegetation in required open space areas, buffer yards, hammock, wetland, or beach berm habitat communities shall require a development permit. Removal of vegetation in the above habitat communities shall be subject to the provisions contained in article VII of this chapter."* Emphasis added.

Because the section in the landscaping code refers to removal of vegetation in Hammock areas, and refers to Article VII which is where the clearing ratios for hammock are found, it is my interpretation of the Code that the clearing ratios are subject to application for variance as provided for in Section 30-221(a)

Obviously, if the Village were to agree to the clearing variance, it could assign whatever reasonable conditions it deemed necessary, inclusive of re-creating. high quality hammock elsewhere on the property as contemplated by the Development Agreement approach." **End of excerpt from the memorandum.**

On April 19, 2017, Mr. Craig sent a memorandum to the Village Attorney asking if a decision had been made on the possibility of a variance. On May 17, a conference call was held with the Planning Director, Planning Staff, Mr. Craig, and representatives of Wendover Housing to discuss the Variance concept and options. During the conference the Planning Director informed all that the clearing ratios could not be varied via the Land Development

Regulations because those same ratios limiting the clearing of hardwood hammock appear in the Village Comprehensive Plan. Based on that information discussions ensued as to possible changes to the Comprehensive Plan Policies to encourage the development of affordable housing on the Glynn property.

After considering the substantial delay in being able to move forward with an affordable project and the overwhelming need for affordable housing in the Village and the Keys, the Glynn property landowners have applied for a “Small Area” change of FLUM designation, as allowed by state law, which also allows a change to the text of the Comprehensive Plan. This will resolve the clearing issue without harming the clearing ratios the LDRs applicable to other parcels in the Village. This is possible because of Florida Statutes 163.3187, which when applied in the Florida Keys allows changes in local Comprehensive Plans to encourage affordable housing.

Also, included in the application package is an application to amend the Land Development Regulations to implement the change of the Comprehensive Plan text, and an application to change the Zoning of the portion of the parcel for which the FLUM would be changed. The proposed zoning is Residential Medium.



ISLAMORADA, VILLAGE OF ISLANDS
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

APPLICATION FOR TEXT AMENDMENT

Pursuant to Code Chapter 30, Article IV, Divisions 8 & 9

<u>Application Type</u>	<u>Fee</u>	<u>*Deposit</u>	<u>Total Fee</u>
☐ Comprehensive Plan	\$5,000.00	\$1,000.00	\$6,000.00
☐ Land Development Regulations	\$5,000.00	\$1,000.00	\$6,000.00
☒ Comprehensive Plan and Land Development Regulations	\$6,000.00	\$1,000.00	\$7,000.00

* A deposit is required for development approval or permits which necessitate additional review and processing, and/or public hearing and notice requirements. Applicants are required to pay a cost recovery deposit which shall be credited toward the fee charged for such additional review and processing, and shall pay additional deposits as may be required from time to time. A debit based upon the actual time expended in reviewing an application and the applicable actual amount charged to the Village shall be charged against the cost recovery deposit.

PLEASE NOTE: THIS APPLICATION ACCEPTED BY APPOINTMENT ONLY.

An application must be deemed complete and in compliance with the Village Code by Staff prior to the items being scheduled for review. See the Submittal Requirements below for a list of required submittals and documents.

APPLICANT / AGENT (if applicable): Property owner must submit a notarized letter authorizing the applicant/agent to act on their behalf including the agent's name, address and phone number.

Name: Donald Craig AICP Land Use Director, Spottswood, Spottswood, Spottswood and Sterling

Mailing Address: 500 Fleming Street

City: Key West

State: Florida

Zip: 33040

Home/Mobile Phone: 305 924 0249

Office: 305 294 9556

Fax: 305 504 2696

Email: dcraig@spottswoodlaw.com

RESIDENT OR PROPERTY OWNER IN THE VILLAGE:

Name: Jay R Glynn

Mailing Address: 4430 Meager Circle

City: Port Charlotte

State: Florida

Zip: 33948 9495

Home/Mobile Phone: 941 625 6824/941 815 8955

Office: _____

Fax: _____

Email: jayglynn11@gmail.com

List of Comprehensive Plan goals, objectives and/or policies to be amended: _____

Policy 3-1.1.3: Identify and Address Barriers to Affordable Housing Within the Land Development Regulations by adding a new sub policy entitled Policy 3-1.1.3.A: Utilize Flexible Vegetative Clearing Ratios to Encourage the Development of Affordable Housing on Previously Subdivided Large Tracts Under a Single Ownership. The full text of the proposed amendment is attached on a separate sheet.

List of Land Development Regulations to be amended by chapter, articles, divisions and/or sections: _____

Chapter 30, Article VII Environmental Regulations, Division 4, Section 30-1614 (c) and (f) to implement the proposed new Policy 3-1.1.1.A. The full language of the proposal is attached on a separate sheet.

SUBMITTAL REQUIREMENTS

The following is a list of submittals and documents required for the Application for Text Amendment. One (1) paper copy of all documents is required. One (1) digital copy may also be submitted in PDF format on a CD-ROM or DVD-ROM. Up to 12 additional hard copies may be requested if a public hearing is required. Data furnished in the application shall be to scale and shall include the following information, unless waived in writing by the Director of Planning and Development Services. All paper plans shall be folded to a size no larger than 9"x12".

All applications:

- ☒ Correct nonrefundable application fee. Check or money order to "Islamorada, Village of Islands".
- ☒ Notarized agent authorization letter, if applicable, including the agent's name, address and phone number authorizing the applicant/agent to act on all property owners' behalf.
- ☒ Proof of ownership or residency e.g. warranty deed, lease or pending sale contract.
- ☒ Property record card from the Monroe County Property Appraiser.
- ☒ Changed projections (e.g., regarding public service needs) from those on which the text or boundary was based.
- ☒ Changed assumptions (e.g., regarding demographic trends).
- ☒ An analysis of how the proposed text amendment is consistent with applicable Code provisions, the Comprehensive Plan and the Principles for Guiding Development pursuant to Section 380.0552(7), Florida Statutes.

Amendments to Comprehensive Plan:

- ☒ Data and analysis pursuant to Section 9J-11.007, F.A.C.
- ☒ All Comprehensive Plan amendments must meet the requirements of Chapters 9J-5 and 9J-11, F.A.C.

The applicant shall submit all information required to adequately address the filing requirements adopted by the Florida Department of Community Affairs. In addition, the applicant shall submit all other information determined by the Director of Planning and Development Services to be necessary to address the comprehensive planning criteria of the Village. If deemed necessary to complete a full review of the application, the Planning and Development Services Department reserves the right to request additional information.

I certify that I am familiar with the information contained in this application, and that to the best of my knowledge such information is true, complete and accurate. I certify that all information required has been provided.

[Signature] 11-28-17
Signature of Applicant or Agent Date

Print Name: Donald Craig

STATE OF FL
COUNTY OF Monroe
Sworn to and subscribed before me this 28th day of November, 2017, by
Donald Craig (name of person signing the application) as
(type of authority...e.g. officer, manager/member, trustee, attorney in fact) for
(name of entity or party on behalf of whom application was executed).

[Signature]
Signature of Notary Public - State of Florida

SEAL:



☒ Personally Known ☐ Produced Identification

Type of ID _____

LEGAL DESCRIPTION TO ACCOMPANY SKETCH
LYING IN SUNSET PARK, PLAT BOOK 6, PAGE 102
MONROE COUNTY, FLORIDA

LEGAL DESCRIPTION:

A PARCEL OF LAND BEING LOTS 1 AND 2, BLOCK 1, LOTS 1 AND 43, BLOCK 2, TRACT "A" AND A PORTION OF THE PLATTED ROAD RIGHT-OF-WAY OF WHITE HERON STREET LYING NORTH OF SAID TRACT "A", SUNSET PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 6, PAGE 102 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGIN AT THE SOUTHWEST CORNER OF SAID SUNSET PARK; THENCE NORTH 00°00'00" EAST ALONG THE WEST LINE OF SAID SUNSET PARK, A DISTANCE OF 482.28 FEET TO THE NORTHWEST CORNER OF SAID LOT 2, BLOCK 1; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID LOT 2 AND THE NORTH LINE OF SAID LOT 1, BLOCK 2, A DISTANCE OF 270.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 1, BLOCK 2, SAID POINT BEING ON THE WEST LINE OF SAID LOT 43, BLOCK 2; THENCE NORTH 00°00'00" EAST ALONG THE WEST LINE OF SAID LOT 43, BLOCK 2, A DISTANCE OF 60.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 43; THENCE NORTH 90°00'00" EAST ALONG THE NORTH LINE OF SAID LOT 43, A DISTANCE OF 110.00 FEET TO THE NORTHEAST CORNER OF SAID LOT 43; THENCE SOUTH 00°00'00" WEST ALONG THE EAST LINE OF SAID LOT 43, A DISTANCE OF 49.20 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 68°05'30", A DISTANCE OF 29.71 FEET TO THE NORTH RIGHT-OF-WAY LINE OF WHITE HERON STREET; THENCE NORTH 68°05'30" EAST, ALONG SAID NORTH RIGHT-OF-WAY LINE A DISTANCE OF 278.40 FEET TO THE INTERSECTION OF SAID NORTH RIGHT-OF-WAY LINE WITH THE NORTHERLY EXTENSION OF THE EAST LINE OF TRACT "A" OF SAID SUNSET PARK; THENCE SOUTH 21°54'30" EAST, DEPARTING SAID NORTH RIGHT-OF-WAY LINE AND ALONG SAID NORTHERLY EXTENSION AND EAST LINE OF SAID TRACT "A", A DISTANCE OF 275.00 FEET TO THE BEGINNING OF A CURVE CONCAVE WESTERLY HAVING A RADIUS OF 25.00 FEET; THENCE ALONG THE ARC OF SAID CURVE THROUGH A CENTRAL ANGLE OF 90°00'00", A DISTANCE OF 39.27 FEET TO THE NORTH RIGHT-OF-WAY LINE OF OVERSEAS HIGHWAY (U.S. NO. 1 / S.R. NO. 5); THENCE SOUTH 68°05'30" WEST, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 766.73 FEET TO THE **POINT OF BEGINNING**.

CONTAINING 257,195 SQUARE FEET OR 5.90437 ACRES, MORE OR LESS.

SURVEYOR'S NOTES

1. THE BEARINGS SHOWN HEREON ARE ASSUMED, BASED UPON THE PLAT OF SUNSET PARK, AS RECORDED IN PLAT BOOK 6, PAGE 102 OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA. THE SOUTH LINE OF TRACT "A" OF SAID PLAT BEING SOUTH 68°05'30" WEST.
2. NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY AND/OR OWNERSHIP WERE FURNISHED TO THE SURVEYOR EXCEPT AS SHOWN HEREON. NO OPINION OF TITLE IS EXPRESSED OR IMPLIED.

NOTE: SEE SHEET 2 OF 2 FOR SKETCH OF DESCRIPTION.

DESCRIPTION NOT VALID UNLESS ACCOMPANIED WITH SKETCH OF DESCRIPTION AS SHOWN ON SHEET 2 OF 2 OF THIS DOCUMENT.

THIS IS NOT A SURVEY

SURVEYOR'S CERTIFICATION:

I HEREBY CERTIFY, TO THE BEST OF MY KNOWLEDGE AND BELIEF, THAT THE SKETCH AND DESCRIPTION SHOWN HEREON WAS PREPARED IN ACCORDANCE WITH THE "STANDARDS OF PRACTICE" FOR SURVEYING AND MAPPING IN THE STATE OF FLORIDA AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

RICHARD T. CREECH
PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA LICENSE No. LS - 5760

DATE OF SIGNATURE

NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.

**CREECH
CONSULTING, INC.**

LB-6705 772-485-2140
6856 SW WOODBINE WAY, PALM CITY, FL 34990

GLYNN PARCEL

MONROE COUNTY

FLORIDA

PATH: S:\New Projects\Survey 2018\RTC GLYNN

PROJECT NO. GLYNN PARCEL

REVISED DATE:

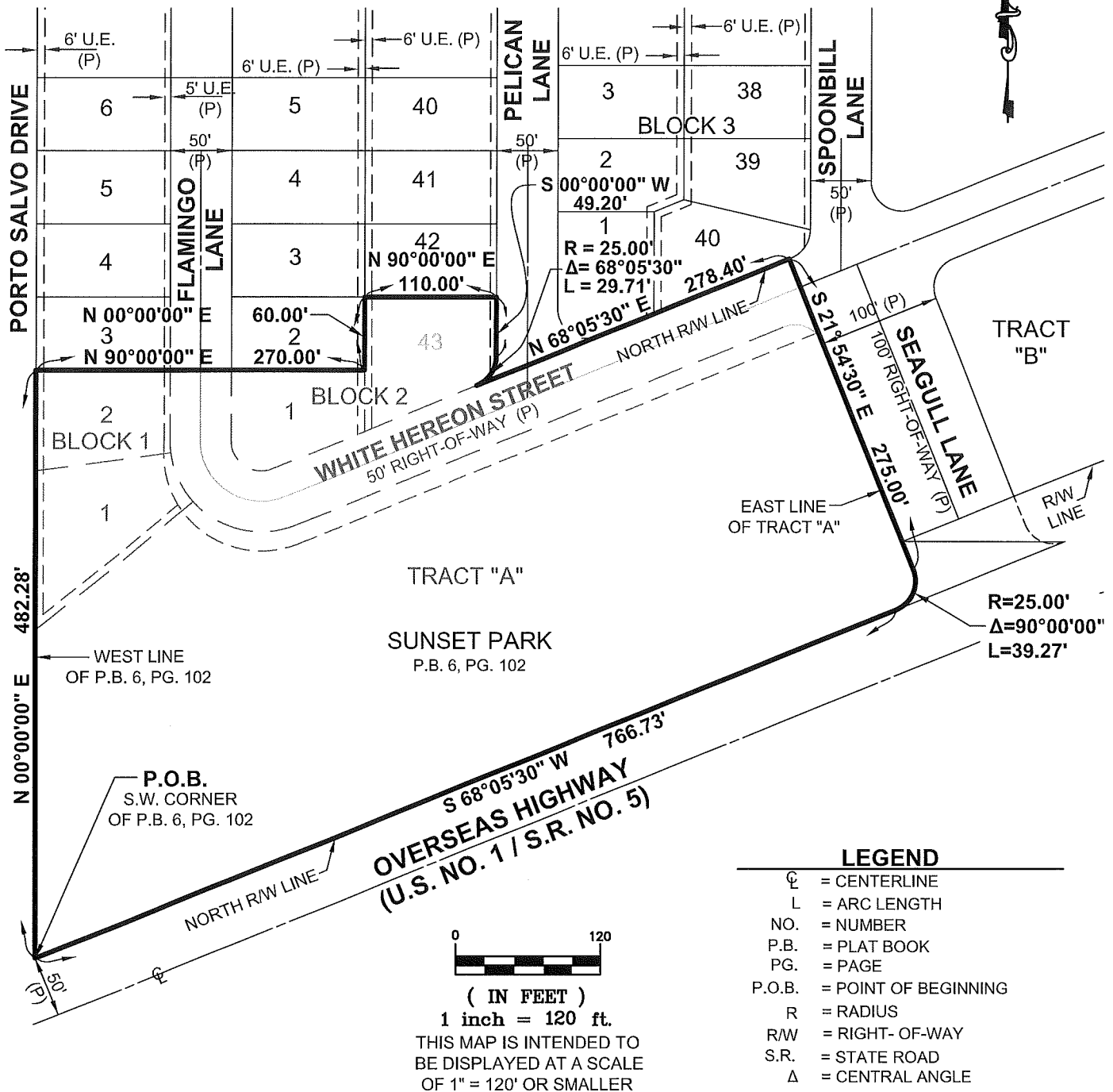
DATE: DEC. 17, 2018

CADD FILE: GLYNN SKT

SCALE: N/A

SHEET 1 OF 2

SKETCH OF DESCRIPTION
 LYING IN SUNSET PARK, PLAT BOOK 6, PAGE 102
 MONROE COUNTY, FLORIDA



THIS IS NOT A SURVEY

**CREECH
 CONSULTING, INC.**

LB-6705 772-485-2140
 6856 SW WOODBINE WAY, PALM CITY, FL 34990

GLYNN PARCEL

MONROE COUNTY

FLORIDA

PATH: S:\New Projects\Survey 2018\RTC GLYNN

PROJECT NO. GLYNN PARCEL

REVISED DATE:

DATE: DEC. 17, 2018

CADD FILE: GLYNN SKT

SCALE: 1"=120'

SHEET 2 OF 2

SPOTTSWOOD, SPOTTSWOOD, SPOTTSWOOD & STERLING, PLLC

ATTORNEYS AND COUNSELORS AT LAW
500 FLEMING STREET
KEY WEST, FLORIDA 33040

JOHN M. SPOTTSWOOD, JR.
ERICA HUGHES STERLING
CRISTINA L. SPOTTSWOOD
WILLIAM B. SPOTTSWOOD, JR.
RICHARD J. McCHESNEY

Telephone | 305-294-9556
Facsimile | 305-504-2696

OF COUNSEL:

JOHN M. SPOTTSWOOD (1920 – 1975)
ROBERT A. SPOTTSWOOD (of Counsel)
WILLIAM B. SPOTTSWOOD (of Counsel)

April 19, 2017

Mr. Roget Bryan, Village Attorney
Ms. Cheryl Cioffari, Planning Director
Village of Islamorada
86800 Overseas Highway
Islamorada, Florida 33036

Subject: Glynn Tract- Development of Affordable Housing – Clearing Ratio Variance

Dear Roget and Cheryl:

On August 11 of last year, I sent the attached memorandum to the both of you asking if you agree that my client has the opportunity and the right to apply for a clearing ratio variance as allowed by Sec. 30 – 222 (a) and Sec. 30 – 823 of the Village Code..

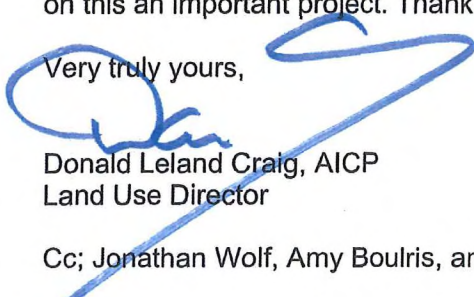
I have yet to have heard from either of you regarding my request.

Absent any response from you within two weeks, I am prepared to submit an application for the variance as described in my memorandum.

I have also enclosed correspondence from July 6 , 2016 which discusses another method for allowing the clearing necessary to allow the development of affordable housing on a small portion of the site.

I appreciate all the work by you and your staff as we have attempted to move forward on this an important project. Thank you.

Very truly yours,


Donald Leland Craig, AICP
Land Use Director

Cc; Jonathan Wolf, Amy Boulris, and Erica Hughes

SPOTTSWOOD, SPOTTSWOOD & SPOTTSWOOD, PLLC
ATTORNEYS AND COUNSELORS AT LAW
500 FLEMING STREET
KEY WEST, FLORIDA 33040

JOHN M. SPOTTSWOOD, JR.
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WILLIAM B. SPOTTSWOOD, JR.
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Telephone | 305-294-9556
Fax | 305-292-1982

JOHN M. SPOTTSWOOD (1920 – 1975)
ROBERT A. SPOTTSWOOD (of Counsel)
DONALD L. CRAIG (Director of Planning)

Memorandum

To: Roget Bryan, Village Attorney and Cheryl Cioffari, Planning Director

From: Donald Leland Craig, AICP Land Use Director

Date: August 11, 2016

Subject: Glynn Tract Plantation Key – Vegetation Clearing Variance

CC: Amy Boulris, Jay Glynn and Erica Sterling

Attachments: NA

Thank you for meeting with Amy and I today to discuss the potential development of Affordable Housing on the Glynn property located just down the highway from the Village Offices on Plantation Key.

As Cheryl knows, I have spoken to her on several occasion about the possibility of development approval of an affordable and workforce housing project on a portion of this 90-acre tract. While Village staff has been supportive of the concept of affordable housing on the tract, as a team they and we have always stumbled on the clearing limitations for hardwood hammock contained in Article VI of the Land Development Regulations. The clearing allowances would require that 90% of the nearly five (5.0) acre hammock area, which is the only accessible upland area on the site, be left entirely intact.

Previously, I had suggested a development agreement to approach the issue of clearing by upgrading an isolated disturbed area to High Quality Hammock forest, equivalent to the area needed for the development of the housing (approximately 2.25 acres). By replanting the disturbed area and maintaining it over time, environmental integrity of the entire 90 acres could be achieved. Staff has been very marginally receptive to this approach.

In order to allow the staff to solidly ground themselves in the LDRs to recommend approval of the clearing of the 2.25 acres necessary for the housing, I have identified a potential alternative method for such approval. That is by variance.

Section 30-221 (a) of the LDRs controls how variances are applied to the standards of the Code,

*"(a) A variance is relaxation of the terms of this chapter where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of this chapter would result in unnecessary and undue hardship on the property. As used in this section, a variance is authorized only for height, setbacks, parking, and loading requirements, **and landscaping**, unless otherwise specified in this chapter. Under no circumstances shall the director of planning and development services or the village council grant a variance to permit a floor area ratio or a use not permitted under the terms of this chapter."* Emphasis added.

Section 30-823 is in the landscaping section and deals with Removal of Vegetation. It says in that section *"(a) Removal or major pruning of any native or naturalized tree equal or greater than eight inches in diameter at breast height or the removal of any vegetation in required open space areas, buffer yards, **hammock**, wetland, or beach berm habitat communities shall require a development permit. Removal of vegetation in the above habitat communities shall be subject to the provisions contained in **article VII** of this chapter."* Emphasis added.

Because the section in the landscaping code refers to removal of vegetation in Hammock areas, and refers to Article VII which is where the clearing ratios for hammock are found, it is my interpretation of the Code that the Clearing ratios are subject to application for variance as provided for in Section 30-221(a)

Obviously, if the Village were to agree to the clearing variance, it could assign whatever reasonable conditions it deemed necessary, inclusive of re-creating high quality hammock elsewhere on the property as contemplated by the Development Agreement approach.

My questions for you today, is do you agree with my interpretation that my client may be allowed to apply for the variance described above?

SPOTTSWOOD, SPOTTSWOOD & SPOTTSWOOD, PLLC
ATTORNEYS AND COUNSELORS AT LAW
500 FLEMING STREET
KEY WEST, FLORIDA 33040

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Telephone | 305-294-9556
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JOHN M. SPOTTSWOOD (1920 – 1975)
ROBERT A. SPOTTSWOOD (of Counsel)
DONALD L. CRAIG (Director of Planning)

July 6, 2016

Ms. Cheryl Cioffari, Director of Planning
Village of Islamorada
86800 Overseas Highway
Islamorada, Florida 33036

Subject: Glynn Tract – Proposal for Affordable Housing Development and Vegetative Clearing Standards

Dear Cheryl:

Thanks for returning my call last Friday. While it has been a busy week, as I promised I am reducing to writing the concepts of which we spoke, and I discussed with four weeks ago when I was in Islamorada.

First, as I described, the proposed project will be an affordable housing project consisting of a 60-80% AMI units and “workforce” housing as well. The proposal is to locate the housing on approximately 2.25 acres of about 4.91 acres for upland on the southeastern corner of the 90-acre tract near US Highway 1.

Second, we recognize, as do you, the process laid out in a letter from the Village dated October 7, 2011 in response to a pre-application meeting for a previous similar proposal, i.e. a required change of Comprehensive Plan and Zoning, together with Conditional Use for the development of 50 +/- units on the property. The re-zoning to achieve to achieve 15 units per acre is sufficient for the planned density.

Third, I could find nothing in the Village Land Development Regulations which addresses the issue of transferring clearing ratios from one of multiple hammock/other vegetated areas on a single parcel and recreation of High Quality Hammock as compensation. I will have an updated vegetative survey of the property shortly, but here is the gist of what my client is proposing. There are two hammock areas on the Property of 90+ acres. The first is near the highway described above as 4.91 acres, adjacent to an off-site hammock and would be considered “high quality”. It is 4.91 acres in size and under the Village code clearing is limited to 10% or 0.49 acres; for sake of ease of distinguishing the two, the larger can be referred to as the “Highway Hammock. The second area is really disturbed with hammock as has been pointed out in our vegetative survey, and one performed by Robert Smith, dated May 27, 2010, which resulted in the construction of a mini warehouse in the area considered” disturbed with hammock” by the Smith analysis, and confirmed as extending into the Glynn property, to an even greater extent by the revised vegetative analysis. This upland area is 1.85 acres in size. Transitional areas extend around it before Mangroves are encountered.

The proposal being made now is to allow the clearing ratio from the disturbed area on the eastern portion of the property, which is 70% of the 1.85 acres, or 1.30 acres to be transferred to the Highway Hammock (4.91 acres) with its allowed clearing of 0.50 acres for a total clearing area of 1.80 acres. Also proposed is additional clearing in this area of 0.45 acres. This would create the 2.25 acres of site area necessary to establish the 50+/- affordable unit and workforce housing units. This would leave 2.66 acres of undisturbed hammock. To offset this clearing the entire 1.85 acres of disturbed area on the eastern perimeter would be replaced with High Quality Hammock to be create over time, together with an additional area of 0.50 acres adjacent to the equal the area cleared in the Highway Hammock. At the end of the of the process the total amount of High Hammock on the site would be 4.96 acres.

Of course, my client realizes that the recreation of High Quality Hammock will entail approximately five years and the expenditure of significant monies to create and manage the hammock to a point of maturity that will allow it to be successful.

Finally, the proposal includes the transfer of the remainder of the site, approximately 85 acres, via a negotiated favorable sale, to the Village or the Monroe County Land authority or other conservation organization.

We look forward to submitting the Development Agreement, the change of Comprehensive Plan and Zoning to move this very much needed project ahead in the coming weeks.

Should you have any questions about our schedule for submittals. Please call me.

Sincerely and Respectfully,

Donald Leland Craig, AICP
Land Use Director

Cc: Jay Glynn, Jonathan Wolfe, Amy Boulris, Jeff Sharkey

EXHIBIT-B



**ISLAMORADA, VILLAGE OF ISLANDS
REGULAR VILLAGE COUNCIL MEETING**

Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036
Thursday, November 21, 2019
5:30 PM

-
- I. CALL TO ORDER / ROLL CALL**
 - II. PLEDGE OF ALLEGIANCE**
 - III. REPORTS, PRESENTATIONS AND ANNOUNCEMENTS**
 - IV. PUBLIC COMMENT**
 - V. AGENDA: Requests for Deletion / Emergency Additions**
 - VI. CITIZENS' ADVISORY COMMITTEE UPDATES**
 - VII. CONSENT AGENDA**

(All items on the Consent Agenda are considered routine by the Village Council and will be approved by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which event, the item will be moved to the Main Agenda.)

- A.** A Resolution Ratifying and Approving a First Amendment to the Continuing Services Agreement between Wade Trim, Inc. and Islamorada, Village of Islands Islands to Provide Engineering and Architectural Services to the Village's Wastewater Utility

TAB 1

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING A FIRST AMENDMENT TO THE CONTINUING SERVICES AGREEMENT BETWEEN WADE TRIM, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE ENGINEERING AND ARCHITECTURAL SERVICES FOR THE VILLAGE'S WASTEWATER UTILITY; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE FIRST AMENDMENT TO THE AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

VIII. QUASI-JUDICIAL

- A. A Resolution Considering the Request of Monte W. Green for Major Conditional Use Approval to Allow an Outdoor Storage Area for Property Located at 86430 Overseas Highway

TAB 2

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST OF MONTE W. GREEN FOR MAJOR CONDITIONAL USE APPROVAL TO ALLOW FOR THE ADDITION OF 8,000 SQUARE FEET OF OUTSIDE STORAGE AREA TO AN EXISTING 19,125 SQUARE FOOT MINI-STORAGE FACILITY FOR PROPERTY LOCATED AT 86430 OVERSEAS HIGHWAY ON PLANTATION KEY IN THE I (INDUSTRIAL) ZONING DISTRICT, WITH REAL ESTATE NUMBER 00091980-000000, AS LEGALLY DESCRIBED HEREIN; AND PROVIDING AN EFFECTIVE DATE

- B. Administrative Appeal (PLADA20190185) by Mark Gregg, Relating to the Determinations of Fact by Village Staff in Pre-Application Conference Application No. PLPRE20190142

TAB 3

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING ADMINISTRATIVE APPEAL NO. PLADA20190185 FILED BY MARK GREGG, RELATING TO AN ADMINISTRATIVE DECISION AND INTERPRETATION BY THE DIRECTOR OF PLANNING FOR PROPERTY LOCATED AT 85305 & 85307 OLD HIGHWAY, ON PLANTATION KEY, ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, WITH PARCEL IDENTIFICATION NUMBER 00405350-000000 & 00405360-000000, AS LEGALLY DESCRIBED IN EXHIBIT "A"; AND PROVIDING FOR AN EFFECTIVE DATE

- C. 2nd Reading: Consideration of a Development Agreement Pursuant to Chapter 163, Florida Statutes, between the Village and the Moorings Islamorada, Inc., Witness Resources Inc., Baldwin Industrial Properties, Inc., and Balate International Limited

TAB 4

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA CONSIDERING A DEVELOPMENT AGREEMENT PURSUANT TO CHAPTER 163, FLORIDA STATUTES, BETWEEN THE VILLAGE AND THE MOORINGS ISLAMORADA, INC., WITNESS RESOURCES, INC., BALDWIN INDUSTRIAL PROPERTIES, INC., AND BALATE INTERNATIONAL LIMITED FOR THE PROPERTY LOCATED AT 123 BEACH ROAD, UPPER MATECUMBE KEY WITH REAL ESTATE NUMBERS 00401870-000000, 00095490-000000, 00095300-000000 AND 00095510-000000; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE MAYOR TO EXECUTE THE AGREEMENT AND ANY OTHER REQUIRED DOCUMENTS; AND PROVIDING FOR AN EFFECTIVE DATE

- D. First Reading: Future Land Use Map Amendment Request by Jay R. Glynn for Property Located at Approximately MM 86 on Overseas Highway with Real Estate Number 00410503-014600 **TAB 5**

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY JAY R. GLYNN TO AMEND THE VILLAGE'S FUTURE LAND USE MAP FROM CONSERVATION (C) TO RESIDENTIAL MEDIUM (RM) FOR PROPERTY LOCATED AT APPROXIMATELY MILE MARKER 86 ON OVERSEAS HIGHWAY WITH REAL ESTATE NUMBERS 00410503-014600, AS LEGALLY DESCRIBED IN EXHIBIT "A"; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY

- E. First Reading: Zoning Map Amendment Request by Jay R. Glynn for Property Located at Approximately MM 86 on Overseas Highway with Real Estate Number 00410503-0014600 **TAB 6**

REQUEST BY JAY R. GLYNN TO AMEND THE OFFICIAL ZONING MAP FROM CONSERVATION (C) TO MULTI FAMILY (MF) FOR PROPERTY LOCATED AT APPROXIMATELY MILE MARKER 86 ON OVERSEAS HIGHWAY WITH REAL ESTATE NUMBERS 00410503-014600, AS LEGALLY DESCRIBED IN EXHIBIT "A"; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY

- F. First Reading: Request by Jay R. Glynn to Amend Comprehensive Plan Policy 3.1.1.3 **TAB 7**

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY JAY R. GLYNN TO AMEND POLICY 3.1.1.3 OF THE VILLAGE COMPREHENSIVE PLAN; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF ECONOMIC OPPORTUNITY

- G. First Reading: Request by Jay R. Glynn to Amend Section 30-1614 of the Land Development Regulations **TAB 8**

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING THE REQUEST BY JAY R. GLYNN TO AMEND SECTION 30-1614.- "OPEN SPACE REQUIREMENTS" OF THE LAND DEVELOPMENT REGULATIONS; PROVIDING FOR THE TRANSMITTAL OF THIS ORDINANCE TO THE STATE DEPARTMENT OF ECONOMIC

**OPPORTUNITY; AND PROVIDING FOR AN EFFECTIVE DATE UPON THE
APPROVAL OF THIS ORDINANCE BY THE STATE DEPARTMENT OF
ECONOMIC OPPORTUNITY**

IX. ORDINANCES

X. RESOLUTIONS

A. BPAS Allocation Distribution for 2020

TAB 9

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE
OF ISLANDS, FLORIDA, ESTABLISHING THE TOTAL AMOUNT OF
NONRESIDENTIAL FLOOR AREA AND RESIDENTIAL DWELLING
UNITS, QUARTERLY ALLOCATIONS, AND THE DISTRIBUTION OF
ALLOCATIONS BETWEEN CATEGORIES OF THE BUILDING PERMIT
ALLOCATION SYSTEM FOR 2020; AND PROVIDING FOR AN
EFFECTIVE DATE**

**B. Resolution Approving the Purchase of a 2020 Sutphen Pumper Fire Truck for
the Village Fire Rescue Department**

TAB 10

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE
OF ISLANDS, FLORIDA PIGGYBACKING THE FLORIDA SHERIFFS
ASSOCIATION COOPERATIVE PURCHASING PROGRAM CONTRACT
NUMBER FSA18-VEF13.0 AND APPROVING THE PURCHASE OF A
2020 SUTPHEN PUMPER FIRE TRUCK FROM SOUTH FLORIDA
EMERGENCY VEHICLES, LLC; AUTHORIZING THE VILLAGE MANAGER
TO EXECUTE NECESSARY DOCUMENTS; AUTHORIZING THE VILLAGE
MANAGER TO EXPEND BUDGETED FUNDS; PROVIDING FOR
PIGGYBACKING OF COMPETITIVE BID; AND PROVIDING FOR AN
EFFECTIVE DATE**

C. Resolution Approving Asphalt Repairs to US-1 at MM 92.8

TAB 11

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE
OF ISLANDS, FLORIDA, APPROVING THE SELECTION OF A
CONTRACTOR FOR ASPHALT REPAIRS AT MILE MARKER 92.8;
AUTHORIZING THE VILLAGE MANAGER TO EXECUTE NECESSARY
DOCUMENTS; AUTHORIZING THE VILLAGE MANAGER TO EXPEND
BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE**

XI. MOTIONS

A. Approval of Regular Village Council Meetings for Calendar Year 2020

TAB 12

B. Acquisition of Property Located at 292 Gardenia Street

XII. MAYOR / COUNCIL COMMUNICATIONS

- A.** Discussion Regarding Advanced Disposal- Vice Mayor Forster
- B.** Discussion Regarding Use of Golf Carts in the Village- Vice Mayor Forster

XIII. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

XIV. ADJOURNMENT

A printed copy of the agenda will be available for the public at the time of the meeting. The agenda and backup documentation may be viewed and printed from the Village website at www.islamorada.fl.us as early as the Monday prior to the meeting.

These meetings are open to the public. In accordance with the Americans with Disabilities Act of 1990, all persons who are disabled and who need special accommodations to participate in this meeting because of that disability should contact the ADA Coordinator at (305) 664-6448 or by email at ADA@islamorada.fl.us at least 48 hours before the scheduled meeting.

Anyone wishing to appeal any decision made by the Islamorada Village Council with respect to any matter considered at such meeting or hearing will need a record of the proceedings and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

All video, computer or technical devices that will be used at Council meetings must be given to the Village Clerk 48 hours prior to the meeting. **Anyone giving out documents during public comment shall provide a minimum of 15 copies to the Village Clerk prior to the start of the meeting.**

Two or more committee members from various Village Committees may be present at this meeting.



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: September 28, 2023
SUBJECT: **Resolution Approving 60-day Renewal of Employee Interchange Agreement with Monroe County and Appointing Ed Koconis as Interim Village Manager TAB 21**

Background:

On August 3, 2023, The Village Council approved an Employee Interchange Agreement ("Agreement") With Monroe County whereby Bryan Cook has been loaned to the Village to serve as the Interim Village Manager.

Analysis:

Section 3 of the Agreement states that "the Agreement will be reviewed periodically no later than every sixty (60) days by the Village Council to determine whether the Village wishes to renew the Agreement, and may be extended for successive terms not to exceed sixty (60) days, with the written approval of the Village Council and County Administrator." Accordingly, it is necessary for the Village Council to determine if it would like to renew the Agreement for an additional 60 days. In addition, the proposed First Amendment to the Agreement proposes to approve Ed Koconis as the County employee assigned to the Village under the Employee Interchange Agreement

Budget Impact:

Funds have been budgeted for this position.

Staff Impact:

N/A

Recommendation:

It is recommended that the Village Council approve the proposed resolution.

- Attachments:**
1. 4794891-Resolution approving renewal of employee interchange agreement for Bryan Cook to serve as interim Village Manager
 2. 4790425-Fully executed employee interchange agreement with County
 3. Exhibit A-First amendment to employee interchange agreement re Ed Koconis
 4. Position Description Koconis

RESOLUTION NO. 23-

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, APPROVING A RENEWAL OF
THE EMPLOYEE INTERCHANGE AGREEMENT WITH MONROE
COUNTY, FLORIDA FOR AN ADDITIONAL SIXTY (60) DAYS AND
PERMITTING ED KOCONIS TO SERVE AS INTERIM VILLAGE
MANAGER; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, Islamorada, Village of Islands (the "Village"), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statute; and

WHEREAS, Section 7(3) of the Village Charter requires that there shall be a Village Manager who will be the chief administrative officer of the Village; and

WHEREAS, at the meeting on July 27, 2023, Monroe County, Florida ("County") offered to permit its employee, Bryan Cook ("Mr. Cook"), to serve as the Village's Interim Village Manager pursuant to an Employee Interchange Agreement ("Agreement") governed by Section 112.24, *et seq.*, Florida Statutes; and

WHEREAS, at the meeting on August 3, 2023, the Village Council passed Resolution 23-08-76 which approved the Agreement and appointed Mr. Cook as Interim Village Manager; and

WHEREAS, Section 3 of the Agreement requires that the Agreement be reviewed no later than every sixty (60) days to determine whether the Village wishes to renew the Agreement; and

WHEREAS, the Village Council finds that renewal of the Agreement for an additional sixty (60) days is in the best interest of the Village and its residents;

WHEREAS, the Village Council approves and authorizes the sixty (60) day renewal of the Agreement; and

WHEREAS, the Village Council and the County also desire to amend the Agreement to allow for Ed Koconis ("Mr. Koconis") to be assigned Interim Village Manager in the place of Mr. Cook.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this Reference.

Section 2. **Approval of Agreement.** The Village Council finds that a sixty (60) day renewal the Agreement is reasonable and appropriate. Pursuant to Section 3 of the Agreement, the Village Council hereby approves a renewal of the Agreement for an additional sixty (60) days. The Village Council also hereby approves the amendment of the Agreement to replace Mr. Cook as Interim Village Manager with Mr. Koconis.

Section 3. **Approval of Appointment.** The Village Council hereby approves the appointment of Mr. Koconis as Interim Village Manager. Mr. Koconis' appointment shall be effective October 2, 2023.

Section 4. **Execution of Agreement.** The Mayor is authorized to execute the First Extension to the Agreement (attached as Exhibit "A") on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of the Agreement, subject to the approval as to form and legality by the Village Attorney.

Section 4. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

Remainder of this page intentionally left blank.

Motion to adopt by _____, seconded by _____.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III _____

Vice Mayor Sharon Mahoney _____

Councilman Mark Gregg _____

Councilwoman Elizabeth Jolin _____

Councilman Henry Rosenthal _____

PASSED AND ADOPTED THIS ____ DAY OF _____, 2023.

JOSEPH B. PINDER III, MAYOR

ATTEST:

MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:

JOHN J. QUICK, VILLAGE ATTORNEY



Kevin Madok, CPA

Clerk of the Circuit Court & Comptroller – Monroe County, Florida

DATE: September 8, 2023

TO: Lindsey Ballard
Aide to the County Administrator

FROM: Liz Yongue, Deputy Clerk

SUBJECT: September 6, 2023 BOCC Meeting

Please see the attached item, which has been executed and added to the record:

C1 Ratified Employee Interchange Agreement with Village of Islamorada (Village) to assign Bryan Cook, Director of Employee Services, to the Village to serve as Interim Village Manager on a temporary basis; and granted authorization for the County Administrator to sign additional future documents including extensions of the Agreement beyond the initial 60-day term.

Should you have any questions please feel free to contact me at (305) 292-3550.

cc: County Attorney
Finance
File

KEY WEST
500 Whitehead Street
Key West, Florida 33040

MARATHON
3117 Overseas Highway
Marathon, Florida 33050

PLANTATION KEY
88770 Overseas Highway
Plantation Key, Florida 33070

EMPLOYEE INTERCHANGE AGREEMENT
(ISLAMORADA, VILLAGE OF ISLANDS)

THIS EMPLOYEE INTERCHANGE AGREEMENT (hereinafter "Agreement") is made and entered into this 3rd day of August 2023, by and between Monroe County, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040 (hereinafter "County"), and Islamorada, Village of Islands, a municipality organized under the laws of the State of Florida, whose address is 86800 Overseas Highway, Islamorada, FL 33036 (hereinafter "Village") (hereinafter, when referred to individually as "Party" or collectively as "Parties).

WITNESSETH

WHEREAS, Chapter 112, Part II, Florida Statutes, authorizes the interchange of employees between governments, including counties and municipalities; and

WHEREAS, Section 112.24, Florida Statutes, provides that the details of an employee interchange shall be the subject of an agreement between a sending agency and a receiving agency;

WHEREAS, the Village has requested and the County has offered to provide assistance in the form of supplying an Interim Village Manager, to provide management while the Village conducts a search for a Village Manager; and

WHEREAS, the County, as the sending agency, wishes to assign Bryan ‘Cook (“Cook”), Director of Employee Services for Monroe County, to the Village as receiving agency, to serve as Interim Village Manager; and

WHEREAS, the Parties see a benefit and a public purpose in having Cook temporarily assigned to the Village for the purposes outlined above, and wish to set forth the details of the temporary assignment in an interlocal agreement.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the Parties agree as follows:

RECITALS

1. **PURPOSE.** The purpose of this Agreement is to allow for the assignment of Bryan Cook (“Cook”) to serve as an Interim Village Manager, to perform and exercise the powers and duties set forth in Section 7(3) of the Village Charter, and more fully outlined herein and in the Village Manager job description, attached as Exhibit “A.”

2. **AUTHORITY.** The County is authorized pursuant to F.S. 125.01, its home rule powers, and F.S. 112.24, which permits the intergovernmental interchange of governmental employees, to enter into this Agreement. The Village is authorized pursuant to F.S. 166.021(1) and F.S. 112.24 to do the same.

3. **TERM OF AGREEMENT:** Pursuant to F.S. 112.24, the term of this Agreement shall begin on August 7, 2023 ("Effective Date"), and shall remain in effect for an initial period of sixty (60) days ("Initial Term"). Pursuant to F.S. 112.24(2), the Agreement will be reviewed by the Village prior to the expiration of the Initial Term, at which time the Agreement may be extended for a subsequent term of sixty (60) days upon the approval of the Village Council and with the approval of the Monroe County Administrator, who is delegated authority to execute the extension. After the Initial Term, and for as long as the Agreement is in effect, the Agreement will be reviewed periodically no later than every sixty (60) days by the Village Council to determine whether the Village wishes to renew the Agreement, and may be extended for successive terms not to exceed sixty (60) days, with the written approval of the Village Council and County Administrator. Pursuant to F.S. 112.24, regardless of the number of extensions granted beyond the Initial Term, the Agreement shall not exceed two (2) years and three (3) months. Moreover, the continuation of this Agreement beyond the end of any County fiscal year is subject to both the appropriation and the availability of funds by the Board of County Commissioners in accordance with Chapter 129, Florida Statutes.

4. **DUTIES:** Cook shall perform the functions and duties specified in the Village's Charter, including without limitation the powers and duties enumerated in Section 7(3) of the Village Charter, as well as applicable sections of the Village Code-, and shall perform other legally permissible and proper duties and functions, as requested from time to time by the Village Council, and as more fully articulated in Exhibit "A". Cook shall comply at all times with Chapter 112, part III (Sections 112.311 et seq.) of Florida Statutes, the Florida Code of Ethics, as set forth in Section 2-52 of the Islamorada Code of Ordinances.

5. **SALARIES AND BENEFITS:** Salary and benefits for Cook for the time spent working on matters for the Village shall be administered as set forth below.

- a. Cook shall remain a full-time exempt employee of Monroe County.
- b. **Division of Time:** Cook shall expend as much time as is required by the Village during the term of this Agreement, up to 100% of Cook's time during a work week. The County and Cook understand that Cook's primary responsibility during the term of this Agreement will be to the Village.
- c. **Salary:**
 - i. Each work week, the number of hours spent working for the Village shall be calculated as a percentage of total hours worked by Cook. For the percentage of hours spent by Cook working on Village matters, Cook shall be entitled to compensation at the annual rate of two hundred forty-eight thousand dollars (\$248,000.00) ("Village Share"), and for the percentage of hours spent by Cook working on Monroe County matters, Cook shall be entitled to compensation at his current rate of pay, subject to language about salary increases as is set forth below ("County Share"). Cook shall document his Village Share and County Share on forms approved by the respective Human Resources department of each Party.

- ii. The County shall issue pay Cook for the combined amount of the Village Share and the County Share in accordance with the County's payroll policies, which provides for employees to be paid two weeks in arrear at the conclusion of the County's existing biweekly pay periods. The County shall then issue an invoice to the Village and the Village shall reimburse the County for the Village Share, which shall include the employer's share of all applicable employment taxes and other mandatory contributions, including mandatory employer contributions to Cook's Florida Retirement System account.
- d. In all respects, Cook shall be governed by terms and conditions set forth in the Monroe County Personnel Policies and Procedures Manual ("Manual").
- e. Leave: Cook shall continue to accrue annual (vacation) and sick leave in accordance with the terms and conditions set forth in the Manual. The County shall bear the financial responsibility for payment of accrued leave, including hours attributable to the Village Share.
- f. Unemployment: The Parties will jointly be responsible for the payment of unemployment benefits on a pro rata basis in proportion to the wages paid to Cook by the Parties. The County is a reimbursing employer. Therefore, in the event that Cook is awarded unemployment benefits pursuant to Chapter 443, Florida Statutes, the Village will be responsible for reimbursing the County for its proportionate share of unemployment benefits, if such benefits are paid.
- g. Medical Insurance, Pharmaceutical Plan, Life Insurance, and Voluntary Benefits: Cook will continue to be eligible to participate in the Monroe County's medical insurance, pharmaceutical plan, County-provided basic life insurance and AD&D, and voluntary benefits (dental, vision, supplemental life) on the same terms and conditions as other County employees. Except as outlined elsewhere in this Agreement, the responsibility for payment for and provision of all benefits shall remain the sole responsibility of the County.
- h. Workers' Compensation (F.S. 112.30(4)): In the event of injury or death in the performance of Cook's duties for the Village for an incident that arises out of the course and scope of work performed by the Village, the employee shall be treated as an employee of Monroe County and Monroe County as the sending agency shall be solely responsible for providing the workers' compensation benefits without reimbursement by the Village. The Village shall promptly notify the County of Cook's injury or death.
- i. Travel Benefits: Cook shall be entitled to travel, per diem and lodging benefits as allowed by Monroe County Code section 2-106 *et seq.*
- j. The Village shall provide an established work area and all other necessary equipment and supplies for Cook to perform his job duties as Interim Village Manager. The Village shall provide a laptop computer for Cook's exclusive use. The costs of acquiring and using the computer shall be paid for by the Village. The work area and

all other necessary equipment and supplies provided by the Village shall be used solely for Village purposes.

6. **INDEMNIFICATION:** Subject to and without waiving the limitation contained in Section 768.28, the Village agrees to be liable for any and all damages proximately caused by the acts, omission, or wrongful acts of its elected officials, employees or agents, and agrees to defend, indemnify, and hold harmless the County from any and all claims arising out of the wrongful acts or inactions of the Village. Subject to and without waiving the provisions of Section 768.28, Florida Statutes, the County agrees to be liable for any and all damages proximately caused by the acts, omission, or wrongful acts of its employees or agents, and agrees to defend, indemnify, and hold harmless the Village from any and all claims arising out of the wrongful acts or inactions of County. Nothing herein is intended to serve as a waiver of sovereign immunity by either of the Parties. Notwithstanding the above provisions, the Village shall not be obligated to indemnify, defend, or hold Cook harmless from any claims of any nature arising out of Cook's malfeasance, or from injury or property damage caused by the intentional misconduct of Cook. This indemnification provision shall survive the termination of this Agreement.

7. **INSURANCE:** The Village shall provide a general liability insurance to cover all incidents occurring in the course and scope of work performed for the Village by Cook during the term of this Agreement, in the minimum amount of \$1,000,000 per occurrence.

8. **BONDS:** The Village shall obtain a fidelity bond and any other applicable bonds covering work performed by Cook for the Village during the term of this Agreement. The costs and expenses of obtaining and maintaining such bonds shall be paid for by the Village.

9. **TERMINATION:** This Agreement may be terminated with or without cause by either Party upon thirty (30) days' prior written notice to the other Party.

10. **DISCLOSURE OF FINANCIAL INTERESTS:** Section 112.3145, Florida Statutes, requires financial disclosures to be filed by a "local officers," and subsection (1)(a)3., defines a "local officer" to include a city manager. Cook agrees to make such disclosures on such forms and at such times as may be required by state law.

11. **NONDISCRIMINATION:** The Parties 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. The Parties 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 VII of the Civil Rights Act of 1964 (PL 88-352), which prohibit discrimination in employment on the basis of race, color, religion, sex, and national origin; 2) Title IX of the Education Amendment of 1972, as amended (20 USC §§ 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 § 794), which prohibits discrimination on the basis of handicaps; 4) The Age Discrimination Act of 1975, as amended (42 USC §§ 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, §§ 523 and 527 (42 USC §§ 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 §§ 3601 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 §§ 12101), as amended from time to time, relating to nondiscrimination in employment on the basis of disability; 10) Monroe County Code Chapter 14, Article II, which prohibits discrimination on the basis of race, color, sex, religion, national origin, ancestry, sexual orientation, gender identity or expression, familial status or age; and 11) any other nondiscrimination provisions in any federal or state statutes which may apply to the parties to, or the subject matter of, this Agreement.

12. PUBLIC RECORDS: The County and the Village 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 the Village in conjunction with this Agreement; and either Party shall have the right to unilaterally cancel this Agreement upon violation of this provision by the other Party. Detailed Employee shall retain public records in his possession and related to Village business in accordance with Village policy.

13. RECORDS – ACCESS AND AUDITS. All Parties shall maintain adequate and complete records after termination of this Agreement, as required by the applicable retention schedule required by law. Each party, its officers, employees, agents and auditors shall have access to the other parties' books, records, and documents, related to this Agreement upon request. The access to and inspection of such books, records, and documents by the parties shall occur during the regular office hours or as agreed.

14. NO THIRD-PARTY BENEFICIARIES. Neither Party intends to benefit a third party by this Agreement beyond Cook. Therefore, the Parties acknowledge that there are no other third-party beneficiaries to this Agreement and that no other third party shall be entitled to assert a right or claim against either of them based upon this Agreement.

15. NOTICES. In order for a notice to a party to be effective under this Agreement, notice must be sent via U.S. first-class mail with a contemporaneous copy via e-mail to the addresses listed below and shall be effective upon mailing. The addresses for notice shall remain as set forth herein unless and until changed by providing notice of such change in accordance with the provisions of this section.

For County:

Monroe County BOCC
County Administrator
1100 Simonton Street
Key West, FL 33040
Gastesi-roman@monroecounty-fl.gov

With a copy to:

Monroe County Attorney's Office
1111 12th St., Suite 408
Key West, FL 33040
Shillinger-bob@monroecounty-fl.gov

For Village:

Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, FL 33036
Clerk@islamorada.fl.us

With a copy to:

Village Attorney
John J. Quick, Esq.
Weiss Serota Helfman Cole + Bierman, P.L.
2800 Ponce de Leon Blvd., Suite 1200
Coral Gables, FL 33134
jquick@wsh-law.com

16. ASSIGNMENT AND PERFORMANCE. Neither this Agreement nor any right or interest herein may be assigned, transferred, subcontracted, or encumbered by Village without the prior written consent of County. COVENANT OF NO INTEREST. Neither Party 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 the only interest of each party is to perform and receive benefits as set forth in this Party.CODE OF ETHICS. The Parties understand and agree that officers and employees of the County are required to comply with the standards of conduct for public officers and employees as delineated in Section 112.313, Florida Statutes, as well as the Monroe County Personnel Policies and Procedures Manual 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.NO SOLICITATION/PAYMENT. The County and the Village each 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. GOVERNING LAWS/VENUE. This Agreement is governed by laws of the State of Florida. Venue for any dispute arising under this Agreement shall be in Monroe County, Florida. COMPLIANCE WITH LAWS. Each Party to this Agreement shall comply in full with all applicable federal, state and

local laws, regulations and ordinances. This Agreement constitutes the entire Agreement of the Parties and supersedes any and all prior communications, understandings and agreements with respect to the subject matter of this Agreement, whether oral or in writing. This Agreement can never be amended, except with the prior written agreement of both Parties. By signing below, each signatory to this Agreement warrants that it has the requisite corporate authority to enter into the Agreement and to bind its respective entity.

THE REMAINDER OF THIS PAGE IS BLANK.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement this 3rd day of August 2023.

(SEAL)
ATTEST: KEVIN MADOK, CLERK

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
As Deputy Clerk

By: [Signature] August 7, 2023
~~Mayor~~ County Administrator
Date:

Approved as to form and legal sufficiency for
Monroe County, Florida:

[Signature]

Cynthia L. Hall, Sr. Ass't County Attorney

ISLAMORADA, VILLAGE OF ISLANDS

By: [Signature]
Mayor
Date: 8/3/23

Approved as to form and legal sufficiency for
the use of the Village Council only:

[Signature]
Village Attorney



Ratified by the Board of County Commissioners on September 6, 2023.

Attest: KEVIN MADOK, Clerk

By: [Signature]
As Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: [Signature]
Mayor

FILED FOR RECORD
2023 SEP -8 PM 4:57
CLK. CIR. CL.
MONROE COUNTY, FLA.



ISLAMORADA, VILLAGE OF ISLANDS

Position Description

EXHIBIT A

Position Title: Village Manager

Reports To: Village Council

Position Status: Exempt (Pay Grade: 20)

General Functions:

Directs and coordinates administration of Village government in accordance with policies determined by Village Council while performing the following duties personally or through subordinate supervisors. Position requires the use of Village vehicle in the performance of duties.

Illustrative Tasks:

(These are intended only as illustrations of the various types of work performed. The omission of specific duties does not exclude them from the position if the work is similar, related or a logical assignment to the position.)

- Plans, organizes, directs, coordinates and evaluates the operations, programs, activities and services of all departments, offices and agencies of the Village, except as otherwise provided by the Charter and other relevant law.
- Responds to requests from the Village Council and the public for appropriate action and/or resolution of policy matters and attendant problems.
- Ensures the Village Council is kept abreast of matters pertinent to Village administration.
- Provides periodic reports in compliance with the Village Council's requirements and Charter provisions concerning the operations, activities and programs of Village departments, offices and agencies subject to the Village Manager's direction and supervision.
- Prepares Village Council meeting agendas, ensuring that the Council is fully apprised of the information contained therein, and that items on the agenda will not unnecessarily prolong the duration of the meeting at issue.
- Initiates policy recommendations for the Village Council's consideration.
- Conducts agenda review meetings with staff, as needed, to review items proposed for presentation to the Village Council.
- Recommends the creation of new committees that will advance Village business and operations.
- Negotiates contracts (including collective bargaining agreements), and other legal instruments, in conjunction with the Village Attorney's Office.
- Executes contracts on behalf of the Village pursuant to the provisions of the appropriate ordinances.
- Appoints, suspends and terminates all Village employees except those appointed by and responsible to the Village Council; approves promotions, transfers, reclassifications, job evaluations, demotions, disciplinary action and other related personnel actions.
- Manages senior staff including the Deputy Village Manager and department directors.
- Responsible for the overall direction, coordination and evaluation of all Village departments.
- Develops and implements appropriate training programs for Village employees.
- Prepares and submits the annual operating budget and capital programs to the Village Council in the appropriate format.
- Develops long-range fiscal managerial plans and strategies.
- Implements the approved budget and effects a program of budgetary control over expenditures and revenues.
- Submits to the Village Council for public review a report on the financial condition and administrative activities of the Village at the end of each fiscal year as required by the Village Charter and/or relevant State Law.

- Attends all Village Council meetings as well as other public meetings scheduled by the Village or in connection with Village business.
- Represents Village administration before various community organizations, business enterprises and governmental entities.
- Develops programs and strategies to enhance the effectiveness and efficiency of Village operations, including appropriate Village staff and/or Council retreats or strategizing sessions.
- Provides guidance and assistance in the development of long and short-range goals for the Village Council's consideration and implements same upon approval by the Council.
- Encourages and oversees economic and community development efforts including business retention, redevelopment and recruitment of new businesses.
- Possesses the ability to work in an increasingly culturally diverse community.
- Possesses the ability to multitask and adjust to changing situations while maintaining efficiency and effectiveness.
- Possesses the ability to deal tactfully, courteously and professionally with all officials and groups, exercising sound and effective judgment in doing so, ensuring the protection of the Village's goodwill.

Requirements for Position:

Bachelor's Degree in Business Administration, Public Administration, or equivalent combination of education and experience. Master's Degree desirable. At least ten (10) years related management experience as department director or manager in a public sector setting. Thorough knowledge of the principles, practices, and techniques of public administration. Demonstrated financial, management, planning, leadership and communication skills. Knowledge of Personal Computer software application, i.e. word processing, spreadsheet, database, etc.

Physical Requirements:

While performing the duties of this class, employees are regularly required to sit; talk or hear, in person and by telephone; use hands to finger, handle, feel or operate standard office equipment; and reach with hands and arms. Employees are occasionally required to walk and stand and lift and move records and documents weighing 20 pounds or less. Specific vision abilities required by this job include close vision and the ability to adjust focus. Employees are regularly required to use written and oral communication skills; read and interpret data, information and documents; analyze and solve problems; use math and mathematical reasoning; learn and apply new skills and information; perform highly detailed work on multiple, concurrent tasks; and interact with Village staff and other organizations.

Bryan Cook

Print Name

Bryan Cook

Digitally signed by Bryan
Cook
Date: 2023.08.04
16:01:43 -04'00'

Signature

Date

RESOLUTION NO. 23-08-76

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE APPOINTMENT OF BRYAN COOK AS INTERIM VILLAGE MANAGER; APPROVING AND AUTHORIZING THE EXECUTION OF THE EMPLOYEE INTERCHANGE AGREEMENT WITH MONROE COUNTY, FLORIDA PERMITTING BRYAN COOK TO SERVE AS INTERIM VILLAGE MANAGER; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village"), is a duly constituted municipality having such power and authority conferred upon it by the Florida Constitution and Chapter 166, Florida Statute; and

WHEREAS, Section 7(3) of the Village Charter requires that there shall be a Village Manager who will be the chief administrative officer of the Village; and

WHEREAS, at the meeting on July 27, 2023, Monroe County, Florida ("County") offered to permit its employee, Bryan Cook ("Mr. Cook"), to serve as the Village's Interim Village Manager pursuant to an Employee Interchange Agreement ("Agreement") governed by Section 112.24, *et seq.*, Florida Statutes; and

WHEREAS, the Village Council finds that approval of the Agreement and appointment of Mr. Cook as Interim Village Manager is in the best interest of the Village and its residents; and

WHEREAS, the Village Council approves and authorizes the execution of the Agreement.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AS FOLLOWS:

Section 1. **Recitals.** The above recitals are true and correct and incorporated into this Resolution by this Reference.

Section 2. **Approval of Appointment.** The Village Council hereby approves the appointment of Mr. Cook as Interim Village Manager. Mr. Cook's appointment shall be effective August 7, 2023.

Section 3. **Approval of Agreement.** The Village Council finds that the Agreement with the County, attached hereto as Exhibit "A", is reasonable and appropriate. The Village Council hereby approves the Agreement.

Section 4. **Execution of Agreement.** The Mayor is hereby authorized to execute the Agreement with the County on behalf of the Village, to execute any required documents to implement the terms and conditions of the Agreement, subject to approval as to form and legality by the Village Attorney.

Section 5. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

Remainder of this page intentionally left blank.

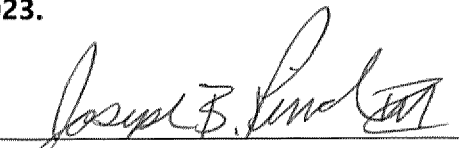
Motion to adopt by Gregg, seconded by Mahoney.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Joseph B. Pinder III	<u>Yes</u>
Vice Mayor Sharon Mahoney	<u>Yes</u>
Councilman Mark Gregg	<u>Yes</u>
Councilwoman Elizabeth Jolin	<u>Yes</u>
Councilman Henry Rosenthal	<u>No</u>

PASSED AND ADOPTED THIS 3 DAY OF August, 2023.

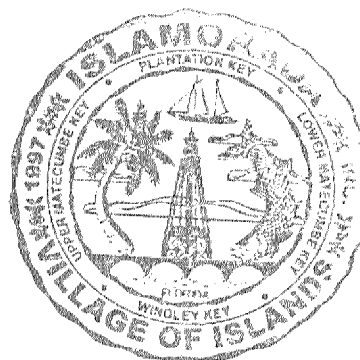

JOSEPH B. PINDER III, MAYOR

ATTEST:


MARNE MCGRATH, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF
ISLAMORADA, VILLAGE OF ISLANDS:


JOHN J. QUICK, VILLAGE ATTORNEY



FIRST AMENDMENT TO
EMPLOYEE INTERCHANGE AGREEMENT
(ISLAMORADA, VILLAGE OF ISLANDS)

THIS FIRST AMENDMENT TO EMPLOYEE INTERCHANGE AGREEMENT (hereinafter "Amendment") is made and entered into this ____ day of September 2023, by and between Monroe County, a political subdivision of the State of Florida, whose address is 1100 Simonton Street, Key West, FL, 33040 (hereinafter "County"), and Islamorada, Village of Islands, a municipality organized under the laws of the State of Florida, whose address is 86800 Overseas Highway, Islamorada, FL 33036 (hereinafter "Village") (hereinafter, when referred to individually as "Party" or collectively as "Parties").

WITNESSETH

WHEREAS, Chapter 112, Part II, Florida Statutes, authorizes the interchange of employees between governments, including counties and municipalities; and

WHEREAS, Section 112.24, Florida Statutes, provides that the details of an employee interchange shall be the subject of an agreement between a sending agency and a receiving agency;

WHEREAS, August 6, 2023, the County and the Village entered into an Employee Interchange Agreement ("Agreement") whereby the Parties agreed that the County would assign Bryan Cook ("Cook"), Director of Employee Services for Monroe County, to the Village as receiving agency, to serve as Interim Village Manager; and

WHEREAS, the Agreement provided that the initial term of the Agreement would begin on August 7, 2023 and continue for sixty (60) days, to October 6, 2023 ("Initial Term"), and that prior to the expiration of the Initial Term, the Agreement would be reviewed by the Village, at which time the Agreement could be extended for a subsequent term not to exceed sixty (60) days upon the approval of the Village Council and with the approval of the Monroe County Administrator; and

WHEREAS, both Parties have indicated that they wish to extend the Agreement for an additional term, not to exceed sixty (60) days; and

WHEREAS, the County has proposed to assign Ed Koconis, AICP, Administrative Director for Monroe County, in place of Bryan Cook, who is needed to resume his duties for Monroe County; and

WHEREAS, the Parties have agreed that Bryan Cook's assignment as Interim Village Manager shall end on Friday, September 29, 2023, and beginning October 2, 2023, Ed Koconis shall be assigned to serve as the Interim Village Manager for the remainder of the term of this Agreement, as extended.

NOW, THEREFORE, in consideration of the mutual covenants and provisions contained herein, the Parties agree as follows:

RECITALS

1. Pursuant to paragraph (3) of the Agreement (Term of Agreement), the term of the Employee Interchange Agreement is hereby extended by an additional sixty (60) days, through December 6, 2023 (“Extended Term”).

2. Bryan Cook shall cease to be assigned as the Interim Village Manager at close of business on September 29, 2023, and Ed Koconis shall be assigned to serve as the Interim Village Manager beginning 8:00 a.m. on October 2, 2023. Effective October 2, 2023, all references to “Bryan Cook” or “Cook” shall be revised and replaced with the name “Ed Koconis” wherever they appear in the Interchange Agreement.

3. Effective October 2, 2023, Exhibit A to the Interchange Agreement (Islamorada Position Description signed by Bryan Cook) is removed and replaced with Exhibit A attached hereto (Islamorada Position Description signed by Ed Koconis), which shall be incorporated in the Interchange Agreement by reference.

4. In all other respects, all terms and conditions set forth in the Agreement remain unchanged and in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have made and executed this Agreement this _____ day of September 2023.

Approved as to form and legal sufficiency for
Monroe County, only:

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

Cynthia L. Hall, Sr. Ass’t County Attorney

By: _____
Roman Gastesi, County Administrator
Date:

Approved as to form and legal sufficiency for
the use of the Village Council only:

ISLAMORADA, VILLAGE OF ISLANDS

John J. Quick, Village Attorney

By: _____
Joseph B. Pinder, III, Mayor
Date:

Ratified by the Monroe County Board of County Commissioners on October 20, 2023.

(Seal)

ATTEST: KEVIN MADOK, Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By:

By:

As Deputy Clerk

Mayor



ISLAMORADA, VILLAGE OF ISLANDS

Position Description

EXHIBIT A

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Position Status: Exempt (Pay Grade: 20)

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Ed Koconis
Digitally signed by Ed Koconis
Date: 2023.09.21 15:18:01
-04'00'

Print Name

Signature

Date



Council Communication

To: Mayor and Village Council
From:
Date: September 28, 2023
SUBJECT: **Approval of Local Planning Agency Appointments TAB 22**

Background:

There are seven seats on the LPA and twelve residents applied. The council was provided with an opportunity to contact applicants and then vote to select their preferred candidates. Votes were consolidated to select the new committee members. After the first round of voting, there was a tie and a second vote was taken for the tied applicants.

The following applicants are recommended for appointment to the LPA:

Cheryl Culberson
Deb Gillis
Tony Hammon
Patrick Foley
Lorie LaLonde
Susan Rafanello
James Rhyne

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Approve the appointments to the LPA

Attachments: None