



Islamorada, Village of Islands

REGULAR VILLAGE COUNCIL MEETING - REVISED

October 10, 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. 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.)

V. MAYOR / COUNCIL COMMUNICATIONS

- A.** Village Support for Amicus Brief filed in Everglades Restoration Lawsuit - Council Member Gregg - **TAB 1**
- B.** Council Discussion of Priority Issues and Actions Items - Council Member Gregg - **TAB X**
- C.** Proposal to Increase Holiday Lightscapes Contract - Council Member Rosenthal - **TAB Y**

VI. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

- A.** Review and Discuss options for Market Rate BPAS and Administrative Relief - **TAB 2**

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.** Approval of July 17, 2023 Special Village Council Meeting Minutes - **TAB 3**
- B.** Resolution Approving Annual Expenditures for Fire Apparatus Maintenance and Repair Services with Florida Keys EVR, LLC - **TAB 4** (Terry Abel, Fire Chief)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING FISCAL YEAR 2023-2024 EXPENDITURES THROUGH AN AGREEMENT BETWEEN FLORIDA KEYS EVR, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE MAINTENANCE AND REPAIR SERVICES TO THE FIRE RESCUE DEPARTMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

- C. Resolution Approving Work Authorization No. 4 between Wade Trim, Inc., and the Village for FY 2023-2024 Services - **TAB 5**

(A.J. Engelmeier, Public Works Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RATIFYING AND APPROVING WORK AUTHORIZATION NO. 4 BETWEEN WADE TRIM, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL ENGINEERING SERVICES AND WASTEWATER UTILITY-RELATED ENGINEERING SERVICES; 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 WORK AUTHORIZATION NO. 4; AND PROVIDING FOR AN EFFECTIVE DATE

- D. Resolution Approving Update to Council Procedures - **TAB 6** (John Quick, Interim Village Attorney)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, UPDATING PROCEDURES FOR THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE DATE.

- E. Resolution Approving Final Payment to Dockmasters Marine Construction, Inc.- **TAB 7** (Maria Bassett, Finance Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A FINAL PAYMENT (CHANGE ORDER #2) TO DOCKMASTERS MARINE CONSTRUCTION, INC., FOR THE MARINA DECKING REPLACEMENT PROJECT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

- F. Resolution Approving Work Authorization No. 1 between Page Excavating, Inc., and the Village for FY 2023-2024 Services - **TAB 8**
(A.J. Engelmeier, Public Works Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 1 BETWEEN PAGE EXCAVATING, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE WASTEWATER SUPPORT SERVICES AS

NEEDED; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 1; 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 Special Call Land Use Meeting Schedule 2024 - **TAB 9** (Jennifer DeBoisbriand , Planning Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING A SCHEDULE FOR LAND USE VILLAGE COUNCIL MEETINGS AND PROVIDING FOR AN EFFECTIVE DATE

VIII. RESOLUTIONS

- A.** Resolution Approving Agreement with Page Excavating, Inc., to provide Marina Fire Suppression System Repair Services - **TAB 10** (Maria Bassett, Finance Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING AN AGREEMENT BETWEEN PAGE EXCAVATING, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE MARINA FIRE SUPPRESSION SYSTEM REPAIR SERVICES; 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 AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

- B.** Resolution Approving FDOT SFY 2023 Public Transit Service Development Program Grant Agreement for Expanded Freebee Ridesharing Services - **TAB 11** (Mary Swaney, Procurements & Grants Administrator, Maria Bassett, Finance Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, ACCEPTING THE GRANT AWARD FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION; APPROVING THE GRANT AGREEMENT G2M67 BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE REIMBURSEMENT FUNDING FOR PUBLIC TRANSPORTATION DEVELOPMENT THROUGH EXPANSION OF THE FREEBEE PROGRAM; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

- C.** Resolution Approving a Renewal Agreement for Freebee Ridesharing Services in Conjunction with FDOT SFY 2024 Public Transit Service Development Program Grant - **TAB 12** (Mary

Swaney, Procurements & Grants Administrator, Maria Bassett,
Finance Director)

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING EXECUTION OF AN AGREEMENT WITH BEEFREE, LLC., d/b/a FREEBEE WITH EXTENDED SERVICE HOURS; 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 AGREEMENT; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING AN EFFECTIVE DATE

IX. ORDINANCES

- A. Ordinance Calling for a Referendum to Increase Council Compensation - Second Reading - TAB 13 (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 REFERENDUM TO BE HELD WITH THE REGULAR VILLAGE ELECTION ON NOVEMBER 5, 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

- B. Amending Administrative Relief Under the Building Permit Allocation System (BPAS) - TAB 14 (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.

X. MOTIONS

XI. 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



Council Communication

To: Mayor and Village Council
From:
Date: October 10, 2023
SUBJECT: Village Support for Amicus Brief filed in Everglades Restoration Lawsuit - Council Member Gregg - TAB 1

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. ELC Memorandum re_ EAA Reservoir Appeal Amicus Brief

**Everglades
Law Center, Inc.**
Defending Florida's Ecosystems and Communities

To: Interested parties and local governments that support Everglades restoration and Everglades Agricultural Area ("EAA") A-2 Reservoir and Stormwater Treatment Area ("STA") Project

From: Everglades Law Center, Inc.

Contact: Ansley Samson, General Counsel Ansley@evergladeslaw.org
Lisa Interlandi, Policy Director Lisa@evergladeslaw.org

Regarding: Legal challenge to EAA Reservoir and STA Project and opportunity to file Friend of the Court (Amicus Curiae) Brief

The case: In 2021, Okeelanta Corporation, United States Sugar Corporation and the Sugar Cane Growers Cooperative of Florida ("sugar industry") filed a legal challenge to the actions of the U.S. Army Corps of Engineers ("Corps") in approving the Everglades Agricultural Area ("EAA") A-2 Reservoir and Stormwater Treatment Area ("STA") Projects.

The sugar industry and its supporters seek to require Everglades restoration projects to replace any and all losses to agricultural water supply that have occurred since December 2000, regardless of whether the loss was caused by implementation of the Comprehensive Everglades Restoration Plan ("CERP").

The concern: Everglades restoration is not legally required to hold the sugar industry harmless from any and all water supply threats. CERP was not intended to serve as an insurance policy for water users, protecting them from unidentified future harm. The law's requirements regarding the protection of water supplies are clearly limited to ensure that the implementation of CERP itself – and its 68 identified projects designed to make more water available for the environment – would not transfer existing water supplies away from water users or the environment until CERP projects made new sources available.

If all future operational changes affecting south Florida (or CERP projects implemented after one of these operational changes) must hold agricultural water supply constant at December 2000 levels – as the sugar industry and its supporters are arguing they must – the Corps' ability to address a range of issues from harm to endangered and threatened species to catastrophic infrastructure failure would be seriously undermined.

There are countless scenarios that could result in a reduction of water supply that are unrelated to CERP implementation, including harmful algal blooms, climatological changes, reduced rainfall, land use changes, the threat of saltwater intrusion, groundwater protection, the integrity of the Herbert Hoover Dike or other Corps infrastructure, statutory requirements such as those to protect human health or avoid jeopardy to endangered and threatened species.

This could lead to the expenditure of billions of dollars to implement a massive restoration plan with no water left available for Everglades restoration. In this case, the entire EAA Reservoir and STA project would supply less than half of the water that the sugar industry contends must first be returned to agricultural and water supply users as a result of the Corps' 2008 change to the Lake Okeechobee Regulation Schedule.

Environmental and Civic Engagement in this case: In September 2022, several environmental and civic groups (the Islamorada Chamber of Commerce, the Sanibel Captiva Islands Chamber of Commerce, the Florida Keys Fishing Guides Association, Florida Bay Forever, the Sanibel Captiva Conservation Foundation, Captains for Clean Water and the Everglades Foundation) filed a Friend of Court (Amicus Curiae) brief in the United States District Court to dispute the claims made by the sugar industry and to support the EAA Reservoir and STA projects.

Status of the case: In March 2023, the trial court rejected all of the sugar industry's claims; however, in May 2023, the sugar industry appealed the trial court's judgment to the 11th Circuit Court of Appeals.

Sugar Industry Appeal

In August 2023, each of the three sugar industry challengers filed individual initial appellate briefs in the 11th Circuit Court of Appeals. In addition, the City of West Palm Beach, the Lake Worth Drainage District, the Florida Fruit & Vegetable Association and the Florida Farm Bureau Federation filed Friend of the Court briefs.

Everglades Law Center is preparing a Friend of the Court brief on this matter on behalf of affected environmental groups, civic organizations and local governments to be filed in the 11th Circuit Court of Appeals. This brief will be prepared and filed pro bono, without charge to those groups who agree to sign on.

The purpose of the brief is to support the approval and implementation of the EAA Reservoir and STA projects and to ensure that CERP is implemented to restore, preserve, and protect the Everglades, the coastal estuaries, and Florida Bay as intended.

The specific issues raised will be directly responsive to the issues raised by the sugar industry and supporters in their appellate briefs and will include a discussion of the impacts to various stakeholder groups and local governments of the sugar industry's position. A copy of the Amicus Curiae brief that was filed by the Everglades Law Center in the District Court Review of this matter is available at <https://evergladeslaw.org/water-resources/saving-the-savings-clause/>. For more information, questions, etc. please reach out to us at the emails listed herein.

The brief must be filed on October 30, 2023.

Should our Organization or Government Entity Sign on to this Brief?

If the sugar industry and their supporters prevail in this appeal, future operations of the EAA reservoir and STA could be changed to meet agricultural water supply demands, eliminating the project's primary function of storing and sending water to the Everglades and Florida Bay to reduce damaging discharges to coastal estuaries. Such a fundamental change to the purpose of this and other projects could result in a significant reduction or even elimination of the benefits expected in coastal communities as a result of Everglades restoration.

If your community or stakeholder interest has been economically or environmentally impacted by discharges from Lake Okeechobee or the lack of water flow to the Everglades or Florida Bay, your voice is critically needed to explain to the Court the impacts of the sugar industry's claims on Everglades restoration, the south Florida environment, and the communities that depend on a healthy Everglades and environment

For communities impacted by discharges from Lake Okeechobee, the brief will provide organizations and government entities an opportunity to explain to the Court how discharges from the Lake affect their communities' economic health and environmental quality.

For more information or to join our efforts please contact Ansley Samson (Ansley@evergladeslaw.org) or Lisa Interlandi (lisa@evergladeslaw.org).



Council Communication

To: Mayor and Village Council
From:
Date: October 10, 2023
SUBJECT: Council Discussion of Priority Issues and Actions Items - Council Member Gregg - TAB X

Background:

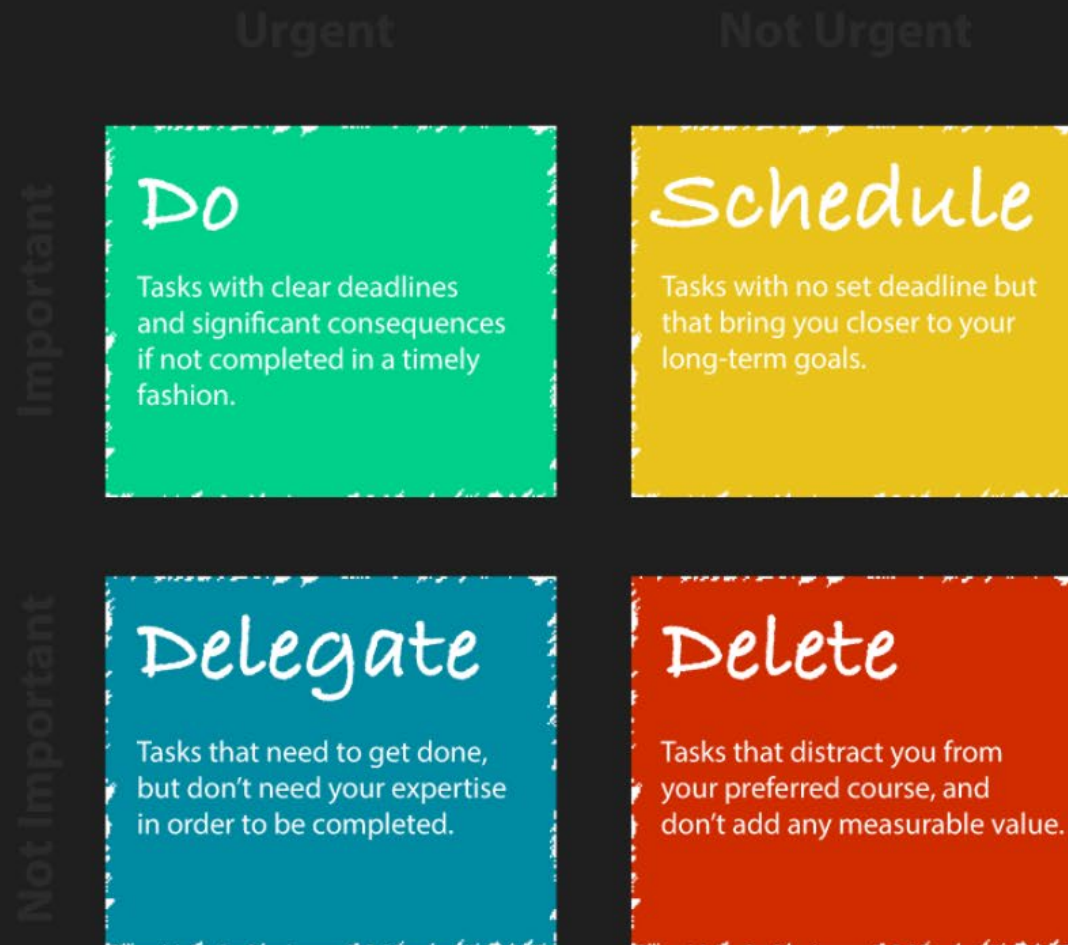
Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. Eisenhower Matrix Example





Council Communication

To: Mayor and Village Council
From:
Date: October 10, 2023
SUBJECT: **Proposal to Increase Holiday Lightscapes Contract - Council Member Rosenthal - TAB Y**

Background:

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. 2023 Holiday Lightscapes Proposal_Addt'l



PROPOSAL

Holiday Lightscapes Inc.
145 Matthews Street
Satellite Beach, Florida 32937
Phone: 561.827.4357
www.holidaylightscapes.com
info@holidaylightscapes.com

To: Hatti Jenkins – hatti.jenkins@islamorada.fl.us

Project Title: The City of Islamorada Holiday Lighting and Décor 2023 – Display ADD-ONS

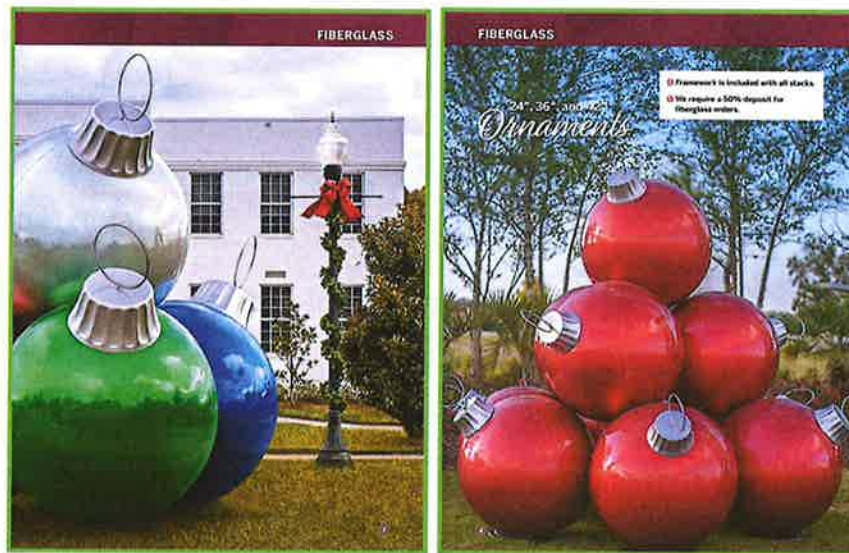
Submitted on: 10/6/2023

Job Description:

Holiday Lightscapes will install, maintain, and remove the following lights and decorations for the Christmas Season. Maintenance included through January 2nd, 2023. Holiday Lightscapes will light all areas specified below with commercial grade LED products and decor. The overall project objective is to provide The City of Islamorada with a beautiful display that will be enjoyed throughout the Holiday Season. The project is broken down by section and details are provided below.

Any additional services to be added require further bid and proposal

AREA 1 – DISPLAY ADD-ONS



- 2 – 24" fiberglass ornaments in any color
- 2 – 36" fiberglass ornaments in any color
- 1 – 42" fiberglass ornaments in any color

TOTAL = \$7,545.00

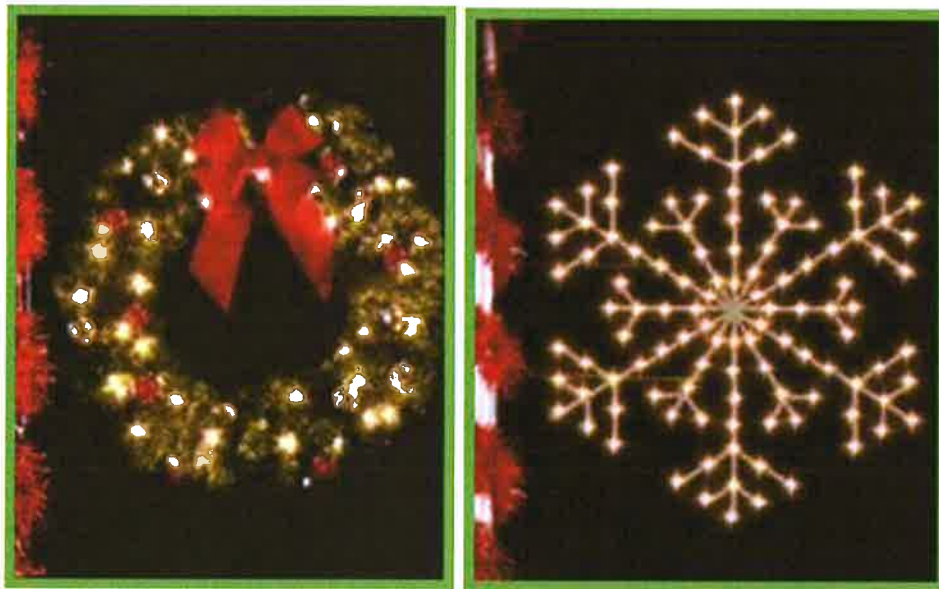
AREA 2 – DISPLAY ADD-ONS



- 5 – 6ft fiberglass C7 translucent bulbs in any color – includes RGB / LED lighting

TOTAL = \$15,625.00

AREA 3 – DISPLAY ADD-ONS



- 14 – 36" Pre-lit LED wreaths and bow with side mount for light poles
- 15 – 36" LED Presidential snowflakes with side mount for light poles

TOTAL = \$26,180.00

3 SEASON LEASE AGREEMENT (PER SEASON TOTAL): _____ \$49,350.00

**** ALL PRICING ABOVE INCLUDES PRODUCT, MATERIAL, EQUIPMENT and LABOR ****

**** INSTALLATION, MAINTENCE, and REMOVAL ****

Terms of Agreement

Thank you for the opportunity to partner with The City of Islamorada. This agreement outlines the terms under which Holiday Lightsapes agrees to serve as your holiday decorator for 2023-2025 decorating season.

FEES

The City of Islamorada agrees to pay Holiday Lightsapes the total cost outlined in the proposal that includes the cost of materials and labor. Payment must be made with a 50% deposit prior to beginning work and final balance at completion of installation. The 'completion date' is defined as the date when the décor has been installed and working properly.

Invoices shall be payable with fifteen (15) days of the invoice date. A penalty of 6% per month will be applied to original total of this proposal after 30 days pass with non-payment.

INSURANCE

During the term of this agreement, Holiday Lightsapes agrees to maintain all necessary insurance coverages to complete the project. Certificates provided upon request.

LIABILITY

The City of Islamorada agrees to defend, hold harmless and indemnify Holiday Lightsapes, its officers and employees from and against all claims, liabilities to any third parties for injury, death or damage to person, property, trespass, and all other damage or loss arriving out of the installation/takedown or location of materials, unless such damage or loss is a result of the gross negligence of Holiday Lightsapes.

CONDITIONS

Every effort will be made to have the lights plugged in on the date provided to us at the bottom of this agreement. Note: Installation will not always occur on the same day as the plug-in date.

It is assumed that sufficient electrical power will be available for use in decorative illumination. The City of Islamorada will be responsible for supplying the adequate power including receptacles for completing the project. ***GFI outlets are notoriously sensitive to tripping. Customers are responsible for resetting all GFI's. There is no way to prevent GFI protected outlets from tripping when the lights get wet. They simply must be reset once they are dried out.

Holiday Lightsapes will use the best commercial grade materials in installing the decorative lighting but makes no claim to installation code compliance. All of the lights and decorations are supplied with a manufacturer's warranty.

Employee(s) of Holiday Lightsapes will periodically visit the site and make service calls to the customer as necessary to repair any installation problems and replace any lighting and décor required. Maintenance does not cover vandalism, damage from lawn/landscape companies, or animals. We offer a 48-hour turn-around policy for maintenance.

Any permanent fastening or drilling will be approved in advance. Best efforts will be made to avoid permanent fasteners.

In any case The City of Islamorada decides to terminate the contract early and not retain our services, Holiday Lightsapes retains the right to charge a 30% buyout of contract for remaining years. Holiday Lightsapes also retains the right to terminate a multi-year contract if so inclined for any reason. If the contract is terminated and any products have been purchased by the client, Holiday Lightsapes will return those items to the rightful owner.

This Agreement contains a complete statement of all terms of the Agreement between the parties, superseded all previous agreements, and cannot be changed or modified, except by written agreement signed by both parties. In the event of an express conflict between the terms of this Agreement and an Agreement Addendum, the terms of this Agreement shall govern. This agreement shall be governed by and in accordance with the laws of the State of Florida.

3 SEASON LEASE AGREEMENT (PER SEASON TOTAL): \$49,350.00

Hatti Jenkins
86800 Overseas Highway
Islamorada, FL 33036
305.664.6420

Signature: _____

Name: _____

Title: _____

Date: _____

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Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney, Jennifer DeBoisbriand , Planning Director
Date: October 10, 2023
SUBJECT: **Review and Discuss options for Market Rate BPAS and Administrative Relief - TAB 2**

Background:

At the Village Council meeting on September 21st, there was discussion regarding possible changes to the administrative relief section of the Village code that would allow the Council the option to grant administrative relief to those Building Permit Allocation System (BPAS) applications with Land Dedication. During that discussion there was concern that the Village had not been considering the bigger picture regarding Market Rate BPAS allocations as there were 23 Admin Relief permits available and 62 people currently on the BPAS list. The Council requested that staff do an analysis of the options for administrative relief and provide a recommended solution to move forward. Staff utilized the Village's Land Use Consultant, Rebecca Jetton, to aid in this exercise.

Comprehensive Plan (the "Plan") Policy 1-3.1.5 and Section 30-477 of the Land Development Code (the "Code") requires an applicant to be in BPAS for four (4) consecutive annual allocation periods. Should the Village want to waive this requirement, both the Plan and the Code must be modified and approved by the State Planning Agency, the Department of Commerce (DOC), formerly DEO, or risk an appeal by DOC. This approval process could take up to six (6) months.

The DOC is evaluating conditions to determine whether there is the possibility of any additional development, how much development and under what conditions can any additional development be allowed. A meeting will be planned with DOC staff within the next two weeks to discuss results from hurricane modeling. It is recommended that the Council move forward cautiously until this exercise is completed (estimated time frame Jan 2025). Allocations and administrative relief should be distributed in accordance with existing rules until these decisions are made.

Analysis:

This analysis consists of utilizing both the 10.25 Market Rate allocations the Village has received via the Key West Quarry project as well as the BPAS allocations available from the administrative relief pool.

OPTION 1 (recommended option)

Utilize the incoming 10.25 market rate allocations equally for applications with and without land dedications. In other words, assign 2 allocations for land dedications in 2024 and 2025

and assign 2 allocations for non-land dedication in 2024-2025. Then, in 2026 the Village would assign 1 allocation each for land dedication and non-land dedication. We believe this option provides multiple benefits to the Village.

First, this ensures a more planned and measured approach to the distribution of the incoming 10.25 units. This approach would help to alleviate the potential pressures on the Village and residents while significantly lessening the likelihood of a viable claim against the Village during this time period.

Second, this option requires the least number of changes to the Village comprehensive plan or code. While some other options would require significant changes to each, this option would only require a modification to the ordinance accepting the 10.25 units on second reading, and a change to the minimum annual allocations in Section 30-476(d)(1)a. of the Code.

Third, this option addresses the concerns raised by some members of the Council during the September 21 Village Council meeting. Specifically, it does not allow for land dedication applicants to jump to the front of the Administrative Relief line without waiting the same 4 years as others. Similarly, it will not potentially disadvantage the land dedication applicants as it will recognize their respective contributions through land dedications in accordance with the scoring at the time.

As a result, we believe this is the fairest and most streamlined option for the applicants and is the one with the least risk and most upside for the Village.

10.25 Market Rate

2024 Issue 4 top scored allocations: 2 with land/ 2 without land donations
2025 Issue 4 top scored allocations: 2 with land/ 2 without land donations
2026 Issue 2 top scored allocations: 1 with land/1 without land donations

After 10 market rate allocations are issued, 52 applicants remain in BPAS. There are six (6) applications in BPAS not eligible for Administrative Relief due to re-entry per the Code.

ADMINISTRATIVE RELIEF - 23 administrative relief allocations available at this time and the Village will continue processing in accordance with the Code and in the manner it has historically processed.

Issue based on application date and current Code. Do not allocate Administrative Relief until the year the applicant is eligible. The Council should evaluate each application carefully in accordance with Section 30-477 of the Code. Analyze lot history, evaluate the application for possible acquisition and other factors.

Year Eligible

2023 1 due Evaluate and possibly issue 1 - Has applied and will be before the Council on November 2nd
2024 7 due Evaluate and possibly issue 7.
2025 17 due Make decision in 2025 (15 allocations remain)
2026 27 due Make decision in 2026
2027 7 due Make decision in 2027

Other considerations for Option 1:

1. Prepare a memo to the DOC requesting that when the Governor and Cabinet (Administration Commission) make a decision regarding future allocations for the Keys, that

they consider a one-time award to address the backlog on the BPAS list. Attach the moratorium ordinance to demonstrate a good faith effort to reduce impact.

2. Consider “exchanging” early out workforce units for completed affordable developments and pooling the “regular” affordable allocations to be offered in lieu of a market rate allocation either for takings claims or instead of Administrative Relief.
3. Confer with Layton to see if they have additional units beyond that needed to cover all vacant lots. Request any surplus units from Layton.
4. Request partial credit for a unit from Marathon and/or Layton to utilize the 0.25 of a unit from the 10.25 market rate allocation and have a total unit.
5. Offer two early out workforce units to those who are unable to get an allocation or administrative relief.

OPTION 2

10.25 Market Rate

Award top scored 10 applicants simultaneously in 2024 instead of extending through 2026. This is risky because the longer the Village has the potential to award units, the less vulnerable it is to potential lawsuits (viable or otherwise).

ADMINISTRATIVE RELIEF -23 administrative relief allocations available

Revise the code (approximately 5 months) to change the procedure in one of the following ways:

1. Applicants who withdrew to donate land would not lose their seniority date. This would accelerate the administrative relief eligibility date for those with land purchases to an earlier administrative relief date. This would also require an amendment to the comp plan to make an exception to the 4-year wait period. This gives benefit to land dedication but would treat land dedication differently than others who may have amended their applications to get more points and could have legal consequences.
2. Amend the Plan and Administrative Relief Code provision to allow land dedication to be immediately eligible for administrative relief. This gives benefit to land dedication but would treat land dedication differently than others who may have amended their applications to get more points and could have legal consequences.

OPTION 3

10.25 Market Rate

Amend the Plan and Code and allocate 2 BPAS allocations per year for five years based on score.

ADMINISTRATIVE RELIEF -23 administrative relief allocations available

1. Assign the 23 allocations over eight (8) years, giving two (2) in 2023 and three (3) each year for seven (7) years.
2. Revise the administrative relief time to a period longer than four (4) years.
3. Add criteria so that no applicant receives more than one (1) administrative relief allocation.
4. Offer two (2) early out workforce units instead of administrative relief.

OTHER OPTIONS:

1. Ignore the Plan and Code and award all 23 administrative relief allocations over the quarterly period from Jan 2024 to Dec 2025. This would immediately place the Village in an untenable position of facing potential lawsuits from the remaining applicants and the approximately 1,000 vacant lots.
2. Simply issue permits to everyone who has applied. However, such action would be in

violation of the Village Code and Comprehensive Plan and could result in the state filing appeals, possibly Notices of Violation, and filing Injunctions in Circuit Court to stop development. Other sanctions could be imposed by the Governor and Cabinet including, but not limited to, significant state oversight and approval for even the simplest of planning or building approvals.

Budget Impact:

Recommended Option 1 has no impact to the Budget.

Staff Impact:

Staff impact for recommended option 1 will involve processing applications through our normal course of business.

Recommendation:

Based on the analysis and information above, Staff recommends that Council provide Policy direction under Option 1.

- Attachments:**
1. Q3_2023_Market Rate_EligibleAR
 2. Sec._30_477.____Administrative_relief.
 3. Policy_1_3.1.5_____Consider_Administrative_Relief_or_Acquisition.

	Market Rate Applications (with & without Land Dedication Points)							RECOMMENDED FOR ALLOCATION: 0				
Rank	Permit #	Name	Eligible For Admin Relief	Date of Application	Time of Application	Score	Key	Subdivision	Lot	Block	RE No.	
14	PRSFC201802189	CBT Construction and Development, Inc.	4/11/2023	4/11/2019	1:22:00 PM	17	Plantation Key	Indian Harbor	16	9	00421920-000000	
32	PRSFC201900719	Holly Lynn Ernestes-Jones Revocable Trust	10/24/2023	10/24/2019	3:48:00 PM	16	Upper Matecumbe	Bay Hammock Community	33	-	00403041-003300	
51	PRSFC201901501	Weeks, Donald	3/16/2024	3/16/2020	8:00:00 AM	14	Plantation Key	Plantation Lake Estates	8	-	00093420-000901	
33	PRSFC201800860	LAZZERI JEFF & JULIE	4/2/2024	4/2/2020	2:15:00 PM	16	Plantation Key	Plantation Lakes Estates	39	-	00093420-003801	
15	PRSFC202000659	Islamorada Realty Invesment Trust	7/31/2024	7/31/2020	9:15:00 AM	17	Plantation Key	Plantation Key Colony	28	11	00429010-000000	
16	PRSFC202000667	Islamorada Realty Investment Trust	7/31/2024	7/31/2020	9:16:00 AM	17	Plantation Key	Plantation Key Colony	27	11	00429000-000000	
17	PRSFC202000719	Islamorada Realty Investment Trust	8/17/2024	8/17/2020	10:00:00 AM	17	Plantation Key	Plantation Key Colony	25	4	00426430-000000	
55	PRSFC202000794	Hopman, Andreas	9/16/2024	9/16/2020	10:30:00 AM	13	Lower Matecumbe	Lower Matecumbe Beach	19	4	00389820-000100	
52	PRSFC202000351	Keys Basin LLC	10/7/2024	10/7/2020	10:30:00 AM	14	Plantation Key	Vacation Village	1	1	00417470-000000	
53	PRSFC202000352	Keys Basin LLC	10/7/2024	10/7/2020	10:31:00 AM	14	Plantation Key	Vacation Village	1	1	00417470-000000	
62	PRSFC202000130	Rosa Maria Z Walchli REV Trust 11/5/2008	10/20/2024	10/20/2020	9:27:00 AM	2	Plantation Key	Fontaine Lake Estates	2	5	00432990-000000	
44	PRSFC201801827	Paulo & Kellen Paiva	2/4/2025	2/4/2021	12:15:00 PM	15	Upper Matecumbe	Bay Hammock Community	20	-	00403041-000100	
45	PRSFC201801826	Paulo & Kellen Paiva	2/5/2025	2/5/2021	8:00:00 AM	15	Upper Matecumbe	Bay Hammock Community	1	-	00403041-002000	
58	PRSFC202000555	Ewald, Nicholas	4/30/2025	4/30/2021	11:30:00 AM	11	Plantation Key	Plantation Beach	7	2	00413760-000000	
34	PRSFC202001406	FERNANDEZ VIVIAN M & DOCAMPO JOSE A	5/13/2025	5/13/2021	8:19:00 AM	16	Lower Matecumbe	Lower Matecumbe Beach	4	1	00388710-000000	
6	PRSFC202000472	LEON WILLIAM & JACKELINE	5/27/2025	5/27/2021	1:10:00 PM	18	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	18	E	00392990-001000	
7	PRSFC202100428	RUIZ JORGE ALBERTO	6/16/2025	6/16/2021	12:53:00 PM	18	Lower Matecumbe	Port Antigua Plat No. 1	11		00394486-001100	
8	PRSFC202001015	NICHOLS GARY & BETH	6/25/2025	6/25/2021	10:36:00 AM	18	Lower Matecumbe	Lower Matecumbe Beach	9	2	00388960-000100	
9	PRSFC202001254	Burstyn, Samuel	8/2/2025	8/2/2021	12:00:00 PM	18	Lower Matecumbe	Port Antigua Plat 5&6 PB6-25	317		00394489-012000	
10	PRSFC202100688	Jaquelyn Wrenn Ekblom	8/5/2025	8/5/2021	2:07:00 PM	18	Plantation Key	Fontaine Lake Estates	11	5	00433080-000000	
11	PRSFC201901572	Morejon, Orlando and Annmarie	8/23/2025	8/23/2021	2:20:00 PM	18	Upper Matecumbe	Russell Estates			00404060-000100	
12	PRSFC202100572	Morejon, Orlando and Annmarie	9/24/2025	9/24/2021	11:00:00 AM	18	Upper Matecumbe	Russell Estates			00404060-000300	
46	PRSFC202100795	MAZAL 233 LLC	9/27/2025	9/27/2021	11:05:00 AM	15	Plantation Key	Key Heights Sect 2	5	7	00416500-000000	
47	PRSFC202100796	MAZAL 233 LLC	9/27/2025	9/27/2021	11:22:00 AM	15	Plantation Key	Key Heights Sect 2	6	7	00416510-000000	
18	PRSFC202100240	Gode, A.J and P.J.	9/27/2025	9/27/2021	3:18:00 PM	17	Lower Matecumbe	Lower Matecumbe Beach	3	3	00389160-000000	
48	PRSFC202100804	Island Investment Partners Inc.	10/12/2025	10/12/2021	11:08:00 AM	15	Plantation Key	Venetian Shores Plat No 2	1	13	00407550-000000	
19	PRSFC202100850	Lindback, Craig	10/12/2025	10/12/2021	1:06:00 PM	17	Plantation Key	Plantation Key Colony	43	3	00426140-000200	
20	PRSFC202100751	Torres, David and Sothsoler	10/25/2025	10/25/2021	12:11:00 PM	17	Lower Matecumbe	Port Antigua Plat No 2	58		00394487-001500	
21	PRSFC202100433	Makulu LLC	10/29/2025	10/29/2021	11:44:00 AM	17	Plantation Key	Tavernero	19	1	00437493-002001	
35	PRSFC202100571	Morejon, Orlando and Annmarie	10/29/2025	10/29/2021	11:50:00 AM	16	Upper Matecumbe	Russell Estates			00404060-000200	
36	PRSFC202100954	Vaughn, Ray	11/1/2025	11/1/2021	11:45:00 PM	16	Plantation Key	Edenair	8	1	00433470-000000	
22	PRSFC202101234	Morales Rev Living Trust	11/22/2025	11/22/2021	2:17:00 PM	17	Plantation Key	Sunshine Estates	7	1	00434630-000000	
23	PRSFC202101237	Tiedemann, Jocelyn	12/1/2025	12/1/2021	11:59:00 AM	17	Plantation Key	Key Heights Sect 2	21	4	00416180-000000	
24	PRSFC202101049	Ferguson, James	1/14/2026	1/14/2022	9:54:00 AM	17	Plantation Key	Indian Waterways	33	2	00422920-000000	
25	PRSFC202101339	RCM of Florida LP	1/31/2026	1/31/2022	10:33:00 AM	17	Lower Matecumbe	Mat Ocean Bay	9	3	00395240-000000	
37	PRSFC202101286	Whitehill, Doria, Gregory, Alligood, Simpson	2/22/2026	2/22/2022	10:20:00 AM	16	Plantation Key	Venetian Shores No 2	4	18	00408320-000000	
38	PRSFC202200068	Islamorada Realty Investment Trust	3/30/2026	3/30/2022	12:32:00 PM	16	Lower Matecumbe	Matecumbe Ocean Bay Sec 2			00397120-000000	
3	PRSFC201800385	Perez, George (Land Dedication)	NOT ELIGIBLE	4/4/2022	10:23:00 AM	24	Plantation Key	Coral Shores	18	-	00411410-000000	
5	PRSFC202100870	Harbortgate Limited Partnership (Land Dedication)	4/12/2026	4/12/2022	1:00:00 PM	22	Upper Matecumbe	Bay Hammock Community	6		00403041-000600	
1	PRSFC201901157	Samurai Conchstrution LLC (Land Dedication)	NOT ELIGIBLE	4/14/2022	2:20:00 PM	26	Upper Matecumbe	Bay Hammock Community	17	-	00403041-001700	
49	PRSFC202200078	Rodriquez, Robert	4/26/2026	4/26/2022	12:00:00 PM	15	Plantation Key	Plantation Key Colony	11	7	00427430-000000	
4	PRSFC202101687	Harbortgate Limited Partnership (Land Dedication)	5/10/2026	5/10/2022	2:30:00 PM	23	Upper Matecumbe	Bay Hammock Community	7		00403041-000700	
39	PRSFC202101379	Lonnborg, Ronald	5/11/2026	5/11/2022	3:00:00 PM	16	Plantation Key	Plantation Beach	4	8	00414060-000000	
2	PRSFC202100516	Martinez, Lazaro & Marialina (Land Dedication)	NOT ELIGIBLE	6/27/2022	3:08:00 PM	25	Lower Matecumbe	Marlin Beach	22	H	00393860-000000	
59	PRSFC202200496	Cockerham, Mark	8/4/2026	8/4/2022	9:48:00 AM	9	Upper Matecumbe		6(9)		00096220-000300	
40	PRSFC202101424	Venezia Land Trust Number Two	8/19/2026	8/19/2022	8:40:00 AM	16	Plantation Key	Plantation Key Colony	2	7	00427330-000100	
13	PRSFC202101553	Egret Investments Limited Partnership	8/30/2026	8/30/2022	10:40:00 AM	18	Lower Matecumbe	Lower Matecumbe Beach	27-28	3	00389440-000000	
27	PRSFC202200149	Villamil Carlos and Vicente Sonia	9/1/2026	9/1/2022	2:00:00 PM	17	Plantation Key	Plantation Key Colony	20	15	00431260-000100	
56	PRSFC202200455	Lesko, Brian and Jodi Lynn	9/8/2026	9/8/2022	3:00:00 PM	13	Plantation Key	Bay Hammock Community	25		00403041-002500	
28	PRSFC202101283	Martin, Akalia	9/16/2026	9/16/2022	10:40:00 AM	17	Plantation Key	Tropical Atlantic Shores 1 Add	25	6	00436950-000000	
29	PRSFC202100967	Schrader, Kathleen	9/16/2026	9/16/2022	10:41:00 AM	17	Plantation Key	Tavernero	11	1	0037493-001100	
30	PRSFC202200170	Sanders Charles Revocable Living Trust	9/23/2026	9/23/2022	2:00:00 PM	17	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	23	G	00393580-000000	
57	PRSFC202201342	Weidler Thomas	1/23/2027	1/23/2023	12:30:00 PM	13	Plantation Key	Plantation Shores	18	3	00418621-004600	
41	PRSFC202201313	McKeown, James	1/23/2027	1/23/2023	1:05:00 PM	16	Plantation Key	Tavernero	7	2	00437493-003700	
42	PRSFC202200812	Weber, Craig	3/30/2027	3/30/2023	10:00:00 AM	16	Plantation Key	Venetian Shores Plat No 2	8	10	00407150-000100	
61	PRSFC202200154	102 Bayview LLC	5/2/2027	5/2/2023	11:30:00 AM	4	Lower Matecumbe	Safety Harbor	22	7	0039211-000000	
54	PRSFC202201031	MEDINA DELIO I REVOCABLE TRUST	6/12/2027	6/12/2023	12:00:00 PM	14	Lower Matecumbe	Port Antigua	144		00394488-004700	
50	PRSFC202000057	LINDBACK CARL ESTATE	6/29/2027	6/29/2023	4:00:00 PM	15	Plantation Key	Tavernero	24	1	00437493-002400	
43	PRSFC202300511	Craig & Cheryl McBay	7/19/2027	7/19/2023	10:30:00 AM	16	Plantation Key	Plantation Ridge	17 & 18	2	00412030-000100	
60	PRSFC202001140	Gregg, Mark	NOT ELIGIBLE	1/31/2022	10:15:00 AM	7	Plantation Key	Toners Nautical Shores			00412230-000000	
26	PRSFC202000300	4 KEYS INVESTMENTS AND DEVELOPMENTS CORP	NOT ELIGIBLE	6/10/2022	11:00:00 AM	17	Lower Matecumbe	WHITE MARLIN BEACH SEC 1	16	I	00393270-000000	
31	PRSFC202100988	162 Sunset Dr LLC	NOT ELIGIBLE	10/20/2022	12:50:00 PM	17	Lower Matecumbe	Lower Matecumbe Beach	16	3	00389310-000000	

Sec. 30-477. Administrative relief.

- (a) *Eligibility.* An applicant is eligible for administrative relief under the provisions of this section if all the following criteria are met:
- (1) The applicant has complied with all requirements of the building permit allocation system;
 - (2) The subject application has not been withdrawn;
 - (3) The subject application has been considered in at least four consecutive annual allocation periods and has failed to receive an allocation award;
 - (4) The applicant for the subject application has not been granted an allocation award deferral pursuant to Code section 30-475(m); and
 - (5) The granting of administrative relief in the form of the issuance of a building permit shall be prohibited for lands within the Florida Forever targeted acquisition area unless, after 60 days from receipt of a complete application for administrative relief, it has been determined that the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The village shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least six months prior to the deadline for administrative relief.
- (b) *Application.* An application for administrative relief shall be made on a form prescribed by the director and may be filed with the department of planning and development services no earlier than the conclusion of the fourth annual allocation period and no later than 120 days following the close of the fourth annual allocation period.
- (c) *Forwarding of records to village council; effect of failure to file application.* Upon the filing of an application for administrative relief, the director shall forward to the village council all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the village without payment of just compensation as a result of the building permit allocation system.
- (d) *Public hearing.* Upon receipt of an application for administrative relief, the village council shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard.
- (e) *Procedures.* The village council shall consider the application under the procedures established in sections 30-552 and 30-553.
- (f) *Action by village council.* At the conclusion of the public hearing, the village council may take any or a combination of the following actions:
- (1) Grant the applicant an allocation award for all or part of the allocation requested in the next succeeding allocation period or extended pro rata over several succeeding allocation periods.
 - (2) Offer to purchase the property at its fair market value.
 - (3) Suggest such other relief as may be necessary and appropriate.

(Ord. No. 02-17, § 1(4.10.7), 2-21-2002; Ord. No. 09-04, § 2, 4-9-2009; Ord. No. 10-10, § 1, 8-12-2010)

Policy 1-3.1.5: - Consider Administrative Relief or Acquisition.

Applicants who have met all requirements of the Comprehensive Plan with regards to the Building Permit Allocation System, but are otherwise denied a permit, shall be eligible to request consideration of administrative relief for the parcel, upon four (4) years elapsing from the date of acceptance of the application by the Village.

However, the granting of administrative relief in the form of the issuance of a building permit shall be prohibited for lands within the Florida Forever targeted acquisition areas unless, after sixty (60) days from the receipt of a complete application for administrative relief, it has been determined that the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The Village shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least 6 months prior to the deadline for administrative relief.



Council Communication

To: Mayor and Village Council
From:
Date: October 10, 2023
SUBJECT: **Approval of July 17, 2023 Special Village Council Meeting Minutes - TAB 3**

Background:

Meeting minutes for the Special Village Council Meeting of July 17, 2023 are presented for the Council's consideration and approval.

Analysis:

Budget Impact:

Staff Impact:

Recommendation:

Attachments: 1. 07172023_SCVCM Minutes



Islamorada, Village of Islands **SPECIAL CALL VILLAGE COUNCIL MEETING**

July 17, 2023 - 5:30 PM
Founders Park Community Center
87000 Overseas Highway
Islamorada, FL 33036

MINUTES

I. CALL TO ORDER / ROLL CALL

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

ABSENT: None

II. PLEDGE OF ALLEGIANCE

Frank Derfler led the Pledge of Allegiance and Tony Hammon shared a prayer to begin the meeting.

III. AGENDA: Requests for Deletion / Emergency Additions

There were no additions or deletions.

IV. 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.)

Speakers included:

Andy Newman
Van Cadenhead
Jamie Engel
Joe Wischmeier
Jill Zima Borski

V. MAYOR / COUNCIL COMMUNICATIONS

Council Member Jolin, Council Member Gregg, and Mayor Pinder apologized for their contributions to any dissension at the July 6 Council meeting.

Mayor Joseph B. Pinder III asked Attorney Quick to talk about the propriety of the manager hiring or firing staff members as at-will employees.

Village Attorney John Quick noted the legal department looks more at whether a firing is legal or illegal. He indicated that he found no illegal action taken in Mr. Gulizio's firing.

As Council Member Gregg had made a motion to extend the manager's contract, public comment was opened at 6:15 pm.

Speakers included:

Van Cadenhead
Ed Davidson
Don Horton
Greg Friedman
Joe Wischmeier
Justin Peta
John Fernandez
Angel Borden

Public comment was closed.

Village Manager Ted Yates spoke on his experiences coming here from Ohio and his reasons for wanting to stay. He noted that it was his belief that he could help the Council move past the division and dissension and that the community deserved stability.

ACTION:	Motion to extend village manager yates' contract for one more year item V. by mark gregg second by Joseph B. Pinder III; Motion failed with a 2:3
AYES:	mark gregg, Joseph B. Pinder III
NAYS:	Sharon Mahoney, Elizabeth Jolin, Henry Rosenthal
ABSTAIN:	None

VI. VILLAGE ATTORNEY / VILLAGE MANAGER COMMUNICATIONS

There were none.

VII. RESOLUTIONS

- A.** Resolution Approving Non-Renewal of Village Manager Contract
- **TAB 7 from July 6, 2023 Council Meeting** (John Quick, Interim Village Attorney)

It was noted that the item was scheduled for the July 6 agenda but not heard due to the meeting running late.

Public comment was opened at 6:45 p.m.

Speakers included:
Joan Scholz
Dave Petkovich
Tatiana Madden
Van Cadenhead
Craig Belsen
Capt Ed Davidson

Andy Newman
Rich Russell
Joe Wischmeier
John Fernandez
Angel Borden
Glenn Latham
Carolyn Wightman
Tony Hammon
Deb Gillis
Don Horton
Carla Bahn
Craig McBay
Sue Miller
Wendy Jenkins
Derek Rodberg
Joe Roth
Greg Dully
Sharon Yates

Public comment was closed at 7:58 p.m.

Discussion ensued amongst the Council and members shared their opinions on Mr. Yates' service and their positions on his employment contract.

Council Member Jolin made a motion to call the question as the debate continued.

Village Attorney John Quick clarified that "Call the Question" was a motion to end the debate, which would need to be voted on before moving to the original motion.

The motion to call the question passed 3-2 and roll was called for the main motion to approve the non-renewal of the Village Manager contract, which passed 3-2.

ACTION: Motion to motion 1 - approval to call the question by Elizabeth Jolin second by Henry Rosenthal;

Motion with a 3:2

AYES: Sharon Mahoney, Elizabeth Jolin, Henry Rosenthal

NAYS: mark gregg, Joseph B. Pinder III

ABSTAIN: None

ACTION: Motion to Motion 2 - Approve the non-renewal of the Village Manager Contract VII.A. by Elizabeth Jolin second by Henry Rosenthal;

Motion with a 3:2

AYES: Sharon Mahoney, Elizabeth Jolin, Henry Rosenthal

NAYS: mark gregg, Joseph B. Pinder III

ABSTAIN: None

- B. 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 from July 6, 2023 Council Meeting (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

Mayor Pinder called a recess until chambers were quiet at 9:20 p.m. and reconvened the meeting at 9:21 pm.

Public comment was opened at 9:35 pm

Speakers included:

Greg Sullivan of Waste Management
Angel Borden
Van Cadenhead

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

Further discussion ensued regarding how to proceed with appointing an Interim Village Manager.

The consensus of the Council was to discuss the matter in greater detail at the Thursday, July 20 Land Use Council Meeting.

VIII. ADJOURNMENT

Council Member Henry Rosenthal moved to adjourn at 9:53 p.m.



Council Communication

To: Mayor and Village Council
From: Terry Abel, Fire Chief
Date: October 10, 2023
SUBJECT: **Resolution Approving Annual Expenditures for Fire Apparatus Maintenance and Repair Services with Florida Keys EVR, LLC - TAB 4**

Background:

Execution of an Agreement with Florida Keys EVR, LLC ("Florida Keys EVR") to provide maintenance and repair services for Fire Rescue Department vehicles, apparatuses and other related services was approved through Village Council adoption of Resolution No. 23-05-49 on May 4, 2023. The approval waived competitive bidding based on the finding that other fire vehicle and apparatus repair and maintenance services are not available in the Florida Keys or in other areas of South Florida. Florida Keys EVR, LLC was a new Emergency Vehicle Technician (EVT) contractor in the Florida Keys. The Agreement includes pricing for preventive maintenance on fire apparatus twice annually for under \$40,000.00 per year and provides a total annual not-to-exceed amount of \$120,000.00 to authorize funds for additional repairs at hourly rates as needed during each fiscal year.

The previous service provider was the sole proposer in response to a competitive bid process in 2021. The previous service provider is located in Bradenton, Florida and the Village repeatedly had to have inoperable vehicles towed to Bradenton for repairs, an expensive and time-consuming process. Additionally, invoices for on-site service from the Bradenton firm included six to seven hours of travel time. As such, the Agreement with Florida Keys EVR was approved with a waiver of competitive bidding.

Analysis:

Through the Agreement for services, Florida Keys EVR has furnished all necessary expertise, personnel, tools, materials, equipment, transportation, supervision, timely and responsive inspections and repairs of the Village Fire Rescue fleet. The Fire Rescue Department recommends continuation of services through this vendor.

Budget Impact:

Funds for fire apparatus repair and maintenance services are budgeted for in the Fire Rescue Department's Repair and Maintenance expenditure account in the General Fund annually. The FY 2023-2024 Fire Rescue Department Repair and Maintenance expenditure account budget is \$220,000.00 with a \$120,000.00 line item for Vehicle R&M.

Staff Impact:

Fire Rescue staff will coordinate with Florida Keys EVR when repairs, service or inspections are needed and provide a safe work environment to make needed repairs.

Recommendation:

Staff recommends that the Village Council adopt the attached Resolution, thereby approving annual expenditures for fiscal year 2023-2024 in an amount not to exceed \$120,000.00 under the Agreement with Florida Keys EVR, LLC to provide maintenance and repair services for Fire Rescue Department vehicles, apparatuses and other related services.

Attachments: 1. Resolution-FL Keys EVR Agreement-with exhibit

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING FISCAL YEAR 2023-2024 EXPENDITURES THROUGH AN AGREEMENT BETWEEN FLORIDA KEYS EVR, LLC, AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE MAINTENANCE AND REPAIR SERVICES TO THE FIRE RESCUE DEPARTMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the Islamorada, Village of Islands ("Village") Fire Rescue Department requires certain maintenance and repair services for fire department vehicles, apparatuses and other related services (the "Services"); and

WHEREAS, the Village Fire Rescue Department identified Florida Keys EVR, LLC. (the "CONTRACTOR"), as a new vendor capable of providing the Services that are not otherwise available in the Florida Keys or in South Florida; and

WHEREAS, on February 18, 2023, the VILLAGE received a proposal from the CONTRACTOR for the Services; and

WHEREAS, pursuant to Section 2-328(1) of the Village's Code of Ordinances concerning waiver of competitive bidding, the requirements of Section 2-327 relating to competitive bidding may be waived by the Village Council upon a documented finding that the purchase of the particular goods or services without competitive bidding is in the best interests of the Village; and

WHEREAS, the Village and CONTRACTOR, entered into an Agreement on May 4, 2023, attached hereto as Exhibit "A," to enable CONTRACTOR to provide the Services to the Village; and

WHEREAS, the Village and CONTRACTOR desire to continue the Services under the Agreement through Fiscal Year 2023-2024 for an amount not to exceed One Hundred Twenty Thousand Dollars (\$120,000.00); and

WHEREAS, the Village Council finds that approval of Fiscal Year 2023-2024 not to exceed amount for such Services from the CONTRACTOR 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 an amount not to exceed One Hundred Twenty Thousand Dollars (\$120,000.00) for Services provided by CONTRACTOR pursuant to the Agreement.

Section 3. 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 through Fiscal Year 2023-2024.

Section 4. Approval of Waiver of Competitive Bidding. In accordance with Section 2-238(a) of the Village Code, the Village Council waives the purchasing provisions of the Village Code to utilize the services of Florida Keys EVR, LLC without conducting a competitive bid process.

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

AGREEMENT

THIS IS AN AGREEMENT, dated the 4th day of May, 2023, between:

ISLAMORADA, VILLAGE OF ISLANDS
a Florida municipal corporation, hereinafter "VILLAGE,"

and

FLORIDA KEYS EVR, LLC
a limited liability 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 1
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.

1.1 The VILLAGE is in need of an independent contractor to provide maintenance and repair services for fire department vehicles, apparatuses and other related services (the "Services") for the Village Fire Department.

1.2 On February 18, 2023, the VILLAGE received a proposal from CONTRACTOR (Exhibit "A") for maintenance and repair services for fire apparatuses and other related services (the "Services").

1.4.1 VILLAGE and CONTRACTOR desire to enter into an Agreement for the provision of the Services.

1.5 The Village Manager is authorized to execute an agreement with CONTRACTOR for services related to the scope of work set forth in the Proposal attached hereto as Exhibit "A" and as more particularly described herein.

ARTICLE 2
SCOPE OF WORK

2.1 The CONTRACTOR shall furnish all of the materials, tools, supplies, and labor necessary to perform all of the work described in the Proposal, a copy of which is attached hereto and specifically made a part of this Agreement as Exhibit "A".

2.2 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 manpower to perform the services to be provided by CONTRACTOR pursuant to the terms of this Agreement.

2.3 CONTRACTOR assumes professional and technical responsibility for performance of its services to be provided hereunder in accordance with applicable recognized professional standards. If within twelve (12) months following completion of its services, such services fail to meet the aforesaid standards, and the VILLAGE promptly advises CONTRACTOR thereof in writing, CONTRACTOR agrees to re-perform such deficient services without charge to the VILLAGE.

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

ARTICLE 3
TIME FOR COMPLETION

3.1 The CONTRACTOR shall commence work on a particular project (each a "Project") as directed by VILLAGE in writing and in accordance with a project implementation timeline to be provided to CONTRACTOR by the VILLAGE which will set forth the scope of Services for the Project.

3.2 This Agreement shall commence on the date this Agreement is fully executed by all parties.

3.3 Anything to the contrary notwithstanding, minor adjustment to the timetable for completion approved by VILLAGE in advance 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 for which liquidated damages are due.

ARTICLE 4
CONTRACT SUM

4.1 The VILLAGE hereby agrees to pay CONTRACTOR for the faithful performance of this Agreement, for work completed for each Project in accordance with the Proposal attached hereto as Exhibit "A", and as directed by VILLAGE. Prices for work completed for each Project by the CONTRACTOR shall be as reflected in CONTRACTOR's Proposal attached hereto and made a part hereof as Exhibit "A". A total contact price hereto is referred to as Contract Sum and shall not exceed One Hundred Twenty **Thousand Dollars (\$120,000.00)** for the total amount of Projects per fiscal year.

4.2 The VILLAGE will make payments to CONTRACTOR for completed and proper work and in the amounts stated in Exhibit "A" as completed for each Project.

4.3 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.

4.4 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.

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

ARTICLE 5
CONTRACTOR'S LIABILITY INSURANCE

5.1 The CONTRACTOR shall not commence work under this contract until CONTRACTOR has obtained all insurance required under this paragraph 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.

5.2 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.

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

5.4 Insurance shall be in force until all work required to be performed under the terms of the Contract is satisfactorily completed as evidenced by the formal acceptance by the VILLAGE. In the event the insurance certificate provided indicates that the insurance shall terminate and lapse during

the period of this contract, 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 contract 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.

5.5 Comprehensive General Liability insurance to cover liability bodily injury and property damage. Exposures to be covered are: premises, operations, products/completed operations, and contractual liability. 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 - \$1,000,000 per occurrence;
- c) Automobile Liability Insurance - \$1,000,000 per occurrence, \$1,000,000 per Accident for bodily injury and \$1,000,000 per accident for property damage.

5.6 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 this Agreement and name the VILLAGE as an additional insured under their policy on a primary and non-contributory basis.

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

ARTICLE 6 PROTECTION OF PROPERTY

6.1 At all times during the performance of this Contract, the CONTRACTOR shall protect the VILLAGE's property from all damage whatsoever on account of the work being carried on pursuant to this Agreement.

ARTICLE 7 CONTRACTOR'S INDEMNIFICATION

7.1 The CONTRACTOR agrees to release the VILLAGE from and against any and all liability and responsibility in connection with the above-mentioned matters. The CONTRACTOR further agrees not to sue or seek any money or damages from VILLAGE in connection with the above-mentioned matters, except in the event that the VILLAGE fails to pay to CONTRACTOR the fees and costs as provided for in Article 4 herein.

7.2 The CONTRACTOR agrees to indemnify 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.

7.3 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.

ARTICLE 8 INDEPENDENT CONTRACTOR

8.1 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.

ARTICLE 9 PERFORMANCE BOND

9.1 No performance bond shall be required under this Agreement.

ARTICLE 10 CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

10.1 The VILLAGE or CONTRACTOR may request changes that would increase, decrease or otherwise modify the Scope of Services/Basic Services to be provided under this Agreement as described in Article 2 of this Agreement. Such changes or additional services must be in accordance with the provisions of the Village Code of Ordinances 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. Each amendment shall at a minimum include the following information on each project:

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

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

ARTICLE 11
TERM AND TERMINATION

11.1 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, he shall indemnify the VILLAGE against any loss pertaining to this termination up to a maximum of the full contracted fee amount. 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.

11.2 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 12
CONTRACT DOCUMENTS

12.1 CONTRACTOR and VILLAGE hereby agree that the following Specification and Contract Documents, 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; CONTRACTOR's proposal for maintenance and repair services for fire apparatuses and other related services (the "Services") as set forth in and made a part of this Agreement as Exhibit "A"; and all other exhibits thereto.

ARTICLE 13
MISCELLANEOUS

13.1 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.

13.2 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.

13.3 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.

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.

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

13.5 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.

13.6 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: Ted Yates, Village Manager
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

Copy To: John J. Quick, Village Attorney
Islamorada, Village of Islands
86800 Overseas Highway
Islamorada, Florida 33036

CONTRACTOR:Attn: Joseph or Kimberly Maus
Florida Keys EVR, LLC
1313 Calder Road
Key Largo, FL 33037

13.7 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.

13.8 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.

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

13.10 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.

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

13.12 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.

13.13 Attorney's Fees. To the extent authorized by law, in the event that either party brings suit for enforcement of this Agreement, the prevailing party shall be entitled to attorney's fees and court costs in addition to any other remedy afforded by law.

13.14 Extent of Agreement. This Agreement together with Contract Documents, attached as an Exhibit 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.

13.15 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.

13.16 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.

13.17 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 VILLAGE 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.

13.18 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 its 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.

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.

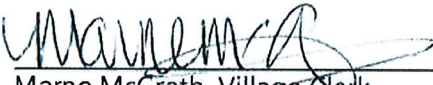
VILLAGE

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

By:  _____
Ted Yates, Village Manager

Date: 6.9.23 _____

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, Village Attorney

CONTRACTOR

WITNESSES:

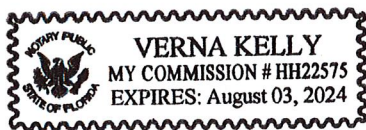
[Signature]
[Signature]

By: Florida Keys EVR
Print Name: Kimberly Maus
Print Title: Co-Owner
Date: 6/9/23

STATE OF FLORIDA)
COUNTY OF _____)

BEFORE ME, an officer duly authorized by law to administer oaths and take acknowledgments, personally appeared Kim Maus as Co-Owner of FL. Keys EVR, a Florida corporation, and acknowledged executed the foregoing Agreement as the proper official of FL. Keys EVR for the use and purposes mentioned in it and affixed the official seal of the corporation, and that the instrument is the act and deed of that corporation.

IN WITNESS OF THE FOREGOING, I have set my hand and official seal at in the State and County aforesaid on this 9th day of June, 2021. 23



V Kelly
NOTARY PUBLIC

My Commission Expires:

See attached document for Exhibit "A"

(Proposal)

FLORIDA KEYS EVR, LLC**FEE SCHEDULE****Fees for Scheduled Maintenance**

Regularly scheduled semi-annual vehicle inspections and maintenance as specified:

<u>Vehicle Type</u>	<u>Units</u>	<u>Fee per Vehicle</u>	<u>Annual Total</u>
Rescue	4	\$ 1,849.60	\$ 14,796.80
Pumper/Engine Trucks	3	\$ 3,013.60	\$ 18,081.60
Aerial Ladder Trucks	1	\$ 6,861.20	\$ 6,861.20
TOTAL			\$ 39,739.60

Fees for Unscheduled Maintenance

Monday through Friday - 8:00 a.m. to 5:00 p.m.	\$175.00 / hour
Weekends, Holidays and Weekday Evenings	\$225.00 / hour
Travel Time	\$ 65.00 / hour

* The cost for parts is additional and will be based on the incident type.



Council Communication

To: Mayor and Village Council
From: A.J. Engelmeyer, Public Works Director
Date: October 10, 2023
SUBJECT: **Resolution Approving Work Authorization No. 4 between Wade Trim, Inc., and the Village for FY 2023-2024 Services - TAB 5**

Background:

On January 30, 2020, the Village published a Request for Qualifications for Professional General Engineering, Architectural and Surveying Services (RFQ 20-03). At its regular meeting on June 18, 2020, the Village Council adopted Resolution No. 20-06-50, thereby approving the final ranking and recommendations of the RFQ 20-03 review committee. Wade Trim, Inc. ("Wade Trim"), was approved for civil engineering services through this process, and a Continuing Services Agreement ("CSA") was entered into between Wade Trim and the Village effective September 21, 2020, for a five (5) year period (through September 20, 2025).

At its regular meeting on October 1, 2020, the Village Council adopted Resolution No. 20-10-102, thereby approving Work Authorization No. 1 under the CSA for services provided from October 1, 2020, September 30, 2021 (FY 2020-2021), for a maximum not-to-exceed amount of \$199,415.00. Payments to Wade Trim pursuant to Work Authorization No. 1 totaled \$122,726.25.

At its regular meeting on September 9, 2021, the Village Council adopted Resolution No. 21-09-95, thereby approving Work Authorization No. 2 under the CSA for services provided from October 1, 2021, to September 30, 2022 (FY 2021-2022), for a maximum not-to-exceed amount of \$150,020.00. Payments to Wade Trim pursuant to Work Authorization No. 2 totaled \$115,897.44 as of September 30, 2022.

At its regular meeting on November 17, 2022, the Village council adopted Resolution No. 22-11-133, thereby approving Work Authorization No. 3 under the CSA for services provided from October 1, 2022, to September 30, 2023 (FY 2022-2023), for a maximum not-to-exceed amount of \$225,300.00. Through August 31, 2023, payments to Wade Trim total \$180,208.90. September 2023 billing is not expected to push the total over the not-to-exceed amount.

Analysis:

The attached Resolution provides for approval of Work Authorization No. 4 (Exhibit "A" to the Resolution) under the CSA with Wade Trim to provide general engineering services related to operations of the Village's Wastewater Utility effective October 1, 2023 through September 30, 2024 (FY 2023-2024) for a maximum not-to-exceed amount of \$259,992.00.

Work Authorization No. 4 provides for engineering services in four (4) task areas:

- Task 1 – DEP Permitting, Building Department and Planning Department Reviews
- Task 2 – Wastewater Operations
- Task 3 – General Engineering Services
- Task 4 – Design, Permitting, Bidding Assistance and Construction Engineering Services

Each of these areas is described in detail in the Scope of Services attached as Exhibit “2” to Work Authorization No. 4.

Budget Impact:

The proposed Work Authorization No. 4 for Wade Trim is for a not-to-exceed fee of \$259,992.00. This fee would be paid from the Village’s Wastewater Enterprise Utility Fund and expensed to the Professional Services account. The FY 2023-2024 adopted budget for Professional Services in the Wastewater Fund includes \$1,847,000.00.

Payments to Wade Trim for wastewater-related engineering services have historically been eligible for 65% reimbursement by the U S Army Corps of Engineers with Florida Keys Water Quality Improvement Program funding, when appropriated.

Staff Impact:

The Public Works and Wastewater Director would coordinate activities under the CSA and Work Authorization No. 4 with Wade Trim.

Recommendation:

It is recommended that the Village Council adopt the attached resolution, thereby approving and authorizing Work Authorization No. 4 with Wade Trim.

- Attachments:**
1. 1_Reso_Wade Trim WA 4_101023 RVCM
 2. 2_Wade Trim WA No 4_FY23-24

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RATIFYING AND APPROVING WORK AUTHORIZATION NO. 4 BETWEEN WADE TRIM, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE GENERAL ENGINEERING SERVICES AND WASTEWATER UTILITY-RELATED ENGINEERING SERVICES; 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 WORK AUTHORIZATION NO. 4; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on January 30, 2020, Islamorada, Village of Islands, (the "Village") published a Request for Qualifications for Professional General Engineering, Architectural and Surveying Services ("RFQ 20-03"); and

WHEREAS, on June 18, 2020, the Village Council of Islamorada, Village of Islands (the "Village Council") adopted Resolution No. 20-06-59 thereby approving the final rankings and recommendations of the RFQ 20-03 Selection Committee whereby Wade Trim, Inc. ("Wade Trim") was selected for civil engineering services; and

WHEREAS, the Village entered into a Continuing Services Agreement (the "Agreement") with Wade Trim for civil engineering services effective September 21, 2020 for a five (5) year period; and

WHEREAS, on October 1, 2020, the Village Council adopted Resolution No. 20-10-102 thereby approving Work Authorization No. 1 under the Agreement effective October 1, 2020, through September 30, 2021 (FY 2020-2021); and

WHEREAS, on September 30, 2021, the Village Council adopted Resolution No. 21-09-95 thereby approving Work Authorization No. 2 under the Agreement effective October 1, 2021, through September 30, 2022 (FY 2021-2022); and

WHEREAS, on November 17, 2022, the Village Council adopted Resolution No. 22-11-133 thereby approving Work Authorization No. 3 under the Agreement effective October 1, 2022, through September 30, 2023 (FY 2022-2023); and

WHEREAS, the Village and Wade Trim desire to enter into Work Authorization No. 4 under the Agreement to provide general engineering and wastewater utility-related services for FY 2023-2024, effective October 1, 2023, through September 30, 2024 ; and

WHEREAS, the Village Council finds that approval of the Work Authorization No. 4 with Wade Trim is in the best interest of the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMROADA, 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 ratifies and approves Work Authorization No. 4 between Wade Trim and the Village for provision of General Engineering Services and Wastewater Utility-related engineering services including FDEP Permitting and Connection Assistance, Building and Planning Department Reviews, Wastewater Operations, Construction Engineering Services and General Engineering Services for FY 2023-2024, 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 other 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 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

Between

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

And

WADE TRIM, INC.

for

Work Authorization No. 4

GENERAL ENGINEERING SERVICES

**TO PROVIDE DESIGN, PERMITTING AND CONSTRUCTION PHASE SERVICES;
PERMITTING AND CONNECTION ASSISTANT SERVICES; AND OPERATION
SERVICES TO ASSIST IN THE OPERATON OF THE VILLAGE WASTEWATER
UTILITY**

**PROJECT AGREEMENT
Between**

THE ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

And

WADE TRIM, INC.

For

Work Authorization No. 4

General Engineering Services to Provide Owner's Representative Services; Design, Permitting and Construction Phase Services; Permitting and Connection Assistance Services; and Operations Services to Assist in the Operation of the Village Wastewater Utility.

Pursuant to the provisions contained in the "Continuing Services Agreement" between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (the "VILLAGE") and WADE TRIM, INC., ("CONSULTANT") dated September 2020, 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 engineering services to the VILLAGE for the Project as described in the "Project Description" attached as Exhibit "1," attached hereto and made a part hereof.

1.2 The "Scope of Services and Project Schedule" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit "2," attached hereto and made a part hereof.

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 this 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 in the "Scope of Services and Project Schedule" shown in Exhibit "2".

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGE

3.1 **Term.** This Project Agreement shall commence as of October 1, 2023 (the “Commencement Date”) and shall continue in full force and effect through September 30, 2024, unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The Village Manager, in his sole discretion, may extend the term of this Project Agreement through written notification to the CONSULTANT. Such extension shall not exceed sixty (60) days. No further extensions of this Project Agreement shall be effective unless authorized by the VILLAGE Council.

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 in the “Project Schedule,” a copy of which is attached and incorporated into this Project Agreement as Exhibit “2”. 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.

3.3 Services will be performed as expeditiously as is consistent with professional skill and care and the orderly progress of the Project. Notwithstanding anything to the contrary contained herein, CONSULTANT shall not be deemed in default of this Project Agreement to the extent that any delay or failure in the performance of its obligations results from any cause beyond its reasonable control and without its negligence.

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 “2” **AT CONSULTANT'S HOURLY RATES, UP TO A MAXIMUM AMOUNT NOT TO EXCEED \$259,992.00, FOR THE 2023-2024 FISCAL YEAR AS SHOWN IN EXHIBIT “3” attached hereto and made a part hereof.**

4.2 **Reimbursable and Travel Expenses.** Reimbursable and travel expenses shall be 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 which are identified by the specific project number on a monthly basis in a timely manner. These invoices shall identify the nature of the work performed, the phase of work, and the estimated percent of work accomplished in accordance with the Payment Schedule set forth in Exhibit “3”, to this Project Agreement for Fiscal Year 2023-2024. Invoices for each phase shall not exceed amounts allocated to each phase of the Project plus reimbursable expenses accrued during each phase. 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 in any invoice pursuant to Subparagraph 5.1, 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, 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, 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 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, except that acceptance of such payment shall not constitute any bar, admission, or estoppel, or have any effect as those payments that VILLAGE or CONSULTANT disputes, provided however, that any such dispute must be detailed in writing prior to submission of CONSULTANT'S invoice for final payment and reimbursement.

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 the 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 provisions 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 hereunder, 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. CONSULTANT is not responsible and is hereby released from responsibility for the VILLAGE's use of the documents for any purpose other than for this Project and for the use of any incomplete documents at the time of termination.

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. MISCELLANEOUS

7.1 **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:

- 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 Project 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 CONSULTANT upon termination of this Project 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 CONSULTANT HAS QUESTIONS REGARDING THE APPLICATION OF CHAPTER 119, FLORIDA STATUTES, TO CONSULTANT'S DUTY TO PROVIDE PUBLIC RECORDS RELATING TO THIS PROJECT 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.

7.2 **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 Project 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.

7.3 **Scrutinized Companies.**

- a. CONSULTANT certifies that it and its subcontractors are not on the Scrutinized Companies that Boycott Israel List. Pursuant to Section 287.135, F.S., the Village may immediately terminate this Project Agreement at its sole option if the CONSULTANT or its subcontractors are found to have submitted a false certification; or if the CONSULTANT, or its subcontractors 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. CONSULTANT agrees to observe the above requirements for applicable subcontracts entered into for the performance of work under this Project Agreement.
- c. 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 8. INCORPORATION OF TERMS AND CONDITIONS OF CONTINUING SERVICE AGREEMENT

8.1 This Project Agreement incorporates the terms and conditions set forth in the Continuing Services Agreement dated September 2020 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.

ATTEST:

ISLAMORADA, VILLAGE OF ISLANDS

Marne McGrath, Village Clerk

By: _____
Ed Koconis, Interim Village Manager

Date: _____

Approved as to form and legality
for the use and benefit of
Islamorada, Village of Islands only:

Village Attorney

ATTEST:

WADE TRIM, INC.

Secretary

By: _____
Thomas S. Brzezinski, P.E.
Executive Vice President

Please type name of Secretary

Date: _____

(CORPORATE SEAL)

WITNESSES:

Print Name: _____

Print Name: _____

EXHIBIT "1"

Project Description

Pursuant to Chapter 380, Florida Statutes, State of Florida, identified the Florida Keys as an area of critical concern to land and water management. The associated Administration Commission Rule requires installing an advanced sanitary sewer system to meet advanced wastewater treatment standards for the community by December 2015. In response to the State of Florida's mandate, the VILLAGE issued Request for Proposals (RFP) No. 11-06-29 and selected a Design-Build-Operate (DBO) Firm Reynolds Water Islamorada to perform the design, build and operate of the wastewater system. The CONSULTANT has since functioned as the Owner's Representative and Construction Manager and acted as the VILLAGE'S agent with regard to all aspects of this scope of services. Delivery of the work associated with the design-build portion of the wastewater system has been completed by the DBO Firm.

The CONSULTANT continues to provide engineering support for the VILLAGE's Wastewater Utility. The CONSULTANT will report directly to the VILLAGE'S Public Works Director and/or VILLAGE Manager, and such other persons as directed by the VILLAGE Manager. The CONSULTANT'S duties to assist the VILLAGE with the operations of the wastewater utility are broken down into the following tasks:

Task 1 – DEP Permitting, Building Department and Planning Department Reviews

Task 2 – Wastewater Operations

Task 3 – General Engineering Services

Task 4 – Design, Permitting, Bidding Assistance and Construction Engineering Services

EXHIBIT "2"

Scope of Services and Project Schedule

Task 1 – DEP Permitting, Building Department and Planning Department Reviews

The CONSULTANT will assist the VILLAGE with the review, processing, and approval of Florida Department of Environmental Protection (DEP) construction and place into operation permit applications, site plan approvals, and engineering plan reviews received for new development and re-development projects connecting with the VILLAGE's wastewater collection system and submitted to the VILLAGE Planning Department, the VILLAGE Building Department, and/or the VILLAGE Wastewater Department. Wade Trim's reviews will consist of:

- a) Receiving, logging, and tracking of permit application submittals.
- b) Review of preliminary plan submittals, review of preliminary design reports, and review of DEP wastewater permit applications for completeness and technical accuracy in accordance with the VILLAGE's Utility Policy & the Key Largo Wastewater Treatment District (KLWTD) Interlocal Agreement.
- c) Confirming that the proposed project complies with the VILLAGE's Minimum Design and Construction Standards and Specifications for Wastewater.
- d) Coordinating reviews and approvals with the DEP, the Project Engineer-of-Record, and other applicable regulatory agencies.
- e) Confirming that the Village's collection system capacity is sufficient for the proposed development or redevelopment project.
- f) If required, determine the additional amount of capacity needed in the Village's wastewater collection system and the potential impact on the Village's wastewater vacuum pump stations to accommodate the proposed development or redevelopment project.
- g) Corresponding with the project Engineer-of-Record, and
- h) Attending pre-application meetings with the Project Owner, the Project Engineer-of-Record, and Village staff as needed.

- Deliverables:
- Permit review and correspondence as required for each project submittal and resubmittal with the VILLAGE, the DEP, the Engineer-of-Record, and other public agencies involved with the Project.
 - Consult with and advise the VILLAGE on engineering aspects of the Project as it pertains to the wastewater collection system, the wastewater transmission system and treatment facilities which the VILLAGE utilizes for providing wastewater services to its customers, and
 - Attend pre-application meetings with the VILLAGE and representatives of the proposed development or re-development as required for obtaining necessary permits and approvals.

Schedule: Ongoing throughout the Project.

Task 2 – Wastewater Operations

The CONSULTANT will assist the VILLAGE with various elements of the Wastewater Utility's Operations Services as required or requested that include:

- a) Participate and attend regularly scheduled Operations meetings with the VILLAGE Wastewater Department, Public Works Department, Planning Department, Building Department and Finance Department staff.
- b) Provide engineering review and approval of submittals received for identified capital improvement projects on the VILLAGE's wastewater collection system.
- c) Evaluate wastewater collection system capacity for the VILLAGE's low pressure and vacuum sewer collection systems as required for proposed development and redevelopment projects.
- d) Assist with performing engineering evaluations for identified properties requiring central sewer service and connections with the VILLAGE's wastewater collection system, and
- e) Assist with miscellaneous engineering requests received from the VILLAGE Wastewater Operations staff.

Deliverables:

- Attend regularly scheduled Operations meetings.
- Perform engineering evaluations as required for identified properties for connection with the VILLAGE wastewater system, and
- Perform engineering review and approvals for identified capital improvements projects on the VILLAGE's wastewater system.

Schedule: Ongoing throughout the Project.

Task 3 – General Engineering Services

The CONSULTANT will provide the VILLAGE with as-needed engineering assistance pertaining to the following services:

- Review, evaluation, and calculation of Equivalent Dwelling Units (EDUs) for new developments and re-developments, as requested by the VILLAGE, to ascertain the accuracy of estimated flows and the corresponding assessments levied by the VILLAGE against properties requesting wastewater services from the VILLAGE.
- Review engineering reports submitted for the purpose of establishing flows for new development or redevelopment projects.
- Correspond and attend meetings with the VILLAGE as required for assisting with the final determination of EDUs for proposed development and redevelopment projects, and
- Providing as-need assistance at the direction of the VILLAGE Manager or the Utilities Manager.

Schedule: Ongoing throughout Project.

Task 4 – Design, Permitting, Bidding Assistance, and Construction Engineering Services

The CONSULTANT will assist the VILLAGE with the design, permitting, bidding, and construction engineering services as required for the Gardenia Street Vacuum System Improvements Project and the Lorelei and Islamorada Fishing Club Wastewater Improvements Projects. Specific tasks for each improvement project are described in Subtasks 4.1 and 4.2 below.

4.1 – S. Gardenia Street Vacuum Main Improvements Project

During fiscal year 2023, the CONSULTANT completed the engineering design and DEP permit submittals for the vacuum collection system improvements needed to serve the Plantation Key School and a Habitat for Humanity development project (9 EDUs) located along S. Gardenia Street in North Plantation Key. For fiscal year 2024, the CONSULTANT will provide the VILLAGE with permitting, bidding assistance, and construction engineering services required for the Project as described below.

4.1.1 Permitting and Bidding Assistance

- a) Assist with the preparation and submittal of any Requests for Additional Information (RAI) received from DEP on the submitted construction permit application for the S. Gardenia Street project.
- b) Assist the VILLAGE with bidding of the S. Gardenia Street project that includes coordination of the bidding documents and advertisement for bidding; attending the pre-bid meeting; preparation and distribution of the pre-bid meeting minutes; responding to clarifications and questions received from bidders; and preparation and submittal of addenda information as required for bidding the Project.
- c) Assist the VILLAGE with review and evaluation of bids received for the Project and provide a written recommendation of Contract award to the most responsive bidder.

4.1.2 Construction Engineering Services

- a) Attendance at a construction kickoff and progress meetings with VILLAGE staff and the selected Contractor for the purpose of reviewing project requirements, project construction schedule, submittals, construction progress, testing, and any issues of concern.
- b) Prepare and submit three (3) sets of signed and sealed conformed project drawings and specifications to the VILLAGE.
- c) Review and approval of shop drawings submitted by the Contractor for conformance with the project design concept and compliance with the requirements of the contract for construction.
- d) Conduct periodic field visits to the project site(s) for the purpose of confirming the Contractor's progress on the Project and resolving any potential conflicts that may arise during construction.
- e) Review the Contractor's requests for information (RFI) or clarification of the construction contract documents.
- f) Provide coordination with the Contractor and the VILLAGE Building Department as required for final testing of the constructed project.
- g) Review monthly pay requests received from the Contractor based on information provided by the VILLAGE, monthly progress meetings, and observations during site visits.
- h) Assist with system start-up as required for the Project.
- i) Conduct substantial and final completion inspections as required for the VILLAGE for project closeout, and
- j) Completion of final as-built drawings for the Project.

Deliverables:

- Conformed Document Submittals – Conformed set of signed and sealed drawings (11"x17") and specifications (3 hardcopies and 1 electronic Adobe pdf file).
- Attendance at project kickoff and monthly progress meetings.
- Shop drawing submittal reviews and approvals.
- Correspondence with the Contractor as required.

- Review of RFIs received from the Contractor.
- Review of Contractor's monthly pay requests.
- Inspection, startup and testing reports.
- Substantial and final completion inspections, and
- Submittal of final as-built drawings.

Schedule: - Ongoing throughout the project.

4.2 – Lorelei & The Islamorada Fishing Club Redevelopment Projects

Currently the Lorelei and Islamorada Fishing Club properties are connected with the VILLAGE's vacuum sewer collection system in Upper Matecumbe Key. Both properties are undergoing redevelopment that will increase the projected wastewater flows whereby the maximum allowable design capacity for each property connection on the VILLAGE's vacuum collection system will be exceeded. To accommodate each redevelopment project, wastewater service connections with the existing vacuum sewer system must be replaced by connecting each property's onsite wastewater collection system with the VILLAGE's low pressure sewer system. The CONSULTANT will provide design, permitting, bidding, and construction engineering services as required for these VILLAGE wastewater improvement projects which are described in each subsection below.

4.2.1 Engineering Design and Permitting

- a) Perform a topographic survey of the proposed project alignment which includes approximately 1,000 linear feet of roadway from right-of-way to right-of-way to a new proposed connection point located on Old Highway.
- b) Conduct a site visit of the project corridor and review pertinent features that may impact the design and/or construction.
- c) A preliminary set of drawings with standard details will be developed for the project; drawings for the project will include a cover sheet, a project location map, a key map, general notes and abbreviations, civil plan and profile (P/P) sheets including a US-1

directional drill P/P crossing, and civil standard details (5 sheets). Preliminary drawings will be submitted to the VILLAGE for review and comment.

- d) Prepare design submittals at the 60% and 90% completion stages of the project for the VILLAGE'S review and comment. Based on review comments received from the VILLAGE and permitting agencies, revise the 60% and 90% drawing submittals accordingly.
- e) Coordinate with the VILLAGE the preparation of Standard EJCDC Contract Forms, Bidding Documents, and Contract General and Supplemental Conditions required for the Project.
- f) Prepare technical specifications for the Project in Division 1 through Division 16. Specifications will be prepared consisting of written technical descriptions of standards and workmanship required for materials, equipment and construction.
- g) Prepare the 100% drawing and specifications submittal package for the VILLAGE's final review and comment.
- i) Prepare opinions of probable construction cost at the 60%, 90%, and 100% completion stages of design for the proposed improvements on this Project.

4.2.2 Permitting and Bidding Assistance

- a) Prepare and submit a DEP Notification/Application for Constructing a Domestic Wastewater Collection/Transmission System. All permit fees will be paid by the VILLAGE.
- b) Assist with the preparation and submittal of any Requests for Additional Information (RAI) received from DEP on the submitted permit application.
- c) Assist the VILLAGE with bidding of the project that includes coordination of the bidding documents and advertisement for bidding; attending the pre-bid meeting; preparation and distribution of the pre-bid meeting minutes; responding to clarifications and questions received from bidders; and preparation and submittal of addenda information as required for bidding the Project.
- d) Assist the VILLAGE with review and evaluation of bids received for the project and provide a written recommendation of Contract award to the most responsive bidder.

4.2.3 Construction Engineering Services

- a) Attendance at a construction kickoff and progress meetings with VILLAGE staff and the selected Contractor for the purpose of reviewing project requirements, project construction schedule, submittals, construction progress, testing, and any issues of concern.
- b) Prepare and submit three (3) sets of signed and sealed conformed project drawings and specifications to the VILLAGE.
- c) Conduct periodic field visits to the project site(s) for the purpose of confirming the Contractor's progress on the Project and resolving any potential conflicts that may arise during project construction.
- d) Review and approval of shop drawings submitted by the Contractor for conformance with the project design concept and compliance with the requirements of the contract for construction.
- e) Review the Contractor's requests for information (RFI) or clarification of the construction contract documents.
- f) Provide coordination with the Contractor and the VILLAGE Building Department as required for final testing of the constructed infrastructure.
- g) Review monthly pay requests received from the Contractor based on information provided by the VILLAGE, monthly progress meetings, and observations during site visits.
- h) Assist the VILLAGE with start-up as required for the Project, and
- i) Conduct substantial and final completion inspections as required for the VILLAGE for project closeout.

Deliverables:

- Preliminary Design Submittal – preliminary drawings that included a topographic survey and preliminary alignment for the proposed collection system.
- 60% Design Submittal – one set of 60% complete 11"x17" drawings, project specifications, and a 60% complete estimate of probable construction cost. All submittals will be in electronic Adobe pdf files.

- 90% Design Submittal – one set of 90% 11”x17” drawings and specifications, and a 90% complete estimate of probable construction cost. All submittals will be in electronic Adobe pdf files.
- 100% Design Submittal – one 100% complete set of signed and sealed 11”x17” drawings and specifications and a 100% complete estimate of probable construction cost. All submittals will be in electronic Adobe pdf files.
- A signed/sealed DEP Notification/Application for Constructing a Domestic Wastewater Collection/Transmission System with one set of signed/sealed electronic drawings (100%).
- A signed/sealed FDOT Permit Application with one set of signed/sealed electronic drawings (100%).
- Conformed Document Submittal – Conformed set of signed and sealed drawings (11”x17”) and specifications (3 hardcopies and 1 electronic Adobe pdf file).
- Attendance at project kickoff and monthly progress meetings.
- Shop drawing submittal reviews and approvals.
- Correspondence with the Contractor as required.
- Review of RFIs received from the Contractor.
- Review of Contractor’s monthly pay requests.
- Inspection, startup and testing reports; and
- Substantial and final completion inspections.

Schedule: - Ongoing throughout each identified project.

Compensation Summary

The estimated budget associated with each task effort is summarized in the table below.

Task No. & Description	Estimated Task Budget
Task 1 – Permitting, Building & Planning Department Reviews	\$41,188.00
Task 2 – Wastewater Operations	\$35,438.00
Task 3 – General Engineering Services	\$37,508.00
Task 4 – Bidding Assistance & Construction Engineering Services	\$145,858.00
Total Estimated FY23 Contract Services Budget	\$259,992.00

EXHIBIT “3”

2023-2024 Fiscal Year Expenditure

Payment Schedule

The CONSULTANT will submit invoices to the VILLAGE on a monthly basis for actual services rendered and costs incurred for the performance of its services under this Project Agreement. Fees shall be based upon the CONSULTANT’S hourly rates as specified in the Continuing Services Agreement and the actual cost of reimbursable expenses.

Invoices shall be broken down by the above Tasks and shall be based on the Billing Rate Schedule consistent with the current Continuing Services Agreement.



Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: October 10, 2023
SUBJECT: Resolution Approving Update to Council Procedures - TAB 6

Background:

The Village Council recently requested that the Village Attorney update the Council meeting procedures to prohibit the use of cell phones by Councilmembers on the dais during public meetings. A copy of proposed updated Council procedures is included herein for the Council's consideration. A clean copy of the proposed updated procedures is attached as Exhibit A to the Resolution. For ease of review, a redline version is also included herein.

Analysis:

Budget Impact:

N/A

Staff Impact:

N/A

Recommendation:

- Attachments:**
1. Exhibit A -Village Council procedures (10-3-23) (clean)
 2. 474320803-Village Council procedures (10-3-23) (redline)
 3. 23-08-90_Establishing Village Council Procedures_
 4. 46U907102-Resolution updating Village Council procedures

ISLAMORADA, VILLAGE OF ISLANDS, VILLAGE COUNCIL MEETING PROCEDURES

The Village Council of Islamorada, Village of Islands, Florida, adopts the following procedures pertaining to the conduct of Village Council meetings:

GENERAL COUNCIL PROCEDURES

I. COUNCIL MEETING

A. Regular Meetings.

The Village Council shall hold regular meetings on the second Thursday of every month and the immediate preceding Tuesday, commencing at 5:30 P.M. Meetings are to be held in the Council Chambers at Founder's Park. However, the Village Council has complete discretion and flexibility to schedule holiday and seasonal break periods, to hold regular meetings at other dates, times or locations, or to cancel or reschedule any meetings.

Pursuant to Section 5(8)(c) of the Village Charter, a majority of the Council shall constitute a quorum.¹ In addition, pursuant to Section 5(7)(b)5. of the Village Charter, a Councilmember shall forfeit his or her office upon determination by the Council, acting as a body, at a duly noticed public meeting that he or she is absent from three consecutive regular Council meetings without justifiable reason.

B. Special Meetings.

Special meetings may be held at the call of the Mayor, or in his or her absence, at the call of the Vice-Mayor. Special meetings may also be called upon the request of a majority of the Councilmembers. Unless of an emergency nature, notice of such a meeting shall be provide to the public not less than 72 hours prior to the meeting. The Village Manager, or designee, shall make every effort to poll the members of the Council to determine a convenient time for the special meeting. Notice to the public shall be posted at a public place at Village Hall and, if possible, on the Village's website. Notices shall state the date and time of the special meeting and the purpose of the meeting. No

¹ / For example, when there are five (5) sitting Councilmembers, three (3) Councilmembers would be required to constitute a quorum.

further business shall be conducted at the special meeting except that stated in the notice. All meetings shall be open to the public except as expressly allowed by state law.

C. Emergency Meetings.

In those instances where there is a Village meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to post the notice within the time frames set forth in the Village Code and/or herein, the Village shall be required to post the notice on the Village's website at the earliest practicable time. In the written notice calling the emergency meeting, the Village Manager shall include a detailed statement explaining the emergency nature of the meeting.

II. PROCEDURAL RULES

Meetings of the Village Council shall be informal and shall be conducted pursuant to the rules and procedures contained herein. Robert's Rules of Order may be consulted to resolve procedural conflicts, if necessary. The Village Attorney shall serve as the Parliamentarian and shall advise and assist the Mayor on matters of parliamentary law.

A. Presiding Officer.

The Mayor shall serve as the presiding officer at all Council meetings. The Vice Mayor shall act as the presiding officer in the absence of the Mayor. In the absence of both the Mayor and Vice Mayor, the remaining Councilmembers shall by majority vote select a presiding officer to carry out the functions of the Mayor and to run the meeting. The Mayor shall decide on all questions of order. The Mayor may request an interpretation of parliamentary procedure from the Village Attorney. The Mayor shall announce agenda items by the agenda item number. No further explanation or comment shall be made at that time. The Village Attorney shall then read the title of the legislation. Thereafter, the Mayor may call upon the Village Manager, or designee, to provide any needed explanation of the item being considered. If appropriate, the item shall then be opened for public comment or hearing, limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. When speaking on a particular agenda item, the speaker shall limit his/her comments to the subject of the agenda item under consideration. All comments or questions by the public shall be directed to the Mayor. The Mayor may limit irrelevant or repetitive comments to ensure the orderly conduct and efficiency of the meeting. Following the close of the

public comment or hearing on the item, the Council shall discuss and consider the agenda item.

B. Decorum at Council Meetings.

The Mayor shall preserve order and decorum at Council meetings. Should a member of the audience become unruly or behave in an inappropriate manner prejudicial to the proper conduct of the meeting, the Mayor shall have the right and the authority to require such person to leave the Council Chambers, accompanied, if determined necessary, by the Sergeant at Arms. A Monroe County Sheriff's Department law enforcement officer assigned to the Village shall serve as the Sergeant-at-Arms and carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at Village Council meetings. The Sergeant-at-Arms has the authority to remove any person or persons that he or she believes necessary for the health and safety of the Village Council and attendees. In addition, in the event the audience or a part of the audience becomes unruly, the Mayor may either recess or adjourn the meeting.

C. Seating Arrangements on the Dais.

The Mayor shall sit in the middle of the dais. The Vice Mayor shall sit to the immediate left of the Mayor. The remainder of the Council shall sit in the two seats to the immediate right of the Mayor and the seat to the immediate left of the Vice Mayor. The Village Manager shall sit three (3) seats to the left of the Mayor, followed by the Village Attorney, Village Planning Director, and Village Clerk.

The order of seating for the Council shall be chosen as follows. Prior to the meeting after the Vice Mayor is selected, the senior most remaining Councilmember shall select the seat to be occupied for that year of his or her choice. The same procedure shall be followed by the second and then third most senior remaining Councilmembers. If there is a tie in terms of seniority, the Councilmember receiving the highest numbers of votes in the most recent general election shall select first. If there remains a tie, then seniority shall be decided by the drawing of lots.

D. Order of Business.

The Order of Business at regular Council meetings shall be as follows:

1. Call to Order/Roll Call
2. Pledge of Allegiance

3. Agenda: Requests for Deletion/Addition
4. Reports, Presentations, and Announcements
5. Public Comment
6. Citizens' Advisory Committee Reports
7. Mayor/Council Communications
8. Village Attorney/Village Manager Communications
9. Consent Agenda
10. Resolutions
11. Ordinances—First Reading
12. Public Hearings—Ordinances—Second Reading
13. Motions
14. Adjournment

E. Reading of Minutes.

The minutes of prior Council Meetings shall not be read aloud but the Council shall consider corrections of minutes of the immediate prior meeting(s) upon request by any member of the Village Council. Unless a reading of the minutes is requested by a Councilmember, minutes may be approved by motion as part of the Consent Agenda.

F. Consent Agenda.

There shall be a Consent Agenda during each regular Council meeting. The Consent Agenda shall contain Resolutions, approval of minutes, motions and other pertinent matters which, in the opinion of the Mayor and Staff may be handled and implemented without necessity for discussion. Unless a member of the Council specifically requests that an item be removed from the Consent Agenda for discussion, all items shall be approved and adopted by a single motion and roll call vote.

Before the Council votes on the Consent Agenda, any member of the public may comment on any item listed on the Consent Agenda. Discussion is limited to a total of three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group.

G. Renewal.

Once action is taken on a proposed Ordinance or Resolution, neither the same matter nor its repeal or decision nor a substantially similar matter may be brought before

the Council again during the six (6) month period following said action unless a majority of the Council agree to waive the rule.

H. Time for Reports, Presentations, and Announcements.

Reports, presentations, and announcements will be limited to no more than ten (10) minutes. No Public Comment will be permitted on reports, presentations, and announcements.

I. Rules of Debate.

1. If any member, in speaking or otherwise, transgresses the rules of the Council, the Presiding Officer shall, or any member can, call him to order, in which case the member so called to order shall immediately cease discussion unless permitted by the Presiding Officer to explain; and the Council, if appealed to, shall decide the question without debate. If the decision is in favor of the member so called to order, he or she shall be at liberty to proceed; if otherwise, he or she shall not proceed without leave of the Council to proceed in order.

2. A member about to speak shall respectfully address the Presiding Officer, and shall not commence to speak until recognized by the Presiding Officer. When two (2) or more members request to speak at the same time, the Presiding Officer shall determine which one is recognized.

3. Every member while speaking shall confine himself or herself to the subject under debate, shall conduct themselves in a statesperson like manner, and shall not refer to any other member of the commission except in a respectful manner.

4. Unless a member who has the floor yields for that purpose, no member shall interrupt another while he or she is speaking, except to propound a parliamentary inquiry or make a point of order.

5. The Presiding Officer shall not be deprived of any of the rights and privileges of a Councilmember by reason of acting as the Presiding Officer.

6. A motion to reconsider² any action taken by the Council may be made only at the meeting such action was taken, and may only be made by a member of the Council who was on the prevailing side of the action sought to be reconsidered. Reconsideration of the action may occur no earlier than the next Council meeting.

7. Councilmembers shall be prohibited from using their cell phones while on the dais during a public meeting.

J. Order of Vote.

Roll call shall be as follows: (1) moving Councilmember; (2) Councilmember who seconded the motion; and (3) alphabetical order amongst the remaining Councilmembers, with the exception that the Mayor is entitled to vote last where he/she is neither the moving Councilmember nor the one who provided the second.

K. Postponing Agenda Items.

Absent emergency, the Mayor shall not bring an item for Council consideration unless it is on the agenda. In the event that pertinent information relating to an agenda item is missing or unaccounted for prior to the meeting, the Council may remove the item from the agenda at the meeting upon a majority vote.

There shall be no "tabling" of items. If a matter is to be postponed, it may be "continued" upon majority vote of the Council.

The Mayor or any Councilmember may request to have any item deferred for one meeting if the Mayor or the Councilmember making the request for deferral will not be physically present at the Council meeting, subject to the approval of the remaining Councilmembers.

L. Remote Attendance.

² / It bears noting that reconsideration (section II.J.6.) and renewal (section II.H.) are different concepts. Reconsideration occurs when a motion is originally adopted and a Councilmember from the prevailing side wishes to bring it back to potentially reconsider the Council's adoption of the motion. Renewal, on the other hand, is when a motion fails to receive enough votes to be adopted and a Councilmember wishes to bring the same item back as a new motion.

Remote attendance shall be governed in accordance with Resolution No. 21-08-80, as may be amended from time to time.

M. Actions by the Council.

Actions by the Council may occur only by Ordinance, Resolution or Motion. No action may be taken by the Council on an item that has not been placed on the agenda in accordance with these procedures.

III. PUBLIC HEARINGS

A. Generally.

Ordinances for second reading or items requiring a public hearing shall be placed on this portion of the agenda.

Individuals wishing to speak on matters that appear on the agenda as "Public Hearings" will be recognized by the Mayor. Individuals wishing to speak on matters that appear on the agenda as "Public Hearings" shall fill out a speaker's card and shall be recognized by the Mayor when called upon by the Clerk. The public shall be permitted to speak after the Mayor opens an item for Public Hearing. Discussion is limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. After the Public Hearing is closed by the Mayor, only members of the Village Council or Staff shall be permitted to discuss the item.

B. Quasi-Judicial Items.

Florida courts have determined that there are certain types of matters that are to be treated differently than other issues considered by the Village Council. Most decisions of the Council are legislative in nature, which means that the Council is acting as a policy making body. In contrast, in quasi-judicial matters, the Council is applying existing rules and policies to a factual situation and is therefore acting like a judge or a jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. The Village Attorney shall determine which matters are to be treated as quasi-judicial, and such items shall be noted as such on the agenda.

Quasi-judicial items shall be considered in accordance with the Village Code.

Individuals from the public shall be allotted three (3) minutes each (or such amount of time as determined by the presiding officer), to discuss the quasi-judicial item that is being considered. Representative speakers for an association or group shall be allotted five (5) minutes. The Village or the applicant may cross-examine any individual speaking on the item. Individuals wishing to speak on quasi-judicial items shall be collectively sworn in.

C. Waiver of Quasi-Judicial Hearing.

If the applicant or agent of the applicant agrees with the staff's recommendation and wishes to waive his or her right to a quasi-judicial hearing, and if no Councilmember or anyone from the audience wishes to speak for or against the quasi-judicial agenda item, the Council may vote on the item based upon the materials in the agenda back-up, without any discussion or debate on the agenda item.

IV. PUBLIC PARTICIPATION

A. Generally.

Public Participation shall be held in accordance with the agenda. Those wishing to speak on items that are not on the agenda but pertinent to the Village shall sign in on a form provided by the Village Clerk prior to the meeting. Those wishing to speak on a specific agenda item shall sign in on a form provided by the Village Clerk prior to the meeting and indicate which item they wish to speak on and whether they support or oppose the item, or are otherwise neutral. All public comment forms shall be provided to the Clerk prior to the agenda item being called. Once the agenda item is called, anyone who has not turned in a comment card will not be permitted to speak on that item. For those attending via approved remote means (e.g., Zoom, etc.), the attendee's hand must be raised prior to the item being called in order to speak on that item. The Village Clerk will call those persons wishing to speak in the order that they signed in. Public Comment shall be limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. If a participant desires to present materials to the Council during Public Comment, the items shall be given to the Village Clerk before the meeting for distribution, including one full copy for the Village Clerk for the public record.

Each individual is requested to state his or her name and shall state the name of the entity represented (if applicable) and the item on the agenda to be addressed (if

applicable). Each person addressing the Council shall approach the lectern and speak in an audible tone of voice for the record. Unless further time is granted by the Presiding Officer, each individual speaker shall speak only one time, per item, for up to three (3) minutes and representative speakers for an association or group shall speak for only one time, per item, for up to five (5) minutes. No person shall be allowed to donate his or her speaking time to another person. All remarks shall be addressed to the Council as a body and not to any member thereof. A person speaking on an item on the agenda shall limit their comments to matters relevant to the item. All people addressing the Council are strongly encouraged to refrain from making political statements and shall not make personal attacks on any Councilmembers or any other individuals or entities. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

After the Public Comment is closed by the Mayor, only members of the Village Council or Staff shall be permitted to discuss the item.

B. Documents.

If an individual wishes to present documents or evidence to the Council, he or she is requested to provide ten copies to the Village Clerk at least two weeks before the Council meeting for inclusion in the Council's agenda back-up. He or she shall not approach the dais to deliver documents directly to the Mayor or Councilmembers nor leave any materials on the dais. Paper copies (no larger than 11 inches x 17 inches) of any boards or charts, shall be provided to the Village Clerk prior to their use at the hearing. PowerPoint/computer presentations must be provided to the Village IT Department and Village Clerk as far in advance as possible. If these items are not provided until the start of the meeting the IT staff managing the broadcast will determine whether they have time to program them into the broadcast.

C. Representative Disclosure.

Any person who addresses the Council on behalf of an individual, corporation or special interest group for compensation must disclose that representation at the beginning of their comments, as described above in Section IV.A.

D. Decorum.

No person shall engage in behavior that disrupts the proceedings of the Council. Council meetings are family-friendly and therefore profane, indecent or obscene language, content or conduct is not permitted. In addition, because the meetings are broadcast and rebroadcast through cable television and on the internet, any language that would not be permitted to be broadcast under FCC guidelines during day-time hours is not permitted during Council meetings. Sufficient warnings of inappropriate conduct may be given by the Presiding Officer at any time and, in the event that any individual shall continue to disrupt the proceeding, the Presiding Officer may then ask that the person be removed. Signs or placards may be brought to a Council meeting, but may not block any other attendee's view of the proceedings or interfere with any video, audio, stenographic or other recordings of the proceedings.

E. Dissemination of Information/Use of Multimedia for Public Comment.

A member of the public may submit multimedia content for use during his/her comments. For cyber security reasons, multimedia must be submitted via email attachment(s) to the Village Clerk's Office at least five (5) working days prior to the meeting. The Village can only accept common file types such as PDF documents, image files, Microsoft PowerPoint Presentations, and video files in MP4 format. No inappropriate content will be approved for display. Speakers with pre-approved content to display will be ordered first during public comment and subject to the allotted time restrictions.

V. ADJOURNMENT

All meetings of the Village Council, whether special or regular, shall be adjourned no later than 10:00 P.M. However, the Village Council may continue the meeting beyond 10:00 P.M. in accordance with the Village Charter and Code. In any event, the motion to continue the meeting must provide for a specific time frame of no more than thirty (30) minutes that the Village Council will honor for purpose of continuing the meeting.

VI. WAIVER OF PROCEDURES

The procedures in Sections I through IV (except section III.B.) shall be automatically waived during a Declared State of Local Emergency, a Declared State of Emergency or other Village emergency situation to the extent necessitated by the emergency.

VII. PREPARATION OF AGENDA ITEMS

A. Placement of Items on Agenda.

The Village Manager, Village staff (through the Manager), Village Attorney or any member of the Council may place items on the agenda. Resolutions, ordinances, motions, reports, and Mayor/Council communications shall be identified on the agenda as to the sponsoring Councilmember or Mayor or as a recommendation from the Village staff. Councilmembers wishing to place an item on the agenda shall submit their request for addition through an email to the Village Clerk. Agenda items must be relevant to Village business, and must be clear as to the intent to the item and the actions required of Village staff. Items that do not have sufficient back up materials and/or which are not clear or require additional information may be withheld from the agenda by the Manager until the appropriate information is received.

B. Agenda Closing Dates.

Except as determined by the Manager on a case-by-case basis, all information relating to items to be placed on the agenda shall be submitted to the Village Clerk by 12:00 noon no less than eight (8) days prior to the scheduled Village Council meeting during which the item will be heard, and not less than three (3) days prior to a Special Meeting. All appropriate background material shall accompany the item in the form of a Council communication/memorandum. The Mayor, as chair of the meeting, Village Manager, Village Clerk, and Village Attorney shall review all agenda items submitted by Councilmembers. Agenda items may be removed from the agenda by the Mayor, Village Manager or Village Clerk if it is determined that any agenda item is not in accordance with these procedures. The Village Attorney may remove any agenda item if it is determined that the item is not legally sufficient.

The Village Clerk will provide each member of the Council a preliminary agenda packet six (6) days prior to the scheduled Village Council meeting. A complete package of all agenda materials, including all back up materials, shall be provided to the Village Council no later than the Thursday evening prior to the date of the meeting. In the event that pertinent information relating to an agenda item is missing or not included in the agenda package, the Council may remove the items from the agenda at the meeting.

No additional items shall be added to the agenda after the agenda packet has been delivered to the Council unless by unanimous consent or a majority vote of the Village Council upon a determination that the item is necessary.

Requests for additions and/or deletions shall be provided to the Village Manager and Village Clerk no later than 24 hours before the respective meeting. No exceptions will be made to this requirement, unless such addition and/or deletion is of an emergency nature.

Exception for Emergency Meetings. In those instances where there is a Village meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to provide the Council with an agenda packet in accordance with time frames of this section, the Clerk shall provide the agenda packet at the earliest practicable time.

C. Preparation of Legislation.

A member of the Council who would like to request preparation of legislation by the Village Attorney or Staff shall place such requests for consideration under the "Mayor/Council Communications" section of the agenda. The request shall not be acted upon until the request is approved by a motion of the majority of the Council. However, the Mayor or a Councilmember may place any matter on the agenda for Council consideration, provided the item is approved by the Village Attorney as to legal sufficiency and otherwise satisfies applicable procedural requirements. The Village Attorney shall review these items without Village Council approval if, in the Village Attorney's opinion, it can be reviewed in a minimal amount of time. All Ordinances and Resolutions shall indicate the Councilmember or Village Staff member who requested the legislation. All Ordinances and Resolutions shall contain the name of each Councilmember and whether such member voted for, against or failed to vote for the item. All Ordinances and Resolutions, once approved, shall be executed by the Mayor. Unless otherwise required by law, digital signatures may be utilized.

D. Proclamations.

1. Generally.

The Mayor, any Councilmember, and Manager may request that the Mayor issue a proclamation. All requests for proclamations shall be made to the Mayor's office one week in advance, if possible. If the Mayor chooses not to issue a particular proclamation, the requesting Councilmember may bring that proclamation to the Council for consideration. All proclamations shall be issued by the Mayor's office. Every proclamation shall include the name of the Councilmember requesting the proclamation.

2. Request from the Public.

Requests by members of the public for recognition by the Village may be made to the Village Manager or any member of the Village Council.

Requests from the public must include the following information, and all information must be received in writing prior to the agenda publishing deadline for the meeting desired:

- Name of honoree(s) (A maximum of 5 persons for recognition can be accommodated at any one Village Council meeting);
- Description of accomplishment or recognition desired;
- Phone number of contact person and/or honoree;
- Details including dates, history, organizations involved, etc.; and
- Additional information may be required depending on the request.

3. Proclamation Criteria.

Proclamations must fit one of the following criteria:

- Must pertain to an organization existing, or an event occurring, within the Village or benefitting the Village.
- Must pertain to a government or governmental issue or governmental event at the local, state or federal levels.
- Must pertain to an individual who has resided or worked in the Village and/or made lasting contributions to the Village community at large.

E. Sequence of Agenda Items.

At the request of the any Councilmember and upon approval by majority vote, items on the agenda may be moved out of sequence in order to expedite the matters before the Council or for ease of reference and consideration.

Any item may be moved to a time certain upon a motion and majority vote. If an item has been scheduled for a time certain, all business shall stop at the time certain established by the Council and shall not resume until completion of the time certain item(s).

F. Council Work Requests.³

All requests for legal information shall be made to the Village Attorney only. When a Councilmember makes a request to the Village Attorney for information that in the opinion of the Village Attorney will involve a substantial or extensive expenditure of time and labor, the Councilmember shall place the item on the agenda under "Mayor/Council Communications." The request shall not be acted upon until the request is approved by a majority vote of the Council.

³ / This section does not include public records requests, which should be made directly to the Village Clerk's office.

ISLAMORADA, VILLAGE OF ISLANDS, VILLAGE COUNCIL MEETING PROCEDURES

The Village Council of Islamorada, Village of Islands, Florida, adopts the following procedures pertaining to the conduct of Village Council meetings:

GENERAL COUNCIL PROCEDURES

I. COUNCIL MEETING

A. Regular Meetings.

The Village Council shall hold regular meetings on the second Thursday of every month and the immediate preceding Tuesday~~every third Thursday~~, commencing at 5:30 P.M.¹ Meetings are to be held in the Council Chambers at Founder's Park. However, the Village Council has complete discretion and flexibility to schedule holiday and seasonal break periods, to hold regular meetings at other dates, times or locations, or to cancel or reschedule any meetings.

Pursuant to Section 5(8)(c) of the Village Charter, a majority of the Council shall constitute a quorum.² In addition, pursuant to Section 5(7)(b)5. of the Village Charter, a Councilmember shall forfeit his or her office upon determination by the Council, acting as a body, at a duly noticed public meeting that he or she is absent from three consecutive regular Council meetings without justifiable reason.

B. Special Meetings.

Special meetings may be held at the call of the Mayor, or in his or her absence, at the call of the Vice-Mayor. Special meetings may also be called upon the request of a majority of the Councilmembers. Unless of an emergency nature, notice of such a meeting shall be provide to the public not less than 72 hours prior to the meeting. The Village Manager, or designee, shall make every effort to poll the members of the Council to determine a convenient time for the special meeting. Notice to the public shall be posted at a public place at Village Hall and, if possible, on the Village's website. Notices

¹ / ~~Pursuant to Resolution 23-08-91, effective October 1, 2023, Council meetings will be held on the second Thursday of every month and the immediate preceding Tuesday.~~

² / For example, when there are five (5) sitting Councilmembers, three (3) Councilmembers would be required to constitute a quorum.

shall state the date and time of the special meeting and the purpose of the meeting. No further business shall be conducted at the special meeting except that stated in the notice. All meetings shall be open to the public except as expressly allowed by state law.

C. Emergency Meetings.

In those instances where there is a Village meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to post the notice within the time frames set forth in the Village Code and/or herein, the Village shall be required to post the notice on the Village's website at the earliest practicable time. In the written notice calling the emergency meeting, the Village Manager shall include a detailed statement explaining the emergency nature of the meeting.

II. PROCEDURAL RULES

Meetings of the Village Council shall be informal and shall be conducted pursuant to the rules and procedures contained herein. Robert's Rules of Order may be consulted to resolve procedural conflicts, if necessary. The Village Attorney shall serve as the Parliamentarian and shall advise and assist the Mayor on matters of parliamentary law.

A. Presiding Officer.

The Mayor shall serve as the presiding officer at all Council meetings. The Vice Mayor shall act as the presiding officer in the absence of the Mayor. In the absence of both the Mayor and Vice Mayor, the remaining Councilmembers shall by majority vote select a presiding officer to carry out the functions of the Mayor and to run the meeting. The Mayor shall decide on all questions of order. The Mayor may request an interpretation of parliamentary procedure from the Village Attorney. The Mayor shall announce agenda items by the agenda item number. No further explanation or comment shall be made at that time. The Village Attorney shall then read the title of the legislation. Thereafter, the Mayor may call upon the Village Manager, or designee, to provide any needed explanation of the item being considered. If appropriate, the item shall then be opened for public comment or hearing, limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. When speaking on a particular agenda item, the speaker shall limit his/her comments to the subject of the agenda item under consideration. All comments or questions by the public shall be directed to the Mayor. The Mayor may limit irrelevant or repetitive comments to ensure the orderly conduct and efficiency of the meeting. Following the close of the

public comment or hearing on the item, the Council shall discuss and consider the agenda item.

B. Decorum at Council Meetings.

The Mayor shall preserve order and decorum at Council meetings. Should a member of the audience become unruly or behave in an inappropriate manner prejudicial to the proper conduct of the meeting, the Mayor shall have the right and the authority to require such person to leave the Council Chambers, accompanied, if determined necessary, by the Sergeant at Arms. A Monroe County Sheriff's Department law enforcement officer assigned to the Village shall serve as the Sergeant-at-Arms and carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at Village Council meetings. The Sergeant-at-Arms has the authority to remove any person or persons that he or she believes necessary for the health and safety of the Village Council and attendees. In addition, in the event the audience or a part of the audience becomes unruly, the Mayor may either recess or adjourn the meeting.

C. Seating Arrangements on the Dais.

The Mayor shall sit in the middle of the dais. The Vice Mayor shall sit to the immediate left of the Mayor. The remainder of the Council shall sit in the two seats to the immediate right of the Mayor and the seat to the immediate left of the Vice Mayor. The Village Manager shall sit three (3) seats to the left of the Mayor, followed by the Village Attorney, Village Planning Director, and Village Clerk.

The order of seating for the Council shall be chosen as follows. Prior to the meeting after the Vice Mayor is selected, the senior most remaining Councilmember shall select the seat to be occupied for that year of his or her choice. The same procedure shall be followed by the second and then third most senior remaining Councilmembers. If there is a tie in terms of seniority, the Councilmember receiving the highest numbers of votes in the most recent general election shall select first. If there remains a tie, then seniority shall be decided by the drawing of lots.

D. Order of Business.

The Order of Business at regular Council meetings shall be as follows:

1. Call to Order/Roll Call
2. Pledge of Allegiance

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9. Consent Agenda
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11. Ordinances—First Reading
12. Public Hearings—Ordinances—Second Reading
13. Motions
14. Adjournment

E. Reading of Minutes.

The minutes of prior Council Meetings shall not be read aloud but the Council shall consider corrections of minutes of the immediate prior meeting(s) upon request by any member of the Village Council. Unless a reading of the minutes is requested by a Councilmember, minutes may be approved by motion as part of the Consent Agenda.

F. Consent Agenda.

There shall be a Consent Agenda during each regular Council meeting. The Consent Agenda shall contain Resolutions, approval of minutes, motions and other pertinent matters which, in the opinion of the Mayor and Staff may be handled and implemented without necessity for discussion. Unless a member of the Council specifically requests that an item be removed from the Consent Agenda for discussion, all items shall be approved and adopted by a single motion and roll call vote.

Before the Council votes on the Consent Agenda, any member of the public may comment on any item listed on the Consent Agenda. Discussion is limited to a total of three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group.

G. Renewal.

Once action is taken on a proposed Ordinance or Resolution, neither the same matter nor its repeal or decision nor a substantially similar matter may be brought before

the Council again during the six (6) month period following said action unless a majority of the Council agree to waive the rule.

H. Time for Reports, Presentations, and Announcements.

Reports, presentations, and announcements will be limited to no more than ten (10) minutes. No Public Comment will be permitted on reports, presentations, and announcements.

I. Rules of Debate.

1. If any member, in speaking or otherwise, transgresses the rules of the Council, the Presiding Officer shall, or any member can, call him to order, in which case the member so called to order shall immediately cease discussion unless permitted by the Presiding Officer to explain; and the Council, if appealed to, shall decide the question without debate. If the decision is in favor of the member so called to order, he or she shall be at liberty to proceed; if otherwise, he or she shall not proceed without leave of the Council to proceed in order.

2. A member about to speak shall respectfully address the Presiding Officer, and shall not commence to speak until recognized by the Presiding Officer. When two (2) or more members request to speak at the same time, the Presiding Officer shall determine which one is recognized.

3. Every member while speaking shall confine himself or herself to the subject under debate, shall conduct themselves in a statesperson like manner, and shall not refer to any other member of the commission except in a respectful manner.

4. Unless a member who has the floor yields for that purpose, no member shall interrupt another while he or she is speaking, except to propound a parliamentary inquiry or make a point of order.

5. The Presiding Officer shall not be deprived of any of the rights and privileges of a Councilmember by reason of acting as the Presiding Officer.

6. A motion to reconsider³ any action taken by the Council may be made only at the meeting such action was taken, and may only be made by a member of the Council who was on the prevailing side of the action sought to be reconsidered. Reconsideration of the action may occur no earlier than the next Council meeting.

7. Councilmembers shall be prohibited from using their cell phones while on the dais during a public meeting.

J. Order of Vote.

Roll call shall be as follows: (1) moving Councilmember; (2) Councilmember who seconded the motion; and (3) alphabetical order amongst the remaining Councilmembers, with the exception that the Mayor is entitled to vote last where he/she is neither the moving Councilmember nor the one who provided the second.

K. Postponing Agenda Items.

Absent emergency, the Mayor shall not bring an item for Council consideration unless it is on the agenda. In the event that pertinent information relating to an agenda item is missing or unaccounted for prior to the meeting, the Council may remove the item from the agenda at the meeting upon a majority vote.

There shall be no "tabling" of items. If a matter is to be postponed, it may be "continued" upon majority vote of the Council.

The Mayor or any Councilmember may request to have any item deferred for one meeting if the Mayor or the Councilmember making the request for deferral will not be physically present at the Council meeting, subject to the approval of the remaining Councilmembers.

L. Remote Attendance.

³ / It bears noting that reconsideration (section II.J.6.) and renewal (section II.H.) are different concepts. Reconsideration occurs when a motion is originally adopted and a Councilmember from the prevailing side wishes to bring it back to potentially reconsider the Council's adoption of the motion. Renewal, on the other hand, is when a motion fails to receive enough votes to be adopted and a Councilmember wishes to bring the same item back as a new motion.

Remote attendance shall be governed in accordance with Resolution No. 21-08-80, as may be amended from time to time.

M. Actions by the Council.

Actions by the Council may occur only by Ordinance, Resolution or Motion. No action may be taken by the Council on an item that has not been placed on the agenda in accordance with these procedures.

III. PUBLIC HEARINGS

A. Generally.

Ordinances for second reading or items requiring a public hearing shall be placed on this portion of the agenda.

Individuals wishing to speak on matters that appear on the agenda as "Public Hearings" will be recognized by the Mayor. Individuals wishing to speak on matters that appear on the agenda as "Public Hearings" shall fill out a speaker's card and shall be recognized by the Mayor when called upon by the Clerk. The public shall be permitted to speak after the Mayor opens an item for Public Hearing. Discussion is limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. After the Public Hearing is closed by the Mayor, only members of the Village Council or Staff shall be permitted to discuss the item.

B. Quasi-Judicial Items.

Florida courts have determined that there are certain types of matters that are to be treated differently than other issues considered by the Village Council. Most decisions of the Council are legislative in nature, which means that the Council is acting as a policy making body. In contrast, in quasi-judicial matters, the Council is applying existing rules and policies to a factual situation and is therefore acting like a judge or a jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. The Village Attorney shall determine which matters are to be treated as quasi-judicial, and such items shall be noted as such on the agenda.

Quasi-judicial items shall be considered in accordance with the Village Code.

Individuals from the public shall be allotted three (3) minutes each (or such amount of time as determined by the presiding officer), to discuss the quasi-judicial item that is being considered. Representative speakers for an association or group shall be allotted five (5) minutes. The Village or the applicant may cross-examine any individual speaking on the item. Individuals wishing to speak on quasi-judicial items shall be collectively sworn in.

C. Waiver of Quasi-Judicial Hearing.

If the applicant or agent of the applicant agrees with the staff's recommendation and wishes to waive his or her right to a quasi-judicial hearing, and if no Councilmember or anyone from the audience wishes to speak for or against the quasi-judicial agenda item, the Council may vote on the item based upon the materials in the agenda back-up, without any discussion or debate on the agenda item.

IV. PUBLIC PARTICIPATION

A. Generally.

Public Participation shall be held in accordance with the agenda. Those wishing to speak on items that are not on the agenda but pertinent to the Village shall sign in on a form provided by the Village Clerk prior to the meeting. Those wishing to speak on a specific agenda item shall sign in on a form provided by the Village Clerk prior to the meeting and indicate which item they wish to speak on and whether they support or oppose the item, or are otherwise neutral. All public comment forms shall be provided to the Clerk prior to the agenda item being called. Once the agenda item is called, anyone who has not turned in a comment card will not be permitted to speak on that item. For those attending via approved remote means (e.g., Zoom, etc.), the attendee's hand must be raised prior to the item being called in order to speak on that item. The Village Clerk will call those persons wishing to speak in the order that they signed in. Public Comment shall be limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. If a participant desires to present materials to the Council during Public Comment, the items shall be given to the Village Clerk before the meeting for distribution, including one full copy for the Village Clerk for the public record.

Each individual is requested to state his or her name and shall state the name of the entity represented (if applicable) and the item on the agenda to be addressed (if applicable). Each person addressing the Council shall approach the lectern and speak in an audible tone of voice for the record. Unless further time is granted by the Presiding Officer, each individual speaker shall speak only one time, per item, for up to three (3) minutes and representative speakers for an association or group shall speak for only one time, per item, for up to five (5) minutes. No person shall be allowed to donate his or her speaking time to another person. All remarks shall be addressed to the Council as a body and not to any member thereof. A person speaking on an item on the agenda shall limit their comments to matters relevant to the item. All people addressing the Council are strongly encouraged to refrain from making political statements and shall not make personal attacks on any Councilmembers or any other individuals or entities. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

After the Public Comment is closed by the Mayor, only members of the Village Council or Staff shall be permitted to discuss the item.

B. Documents.

If an individual wishes to present documents or evidence to the Council, he or she is requested to provide ten copies to the Village Clerk at least two weeks before the Council meeting for inclusion in the Council's agenda back-up. He or she shall not approach the dais to deliver documents directly to the Mayor or Councilmembers nor leave any materials on the dais. Paper copies (no larger than 11 inches x 17 inches) of any boards or charts, shall be provided to the Village Clerk prior to their use at the hearing. PowerPoint/computer presentations must be provided to the Village IT Department and Village Clerk as far in advance as possible. If these items are not provided until the start of the meeting the IT staff managing the broadcast will determine whether they have time to program them into the broadcast.

C. Representative Disclosure.

Any person who addresses the Council on behalf of an individual, corporation or special interest group for compensation must disclose that representation at the beginning of their comments, as described above in Section IV.A.

D. Decorum.

No person shall engage in behavior that disrupts the proceedings of the Council. Council meetings are family-friendly and therefore profane, indecent or obscene language, content or conduct is not permitted. In addition, because the meetings are broadcast and rebroadcast through cable television and on the internet, any language that would not be permitted to be broadcast under FCC guidelines during day-time hours is not permitted during Council meetings. Sufficient warnings of inappropriate conduct may be given by the Presiding Officer at any time and, in the event that any individual shall continue to disrupt the proceeding, the Presiding Officer may then ask that the person be removed. Signs or placards may be brought to a Council meeting, but may not block any other attendee's view of the proceedings or interfere with any video, audio, stenographic or other recordings of the proceedings.

E. Dissemination of Information/Use of Multimedia for Public Comment.

A member of the public may submit multimedia content for use during his/her comments. For cyber security reasons, multimedia must be submitted via email attachment(s) to the Village Clerk's Office at least five (5) working days prior to the meeting. The Village can only accept common file types such as PDF documents, image files, Microsoft PowerPoint Presentations, and video files in MP4 format. No inappropriate content will be approved for display. Speakers with pre-approved content to display will be ordered first during public comment and subject to the allotted time restrictions.

V. ADJOURNMENT

All meetings of the Village Council, whether special or regular, shall be adjourned no later than 10:00 P.M. However, the Village Council may continue the meeting beyond 10:00 P.M. in accordance with the Village Charter and Code. In any event, the motion to continue the meeting must provide for a specific time frame of no more than thirty (30) minutes that the Village Council will honor for purpose of continuing the meeting.

VI. WAIVER OF PROCEDURES

The procedures in Sections I through IV (except section III.B.) shall be automatically waived during a Declared State of Local Emergency, a Declared State of Emergency or other Village emergency situation to the extent necessitated by the emergency.

VII. PREPARATION OF AGENDA ITEMS

A. Placement of Items on Agenda.

The Village Manager, Village staff (through the Manager), Village Attorney or any member of the Council may place items on the agenda. Resolutions, ordinances, motions, reports, and Mayor/Council communications shall be identified on the agenda as to the sponsoring Councilmember or Mayor or as a recommendation from the Village staff. Councilmembers wishing to place an item on the agenda shall submit their request for addition through an email to the Village Clerk. Agenda items must be relevant to Village business, and must be clear as to the intent to the item and the actions required of Village staff. Items that do not have sufficient back up materials and/or which are not clear or require additional information may be withheld from the agenda by the Manager until the appropriate information is received.

B. Agenda Closing Dates.

Except as determined by the Manager on a case-by-case basis, all information relating to items to be placed on the agenda shall be submitted to the Village Clerk by 12:00 noon no less than eight (8) days prior to the scheduled Village Council meeting during which the item will be heard, and not less than three (3) days prior to a Special Meeting. All appropriate background material shall accompany the item in the form of a Council communication/memorandum. The Mayor, as chair of the meeting, Village Manager, Village Clerk, and Village Attorney shall review all agenda items submitted by Councilmembers. Agenda items may be removed from the agenda by the Mayor, Village Manager or Village Clerk if it is determined that any agenda item is not in accordance with these procedures. The Village Attorney may remove any agenda item if it is determined that the item is not legally sufficient.

The Village Clerk will provide each member of the Council a preliminary agenda packet six (6) days prior to the scheduled Village Council meeting. A complete package of all agenda materials, including all back up materials, shall be provided to the Village

Council no later than the Thursday evening prior to the date of the meeting. In the event that pertinent information relating to an agenda item is missing or not included in the agenda package, the Council may remove the items from the agenda at the meeting.

No additional items shall be added to the agenda after the agenda packet has been delivered to the Council unless by unanimous consent or a majority vote of the Village Council upon a determination that the item is necessary.

Requests for additions and/or deletions shall be provided to the Village Manager and Village Clerk no later than 24 hours before the respective meeting. No exceptions will be made to this requirement, unless such addition and/or deletion is of an emergency nature.

Exception for Emergency Meetings. In those instances where there is a Village meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to provide the Council with an agenda packet in accordance with time frames of this section, the Clerk shall provide the agenda packet at the earliest practicable time.

C. Preparation of Legislation.

A member of the Council who would like to request preparation of legislation by the Village Attorney or Staff shall place such requests for consideration under the "Mayor/Council Communications" section of the agenda. The request shall not be acted upon until the request is approved by a motion of the majority of the Council. However, the Mayor or a Councilmember may place any matter on the agenda for Council consideration, provided the item is approved by the Village Attorney as to legal sufficiency and otherwise satisfies applicable procedural requirements. The Village Attorney shall review these items without Village Council approval if, in the Village Attorney's opinion, it can be reviewed in a minimal amount of time. All Ordinances and Resolutions shall indicate the Councilmember or Village Staff member who requested the legislation. All Ordinances and Resolutions shall contain the name of each Councilmember and whether such member voted for, against or failed to vote for the item. All Ordinances and Resolutions, once approved, shall be executed by the Mayor. Unless otherwise required by law, digital signatures may be utilized.

D. Proclamations.

1. Generally.

The Mayor, any Councilmember, and Manager may request that the Mayor issue a proclamation. All requests for proclamations shall be made to the Mayor's office one week in advance, if possible. If the Mayor chooses not to issue a particular proclamation, the requesting Councilmember may bring that proclamation to the Council for consideration. All proclamations shall be issued by the Mayor's office. Every proclamation shall include the name of the Councilmember requesting the proclamation.

2. Request from the Public.

Requests by members of the public for recognition by the Village may be made to the Village Manager or any member of the Village Council.

Requests from the public must include the following information, and all information must be received in writing prior to the agenda publishing deadline for the meeting desired:

- Name of honoree(s) (A maximum of 5 persons for recognition can be accommodated at any one Village Council meeting);
- Description of accomplishment or recognition desired;
- Phone number of contact person and/or honoree;
- Details including dates, history, organizations involved, etc.; and
- Additional information may be required depending on the request.

3. Proclamation Criteria.

Proclamations must fit one of the following criteria:

- Must pertain to an organization existing, or an event occurring, within the Village or benefitting the Village.
- Must pertain to a government or governmental issue or governmental event at the local, state or federal levels.
- Must pertain to an individual who has resided or worked in the Village and/or made lasting contributions to the Village community at large.

E. Sequence of Agenda Items.

At the request of the any Councilmember and upon approval by majority vote, items on the agenda may be moved out of sequence in order to expedite the matters before the Council or for ease of reference and consideration.

Any item may be moved to a time certain upon a motion and majority vote. If an item has been scheduled for a time certain, all business shall stop at the time certain established by the Council and shall not resume until completion of the time certain item(s).

F. Council Work Requests.⁴

All requests for legal information shall be made to the Village Attorney only. When a Councilmember makes a request to the Village Attorney for information that in the opinion of the Village Attorney will involve a substantial or extensive expenditure of time and labor, the Councilmember shall place the item on the agenda under "Mayor/Council Communications." The request shall not be acted upon until the request is approved by a majority vote of the Council.

⁴ / This section does not include public records requests, which should be made directly to the Village Clerk's office.

RESOLUTION 23-08-90

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING PROCEDURES
FOR THE VILLAGE COUNCIL; AND PROVIDING FOR AN
EFFECTIVE DATE.**

WHEREAS, the Village Council has the inherent power to determine procedures for its meetings; and

WHEREAS, the Village Council believes that it is in the best interest and welfare of the residents of the Village to establish such procedures, as well as other procedures governing the Village Council unrelated to its meetings, by Resolution.

**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. Establishment of Procedures. The Village Council hereby approves the Procedures for the Village Council as set forth in Exhibit "A," attached hereto.

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 this Resolution.

Section 4. Effective Date. This resolution shall take effect immediately upon adoption.

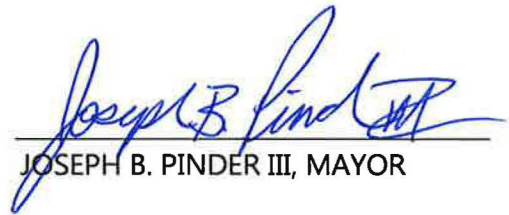
Motion to adopt by Elizabeth Jolin, seconded by Henry Rosenthal.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

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

PASSED AND ADOPTED THIS 17th DAY OF AUGUST, 2023.



JOSEPH B. PINDER III, MAYOR

ATTEST:



STEPHANIE CONDE, DEPUTY CLERK

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



JOHN J. QUICK, VILLAGE ATTORNEY

ISLAMORADA, VILLAGE OF ISLANDS, VILLAGE COUNCIL MEETING PROCEDURES

The Village Council of Islamorada, Village of Islands, Florida, adopts the following procedures pertaining to the conduct of Village Council meetings:

GENERAL COUNCIL PROCEDURES

I. COUNCIL MEETING

A. Regular Meetings.

The Village Council shall hold regular meetings every third Thursday, commencing at 5:30 P.M.¹ Meetings are to be held in the Council Chambers at Founder's Park. However, the Village Council has complete discretion and flexibility to schedule holiday and seasonal break periods, to hold regular meetings at other dates, times or locations, or to cancel or reschedule any meetings.

Pursuant to Section 5(8)(c) of the Village Charter, a majority of the Council shall constitute a quorum.² In addition, pursuant to Section 5(7)(b)5. of the Village Charter, a Councilmember shall forfeit his or her office upon determination by the Council, acting as a body, at a duly noticed public meeting that he or she is absent from three consecutive regular Council meetings without justifiable reason.

B. Special Meetings.

Special meetings may be held at the call of the Mayor, or in his or her absence, at the call of the Vice-Mayor. Special meetings may also be called upon the request of a majority of the Councilmembers. Unless of an emergency nature, notice of such a meeting shall be provide to the public not less than 72 hours prior to the meeting. The Village Manager, or designee, shall make every effort to poll the members of the Council to determine a convenient time for the special meeting. Notice to the public shall be posted at a public place at Village Hall and, if possible, on the Village's website. Notices shall state the date and time of the special meeting and the purpose of the meeting. No

¹ / Pursuant to Resolution 23-08-91, effective October 1, 2023, Council meetings will be held on the second Thursday of every month and the immediate preceding Tuesday.

² / For example, when there are five (5) sitting Councilmembers, three (3) Councilmembers would be required to constitute a quorum.

further business shall be conducted at the special meeting except that stated in the notice. All meetings shall be open to the public except as expressly allowed by state law.

C. Emergency Meetings.

In those instances where there is a Village meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to post the notice within the time frames set forth in the Village Code and/or herein, the Village shall be required to post the notice on the Village's website at the earliest practicable time. In the written notice calling the emergency meeting, the Village Manager shall include a detailed statement explaining the emergency nature of the meeting.

II. PROCEDURAL RULES

Meetings of the Village Council shall be informal and shall be conducted pursuant to the rules and procedures contained herein. Robert's Rules of Order may be consulted to resolve procedural conflicts, if necessary. The Village Attorney shall serve as the Parliamentarian and shall advise and assist the Mayor on matters of parliamentary law.

A. Presiding Officer.

The Mayor shall serve as the presiding officer at all Council meetings. The Vice Mayor shall act as the presiding officer in the absence of the Mayor. In the absence of both the Mayor and Vice Mayor, the remaining Councilmembers shall by majority vote select a presiding officer to carry out the functions of the Mayor and to run the meeting. The Mayor shall decide on all questions of order. The Mayor may request an interpretation of parliamentary procedure from the Village Attorney. The Mayor shall announce agenda items by the agenda item number. No further explanation or comment shall be made at that time. The Village Attorney shall then read the title of the legislation. Thereafter, the Mayor may call upon the Village Manager, or designee, to provide any needed explanation of the item being considered. If appropriate, the item shall then be opened for public comment or hearing, limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. When speaking on a particular agenda item, the speaker shall limit his/her comments to the subject of the agenda item under consideration. All comments or questions by the public shall be directed to the Mayor. The Mayor may limit irrelevant or repetitive comments to ensure the orderly conduct and efficiency of the meeting. Following the close of the

public comment or hearing on the item, the Council shall discuss and consider the agenda item.

B. Decorum at Council Meetings.

The Mayor shall preserve order and decorum at Council meetings. Should a member of the audience become unruly or behave in an inappropriate manner prejudicial to the proper conduct of the meeting, the Mayor shall have the right and the authority to require such person to leave the Council Chambers, accompanied, if determined necessary, by the Sergeant at Arms. A Monroe County Sheriff's Department law enforcement officer assigned to the Village shall serve as the Sergeant-at-Arms and carry out all orders and instructions given by the Mayor for the purpose of maintaining order and decorum at Village Council meetings. The Sergeant-at-Arms has the authority to remove any person or persons that he or she believes necessary for the health and safety of the Village Council and attendees. In addition, in the event the audience or a part of the audience becomes unruly, the Mayor may either recess or adjourn the meeting.

C. Seating Arrangements on the Dais.

The Mayor shall sit in the middle of the dais. The Vice Mayor shall sit to the immediate left of the Mayor. The remainder of the Council shall sit in the two seats to the immediate right of the Mayor and the seat to the immediate left of the Vice Mayor. The Village Manager shall sit three (3) seats to the left of the Mayor, followed by the Village Attorney, Village Planning Director, and Village Clerk.

The order of seating for the Council shall be chosen as follows. Prior to the meeting after the Vice Mayor is selected, the senior most remaining Councilmember shall select the seat to be occupied for that year of his or her choice. The same procedure shall be followed by the second and then third most senior remaining Councilmembers. If there is a tie in terms of seniority, the Councilmember receiving the highest numbers of votes in the most recent general election shall select first. If there remains a tie, then seniority shall be decided by the drawing of lots.

D. Order of Business.

The Order of Business at regular Council meetings shall be as follows:

1. Call to Order/Roll Call
2. Pledge of Allegiance

3. Agenda: Requests for Deletion/Addition
4. Reports, Presentations, and Announcements
5. Public Comment
6. Citizens' Advisory Committee Reports
7. Mayor/Council Communications
8. Village Attorney/Village Manager Communications
9. Consent Agenda
10. Resolutions
11. Ordinances—First Reading
12. Public Hearings—Ordinances—Second Reading
13. Motions
14. Adjournment

E. Reading of Minutes.

The minutes of prior Council Meetings shall not be read aloud but the Council shall consider corrections of minutes of the immediate prior meeting(s) upon request by any member of the Village Council. Unless a reading of the minutes is requested by a Councilmember, minutes may be approved by motion as part of the Consent Agenda.

F. Consent Agenda.

There shall be a Consent Agenda during each regular Council meeting. The Consent Agenda shall contain Resolutions, approval of minutes, motions and other pertinent matters which, in the opinion of the Mayor and Staff may be handled and implemented without necessity for discussion. Unless a member of the Council specifically requests that an item be removed from the Consent Agenda for discussion, all items shall be approved and adopted by a single motion and roll call vote.

Before the Council votes on the Consent Agenda, any member of the public may comment on any item listed on the Consent Agenda. Discussion is limited to a total of three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group.

G. Renewal.

Once action is taken on a proposed Ordinance or Resolution, neither the same matter nor its repeal or decision nor a substantially similar matter may be brought before

the Council again during the six (6) month period following said action unless a majority of the Council agree to waive the rule.

H. Time for Reports, Presentations, and Announcements.

Reports, presentations, and announcements will be limited to no more than ten (10) minutes. No Public Comment will be permitted on reports, presentations, and announcements.

I. Rules of Debate.

1. If any member, in speaking or otherwise, transgresses the rules of the Council, the Presiding Officer shall, or any member can, call him to order, in which case the member so called to order shall immediately cease discussion unless permitted by the Presiding Officer to explain; and the Council, if appealed to, shall decide the question without debate. If the decision is in favor of the member so called to order, he or she shall be at liberty to proceed; if otherwise, he or she shall not proceed without leave of the Council to proceed in order.

2. A member about to speak shall respectfully address the Presiding Officer, and shall not commence to speak until recognized by the Presiding Officer. When two (2) or more members request to speak at the same time, the Presiding Officer shall determine which one is recognized.

3. Every member while speaking shall confine himself or herself to the subject under debate, shall conduct themselves in a statesperson like manner, and shall not refer to any other member of the commission except in a respectful manner.

4. Unless a member who has the floor yields for that purpose, no member shall interrupt another while he or she is speaking, except to propound a parliamentary inquiry or make a point of order.

5. The Presiding Officer shall not be deprived of any of the rights and privileges of a Councilmember by reason of acting as the Presiding Officer.

6. A motion to reconsider³ any action taken by the Council may be made only at the meeting such action was taken, and may only be made by a member of the Council who was on the prevailing side of the action sought to be reconsidered. Reconsideration of the action may occur no earlier than the next Council meeting.

J. Order of Vote.

Roll call shall be as follows: (1) moving Councilmember; (2) Councilmember who seconded the motion; and (3) alphabetical order amongst the remaining Councilmembers, with the exception that the Mayor is entitled to vote last where he/she is neither the moving Councilmember nor the one who provided the second.

K. Postponing Agenda Items.

Absent emergency, the Mayor shall not bring an item for Council consideration unless it is on the agenda. In the event that pertinent information relating to an agenda item is missing or unaccounted for prior to the meeting, the Council may remove the item from the agenda at the meeting upon a majority vote.

There shall be no "tabling" of items. If a matter is to be postponed, it may be "continued" upon majority vote of the Council.

The Mayor or any Councilmember may request to have any item deferred for one meeting if the Mayor or the Councilmember making the request for deferral will not be physically present at the Council meeting, subject to the approval of the remaining Councilmembers.

L. Remote Attendance.

Remote attendance shall be governed in accordance with Resolution No. 21-08-80, as may be amended from time to time.

³ / It bears noting that reconsideration (section II.J.6.) and renewal (section II.H.) are different concepts. Reconsideration occurs when a motion is originally adopted and a Councilmember from the prevailing side wishes to bring it back to potentially reconsider the Council's adoption of the motion. Renewal, on the other hand, is when a motion fails to receive enough votes to be adopted and a Councilmember wishes to bring the same item back as a new motion.

M. Actions by the Council.

Actions by the Council may occur only by Ordinance, Resolution or Motion. No action may be taken by the Council on an item that has not been placed on the agenda in accordance with these procedures.

III. PUBLIC HEARINGS

A. Generally.

Ordinances for second reading or items requiring a public hearing shall be placed on this portion of the agenda.

Individuals wishing to speak on matters that appear on the agenda as "Public Hearings" will be recognized by the Mayor. Individuals wishing to speak on matters that appear on the agenda as "Public Hearings" shall fill out a speaker's card and shall be recognized by the Mayor when called upon by the Clerk. The public shall be permitted to speak after the Mayor opens an item for Public Hearing. Discussion is limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. After the Public Hearing is closed by the Mayor, only members of the Village Council or Staff shall be permitted to discuss the item.

B. Quasi-Judicial Items.

Florida courts have determined that there are certain types of matters that are to be treated differently than other issues considered by the Village Council. Most decisions of the Council are legislative in nature, which means that the Council is acting as a policy making body. In contrast, in quasi-judicial matters, the Council is applying existing rules and policies to a factual situation and is therefore acting like a judge or a jury in a courtroom. In such cases, the courts have decided that due process and fundamental fairness requires that more formal procedures be followed. The Village Attorney shall determine which matters are to be treated as quasi-judicial, and such items shall be noted as such on the agenda.

Quasi-judicial items shall be considered in accordance with the Village Code.

Individuals from the public shall be allotted three (3) minutes each (or such amount of time as determined by the presiding officer), to discuss the quasi-judicial item that is being considered. Representative speakers for an association or group shall be allotted

five (5) minutes. The Village or the applicant may cross-examine any individual speaking on the item. Individuals wishing to speak on quasi-judicial items shall be collectively sworn in.

C. Waiver of Quasi-Judicial Hearing.

If the applicant or agent of the applicant agrees with the staff's recommendation and wishes to waive his or her right to a quasi-judicial hearing, and if no Councilmember or anyone from the audience wishes to speak for or against the quasi-judicial agenda item, the Council may vote on the item based upon the materials in the agenda back-up, without any discussion or debate on the agenda item.

IV. PUBLIC PARTICIPATION

A. Generally.

Public Participation shall be held in accordance with the agenda. Those wishing to speak on items that are not on the agenda but pertinent to the Village shall sign in on a form provided by the Village Clerk prior to the meeting. Those wishing to speak on a specific agenda item shall sign in on a form provided by the Village Clerk prior to the meeting and indicate which item they wish to speak on and whether they support or oppose the item, or are otherwise neutral. All public comment forms shall be provided to the Clerk prior to the agenda item being called. Once the agenda item is called, anyone who has not turned in a comment card will not be permitted to speak on that item. For those attending via approved remote means (e.g., Zoom, etc.), the attendee's hand must be raised prior to the item being called in order to speak on that item. The Village Clerk will call those persons wishing to speak in the order that they signed in. Public Comment shall be limited to three (3) minutes per individual speaker, and five (5) minutes for a representative speaker for an association or group. If a participant desires to present materials to the Council during Public Comment, the items shall be given to the Village Clerk before the meeting for distribution, including one full copy for the Village Clerk for the public record.

Each individual is requested to state his or her name and shall state the name of the entity represented (if applicable) and the item on the agenda to be addressed (if applicable). Each person addressing the Council shall approach the lectern and speak in an audible tone of voice for the record. Unless further time is granted by the Presiding Officer, each individual speaker shall speak only one time, per item, for up to three (3)

minutes and representative speakers for an association or group shall speak for only one time, per item, for up to five (5) minutes. No person shall be allowed to donate his or her speaking time to another person. All remarks shall be addressed to the Council as a body and not to any member thereof. A person speaking on an item on the agenda shall limit their comments to matters relevant to the item. All people addressing the Council are strongly encouraged to refrain from making political statements and shall not make personal attacks on any Councilmembers or any other individuals or entities. No person, other than the Council and the person having the floor, shall be permitted to enter into any discussion, either directly or through a member of the Council, without the permission of the Presiding Officer. No question shall be asked of a Councilmember except through the Presiding Officer.

After the Public Comment is closed by the Mayor, only members of the Village Council or Staff shall be permitted to discuss the item.

B. Documents.

If an individual wishes to present documents or evidence to the Council, he or she is requested to provide ten copies to the Village Clerk at least two weeks before the Council meeting for inclusion in the Council's agenda back-up. He or she shall not approach the dais to deliver documents directly to the Mayor or Councilmembers nor leave any materials on the dais. Paper copies (no larger than 11 inches x 17 inches) of any boards or charts, shall be provided to the Village Clerk prior to their use at the hearing. PowerPoint/computer presentations must be provided to the Village IT Department and Village Clerk as far in advance as possible. If these items are not provided until the start of the meeting the IT staff managing the broadcast will determine whether they have time to program them into the broadcast.

C. Representative Disclosure.

Any person who addresses the Council on behalf of an individual, corporation or special interest group for compensation must disclose that representation at the beginning of their comments, as described above in Section IV.A.

D. Decorum.

No person shall engage in behavior that disrupts the proceedings of the Council. Council meetings are family-friendly and therefore profane, indecent or obscene

language, content or conduct is not permitted. In addition, because the meetings are broadcast and rebroadcast through cable television and on the internet, any language that would not be permitted to be broadcast under FCC guidelines during day-time hours is not permitted during Council meetings. Sufficient warnings of inappropriate conduct may be given by the Presiding Officer at any time and, in the event that any individual shall continue to disrupt the proceeding, the Presiding Officer may then ask that the person be removed. Signs or placards may be brought to a Council meeting, but may not block any other attendee's view of the proceedings or interfere with any video, audio, stenographic or other recordings of the proceedings.

E. Dissemination of Information/Use of Multimedia for Public Comment.

A member of the public may submit multimedia content for use during his/her comments. For cyber security reasons, multimedia must be submitted via email attachment(s) to the Village Clerk's Office at least five (5) working days prior to the meeting. The Village can only accept common file types such as PDF documents, image files, Microsoft PowerPoint Presentations, and video files in MP4 format. No inappropriate content will be approved for display. Speakers with pre-approved content to display will be ordered first during public comment and subject to the allotted time restrictions.

V. ADJOURNMENT

All meetings of the Village Council, whether special or regular, shall be adjourned no later than 10:00 P.M. However, the Village Council may continue the meeting beyond 10:00 P.M. in accordance with the Village Charter and Code. In any event, the motion to continue the meeting must provide for a specific time frame of no more than thirty (30) minutes that the Village Council will honor for purpose of continuing the meeting.

VI. WAIVER OF PROCEDURES

The procedures in Sections I through IV (except section III.B.) shall be automatically waived during a Declared State of Local Emergency, a Declared State of Emergency or other Village emergency situation to the extent necessitated by the emergency.

VII. PREPARATION OF AGENDA ITEMS**A. Placement of Items on Agenda.**

The Village Manager, Village staff (through the Manager), Village Attorney or any member of the Council may place items on the agenda. Resolutions, ordinances, motions, reports, and Mayor/Council communications shall be identified on the agenda as to the sponsoring Councilmember or Mayor or as a recommendation from the Village staff. Councilmembers wishing to place an item on the agenda shall submit their request for addition through an email to the Village Clerk. Agenda items must be relevant to Village business, and must be clear as to the intent to the item and the actions required of Village staff. Items that do not have sufficient back up materials and/or which are not clear or require additional information may be withheld from the agenda by the Manager until the appropriate information is received.

B. Agenda Closing Dates.

Except as determined by the Manager on a case-by-case basis, all information relating to items to be placed on the agenda shall be submitted to the Village Clerk by 12:00 noon no less than eight (8) days prior to the scheduled Village Council meeting during which the item will be heard, and not less than three (3) days prior to a Special Meeting. All appropriate background material shall accompany the item in the form of a Council communication/memorandum. The Mayor, as chair of the meeting, Village Manager, Village Clerk, and Village Attorney shall review all agenda items submitted by Councilmembers. Agenda items may be removed from the agenda by the Mayor, Village Manager or Village Clerk if it is determined that any agenda item is not in accordance with these procedures. The Village Attorney may remove any agenda item if it is determined that the item is not legally sufficient.

The Village Clerk will provide each member of the Council a preliminary agenda packet six (6) days prior to the scheduled Village Council meeting. A complete package of all agenda materials, including all back up materials, shall be provided to the Village Council no later than the Thursday evening prior to the date of the meeting. In the event that pertinent information relating to an agenda item is missing or not included in the agenda package, the Council may remove the items from the agenda at the meeting.

No additional items shall be added to the agenda after the agenda packet has been delivered to the Council unless by unanimous consent or a majority vote of the Village Council upon a determination that the item is necessary.

Requests for additions and/or deletions shall be provided to the Village Manager and Village Clerk no later than 24 hours before the respective meeting. No exceptions will be made to this requirement, unless such addition and/or deletion is of an emergency nature.

Exception for Emergency Meetings. In those instances where there is a Village meeting subject to Section 286.011, Florida Statutes, scheduled due to an emergency, and it is not possible to provide the Council with an agenda packet in accordance with time frames of this section, the Clerk shall provide the agenda packet at the earliest practicable time.

C. Preparation of Legislation.

A member of the Council who would like to request preparation of legislation by the Village Attorney or Staff shall place such requests for consideration under the "Mayor/Council Communications" section of the agenda. The request shall not be acted upon until the request is approved by a motion of the majority of the Council. However, the Mayor or a Councilmember may place any matter on the agenda for Council consideration, provided the item is approved by the Village Attorney as to legal sufficiency and otherwise satisfies applicable procedural requirements. The Village Attorney shall review these items without Village Council approval if, in the Village Attorney's opinion, it can be reviewed in a minimal amount of time. All Ordinances and Resolutions shall indicate the Councilmember or Village Staff member who requested the legislation. All Ordinances and Resolutions shall contain the name of each Councilmember and whether such member voted for, against or failed to vote for the item. All Ordinances and Resolutions, once approved, shall be executed by the Mayor. Unless otherwise required by law, digital signatures may be utilized.

D. Proclamations.

1. Generally.

The Mayor, any Councilmember, and Manager may request that the Mayor issue a proclamation. All requests for proclamations shall be made to the Mayor's office one week in advance, if possible. If the Mayor chooses not to issue a particular proclamation, the requesting Councilmember may bring that proclamation to the Council for consideration. All proclamations shall be issued by the Mayor's office. Every proclamation shall include the name of the Councilmember requesting the proclamation.

2. Request from the Public.

Requests by members of the public for recognition by the Village may be made to the Village Manager or any member of the Village Council.

Requests from the public must include the following information, and all information must be received in writing prior to the agenda publishing deadline for the meeting desired:

- Name of honoree(s) (A maximum of 5 persons for recognition can be accommodated at any one Village Council meeting);
- Description of accomplishment or recognition desired;
- Phone number of contact person and/or honoree;
- Details including dates, history, organizations involved, etc.; and
- Additional information may be required depending on the request.

3. Proclamation Criteria.

Proclamations must fit one of the following criteria:

- Must pertain to an organization existing, or an event occurring, within the Village or benefitting the Village.
- Must pertain to a government or governmental issue or governmental event at the local, state or federal levels.
- Must pertain to an individual who has resided or worked in the Village and/or made lasting contributions to the Village community at large.

E. Sequence of Agenda Items.

At the request of the any Councilmember and upon approval by majority vote, items on the agenda may be moved out of sequence in order to expedite the matters before the Council or for ease of reference and consideration.

Any item may be moved to a time certain upon a motion and majority vote. If an item has been scheduled for a time certain, all business shall stop at the time certain established by the Council and shall not resume until completion of the time certain item(s).

F. Council Work Requests.⁴

All requests for legal information shall be made to the Village Attorney only. When a Councilmember makes a request to the Village Attorney for information that in the opinion of the Village Attorney will involve a substantial or extensive expenditure of time and labor, the Councilmember shall place the item on the agenda under "Mayor/Council Communications." The request shall not be acted upon until the request is approved by a majority vote of the Council.

⁴ / This section does not include public records requests, which should be made directly to the Village Clerk's office.

RESOLUTION _____

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, UPDATING PROCEDURES FOR
THE VILLAGE COUNCIL; AND PROVIDING FOR AN EFFECTIVE
DATE.**

WHEREAS, the Village Council has the inherent power to determine procedures for its meetings; and

WHEREAS, on August 17, 2023, the Village Council passed Resolution 23-08-90 which established procedures for its meetings; and

WHEREAS, the Village Council believes that it is in the best interest and welfare of the residents of the Village to update those procedures, as well as other procedures governing the Village Council unrelated to its meetings, by Resolution.

**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. **Establishment of Procedures.** The Village Council hereby approves the Procedures for the Village Council as set forth in Exhibit "A," attached hereto.

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 this Resolution.

Section 4. **Effective Date.** This resolution shall take effect immediately upon adoption.

PASSED AND ADOPTED this _____ day of _____, 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 _____

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



Council Communication

To: Mayor and Village Council
From: Maria Bassett, Finance Director
Date: October 10, 2023
SUBJECT: **Resolution Approving Final Payment to Dockmasters Marine Construction, Inc.- TAB 7**

Background:

At its meeting on March 2, 2023, the Village Council adopted Resolution No. 23-03-24 approving the final rankings and recommendations of the RFP 23-02 Evaluation Committee for selection of a contractor for the Marina Decking Replacement Project. The Resolution authorized the Village Manager and Village Attorney to negotiate and entered into an agreement with the approved contractor, Dockmasters Marine Construction, Inc. ("Dockmasters"), for completion of the project for a cost not-to-exceed \$699,973.00.

At its meeting on July 27, 2023, the Village Council adopted Resolution No. 23-07-73 thereby approving a First Amendment to the Agreement with Dockmasters. The First Amendment was to approve Change Order #1 to the project for additional work and materials needed on the bulkhead dock (Dock #1) related to additional stringers and cleats in the amount of \$7,990.00.

Analysis:

The decking replacement project was completed and passed final inspection on September 27, 2023. While working on Docks #2 and #3, the contractor incurred additional costs that could not be previously identified related to the cleats and failure of existing hardware in the amount of \$31,730.00 bringing the total project cost to \$739,693.00. At the beginning of the project, the Village anticipated that the need for additional stringers and other hardware and materials might be identified as the project progressed, and this possibility was communicated to the Village Council at the contract award. The revised cost remains well under the second-ranked proposal received in response to RFP 23-02.

The attached Resolution would approve a final payment to Dockmasters Marine Construction, Inc. for Change Order No. 2 in the amount of \$31,730.00.

Budget Impact:

The additional costs would be accrued back to FY 2022-2023. The adopted FY 2022-2023 Marina Enterprise Fund budget includes \$1,000,000.00 for the Marina Decking Replacement Project. The funding source is Marina Operating Revenues. As of September 30, 2022, the Marina Enterprise Fund has approximately \$1.5 million in cash reserves.

Staff Impact:

There is no impact on staffing levels as a result of final payment approval.

Recommendation:

It is recommended that the Village Council adopt the proposed resolution thereby approving the final payment in the amount of \$31,730.00 to Dockmasters.

- Attachments:**
1. 1_Reso_Dockmasters_Final Pmt_101023 RVCM
 2. 2_Ex A_Dockmasters Final Invoice

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A FINAL PAYMENT (CHANGE ORDER #2) TO DOCKMASTERS MARINE CONSTRUCTION, INC., FOR THE MARINA DECKING REPLACEMENT PROJECT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, on January 4, 2023, Islamorada, Village of Islands (the "Village"), published a Request for Proposals for a Construction Contractor for Marina Decking Replacement ("RFP 23-02"); and

WHEREAS, on March 2, 2023, the Village Council of Islamorada, Village of Islands (the "Village Council") adopted Resolution No. 23-03-24, thereby approving the final rankings and recommendations of the RFP 23-02 Selection Committee whereby Dockmasters Marine Construction, Inc. ("Dockmasters") was selected to provide professional contractor services to the Village; and

WHEREAS, the Village subsequently entered into an Agreement (the "Agreement") with Dockmasters for professional contractor services effective March 27, 2023, until project completion; and

WHEREAS, on July 27, 2023, the Village Council adopted Resolution No. 23-07-73 approving Change Order #1 via a First Amendment to the Agreement in the amount of \$7,990.00; and

WHEREAS, Dockmasters completed the project and passed final inspection on September 27, 2023, and has provided a final invoice for Change Order #2 to cover additional work and materials to finish the project in the amount of \$31,730.00; and

WHEREAS, the Village Council finds that approval of a final payment to Dockmasters for Change Order #2 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 Final Payment.** The Village Council hereby approves a Change Order #2 and a final payment to Dockmasters in the amount of \$31,730.00, a copy of the invoice is attached as Exhibit "A,".

Section 3. **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 remit the final payment to Dockmasters for Change Order #2 in the amount of \$31,730.00.

Section 4. **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 _____

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

Invoice

DOCKMASTERS MARINE CONSTRUCTION INC.

86560 OVERSEAS HIGHWAY
ISLAMORADA FL.
33036
305-853-2662
CELL. 306-923-6338

Date: 09/12/2023
Invoice No.: 10043-1
Due Date: 10/12/2023

Bill To:

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

Qty	Item	Description	Unit Price	Total
1	ORIGINAL	AS PER RFQ: DEMOLITION AND DISPOSAL OF EXISTING DECKING AND HARDWARE, INSTALLATION OF NEW MARINE GRADE PRESSURE TREATED STRINGERS APPROX. 4600', INSTALLATION OF NEW COMPOSITE DECKING APPROX. 15,300 SQFT AND EXISTING STAINLESS HARDWARE, STRINGER SEALER, REMOVE AND REPLACEMENT OF PEDESTALS WATER AND ELECTRIC AS NECESSARY, REMOVAL AND REINSTALLATION OF CLEATS AND ACCESSORIES.	\$ 699,973.00	\$ 699,973.00
1	C/O #1	DOCK #1 BULKHEAD: REPLACEMENT OF HARDWARE RELATED TO THE CLEATS. EXISTING HAD TO BE CUT OFF (16 DOCKS). DOCK #2 - ADDING STRINGERS, DECK SCREWS, LABOR ON ENTRANCE APPROX. 30'	\$ 7,990.00	\$ 7,990.00
1	C/O #2	DOCK #2 AND# # REPLACEMENT OF HARDWARE RELATED TO CLEATS. EXISTING HAD TO BE CUT OFF, OR FAILURES IN EXISTING HARDWARE, CUTTING OF THE TOPS CONCRETE PILINGS FOR INSTALLATION OF NEW DECKING.	\$ 31,730.00	\$ 31,730.00

Total \$739,693.00

Paid \$707,963.00

Balance Due \$ 31,730.00

Please contact us for more information about payment options.

Thank you for your business.



Council Communication

To: Mayor and Village Council
From: A.J. Engelmeyer, Public Works Director
Date: October 10, 2023
SUBJECT: **Resolution Approving Work Authorization No. 1 between Page Excavating, Inc., and the Village for FY 2023-2024 Services - TAB 8**

Background:

Following a bid process in 2023 to establish a library of contractors to support the Wastewater Department, the Village entered into a Continuing Services Agreement (“CSA”) with Page Excavating, Inc. (“Page”) effective September 19, 2023 (Attachment “B”).

Analysis:

The attached Resolution (Attachment “A”) provides approval for Work Authorization No. 1 to authorize Page’s services for FY 2023-2024.

Budget Impact:

The proposed cost of Work Authorization No. 1 with Page is for a not-to-exceed fee of \$350,000.00. The purchases / payments would be recorded primarily in the Wastewater Enterprise Fund’s Capital Outlay – Infrastructure account with Repair and Maintenance costs being recorded in the Repair and Maintenance account. The FY 2023-2024 Wastewater Enterprise Fund budget includes \$350,000.00 for infrastructure capital projects and \$510,000.00 for repair and maintenance costs.

At the end of the year, infrastructure capital project expenses would be capitalized as assets of the Village-wide wastewater collection and transmission system. Budget amendments will be presented to the Village Council at fiscal year-end, as appropriate.

Wastewater rates would be the funding source for Page’s services pending identification of eligible invoices to submit to the U. S. Army Corps of Engineers’ (“USACE”) Florida Keys Water Quality Improvement Program (“FKWQIP”) grant for reimbursement funding at 65%. Congress has allocated \$2 million to the Village for FY 2023-2024 for reimbursement of invoices meeting the scope of the FKWQIP grant agreement. In order to receive the full \$2 million in grant funds, the Village must identify \$3,300,000.00 in invoices for eligible water quality projects by September 15, 2024.

Village staff continues to work with the USACE to seek approval for an amendment to the FKWQIP grant agreement that would expand the eligible projects to include canal restoration and stormwater. Currently, however, only wastewater projects meeting the current scope of the grant agreement are eligible for reimbursement.

Staff Impact:

Village Wastewater staff will oversee the completion of the work and request services as needed.

Recommendation:

It is recommended that the Village Council adopt the Resolution at Attachment "A", thereby approving Work Authorization No. 1 Between Page and the Village for wastewater support services in FY 2023-2024.

Attachments:

1. 2_Reso_Page_WA 1 FY 23-24 Svcs_101023 RVCM
2. 3_Ex A to the Reso_ WA 1_Page_101023 RVCM

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING WORK AUTHORIZATION NO. 1 BETWEEN PAGE EXCAVATING, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE WASTEWATER SUPPORT SERVICES AS NEEDED; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF WORK AUTHORIZATION NO. 1; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE WORK AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Pursuant to Section 287.057, Florida Statutes, the Village requested proposals from qualified firms pursuant to a Request for Quotations for Professional Contractor Services for Wastewater Systems ("RFQ 23-10"); and

WHEREAS, the Village entered into a Continuing Services Agreement (the "CSA") with Page Excavating Inc. ("Page") for Wastewater System Services effective September 19, 2023, for a five (5) year period with the option to renew for five (5) additional one (1) year periods on the same terms; and

WHEREAS, Page has been utilized to complete various repairs and replacements on a project-by-project basis through annual Work Authorizations under a previous Continuing Services Agreement effective May 24, 2018; and

WHEREAS, the Village and Page desire to enter into Work Authorization No. 1 under the CSA, attached hereto as Exhibit "A", to provide labor and materials to provide wastewater support services in FY 2023-2024 as needed; and

WHEREAS, the Village Council finds that approval of the Work Authorization No. 1 under the CSA with Page 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. 1 between Page and the Village for provision of services under the CSA.

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. 1 under the CSA.

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. 1.

Section 5. Execution of Work Authorization. The Village Manager is authorized to execute Work Authorization No. 1 on behalf of the Village, to execute any required agreements and/or documents to implement the terms and conditions of Work Authorization No. 1 and to execute any extensions and/or amendments to Work Authorization No. 1, subject to the approval as to form and legality by the Village Attorney.

PROJECT AGREEMENT

Between

ISLAMORADA, VILLAGE OF ISLANDS

And

PAGE EXCAVATING, INC.

For

Work Authorization No. 1

Wastewater Support Services

This Project Agreement between ISLAMORADA, VILLAGE OF ISLANDS (hereinafter referred to as "VILLAGE") and PAGE EXCAVATING, INC. (hereinafter referred to as "CONSULTANT"), hereby 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 Wastewater Support Services, including poly check valve replacement services, concrete repair work, new vacuum pit and lateral connection installations, and other services to the VILLAGE for the Project as described in the Scope of Services listed in Exhibit "A" attached to the Continuing Services Agreement effective September 19, 2023 (the "CSA").

1.2 The "Scope of Services" and tasks to be provided by the CONSULTANT for this Project are those services and tasks as listed in Exhibit "A" attached to the CSA.

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 CSA, prior to any deviation from the terms of this Project Agreement, including the initiation of any extra work.

SECTION 2. DELIVERABLES

2.1 As part of the Scope of Services and Project Schedule, the CONSULTANT shall provide to the VILLAGE the Deliverables as discussed in the CSA.

2.2 Unless otherwise stated, the CONSULTANT will provide draft and site plans, and other materials prepared for the PROJECT in both paper and electronic formats as appropriate, excluding material that is available only as photocopy to the VILLAGE. The VILLAGE shall be provided copies of all correspondence from CONSULTANT to any public or private entity or individual and all correspondence received by the CONSULTANT for the PROJECT.

SECTION 3. TERM/TIME OF PERFORMANCE/DAMAGES

3.1 Term. This Project Agreement shall commence retroactive to October 1, 2023, and shall continue in full force and effect through, September 30, 2024 unless otherwise terminated pursuant to Section 6 or other applicable provisions of this Project Agreement. The Village Manager may extend the term of this Project Agreement through written notification to the CONSULTANT. Such extension shall not exceed (30) days. No further extensions of this Project Agreement shall be effective unless authorized by the Village Council.

SECTION 4. AMOUNT, BASIS AND METHOD OF COMPENSATION

4.1 Lump Sum Compensation. VILLAGE agrees to pay CONSULTANT an amount not to exceed **Three Hundred Fifty Thousand and no/100 Dollars (\$350,000.00)** as compensation for providing wastewater support services, including installing the poly check valves in the low pressure force main, concrete repair work around vacuum pit lids, new vacuum pit and lateral connection installations, and other services listed on Exhibit "1," attached hereto and made a part hereof. It is understood that the method of compensation is that of lump sum which means that CONSULTANT shall perform all services set forth for total compensation in the amount stated above. Said lump sum includes but is not limited to, compensation for all fees, expenses, and out-of-pocket costs of the CONSULTANT.

4.2 Reimbursables. It is acknowledged and agreed to by CONSULTANT that the lump sum amount set forth in Section 4.1 includes Direct Expenses and describes the maximum extent of VILLAGE'S obligation to reimburse CONSULTANT for direct, non-salary expenses, but does not constitute a limitation, of any sort, upon CONSULTANT'S obligation to incur such expenses in the performance of services hereunder.

SECTION 5. BILLING AND PAYMENTS TO THE CONSULTANT

5.1 Invoices.

5.1.1 Lump Sum Compensation. CONSULTANT shall submit invoices which are identified by the specific project number on a monthly basis and in a timely manner. These invoices shall identify the location and nature of the work performed.

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 Manager 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 a written response and any additional information requested by the VILLAGE 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, at its sole discretion, may pay to the CONSULTANT the undisputed portion of the invoice.

5.3 Suspension of Payment. In the event that the VILLAGE becomes credibly informed that any representations of the CONSULTANT, provided in an invoice pursuant to Subparagraph 5.1, 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, the VILLAGE may withhold payment of sums then or in the future otherwise due to the CONSULTANT until the inaccuracy, or other breach of this Project Agreement, and the cause thereof, is corrected to the VILLAGE'S reasonable satisfaction.

5.4 Retainage. The VILLAGE reserves the right to withhold retainage in the amount of ten percent (10%) of any payment due to the CONSULTANT until the project is completed, as applicable. Said retainage may be withheld at the sole discretion of the VILLAGE and as security for the successful and timely completion of the CONSULTANT'S duties and responsibilities under this Project Agreement.

5.5 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 Subconsultants, incurred in connection with the Project, shall be paid in full. The CONSULTANT shall deliver to the VILLAGE all documents and computer files requested by the VILLAGE evidencing payment to any and all subcontractors, and all final specifications, plans or other documents as dictated in the Scope of Services and Deliverables. Acceptance of final payment shall constitute a waiver of 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 three (3) calendar days written notice to the other for breach of any material term or condition of this Project Agreement. 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 and the provisions of Section 6.2 shall apply.

6.2 For Convenience. This Project Agreement may be terminated by the VILLAGE for convenience upon five (5) calendar days written notice to the CONSULTANT. In the event of such a 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 reimbursable expenses incurred prior to the date of termination. In such event, the

CONSULTANT shall promptly submit to the VILLAGE its invoice for final payment and reimbursement which invoice shall comply with the provisions of Paragraph 5.1. hereof. Under no circumstances shall the VILLAGE make payment to the CONSULTANT for services which have not been performed.

6.3 Assignment Upon Termination. Upon termination of this Project Agreement, the work product of the CONSULTANT 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, all work product in its possession, including but not limited to, designs, specifications, drawings, studies, reports and all other documents and digital data in the possession of the CONSULTANT pertaining to this Project Agreement. Upon the VILLAGE'S request, the CONSULTANT shall additionally 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 five (5) 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 herein, through no fault of the CONSULTANT, the VILLAGE shall pay the CONSULTANT as full compensation for such suspension the CONSULTANT'S reasonable costs, actually incurred and paid, of demobilization and remobilization.

SECTION 7. PERSONNEL ASSIGNED TO PROJECT

7.1 The CONSULTANT shall assign only qualified personnel to perform any services concerning this Project. At the time of execution of this Project Agreement, the parties anticipate that the following named individuals will perform those supervisory or primary functions indicated:

<u>NAME</u>	<u>FUNCTION</u>
Mark Page	Owner

So long as the individuals named above remain actively employed or retained by the CONSULTANT, they shall perform the functions indicated next to their names. Furthermore, the VILLAGE reserves the right to reject any proposed substitution for any of the above-named individuals, and the VILLAGE shall have the further right to require that any individual assigned to the Project by the CONSULTANT be removed from the Project and reassigned for good cause.

SECTION 8. INCORPORATION OF CONTINUING SERVICES AGREEMENT

All terms and conditions of the "Continuing Service Agreement" between the VILLAGE and CONSULTANT, dated September 19, 2023, shall remain in full force and effect and are incorporated into and made a part of this Project Agreement by this reference as though set forth in full.

SECTION 9. SEVERABILITY

If any provision of this Project Agreement or its application to any person or situation shall to any extent, be invalid or unenforceable, the remainder of this Project Agreement, and the application of such provisions to persons or situations other than those 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.

IN WITNESS WHEREOF, the parties have executed this Project 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 CONSULTANT, by and through its President, a duly authorized officer to execute same.

VILLAGE

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

By: _____
Ed Koconis, Interim Village Manager

The _____ day of _____ 2023.

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, Village Attorney

CONSULTANT

PAGE EXCAVATING, INC.

By:_____

Print Name:_____

Title:_____

The _____ day of _____, 2023.

AUTHENTICATE:

Secretary

Print Name

(CORPORATE SEAL)

WITNESSES:

Print Name:_____

Print Name:_____



Council Communication

To: Mayor and Village Council
From: Jennifer DeBoisbriand , Planning Director
Date: October 10, 2023
SUBJECT: **Resolution Approving Special Call Land Use Meeting Schedule 2024
- TAB 9**

Background:

The practice of holding a separate meeting for Land Use items has been helpful to staff and applicants in scheduling hearings and advertising and providing notice.

Analysis:

Budget Impact:

None

Staff Impact:

None

Recommendation:

Staff recommends the APPROVAL of the schedule by the adoption of the attached resolution.

Attachments: 1. SCVCM Memo
2. Resolution RE SCVCM Land Use



ISLAMORADA, VILLAGE OF ISLANDS
PLANNING AND DEVELOPMENT SERVICES DEPARTMENT
86800 Overseas Highway • Islamorada, Florida 33036 • www.islamorada.fl.us

To: Mayor Pinder & Councilmembers

From: Jennifer DeBoisbriand, Planning Director

Date: September 22, 2023

SUBJECT: Proposed Special Call Village Council Meeting for Land Use in 2024

If the Council would like to continue holding Special Call Meetings for Land Use items in 2024, I would propose the following dates:

January 25, 2024
February 22, 2024
March 28, 2024
April 25, 2024
May 23, 2024
June 27, 2024
July, 25, 2024
August 22, 2024
September 26, 2024
October 24, 2024
November 21, 2024
December 19, 2024

If these dates are acceptable, I would ask that the council vote them at your meeting on October 10, 2023. Please let me know if you have any questions. Thank you.

RESOLUTION NO.

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, ESTABLISHING A SCHEDULE
FOR LAND USE VILLAGE COUNCIL MEETINGS AND
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, pursuant to Section 5(8) of the Village Charter of Islamorada, Village of Islands, Florida ("Village"), the Village Council shall establish by Resolution the time and location of regular Village Council meetings; and

WHEREAS, the Village Council desires to establish a schedule for Land Use Village Council meetings.

**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 are incorporated herein by this reference.

Section 2. Schedule. That the Village Council shall meet in accordance with the attached schedule the meetings shall begin at 5:30 pm at Islamorada Founders Park at 87000 Overseas Highway, Islamorada, Village of Islands, Florida for the purpose of considering Planning and Land Use items of the Village Council. Meetings shall conclude no later than 10:00 p.m. unless a majority of the Council votes to continue. All continuances shall be limited to one-half hour increments.

Section 3. Effective Date. This Resolution shall become effective January 1, 2024.

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



Council Communication

To: Mayor and Village Council
From: Maria Bassett, Finance Director
Date: October 10, 2023
SUBJECT: **Resolution Approving Agreement with Page Excavating, Inc., to provide Marina Fire Suppression System Repair Services - TAB 10**

Background:

On September 27, 2023, Dockmasters Marine Construction, Inc. ("Dockmasters") completed a decking replacement project at the Plantation Yacht Harbor Marina whereby wood decking was replaced with composite decking. Dockmasters added stringers and other hardware as needed according to plans and specifications for the composite decking materials.

The Village's Fire Chief requested that while Dockmasters was completing the project, they work with Cutler Bay Fire Sprinklers, Inc. ("Cutler Bay Fire"), to enable inspection of the marina fire suppression system. The Village has a separate continuing services agreement with Cutler Bay Fire, and they identified fire suppression system piping and lines that need to be replaced.

Analysis:

To minimize costs to the Village, Cutler Bay Fire contacted Mark Page from Page Excavating, Inc., and requested a cost quote for services direct to the Village to repair the fire lines and piping, which requires removal and replacement of asphalt (Exhibit A to the attached Resolution).

The attached Resolution provides approval for a professional services agreement to authorize Page's services for this project. The Finance Department is reaching out to other contractors in the Florida Keys to seek other cost quotes and will provide those at the October 10, 2023 meeting for comparison. Page Excavating conducted some exploratory digging in the project areas to determine the work that is needed. The areas contain underground plumbing for water, and there are electric lines. The project requires a skilled contractor who can perform trenching, replace piping, do backfilling, and reapply the asphalt.

Budget Impact:

The proposed cost of the repair from Page is \$21,000.00. The expense would be recorded in the Marina Fund's Capital Outlay – Infrastructure account. The FY 2023-2024 budget includes \$63,200 in this account. A budget amendment would be presented during the course of the year if additional funds are needed. The funding source is Marina Operating Revenues. As of September 30, 2022, the Marina Enterprise Fund has approximately \$1.5 million in cash reserves.

While the quote for this project from Page is within the Village's Manager's authority of \$25,000 to approve, the cost must be approved by the Village Council because the Village anticipates spending over \$25,000 in total with Page in FY 2023-2024.

From a public safety perspective, this work should be completed as soon as possible, and is considered an emergency project by staff. To meet the agenda deadline for the October 10, 2023, meeting, staff prepared this item for Council consideration to approve the quote from Page with a request for a waiver of competitive bidding pursuant to the Village's Purchasing Ordinance.

The Finance Department is reaching out to other contractors in the Florida Keys to seek other cost quotes and will provide those at the October 10, 2023 meeting for comparison. Page Exacvating conducted some exploratory digging in the project areas to determine the work that is needed. The areas contain underground plumbing for water, and there are electric lines. The project requires a skilled contractor who can perform trenching, replace piping, do backfilling, and reapply the asphalt.

Staff Impact:

Village Marina staff will oversee the completion of the work. There is no impact on staffing levels as a result of this request.

Recommendation:

It is recommended that the Village Council adopt the attached Resolution thereby approving the Agreement between Page and the Village for repairs to the fire suppression system at the Marina.

- Attachments:**
1. 1_Reso_Page_Agrmt for Marina Fire Sys_101023 RVCM (FINAL)
 2. 2_Agreement_Marina Fire Suppression_101023 RVCM

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING AN AGREEMENT BETWEEN PAGE EXCAVATING, INC., AND ISLAMORADA, VILLAGE OF ISLANDS, TO PROVIDE MARINA FIRE SUPPRESSION SYSTEM REPAIR SERVICES; 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 AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the fire suppression system at the Village's Plantation Yacht Harbor Marina is in need of repairs and replacement of major piping components (the "Project"); and

WHEREAS, Page Excavating, Inc. ("Page"), has provided a cost estimate for the Project in the amount of Twenty-one Thousand and no/100 (\$21,000.00); and

WHEREAS, the Village and Page desire to enter into an Agreement attached hereto as Exhibit "A", to provide labor and materials to complete the fire suppression system Project; and

WHEREAS, the Village Council finds that approval of the Agreement with Page 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.** The Village Council hereby approves the Agreement attached as Exhibit "A" between Page and the Village for the completion of the Project.

Section 3. Execution of Agreement. The Village Manager is authorized to execute the Agreement in the form attached hereto as Exhibit "A," on behalf of the Village, to execute any other required agreements and/or documents to implement the terms and conditions of the Agreement and to execute any extensions and/or amendments to the 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 designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

Section 5. 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 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

AGREEMENT

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

ISLAMORADA, VILLAGE OF ISLANDS
a Florida municipal corporation, hereinafter "VILLAGE,"

and

PAGE EXCAVATING, 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 1
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.

- 1.1 The VILLAGE is in need of an independent experienced contractor to to repair the fire suppression system (the "Project") at the Plantation Yacht Harbor Marina (the "Marina").
- 1.2 The VILLAGE received a proposal from CONTRACTOR for the installation of the Project.
- 1.3 VILLAGE and CONTRACTOR desire to enter into an Agreement for the Project.

ARTICLE 2
SCOPE OF WORK

- 2.1 The CONTRACTOR shall furnish all necessary expertise, personnel, tools, materials, equipment and supervision, to perform all of the work described in the Proposal, a copy of which is attached hereto and specifically made a part of this Agreement as Exhibit "A".
- 2.2 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 to complete the Project pursuant to the terms of this Agreement.

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

2.4 None of the work or services under this Agreement 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 3 TIME FOR COMPLETION

3.1 The CONTRACTOR shall commence work as directed by the VILLAGE and shall complete all work in a timely manner in accordance with the Project Timeline as agreed upon by CONTRACTOR and the VILLAGE.

ARTICLE 4 CONTRACT PRICE, GUARANTEES AND WARRANTIES

4.1 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". A total contract price hereto is referred to as "Contract Price" and shall not exceed **Twenty-one Thousand and no/100 Dollars (\$21,000.00)**.

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

4.3 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.

4.4 The CONTRACTOR shall specify warranty duration and guidelines, inclusions and exclusions for all products used in connection with the Project.

4.5 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.

4.6 CONTRACTOR is prohibited from placing a lien on the Village's property. This prohibition applies to; inter alia, all subcontractors, and suppliers and laborers.

ARTICLE 5
CONTRACTOR'S LIABILITY INSURANCE

5.1 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.

5.2 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.

5.3 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.

5.4 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 Agreement unless all required insurance remains in full force and effect.

5.5 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 - \$1,000,000 per occurrence, \$1,000,000 per Accident for bodily injury and \$1,000,000 per accident for property damage;
- d) 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.

5.6 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.

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

ARTICLE 6 PROTECTION OF PROPERTY

6.1 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 7 CONTRACTOR'S INDEMNIFICATION

7.1 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.

7.2 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.

7.3 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.

7.4. 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 8
INDEPENDENT CONTRACTOR

8.1 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 9
CHANGES TO SCOPE OF WORK AND ADDITIONAL WORK

9.1 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 2 of this Agreement. Such changes or additional services 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. Each amendment shall at a minimum include the following information on each project:

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

9.2 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 10
TERM AND TERMINATION

10.1 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.

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. This Agreement shall continue in effect, except with respect to Article 7, which shall survive the termination of this Agreement, until the completion of the Project by the CONTRACTOR and the acceptance and payment in full of the Contract Price by the VILLAGE.

ARTICLE 11 CONTRACT DOCUMENTS

11.1 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 as set forth and incorporated into this Agreement as Exhibit "A"; and all other exhibits thereto.

ARTICLE 12 MISCELLANEOUS

12.1 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.

12.2 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.

12.3 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.

12.4 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.

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

12.6 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.

12.7 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 Agreement. 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.

12.8 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.

12.9 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: Mark Page, President
Page Excavating, Inc.
88005 Overseas Highway
Islamorada, FL 33036

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.

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.

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

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.

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

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.

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.

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 herein 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.

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: _____
Ed Koconis, 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, Village Attorney

CONTRACTOR

WITNESSES:

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 _____, 2023 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:

See attached document for Exhibit "A"

Proposal from Page Excavating, Inc.

Estimate

Page Excavating
88005 Overseas Hwy #10-237
Islamorada, FL 33036
Office Phone: (305) 481-4898
page_excavating@yahoo.com

Estimate Number: E230920372
Estimate Date: 09/20/2023
Payment Terms: Due On Receipt
Estimate Amount: 21,000.00
Created By: Mark Page

Billing Address

Islamorada Village Of Islands
Islamorada, FL 33036

Shipping Address

Islamorada Village Of Islands

Item #	Item Name	Quantity	Unit Price	Taxable	Total
8741	Fire system Install Supply and install 65 feet of 4 inch fire line for through concrete bulkhead and tie into existing fire on dock tired at RPDA and re-paved area	1.00	15,500.00		15,500.00
8742	Gasoline Dock Fire Line Repair connection on existing fire, line and tie in to fire service for Docks	1.00	5,500.00		5,500.00

Subtotal: \$ 21,000.00
Estimate Amount \$ 21,000.00



Council Communication

To: Mayor and Village Council
From: Mary Swaney, Procurements & Grants Administrator, Maria Bassett, Finance Director
Date: October 10, 2023
SUBJECT: **Resolution Approving FDOT SFY 2023 Public Transit Service Development Program Grant Agreement for Expanded Freebee Ridesharing Services - TAB 11**

Background:

FREEBEE BACKGROUND:

Freebee is a company based in Miami that provides local transportation in electric vehicles free of charge to riders through requests via a smartphone app. The service is successful in many cities and districts in South Florida and continues to expand to new service areas. Freebee is funded primarily by municipal funds through agreements with local governments as part of local public transportation plans and in combination with private advertising dollars through placement of ads on the Freebee vehicles.

Freebee Managing Partner Jason Siegel originally introduced Freebee, the public transit service Freebee provides, the carbon emissions savings potential, and other program benefits, during a presentation to the Village Council in July 2018. The Village Council initially approved a six-month Freebee trial program that began in November 2018. Based on the popularity of the trial program, the Council has approved annual agreements with Freebee that included incremental service expansions and service improvements over the years. Full details of expansions and improvements are described in the agenda item for consideration of the proposed Agreement with Freebee.

The current services are provided utilizing three Freebee vehicles that are in operation on the following schedule:

Vehicle #1	7:00 a.m. to 5:00 p.m.	10 hrs/day; 7 days/week
Vehicle #2	12:00 p.m. to 10:00 p.m.	10 hrs/day; 7 days/week
Vehicle #3	2:00 p.m. to 12:00 a.m.	10 hrs/day; 7 days/week

FDOT PUBLIC TRANSIT GRANT BACKGROUND:

The Florida Department of Transportation ("FDOT") Public Transit Service Development Program Grant (the "FDOT Transit Development Grant") is available specifically for new transit service development. The Village did not apply for the grant when Council was first considering the Freebee services because the Council wanted to start with a trial program and the timing of the grant application deadline and grant funding period would have delayed implementation of services by a year or more.

Because the Village had already entered into an agreement for services with Freebee, when applying for an FDOT Transit Development Grant, the Village needed to propose an expansion to existing services to be eligible for the funding. Expansion may include the addition of vehicles, increased route areas, and increased service hours.

At the direction of the Council to utilize state funds for the Freebee program, in May 20, 2022, Village staff applied for the FDOT Transit Development Grant for funding for an expansion Freebee's services to begin as early as July 1, 2023 coinciding with the State fiscal year of July 1 to June 30. In the grant application, staff represented that the schedule for Freebee's services would be expanded to provide all three Freebee vehicles to be in service from 7:00 a.m. to 12:00 a.m. seven days per week based on Freebee's recommendation that all vehicles follow the same schedule and that the availability of more vehicles leads to improved customer service.

On October 26, 2022, FDOT notified the Village that its application for State Fiscal Year 2024 (SFY24) funding was approved. Total annual costs as proposed by Freebee for three vehicles to operate seven days per week, 17 hours per day (total 357 hours per week instead of 210 hours per week) would be \$553,330.00. The grant would provide 50% funding (\$276,665.00), and the Village's share would also be \$276,665.00. For the Village, this would be an annual decrease of \$65,839.00 from the current annual amount under the current contract while providing expanded services.

The FDOT Public Transit Service Development Program can provide funding for up to three years if program funding is made available by the state each year. FDOT determined that due to the number of applications they receive each year and the limited amount of funds available, applicants must apply for funding each year. To be in a good position for the grant funding in future fiscal years, the Village's application included a request for funding over a three-year period to continue the expanded services and costs. The grant application for FDOT SFY 25 funding was submitted in May 2023; notification of awards is expected in October 2023. Applications for SFY 26 funding would be due in May 2024. To apply for an additional three-year period of funding after SFY 26, the Village would need to expand services in some other way (i.e., add vehicles, lengthen the route, increase hours). Any proposal for such expansion would be offered for consideration at a later date.

Analysis:

Grant funding cannot begin until full execution of the Grant Agreement developed by FDOT (provided as Exhibit "A" to the proposed resolution). FDOT transmitted the Grant Agreement to the Village for execution on August 10, 2023. The proposed resolution was drafted to allow the Council to accept the FDOT Transit Development Grant Agreement and direct the Interim Village Manager to execute the Agreement. The executed Agreement would be transmitted to the FDOT and become effective when returned to the Village fully executed. The exact timeline is not established, but it is hoped that the process would be completed in less than thirty days. The term of the Agreement would be from the date of execution through December 31, 2024.

If the Village opts to accept the award to fund 50% of the increased cost of expanded services, the Village and Freebee would need to enter into an agreement for services effective during the term of the 2024 FDOT Transit Development Grant Agreement with the expanded services. If the Village wishes to continue the expanded service hours, the Village would need

to accept the 2025 FDOT Transit Development Program Grant if the funding is approved and made available by the FDOT for the fiscal year. A third year of funding could be applied for in May 2025 for the same terms of service. The Village's agreements for Freebee services during these periods would need to continue to reflect the expanded services hours.

In the event that the grant award is not funded by the FDOT in the second year, then the Village's contract for Freebee services could be adjusted. Alternatively, the Village could opt to maintain the increased service hours and pay the entire amount of the contract. Discussion regarding those options could occur after the October 2023 grant award notification date.

Budget Impact:

The current Freebee services are provided at a cost of \$342,504.00 annually paid in twelve (12) payments of \$28,542.00 and are accounted for in the Transportation Fund. The cost of the expanded services would be \$553,330.00 annually paid in twelve (12) payments of \$46,110.00. The grant would provide 50% funding (\$276,665.00), and the Village's share would also be \$276,665.00. This would result in a \$65,839.00 annual reduction of expenditures in the Transportation Fund while providing an increased level of service.

Staff Impact:

Village staff would implement all activities of the Grant Agreement to ensure receipt of the full funding amount of \$276,665.00.

Recommendation:

It is recommended that the Village Council approve the proposed resolution approving the Grant Agreement and authorizing the Interim Village Manager to execute all necessary documents to implement the terms of the Agreement.

- Attachments:**
1. Reso_FDOT_Transit_Grant-Freebee_expansion
 2. Exhibit_1_G2M67 Draft

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, ACCEPTING THE GRANT AWARD FROM THE FLORIDA DEPARTMENT OF TRANSPORTATION; APPROVING THE GRANT AGREEMENT G2M67 BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND ISLAMORADA, VILLAGE OF ISLANDS TO PROVIDE REIMBURSEMENT FUNDING FOR PUBLIC TRANSPORTATION DEVELOPMENT THROUGH EXPANSION OF THE FREEBEE PROGRAM; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING VILLAGE OFFICIALS TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") is committed to reducing road congestion and reducing carbon emissions residents and visitors; and

WHEREAS, Freebee is a company based in Miami that provides local transportation in electric vehicles free of charge to riders through requests via a smartphone app.; and

WHEREAS, the Village Council initially approved a six-month Freebee trial program that began in November 2018 and subsequently approved annual agreements with Freebee that included incremental service expansions and service improvements over the years; and

WHEREAS, the Florida Department of Transportation ("FDOT") Public Transit Service Development Program Grant (the "FDOT Transit Development Grant") is available specifically for new transit service development; and

WHEREAS, in May 20, 2022, Village staff applied for the FDOT Transit Development Grant for funding for an expansion Freebee's services eligible for FDOT Transit Development Grant Funding; and

WHEREAS, on October 26, 2022, FDOT notified the Village that its application for FDOT Transit Development Grant State Fiscal Year 2024 (SFY24) funding for fifty percent (50%) of the Five Hundred Fifty Three Thousand Three Hundred Thirty dollar (\$553,330.00) annual cost for the Freebee services was approved; and

WHEREAS, on August 10, 2023, FDOT transmitted the Grant Agreement to the Village for execution; and

WHEREAS, the grant funding in the amount of \$276,665.00 cannot be implemented until full execution of the Grant Agreement developed by FDOT, attached hereto as Exhibit "A"; and

WHEREAS, the Village Council finds that acceptance of the FDOT Transit Development Grant and approval of the Agreement 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. **Acceptance of Grant and Approval of Agreement.** The Village Council hereby accepts the Florida Department of Transportation ("FDOT") Public Transit Service Development Program Grant G2M67 between the FDOT and the Village for reimbursement of fifty percent (50%) of costs for the expansion of Freebee services, attached hereto as Exhibit "1", 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 Mayor is authorized to execute the Agreement on behalf of the Village, to execute any other required agreements and/or documents

to implement the terms and conditions of the Agreement and to execute any extensions and/or amendments to the 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 designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

Section 5. **Authorization of Funds 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 6. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED THIS ____ DAY OF _____, 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	_____

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

**PUBLIC TRANSPORTATION
GRANT AGREEMENT**

Financial Project Number(s): (item-segment-phase-sequence) 452162-1-84-01	Fund(s): Work Activity Code/Function: Federal Number/Federal Award Identification Number (FAIN) – Transit only:	DPTO 215 N/A N/A N/A	FLAIR Category: 088774 Object Code: 751000 Org. Code: 55062020629 Vendor Number: F650830851006
Contract Number: G2M67	Federal Award Date:	N/A	
CFDA Number: N/A	Agency SAM/UEI Number:	N/A	
CFDA Title: N/A			
CSFA Number: 55.012			
CSFA Title: Public Transit Service Development Program			

THIS PUBLIC TRANSPORTATION GRANT AGREEMENT ("Agreement") is entered into _____, by and between the State of Florida, Department of Transportation, ("Department"), and Islamorada Village of Islands, ("Agency"). The Department and the Agency are sometimes referred to in this Agreement as a "Party" and collectively as the "Parties."

NOW, THEREFORE, in consideration of the mutual benefits to be derived from joint participation on the Project, the Parties agree to the following:

- 1. Authority.** The Agency, by Resolution or other form of official authorization, a copy of which is attached as **Exhibit "D", Agency Resolution** and made a part of this Agreement, has authorized its officers to execute this Agreement on its behalf. The Department has the authority pursuant to Section(s) 341.051, Florida Statutes, to enter into this Agreement.
- 2. Purpose of Agreement.** The purpose of this Agreement is to provide for the Department's participation in Islamorada Village of Islands will extend its Freebee service hours for all three (3) vehicles to start at 7 AM and end at 12 AM, as further described in **Exhibit "A", Project Description and Responsibilities**, attached and incorporated into this Agreement ("Project"), to provide Department financial assistance to the Agency, state the terms and conditions upon which Department funds will be provided, and to set forth the manner in which the Project will be undertaken and completed.
- 3. Program Area.** For identification purposes only, this Agreement is implemented as part of the Department program area selected below (select all programs that apply):

- ☐ Aviation
- ☐ Seaports
- ☒ Transit
- ☐ Intermodal
- ☐ Rail Crossing Closure
- ☐ Match to Direct Federal Funding (Aviation or Transit)
- ☐ (Note: Section 15 and Exhibit G do not apply to federally matched funding)
- ☐ Other

- 4. Exhibits.** The following Exhibits are attached and incorporated into this Agreement:

- ☒ Exhibit A: Project Description and Responsibilities
- ☒ Exhibit B: Schedule of Financial Assistance
- ☐ *Exhibit B1: Deferred Reimbursement Financial Provisions
- ☐ *Exhibit B2: Advance Payment Financial Provisions
- ☐ *Exhibit B3: Alternative Advanced Pay (Transit Bus Program)
- ☐ *Exhibit C: Terms and Conditions of Construction
- ☒ Exhibit D: Agency Resolution
- ☒ Exhibit E: Program Specific Terms and Conditions
- ☒ Exhibit F: Contract Payment Requirements
- ☒ *Exhibit G: Audit Requirements for Awards of State Financial Assistance

**PUBLIC TRANSPORTATION
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- ___ *Exhibit H: Audit Requirements for Awards of Federal Financial Assistance
___ *Exhibit I: Certification of Disbursement of Payment to Vehicle and/or Equipment Vendor
___ *Additional Exhibit(s):

*Indicates that the Exhibit is only attached and incorporated if applicable box is selected.

5. Time. Unless specified otherwise, all references to “days” within this Agreement refer to calendar days.

6. Term of Agreement. This Agreement shall commence upon full execution by both Parties (“Effective Date”) and continue through December 31, 2024. If the Agency does not complete the Project within this time period, this Agreement will expire unless an extension of the time period is requested by the Agency and granted in writing by the Department prior to the expiration of this Agreement. Expiration of this Agreement will be considered termination of the Project. The cost of any work performed prior to the Effective Date or after the expiration date of this Agreement will not be reimbursed by the Department.

a. ___ If this box is checked the following provision applies:

Unless terminated earlier, work on the Project shall commence no later than the ___ day of ___, or within ___ days of the issuance of the Notice to Proceed for the construction phase of the Project (if the Project involves construction), whichever date is earlier. The Department shall have the option to immediately terminate this Agreement should the Agency fail to meet the above-required dates.

7. Amendments, Extensions, and Assignment. This Agreement may be amended or extended upon mutual written agreement of the Parties. This Agreement shall not be renewed. This Agreement shall not be assigned, transferred, or otherwise encumbered by the Agency under any circumstances without the prior written consent of the Department.

8. Termination or Suspension of Project. The Department may, by written notice to the Agency, suspend any or all of the Department’s obligations under this Agreement for the Agency’s failure to comply with applicable law or the terms of this Agreement until such time as the event or condition resulting in such suspension has ceased or been corrected.

- a. Notwithstanding any other provision of this Agreement, if the Department intends to terminate the Agreement, the Department shall notify the Agency of such termination in writing at least thirty (30) days prior to the termination of the Agreement, with instructions to the effective date of termination or specify the stage of work at which the Agreement is to be terminated.
- b. The Parties to this Agreement may terminate this Agreement when its continuation would not produce beneficial results commensurate with the further expenditure of funds. In this event, the Parties shall agree upon the termination conditions.
- c. If the Agreement is terminated before performance is completed, the Agency shall be paid only for that work satisfactorily performed for which costs can be substantiated. Such payment, however, may not exceed the equivalent percentage of the Department’s maximum financial assistance. If any portion of the Project is located on the Department’s right-of-way, then all work in progress on the Department right-of-way will become the property of the Department and will be turned over promptly by the Agency.
- d. In the event the Agency fails to perform or honor the requirements and provisions of this Agreement, the Agency shall promptly refund in full to the Department within thirty (30) days of the termination of the Agreement any funds that were determined by the Department to have been expended in violation of the Agreement.
- e. The Department reserves the right to unilaterally cancel this Agreement for failure by the Agency to comply with the Public Records provisions of Chapter 119, Florida Statutes.

**PUBLIC TRANSPORTATION
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9. Project Cost:

- a. The estimated total cost of the Project is \$553,330. This amount is based upon **Exhibit "B", Schedule of Financial Assistance**. The timeline for deliverables and distribution of estimated amounts between deliverables within a grant phase, as outlined in **Exhibit "B", Schedule of Financial Assistance**, may be modified by mutual written agreement of the Parties and does not require execution of an **Amendment to the Public Transportation Grant Agreement**. The timeline for deliverables and distribution of estimated amounts between grant phases requires an amendment executed by both Parties in the same form as this Agreement.
- b. The Department agrees to participate in the Project cost up to the maximum amount of \$276,665 and, the Department's participation in the Project shall not exceed 50.00% of the total eligible cost of the Project, and as more fully described in **Exhibit "B", Schedule of Financial Assistance**. The Agency agrees to bear all expenses in excess of the amount of the Department's participation and any cost overruns or deficits involved.

10. Compensation and Payment:

- a. **Eligible Cost.** The Department shall reimburse the Agency for allowable costs incurred as described in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**.
- b. **Deliverables.** The Agency shall provide quantifiable, measurable, and verifiable units of deliverables. Each deliverable must specify the required minimum level of service to be performed and the criteria for evaluating successful completion. The Project and the quantifiable, measurable, and verifiable units of deliverables are described more fully in **Exhibit "A", Project Description and Responsibilities**. Modifications to the deliverables in **Exhibit "A", Project Description and Responsibilities** requires a formal written amendment.
- c. **Invoicing.** Invoices shall be submitted no more often than monthly by the Agency in detail sufficient for a proper pre-audit and post-audit, based on the quantifiable, measurable, and verifiable deliverables as established in **Exhibit "A", Project Description and Responsibilities**. Deliverables and costs incurred must be received and approved by the Department prior to reimbursement. Requests for reimbursement by the Agency shall include an invoice, progress report, and supporting documentation for the deliverables being billed that are acceptable to the Department. The Agency shall use the format for the invoice and progress report that is approved by the Department.
- d. **Supporting Documentation.** Supporting documentation must establish that the deliverables were received and accepted in writing by the Agency and must also establish that the required minimum standards or level of service to be performed based on the criteria for evaluating successful completion as specified in **Exhibit "A", Project Description and Responsibilities** has been met. All costs invoiced shall be supported by properly executed payrolls, time records, invoices, contracts, or vouchers evidencing in proper detail the nature and propriety of charges as described in **Exhibit "F", Contract Payment Requirements**.
- e. **Travel Expenses.** The selected provision below is controlling regarding travel expenses:

☒ Travel expenses are NOT eligible for reimbursement under this Agreement.

☐ Travel expenses ARE eligible for reimbursement under this Agreement. Bills for travel expenses specifically authorized in this Agreement shall be submitted on the Department's Contractor Travel Form No. 300-000-06 and will be paid in accordance with Section 112.061,

**PUBLIC TRANSPORTATION
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Florida Statutes, and the most current version of the Department's Disbursement Handbook for Employees and Managers.

- f. Financial Consequences.** Payment shall be made only after receipt and approval of deliverables and costs incurred unless advance payments are authorized by the Chief Financial Officer of the State of Florida under Chapters 215 and 216, Florida Statutes, or the Department's Comptroller under Section 334.044(29), Florida Statutes. If the Department determines that the performance of the Agency is unsatisfactory, the Department shall notify the Agency of the deficiency to be corrected, which correction shall be made within a time-frame to be specified by the Department. The Agency shall, within thirty (30) days after notice from the Department, provide the Department with a corrective action plan describing how the Agency will address all issues of contract non-performance, unacceptable performance, failure to meet the minimum performance levels, deliverable deficiencies, or contract non-compliance. If the corrective action plan is unacceptable to the Department, the Agency will not be reimbursed. If the deficiency is subsequently resolved, the Agency may bill the Department for the amount that was previously not reimbursed during the next billing period. If the Agency is unable to resolve the deficiency, the funds shall be forfeited at the end of the Agreement's term.
- g. Invoice Processing.** An Agency receiving financial assistance from the Department should be aware of the following time frames. Inspection or verification and approval of deliverables shall take no longer than 20 days from the Department's receipt of the invoice. The Department has 20 days to deliver a request for payment (voucher) to the Department of Financial Services. The 20 days are measured from the latter of the date the invoice is received or the deliverables are received, inspected or verified, and approved.

If a payment is not available within 40 days, a separate interest penalty at a rate as established pursuant to Section 55.03(1), Florida Statutes, will be due and payable, in addition to the invoice amount, to the Agency. Interest penalties of less than one (1) dollar will not be enforced unless the Agency requests payment. Invoices that have to be returned to an Agency because of Agency preparation errors will result in a delay in the payment. The invoice payment requirements do not start until a properly completed invoice is provided to the Department.

A Vendor Ombudsman has been established within the Department of Financial Services. The duties of this individual include acting as an advocate for Agency who may be experiencing problems in obtaining timely payment(s) from a state agency. The Vendor Ombudsman may be contacted at (850) 413-5516.

- h. Records Retention.** The Agency shall maintain an accounting system or separate accounts to ensure funds and projects are tracked separately. Records of costs incurred under the terms of this Agreement shall be maintained and made available upon request to the Department at all times during the period of this Agreement and for five years after final payment is made. Copies of these records shall be furnished to the Department upon request. Records of costs incurred include the Agency's general accounting records and the Project records, together with supporting documents and records, of the Contractor and all subcontractors performing work on the Project, and all other records of the Contractor and subcontractors considered necessary by the Department for a proper audit of costs.
- i. Progress Reports.** Upon request, the Agency agrees to provide progress reports to the Department in the standard format used by the Department and at intervals established by the Department. The Department will be entitled at all times to be advised, at its request, as to the status of the Project and of details thereof.
- j. Submission of Other Documents.** The Agency shall submit to the Department such data, reports, records, contracts, and other documents relating to the Project as the Department

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may require as listed in **Exhibit "E", Program Specific Terms and Conditions** attached to and incorporated into this Agreement.

- k. **Offsets for Claims.** If, after Project completion, any claim is made by the Department resulting from an audit or for work or services performed pursuant to this Agreement, the Department may offset such amount from payments due for work or services done under any agreement that it has with the Agency owing such amount if, upon written demand, payment of the amount is not made within 60 days to the Department. Offsetting any amount pursuant to this paragraph shall not be considered a breach of contract by the Department.
- l. **Final Invoice.** The Agency must submit the final invoice on the Project to the Department within 120 days after the completion of the Project. Invoices submitted after the 120-day time period may not be paid.
- m. **Department's Performance and Payment Contingent Upon Annual Appropriation by the Legislature.** The Department's performance and obligation to pay under this Agreement is contingent upon an annual appropriation by the Legislature. If the Department's funding for this Project is in multiple fiscal years, a notice of availability of funds from the Department's project manager must be received prior to costs being incurred by the Agency. See **Exhibit "B", Schedule of Financial Assistance** for funding levels by fiscal year. Project costs utilizing any fiscal year funds are not eligible for reimbursement if incurred prior to funds approval being received. The Department will notify the Agency, in writing, when funds are available.
- n. **Limits on Contracts Exceeding \$25,000 and Term more than 1 Year.** In the event this Agreement is in excess of \$25,000 and has a term for a period of more than one year, the provisions of Section 339.135(6)(a), Florida Statutes, are hereby incorporated:

"The Department, during any fiscal year, shall not expend money, incur any liability, or enter into any contract which, by its terms, involves the expenditure of money in excess of the amounts budgeted as available for expenditure during such fiscal year. Any contract, verbal or written, made in violation of this subsection is null and void, and no money may be paid on such contract. The Department shall require a statement from the comptroller of the Department that funds are available prior to entering into any such contract or other binding commitment of funds. Nothing herein contained shall prevent the making of contracts for periods exceeding 1 year, but any contract so made shall be executory only for the value of the services to be rendered or agreed to be paid for in succeeding fiscal years; and this paragraph shall be incorporated verbatim in all contracts of the Department which are for an amount in excess of \$25,000 and which have a term for a period of more than 1 year."
- o. **Agency Obligation to Refund Department.** Any Project funds made available by the Department pursuant to this Agreement that are determined by the Department to have been expended by the Agency in violation of this Agreement or any other applicable law or regulation shall be promptly refunded in full to the Department. Acceptance by the Department of any documentation or certifications, mandatory or otherwise permitted, that the Agency files shall not constitute a waiver of the Department's rights as the funding agency to verify all information at a later date by audit or investigation.
- p. **Non-Eligible Costs.** In determining the amount of the payment, the Department will exclude all Project costs incurred by the Agency prior to the execution of this Agreement, costs incurred after the expiration of the Agreement, costs that are not provided for in **Exhibit "A", Project Description and Responsibilities**, and as set forth in **Exhibit "B", Schedule of Financial Assistance**, costs agreed to be borne by the Agency or its contractors and subcontractors for

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not meeting the Project commencement and final invoice time lines, and costs attributable to goods or services received under a contract or other arrangement that has not been approved in writing by the Department. Specific unallowable costs may be listed in **Exhibit "A", Project Description and Responsibilities**.

11. General Requirements. The Agency shall complete the Project with all practical dispatch in a sound, economical, and efficient manner, and in accordance with the provisions in this Agreement and all applicable laws.

- a. Necessary Permits Certification.** The Agency shall certify to the Department that the Agency's design consultant and/or construction contractor has secured the necessary permits.
- b. Right-of-Way Certification.** If the Project involves construction, then the Agency shall provide to the Department certification and a copy of appropriate documentation substantiating that all required right-of-way necessary for the Project has been obtained. Certification is required prior to authorization for advertisement for or solicitation of bids for construction of the Project, even if no right-of-way is required.
- c. Notification Requirements When Performing Construction on Department's Right-of-Way.** In the event the cost of the Project is greater than \$250,000.00, and the Project involves construction on the Department's right-of-way, the Agency shall provide the Department with written notification of either its intent to:
 - i.** Require the construction work of the Project that is on the Department's right-of-way to be performed by a Department prequalified contractor, or
 - ii.** Construct the Project utilizing existing Agency employees, if the Agency can complete said Project within the time frame set forth in this Agreement.
- d.** ☐ If this box is checked, then the Agency is permitted to utilize its own forces and the following provision applies: **Use of Agency Workforce.** In the event the Agency proceeds with any phase of the Project utilizing its own forces, the Agency will only be reimbursed for direct costs (this excludes general overhead).
- e.** ☐ If this box is checked, then the Agency is permitted to utilize **Indirect Costs: Reimbursement for Indirect Program Expenses** (select one):
 - i.** ☐ Agency has selected to seek reimbursement from the Department for actual indirect expenses (no rate).
 - ii.** ☐ Agency has selected to apply a de minimus rate of 10% to modified total direct costs. Note: The de minimus rate is available only to entities that have never had a negotiated indirect cost rate. When selected, the de minimus rate must be used consistently for all federal awards until such time the agency chooses to negotiate a rate. A cost policy statement and de minimis certification form must be submitted to the Department for review and approval.
 - iii.** ☐ Agency has selected to apply a state or federally approved indirect cost rate. A federally approved rate agreement or indirect cost allocation plan (ICAP) must be submitted annually.
- f. Agency Compliance with Laws, Rules, and Regulations, Guidelines, and Standards.** The Agency shall comply and require its contractors and subcontractors to comply with all terms and conditions of this Agreement and all federal, state, and local laws and regulations applicable to this Project.

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- g. Claims and Requests for Additional Work.** The Agency shall have the sole responsibility for resolving claims and requests for additional work for the Project. The Agency will make best efforts to obtain the Department's input in its decisions. The Department is not obligated to reimburse for claims or requests for additional work.

12. Contracts of the Agency:

- a. Approval of Third Party Contracts.** The Department specifically reserves the right to review and approve any and all third party contracts with respect to the Project before the Agency executes or obligates itself in any manner requiring the disbursement of Department funds, including consultant and purchase of commodities contracts, or amendments thereto. If the Department chooses to review and approve third party contracts for this Project and the Agency fails to obtain such approval, that shall be sufficient cause for nonpayment by the Department. The Department specifically reserves unto itself the right to review the qualifications of any consultant or contractor and to approve or disapprove the employment of the same. If Federal Transit Administration (FTA) funds are used in the Project, the Department must exercise the right to third party contract review.
- b. Procurement of Commodities or Contractual Services.** It is understood and agreed by the Parties hereto that participation by the Department in a project with the Agency, where said project involves the purchase of commodities or contractual services where purchases or costs exceed the Threshold Amount for CATEGORY TWO per Section 287.017, Florida Statutes, is contingent on the Agency complying in full with the provisions of Section 287.057, Florida Statutes. The Agency's Authorized Official shall certify to the Department that the Agency's purchase of commodities or contractual services has been accomplished in compliance with Section 287.057, Florida Statutes. It shall be the sole responsibility of the Agency to ensure that any obligations made in accordance with this Section comply with the current threshold limits. Contracts, purchase orders, task orders, construction change orders, or any other agreement that would result in exceeding the current budget contained in **Exhibit "B", Schedule of Financial Assistance**, or that is not consistent with the Project description and scope of services contained in **Exhibit "A", Project Description and Responsibilities** must be approved by the Department prior to Agency execution. Failure to obtain such approval, and subsequent execution of an amendment to the Agreement if required, shall be sufficient cause for nonpayment by the Department, in accordance with this Agreement.
- c. Consultants' Competitive Negotiation Act.** It is understood and agreed by the Parties to this Agreement that participation by the Department in a project with the Agency, where said project involves a consultant contract for professional services, is contingent on the Agency's full compliance with provisions of Section 287.055, Florida Statutes, Consultants' Competitive Negotiation Act. In all cases, the Agency's Authorized Official shall certify to the Department that selection has been accomplished in compliance with the Consultants' Competitive Negotiation Act.
- d. Disadvantaged Business Enterprise (DBE) Policy and Obligation.** It is the policy of the Department that DBEs, as defined in 49 C.F.R. Part 26, as amended, shall have the opportunity to participate in the performance of contracts financed in whole or in part with Department funds under this Agreement. The DBE requirements of applicable federal and state laws and regulations apply to this Agreement. The Agency and its contractors agree to ensure that DBEs have the opportunity to participate in the performance of this Agreement. In this regard, all recipients and contractors shall take all necessary and reasonable steps in accordance with applicable federal and state laws and regulations to ensure that the DBEs have the opportunity to compete for and perform contracts. The Agency and its contractors and subcontractors shall not discriminate on the basis of race, color, national origin or sex in the award and performance of contracts, entered pursuant to this Agreement.

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13. Maintenance Obligations. In the event the Project includes construction or the acquisition of commodities then the following provisions are incorporated into this Agreement:

- a. The Agency agrees to accept all future maintenance and other attendant costs occurring after completion of the Project for all improvements constructed or commodities acquired as part of the Project. The terms of this provision shall survive the termination of this Agreement.

14. Sale, Transfer, or Disposal of Department-funded Property:

- a. The Agency will not sell or otherwise transfer or dispose of any part of its title or other interests in real property, facilities, or equipment funded in any part by the Department under this Agreement without prior written approval by the Department.
- b. If a sale, transfer, or disposal by the Agency of all or a portion of Department-funded real property, facilities, or equipment is approved by the Department, the following provisions will apply:
 - i. The Agency shall reimburse the Department a proportional amount of the proceeds of the sale of any Department-funded property.
 - ii. The proportional amount shall be determined on the basis of the ratio of the Department funding of the development or acquisition of the property multiplied against the sale amount, and shall be remitted to the Department within ninety (90) days of closing of sale.
 - iii. Sale of property developed or acquired with Department funds shall be at market value as determined by appraisal or public bidding process, and the contract and process for sale must be approved in advance by the Department.
 - iv. If any portion of the proceeds from the sale to the Agency are non-cash considerations, reimbursement to the Department shall include a proportional amount based on the value of the non-cash considerations.
- c. The terms of provisions "a" and "b" above shall survive the termination of this Agreement.
 - i. The terms shall remain in full force and effect throughout the useful life of facilities developed, equipment acquired, or Project items installed within a facility, but shall not exceed twenty (20) years from the effective date of this Agreement.
 - ii. There shall be no limit on the duration of the terms with respect to real property acquired with Department funds.

15. Single Audit. The administration of Federal or State resources awarded through the Department to the Agency by this Agreement may be subject to audits and/or monitoring by the Department. The following requirements do not limit the authority of the Department to conduct or arrange for the conduct of additional audits or evaluations of Federal awards or State financial assistance or limit the authority of any state agency inspector general, the State of Florida Auditor General, or any other state official. The Agency shall comply with all audit and audit reporting requirements as specified below.

Federal Funded:

- a. In addition to reviews of audits conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, monitoring procedures may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to Federal awards provided

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through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, State of Florida Chief Financial Officer (CFO), or State of Florida Auditor General.

- b. The Agency, a non-Federal entity as defined by 2 CFR Part 200, Subpart F – Audit Requirements, as a subrecipient of a Federal award awarded by the Department through this Agreement, is subject to the following requirements:
- i. In the event the Agency expends a total amount of Federal awards equal to or in excess of the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, the Agency must have a Federal single or program-specific audit conducted for such fiscal year in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements. **Exhibit “H”, Audit Requirements for Awards of Federal Financial Assistance**, to this Agreement provides the required Federal award identification information needed by the Agency to further comply with the requirements of 2 CFR Part 200, Subpart F – Audit Requirements. In determining Federal awards expended in a fiscal year, the Agency must consider all sources of Federal awards based on when the activity related to the Federal award occurs, including the Federal award provided through the Department by this Agreement. The determination of amounts of Federal awards expended should be in accordance with the guidelines established by 2 CFR Part 200, Subpart F – Audit Requirements. An audit conducted by the State of Florida Auditor General in accordance with the provisions of 2 CFR Part 200, Subpart F – Audit Requirements, will meet the requirements of this part.
 - ii. In connection with the audit requirements, the Agency shall fulfill the requirements relative to the auditee responsibilities as provided in 2 CFR Part 200, Subpart F – Audit Requirements.
 - iii. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards, the Agency is exempt from Federal audit requirements for that fiscal year. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency’s audit period for each applicable audit year. In the event the Agency expends less than the threshold established by 2 CFR Part 200, Subpart F – Audit Requirements, in Federal awards in a fiscal year and elects to have an audit conducted in accordance with the provisions of 2 CFR Part 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 the Agency’s resources obtained from other than Federal entities).
 - iv. The Agency must electronically submit to the Federal Audit Clearinghouse (FAC) at <https://harvester.census.gov/facweb/> the audit reporting package as required by 2 CFR Part 200, Subpart F – Audit Requirements, within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period. The FAC is the repository of record for audits required by 2 CFR Part 200, Subpart F – Audit Requirements. However, the Department requires a copy of the audit reporting package also be submitted to FDOTSingleAudit@dot.state.fl.us within the earlier of 30 calendar days after receipt of the auditor’s report(s) or nine months after the end of the audit period as required by 2 CFR Part 200, Subpart F – Audit Requirements.
 - v. Within six months of acceptance of the audit report by the FAC, the Department will review the Agency’s audit reporting package, including corrective action plans and

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management letters, to the extent necessary to determine whether timely and appropriate action on all deficiencies has been taken pertaining to the Federal award provided through the Department by this Agreement. If the Agency fails to have an audit conducted in accordance with 2 CFR Part 200, Subpart F – Audit Requirements, the Department may impose additional conditions to remedy noncompliance. If the Department determines that noncompliance cannot be remedied by imposing additional conditions, the Department may take appropriate actions to enforce compliance, which actions may include but not be limited to the following:

1. Temporarily withhold cash payments pending correction of the deficiency by the Agency or more severe enforcement action by the Department;
 2. Disallow (deny both use of funds and any applicable matching credit for) all or part of the cost of the activity or action not in compliance;
 3. Wholly or partly suspend or terminate the Federal award;
 4. Initiate suspension or debarment proceedings as authorized under 2 C.F.R. Part 180 and Federal awarding agency regulations (or in the case of the Department, recommend such a proceeding be initiated by the Federal awarding agency);
 5. Withhold further Federal awards for the Project or program;
 6. Take other remedies that may be legally available.
- vi. As a condition of receiving this Federal award, the Agency shall permit the Department or its designee, the CFO, or State of Florida Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.
- vii. The Department's contact information for requirements under this part is as follows:

Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0450
FDOTSingleAudit@dot.state.fl.us

State Funded:

- a. In addition to reviews of audits conducted in accordance with Section 215.97, Florida Statutes, monitoring procedures to monitor the Agency's use of state financial assistance may include but not be limited to on-site visits by Department staff and/or other procedures, including reviewing any required performance and financial reports, following up, ensuring corrective action, and issuing management decisions on weaknesses found through audits when those findings pertain to state financial assistance awarded through the Department by this Agreement. By entering into this Agreement, the Agency agrees to comply and cooperate fully with any monitoring procedures/processes deemed appropriate by the Department. The Agency further agrees to comply and cooperate with any inspections, reviews, investigations, or audits deemed necessary by the Department, the Department of Financial Services (DFS), or State of Florida Auditor General.
- b. The Agency, a "nonstate entity" as defined by Section 215.97, Florida Statutes, as a recipient of state financial assistance awarded by the Department through this Agreement, is subject to the following requirements:
 - i. In the event the Agency meets the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency must have a State single or project-specific audit conducted for such fiscal year in accordance with Section 215.97, Florida Statutes; applicable rules of the Department of Financial Services; and

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Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General. **Exhibit "G", Audit Requirements for Awards of State Financial Assistance**, to this Agreement indicates state financial assistance awarded through the Department by this Agreement needed by the Agency to further comply with the requirements of Section 215.97, Florida Statutes. In determining the state financial assistance expended in a fiscal year, the Agency shall consider all sources of state financial assistance, including state financial assistance received from the Department by this Agreement, 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.

- ii. In connection with the audit requirements, the Agency 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)(e), Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General.
- iii. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, the Agency is exempt for such fiscal year from the state single audit requirements of Section 215.97, Florida Statutes. However, the Agency must provide a single audit exemption statement to the Department at FDOTSingleAudit@dot.state.fl.us no later than nine months after the end of the Agency's audit period for each applicable audit year. In the event the Agency does not meet the audit threshold requirements established by Section 215.97, Florida Statutes, in a 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 Agency's resources (*i.e.*, the cost of such an audit must be paid from the Agency's resources obtained from other than State entities).
- iv. In accordance with Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, copies of financial reporting packages required by this Agreement shall be submitted to:

Florida Department of Transportation
Office of Comptroller, MS 24
605 Suwannee Street
Tallahassee, Florida 32399-0405
FDOTSingleAudit@dot.state.fl.us

And

State of Florida Auditor General
Local Government Audits/342
111 West Madison Street, Room 401
Tallahassee, FL 32399-1450
Email: flaudgen_localgovt@aud.state.fl.us

- v. Any copies of financial reporting packages, reports, or other information required to be submitted to the Department shall be submitted timely in accordance with Section 215.97, Florida Statutes, and Chapters 10.550 (local governmental entities) or 10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, as applicable.
- vi. The Agency, when submitting financial reporting packages to the Department for audits done in accordance with Chapters 10.550 (local governmental entities) or

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10.650 (nonprofit and for-profit organizations), Rules of the Auditor General, should indicate the date the reporting package was delivered to the Agency in correspondence accompanying the reporting package.

vii. Upon receipt, and within six months, the Department will review the Agency's financial reporting package, including corrective action plans and management letters, to the extent necessary to determine whether timely and appropriate corrective action on all deficiencies has been taken pertaining to the state financial assistance provided through the Department by this Agreement. If the Agency fails to have an audit conducted consistent with Section 215.97, Florida Statutes, the Department may take appropriate corrective action to enforce compliance.

viii. As a condition of receiving state financial assistance, the Agency shall permit the Department or its designee, DFS, or the Auditor General access to the Agency's records, including financial statements, the independent auditor's working papers, and project records as necessary. Records related to unresolved audit findings, appeals, or litigation shall be retained until the action is complete or the dispute is resolved.

c. The Agency shall retain sufficient records demonstrating its compliance with the terms of this Agreement for a period of five years from the date the audit report is issued and shall allow the Department or its designee, DFS, or State of Florida Auditor General access to such records upon request. The Agency shall ensure that the audit working papers are made available to the Department or its designee, DFS, or State of Florida Auditor General upon request for a period of five years from the date the audit report is issued, unless extended in writing by the Department.

16. Notices and Approvals. Notices and approvals referenced in this Agreement must be obtained in writing from the Parties' respective Administrators or their designees.

17. Restrictions, Prohibitions, Controls and Labor Provisions:

a. **Convicted Vendor List.** 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 on a contract to provide any goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to 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 in excess of the threshold amount provided in Section 287.017, Florida Statutes, for CATEGORY TWO for a period of 36 months from the date of being placed on the convicted vendor list.

b. **Discriminatory Vendor List.** In accordance with Section 287.134, Florida Statutes, an entity or affiliate who has been placed on the Discriminatory Vendor List, kept by the Florida Department of Management Services, may not submit a bid on a contract to provide goods or services to a public entity; may not submit a bid on a contract with a public entity for the construction or repair of a public building or public work; may not submit bids on leases of real property to 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.

c. **Non-Responsible Contractors.** An entity or affiliate who has had its Certificate of Qualification suspended, revoked, denied, or have further been determined by the Department to be a non-responsible contractor, may not submit a bid or perform work for the construction or repair of a public building or public work on a contract with the Agency.

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- d. **Prohibition on Using Funds for Lobbying.** No funds received pursuant to this Agreement may be expended for lobbying the Florida Legislature, judicial branch, or any state agency, in accordance with Section 216.347, Florida Statutes.
- e. **Unauthorized Aliens.** The Department shall consider the employment by any contractor of unauthorized aliens a violation of Section 274A(e) of the Immigration and Nationality Act. If the contractor knowingly employs unauthorized aliens, such violation will be cause for unilateral cancellation of this Agreement.
- f. **Procurement of Construction Services.** If the Project is procured pursuant to Chapter 255, Florida Statutes, for construction services and at the time of the competitive solicitation for the Project, 50 percent or more of the cost of the Project is to be paid from state-appropriated funds, then the Agency must comply with the requirements of Section 255.0991, Florida Statutes.
- g. **E-Verify.** The Agency shall:
 - i. Utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the Agency during the term of the contract; and
 - ii. Expressly require any subcontractors performing work or providing services pursuant to the state contract to likewise utilize the U.S. Department of Homeland Security's E-Verify system to verify the employment eligibility of all new employees hired by the subcontractor during the contract term.
- h. **Executive Order 20-44.** Pursuant to Governor's Executive Order 20-44, if the Agency is required by the Internal Revenue Code to file IRS Form 990 and is named in statute with which the Department must form a sole-source, public-private agreement; or through contract or other agreement with the State, annually receives 50% or more of its budget from the State or from a combination of State and Federal funds, Recipient shall submit an Annual Report to the Department, including the most recent IRS Form 990, detailing the total compensation for each member of the Agency executive leadership team. 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 Agency shall inform the Department of any changes in total executive compensation during the period between the filing of Annual Reports within 60 days of any change taking effect. All compensation reports shall detail the percentage of executive leadership compensation received directly from all State and/or Federal allocations to the Agency. Annual Reports shall be in the form approved by the Department and shall be submitted to the Department at fdotsingleaudit@dot.state.fl.us within 180 days following the end of each tax year of the Agency receiving Department funding.
- i. **Design Services and Construction Engineering and Inspection Services.** If the Project is wholly or partially funded by the Department and administered by a local governmental entity, except for a seaport listed in Section 311.09, Florida Statutes, or an airport as defined in Section 332.004, Florida Statutes, the entity performing design and construction engineering and inspection services may not be the same entity.

18. Indemnification and Insurance:

- a. It is specifically agreed between the Parties executing this Agreement that it is not intended by any of the provisions of any part of this Agreement to create in the public or any member thereof, a third party beneficiary under this Agreement, or to authorize anyone not a party to this Agreement to maintain a suit for personal injuries or property damage pursuant to the terms or provisions of this Agreement. The Agency guarantees the payment of all just claims for materials, supplies, tools, or labor and other just claims against the Agency or any

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subcontractor, in connection with this Agreement. Additionally, the Agency shall indemnify, defend, and hold harmless the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses, and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness, or intentional wrongful misconduct of the Agency and persons employed or utilized by the Agency in the performance of this Agreement. This indemnification shall survive the termination of this Agreement. Additionally, the Agency agrees to include the following indemnification in all contracts with contractors/subcontractors and consultants/subconsultants who perform work in connection with this Agreement:

"To the fullest extent permitted by law, the Agency's contractor/consultant shall indemnify, defend, and hold harmless the Agency and the State of Florida, Department of Transportation, including the Department's officers and employees, from liabilities, damages, losses and costs, including, but not limited to, reasonable attorney's fees, to the extent caused by the negligence, recklessness or intentional wrongful misconduct of the contractor/consultant and persons employed or utilized by the contractor/consultant in the performance of this Agreement.

This indemnification shall survive the termination of this Agreement."

- b. The Agency shall provide Workers' Compensation Insurance in accordance with Florida's Workers' Compensation law for all employees. If subletting any of the work, ensure that the subcontractor(s) and subconsultant(s) have Workers' Compensation Insurance for their employees in accordance with Florida's Workers' Compensation law. If using "leased employees" or employees obtained through professional employer organizations ("PEO's"), ensure that such employees are covered by Workers' Compensation Insurance through the PEO's or other leasing entities. Ensure that any equipment rental agreements that include operators or other personnel who are employees of independent contractors, sole proprietorships, or partners are covered by insurance required under Florida's Workers' Compensation law.
- c. If the Agency elects to self-perform the Project, then the Agency may self-insure. If the Agency elects to hire a contractor or consultant to perform the Project, then the Agency shall carry, or cause its contractor or consultant to carry, Commercial General Liability insurance providing continuous coverage for all work or operations performed under this Agreement. Such insurance shall be no more restrictive than that provided by the latest occurrence form edition of the standard Commercial General Liability Coverage Form (ISO Form CG 00 01) as filed for use in the State of Florida. The Agency shall cause, or cause its contractor or consultant to cause, the Department to be made an Additional Insured as to such insurance. Such coverage shall be on an "occurrence" basis and shall include Products/Completed Operations coverage. The coverage afforded to the Department as an Additional Insured shall be primary as to any other available insurance and shall not be more restrictive than the coverage afforded to the Named Insured. The limits of coverage shall not be less than \$1,000,000 for each occurrence and not less than a \$5,000,000 annual general aggregate, inclusive of amounts provided by an umbrella or excess policy. The limits of coverage described herein shall apply fully to the work or operations performed under the Agreement, and may not be shared with or diminished by claims unrelated to the Agreement. The policy/ies and coverage described herein may be subject to a deductible and such deductibles shall be paid by the Named Insured. No policy/ies or coverage described herein may contain or be subject to a Retention or a Self-Insured Retention unless the Agency is a state agency or subdivision of the State of Florida that elects to self-perform the Project. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, the Department shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The Department shall be notified in writing within ten days of any cancellation, notice of cancellation, lapse, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies,

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coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights or defenses the Department may have.

- d. When the Agreement includes the construction of a railroad grade crossing, railroad overpass or underpass structure, or any other work or operations within the limits of the railroad right-of-way, including any encroachments thereon from work or operations in the vicinity of the railroad right-of-way, the Agency shall, or cause its contractor to, in addition to the insurance coverage required above, procure and maintain Railroad Protective Liability Coverage (ISO Form CG 00 35) where the railroad is the Named Insured and where the limits are not less than \$2,000,000 combined single limit for bodily injury and/or property damage per occurrence, and with an annual aggregate limit of not less than \$6,000,000. The railroad shall also be added along with the Department as an Additional Insured on the policy/ies procured pursuant to the paragraph above. Prior to the execution of the Agreement, and at all renewal periods which occur prior to final acceptance of the work, both the Department and the railroad shall be provided with an ACORD Certificate of Liability Insurance reflecting the coverage described herein. The insurance described herein shall be maintained through final acceptance of the work. Both the Department and the railroad shall be notified in writing within ten days of any cancellation, notice of cancellation, renewal, or proposed change to any policy or coverage described herein. The Department's approval or failure to disapprove any policy/ies, coverage, or ACORD Certificates shall not relieve or excuse any obligation to procure and maintain the insurance required herein, nor serve as a waiver of any rights the Department may have.
- e. When the Agreement involves work on or in the vicinity of utility-owned property or facilities, the utility shall be added along with the Department as an Additional Insured on the Commercial General Liability policy/ies procured above.

19. Miscellaneous:

- a. **Environmental Regulations.** The Agency will be solely responsible for compliance with all applicable environmental regulations and for any liability arising from non-compliance with these regulations, and will reimburse the Department for any loss incurred in connection therewith.
- b. **Non-Admission of Liability.** In no event shall the making by the Department of any payment to the Agency constitute or be construed as a waiver by the Department of any breach of covenant or any default which may then exist on the part of the Agency and the making of such payment by the Department, while any such breach or default shall exist, shall in no way impair or prejudice any right or remedy available to the Department with respect to such breach or default.
- c. **Severability.** If any provision of this Agreement is held invalid, the remainder of this Agreement shall not be affected. In such an instance, the remainder would then continue to conform to the terms and requirements of applicable law.
- d. **Agency not an agent of Department.** The Agency and the Department agree that the Agency, its employees, contractors, subcontractors, consultants, and subconsultants are not agents of the Department as a result of this Agreement.
- e. **Bonus or Commission.** By execution of the Agreement, the Agency represents that it has not paid and, also agrees not to pay, any bonus or commission for the purpose of obtaining an approval of its application for the financing hereunder.
- f. **Non-Contravention of State Law.** Nothing in the Agreement shall require the Agency to observe or enforce compliance with any provision or perform any act or do any other thing in

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contravention of any applicable state law. If any of the provisions of the Agreement violate any applicable state law, the Agency will at once notify the Department in writing so that appropriate changes and modifications may be made by the Department and the Agency to the end that the Agency may proceed as soon as possible with the Project.

- g. Execution of Agreement.** This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute the same Agreement. A facsimile or electronic transmission of this Agreement with a signature on behalf of a party will be legal and binding on such party.
- h. Federal Award Identification Number (FAIN).** If the FAIN is not available prior to execution of the Agreement, the Department may unilaterally add the FAIN to the Agreement without approval of the Agency and without an amendment to the Agreement. If this occurs, an updated Agreement that includes the FAIN will be provided to the Agency and uploaded to the Department of Financial Services' Florida Accountability Contract Tracking System (FACTS).
- i. Inspector General Cooperation.** The Agency agrees to comply with Section 20.055(5), Florida Statutes, and to incorporate in all subcontracts the obligation to comply with Section 20.055(5), Florida Statutes.
- j. Law, Forum, and Venue.** This Agreement shall be governed by and construed in accordance with the laws of the State of Florida. In the event of a conflict between any portion of the contract and Florida law, the laws of Florida shall prevail. The Agency agrees to waive forum and venue and that the Department shall determine the forum and venue in which any dispute under this Agreement is decided.

IN WITNESS WHEREOF, the Parties have executed this Agreement on the day and year written above.

AGENCY Islamorada Village of Islands

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: D6-Director of Transportation Development

STATE OF FLORIDA, DEPARTMENT OF TRANSPORTATION
Legal Review:

To: Simon.Huang@dot.state.fl.us

FLORIDA DEPARTMENT OF TRANSPORTATION FUNDS APPROVAL

G2M67

8/3/2023

CONTRACT INFORMATION

Contract:	G2M67
Contract Type:	GD - GRANT DISBURSEMENT (GRANT)
Method of Procurement:	G - GOVERNMENTAL AGENCY (287.057,F.S.)
Vendor Name:	ISLAMORADA, VILLAGE OF ISLANDS
Vendor ID:	F650830851006
Beginning Date of This Agreement:	08/02/2023
Ending Date of This Agreement:	12/31/2024
Contract Total/Budgetary Ceiling:	ct = \$276,665.00
Description:	SFY24-SERVICE DEVELOPEMENT GRANT FOR ISLAMORADA

FUNDS APPROVAL INFORMATION

FUNDS APPROVED/REVIEWED FOR ROBIN M. NAITOVE, CPA, COMPTROLLER ON 8/3/2023

Action:	Original
Reviewed or Approved:	APPROVED
Organization Code:	55062020629
Expansion Option:	A1
Object Code:	751000
Amount:	\$276,665.00
Financial Project:	45216218401
Work Activity (FCT):	215
CFDA:	
Fiscal Year:	2024
Budget Entity:	55100100
Category/Category Year:	088774/24
Amendment ID:	O001
Sequence:	00
User Assigned ID:	
Enc Line (6s)/Status:	0001/04

Total Amount: \$276,665.00

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EXHIBIT A

Project Description and Responsibilities

A. Project Description (description of Agency's project to provide context, description of project components funded via this Agreement (if not the entire project)): Islamorada Village of Islands entered a service contract with Freebee for three (3) vehicles beginning October 2018. The current schedule provides for one (1) vehicle to start at 7:00 AM and the other two (2) vehicles start service at 12:00 PM. All three (3) vehicles would end service at 12:00 AM.

This project is to extend Freebee service hours by having all three (3) vehicles start at 7:00 AM and end service at 12:00 AM.

B. Project Location (limits, city, county, map): Islamorada Village of Islands/Islamorada, FL/Monroe

C. Project Scope (allowable costs: describe project components, improvement type/service type, approximate timeline, project schedule, project size): "Service Development Projects specifically include projects involving the use of new technologies, services, routes, or vehicle frequencies; the purchase of special transportation services, and other such techniques for increasing service to the riding public as are applicable to specific localities and transit user groups. Projects involving the application of new technologies or methods for improving operations, maintenance, and marketing in public transit systems can be funded through the Service Development program. Eligible capital costs are any costs that would be defined as capital costs by the Federal Transit Administration. Examples would include, but not be limited to: the acquisition of buses for fleet and service expansions; transfer facilities; intermodal terminals and park and ride facilities; and passenger amenities, such as passenger shelters and bus stop signs. Eligible net operating costs are all operating costs of a project; less any federal funds, fares, or other sources of income to the project."

D. Deliverable(s): Islamorada Village of Islands will extend Freebee service hours by having all three (3) vehicles start at 7:00 AM and end service at 12:00 AM.

The project scope identifies the ultimate project deliverables. Deliverables for requisition, payment and invoice purposes will be the incremental progress made toward completion of project scope elements. Supporting documentation will be quantifiable, measurable, and verifiable, to allow for a determination of the amount of incremental progress that has been made, and provide evidence that the payment requested is commensurate with the accomplished incremental progress and costs incurred by the Agency.

E. Unallowable Costs (including but not limited to): N/A

F. Transit Operating Grant Requirements (Transit Only):

Transit Operating Grants billed as an operational subsidy will require an expenditure detail report from the Agency that matches the invoice period. The expenditure detail, along with the progress report, will be the required deliverables for Transit Operating Grants. Operating grants may be issued for a term not to exceed three years from execution. The original grant agreement will include funding for year one. Funding for years two and three will be added by amendment as long as the grantee has submitted all invoices on schedule and the project deliverables for the year have been met.

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EXHIBIT B

**Schedule of Financial Assistance
TRANSIT OPERATING ONLY**

FUNDS AWARDED TO THE AGENCY PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

A. Fund Type and Fiscal Year:

Financial Project Number	Fund Type	FLAIR Category	State Fiscal Year	Object Code	CSFA/CFDA Number	CSFA/CFDA Title or Funding Source Description	Funding Amount
452162-1-84-01	DPTO	088774	2024	751000	55.012	Public Transit Service Development Program	\$276,665.00
Total Financial Assistance							\$276,665.00

B. Operations Phase - Estimate of Project Costs by Budget Category:

Budget Categories <i>Operations (Transit Only) *</i>	State	Local	Federal	Total
Salaries	\$0	\$0	\$0	\$0
Fringe Benefits	\$0	\$0	\$0	\$0
Contractual Services	\$276,665	\$276,665	\$0	\$553,330
Travel	\$0	\$0	\$0	\$0
Other Direct Costs	\$0	\$0	\$0	\$0
Indirect Costs	\$0	\$0	\$0	\$0
Totals	\$276,665	\$276,665	\$0	\$553,330

* Budget category amounts are estimates and can be shifted between items without amendment (because they are all within the Operations Phase).

C. Cost Reimbursement

The Agency will submit invoices for cost reimbursement on a:

☐ Monthly
☒ Quarterly
☐ Other:

basis upon the approval of the deliverables including the expenditure detail provided by the Agency.

Scope Code and/or Activity Line Item (ALI) (Transit Only)	30.09.01
--	----------

BUDGET/COST ANALYSIS CERTIFICATION AS REQUIRED BY SECTION 216.3475, FLORIDA STATUTES:

I certify that the cost for each line item budget category has been evaluated and determined to be allowable, reasonable, and necessary as required by Section 216.3475, Florida Statutes. Documentation is on file evidencing the methodology used and the conclusions reached.

Simon Huang

Department Grant Manager Name

Signature

Date

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EXHIBIT D

AGENCY RESOLUTION

PLEASE SEE ATTACHED

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**EXHIBIT E
PROGRAM SPECIFIC TERMS AND CONDITIONS – TRANSIT**

(Service Development)

- 1. Conformance with Enabling Legislation.** This Agreement is in conformance with Section 341.051, F.S.
- 2. Bus Transit System.** In accordance with Section 341.061, F.S., and Rule Chapter 14-90, Florida Administrative Code, the Agency shall submit and the Department shall have on file, an annual safety certification that the Agency has adopted and is complying with its adopted System Safety Program Plan pursuant to Rule Chapter 14-90, F.A.C., and has performed annual safety inspections of all buses operated.
- 3. Transit Vehicle Inventory Management.** The agency will follow the Department's Transit Vehicle Inventory Management Procedure (725-030-025), which outlines the requirements for continuing management control, inventory transfer and disposal actions. This procedure pertains ONLY to capital procurements of rolling stock using the FTA Section 5310, Section 5311, Section 5316, and Section 5317 programs as the funding source, or where the Department participates in 50% or more of the public transit vehicle's purchase price. This may include vehicles purchased under the State Transit Block Grant Program, State Transit Corridor Program, State Transit Service Development Program, or other applicable Department programs.
- 4. Progress Reports.** The Agency will submit Semi-Annual Progress Reports on monthly ridership data. Reports are due no later than January 30th for the period ending December 31st and July 30th for the period ending June 30th.
- 5. Project Goals and Service Data.** The Agency must report on work efforts and provide a detailed, side-by-side comparison of the project goals and actual service data.
- 6. Submittal of Proposed Timeline.** The Agency will submit a Proposed Time Line for Service Development Activities prior to the commencement of the project.
- 7. Final Report.** At any time when it becomes necessary to terminate the project or at the end of the two years, a Final Report will be submitted by the Agency. This report will accompany the Final Invoice for reimbursement. The Final Report will include the following:
 - a) An evaluation of the attainment of the goals and objectives.
 - b) The reasons any of the goals were not met.
 - c) The benefit accrued by the Agency.
 - d) A statement of the Agency's intent to continue with the service demonstrated.

-- End of Exhibit E --

EXHIBIT F

**Contract Payment Requirements
Florida Department of Financial Services, Reference Guide for State Expenditures
Cost Reimbursement Contracts**

Invoices for cost reimbursement contracts must be supported by an itemized listing of expenditures by category (salary, travel, expenses, etc.). Supporting documentation shall be submitted for each amount for which reimbursement is being claimed indicating that the item has been paid. Documentation for each amount for which reimbursement is being claimed must indicate that the item has been paid. Check numbers may be provided in lieu of copies of actual checks. Each piece of documentation should clearly reflect the dates of service. Only expenditures for categories in the approved agreement budget may be reimbursed. These expenditures must be allowable (pursuant to law) and directly related to the services being provided.

Listed below are types and examples of supporting documentation for cost reimbursement agreements:

(1) Salaries: A payroll register or similar documentation should be submitted. The payroll register should show gross salary charges, fringe benefits, other deductions and net pay. If an individual for whom reimbursement is being claimed is paid by the hour, a document reflecting the hours worked times the rate of pay will be acceptable.

(2) Fringe Benefits: Fringe Benefits should be supported by invoices showing the amount paid on behalf of the employee (e.g., insurance premiums paid). If the contract specifically states that fringe benefits will be based on a specified percentage rather than the actual cost of fringe benefits, then the calculation for the fringe benefits amount must be shown.

Exception: Governmental entities are not required to provide check numbers or copies of checks for fringe benefits.

(3) Travel: Reimbursement for travel must be in accordance with Section 112.061, Florida Statutes, which includes submission of the claim on the approved State travel voucher or electronic means.

(4) Other direct costs: Reimbursement will be made based on paid invoices/receipts. If nonexpendable property is purchased using State funds, the contract should include a provision for the transfer of the property to the State when services are terminated. Documentation must be provided to show compliance with Department of Management Services Rule 60A-1.017, Florida Administrative Code, regarding the requirements for contracts which include services and that provide for the contractor to purchase tangible personal property as defined in Section 273.02, Florida Statutes, for subsequent transfer to the State.

(5) In-house charges: Charges which may be of an internal nature (e.g., postage, copies, etc.) may be reimbursed on a usage log which shows the units times the rate being charged. The rates must be reasonable.

(6) Indirect costs: If the contract specifies that indirect costs will be paid based on a specified rate, then the calculation should be shown.

Contracts between state agencies, and/or contracts between universities may submit alternative documentation to substantiate the reimbursement request that may be in the form of FLAIR reports or other detailed reports.

The Florida Department of Financial Services, online Reference Guide for State Expenditures can be found at this web address <https://www.myfloridacfo.com/Division/AA/Manuals/documents/ReferenceGuideforStateExpenditures.pdf>.

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EXHIBIT G

AUDIT REQUIREMENTS FOR AWARDS OF STATE FINANCIAL ASSISTANCE

THE STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT CONSIST OF THE FOLLOWING:

SUBJECT TO SECTION 215.97, FLORIDA STATUTES:~

Awarding Agency: Florida Department of Transportation
State Project Title: Public Transit Service Development Program
CSFA Number: 55.012
***Award Amount:** \$276,665

*The award amount may change with amendments

Specific project information for CSFA Number 55.012 is provided at: <https://apps.fldfs.com/fsaa/searchCatalog.aspx>

COMPLIANCE REQUIREMENTS APPLICABLE TO STATE RESOURCES AWARDED PURSUANT TO THIS AGREEMENT:

State Project Compliance Requirements for CSFA Number 55.012 are provided at:
<https://apps.fldfs.com/fsaa/searchCompliance.aspx>

The State Projects Compliance Supplement is provided at: <https://apps.fldfs.com/fsaa/compliance.aspx>



Council Communication

To: Mayor and Village Council
From: Mary Swaney, Procurements & Grants Administrator, Maria Bassett, Finance Director
Date: October 10, 2023
SUBJECT: **Resolution Approving a Renewal Agreement for Freebee Ridesharing Services in Conjunction with FDOT SFY 2024 Public Transit Service Development Program Grant - TAB 12**

Background:

Freebee is a company based in Miami that provides local transportation in electric vehicles free of charge to riders through requests via a smartphone app. The service is successful in many cities and districts in South Florida and continues to expand. Freebee is funded primarily by municipal funds through agreements with local governments as part of the local public transportation plans and in combination with private advertising dollars through placement of ads on the Freebee vehicles.

Freebee Managing Partner Jason Siegel originally introduced Freebee, the public transit service the company provides, the carbon emissions savings potential, and other program benefits during a presentation to the Village Council in July 2018. Details of the services provided to the Village including service improvements and service expansions are described below.

• **Trial Program:**

The Village Council initially approved a six-month Freebee trial program and approved \$80,000.00 in the adopted FY 2018-2019 Budget to fund the trial program. Under the Agreement for the trial program services, Freebee provided two (2) golf cart style electric vehicles to service Upper Matecumbe Key from November 29, 2018 through May 28, 2019. Service was provided for a total of 37 hours per week from Thursdays through Sundays. While the golf cart style vehicles have tags, lights, windshield wipers and a horn, the service was limited to Upper Matecumbe Key because the golf cart vehicles are restricted to 35 mph and cannot travel on the Overseas Highway or across the bridges of the Overseas Highway. Resident feedback throughout the trial program was positive and supportive of the program, and many residents requested that the Freebee program be expanded to provide the ridesharing service to all areas of the Village.

• **Service Expansion/Two-year Agreement:**

At the May 30, 2019, Village Council Meeting, Jason Spiegel made a presentation detailing a possible expansion of the Freebee program with two (2) XL vans, thereby making it possible to serve all areas of the Village. At that meeting, Council authorized the Village Manager to enter into an agreement to extend the Freebee services under the current agreement to allow time

for Mr. Spiegel to further research larger vehicle options and costs. At its July 18, 2019 meeting, the Village Council approved a two-year Agreement with Freebee for a Village-wide program utilizing the two (2) XL vans to travel Village wide and one (1) golf cart style vehicle continuing to provide service on Upper Matecumbe.

The operating hours with the new Agreement were expanded from four (4) days to six (6) days per week for 70 hours of service per week per vehicle. The two-year agreement began in March 2020 when Freebee acquired and put into service the two new larger vehicles. The Agreement provided for the cost of the services at \$317,280.00 annually, paid in twelve (12) payments of \$26,440.00. With an adjustment in the contract term for suspension of service associated with the Coronavirus Pandemic, the two-year agreement terminated May 31, 2022.

No-Cost Additional Services During the above-described Two-year Agreement:

At the suggestion of Freebee and with agreement from the Village, Freebee replaced the third cart-style vehicle that served only Upper Matecumbe Key with a Tesla X, thereby supplying three vehicles to provide Village-wide services. The Tesla X was put into service in April 2021 at no additional cost to the Village.

At the request of the Village, service was expanded to three locations at the south end of Tavernier beginning June 15, 2021: the Tavernier Town Center, the Mariners Hospital Complex, and the Good Health Clinic. The Village requested the service expansion to the new locations after numerous requests from residents asking to be able to use Freebee to access medical offices and the shopping center and the suggestion of the Fire Chief to utilize Freebee for transportation of residents to medical appointments. Freebee provides the expanded service at no additional cost to the Village.

In August 2021, the Village entered into a Revocable License Agreement with Freebee enabling Freebee to use a portion of property owned by the Village for a charging station site. The Village provided space near the wastewater pump station at Village Hall, and three charging stations were installed for use by Freebee pursuant to terms included in the Agreement. Freebee paid for the charging station equipment and installation costs. They are also responsible for paying associated electric costs.

• **Current Agreement Effective June 1, 2022 to present**

At its meeting on May 12, 2022, the Council adopted Resolution No. 22-05-36 approving an agreement with Freebee effective June 1, 2022, to June 30, 2023. The agreement was subsequently extended by the Village Council on June 8, 2023 for a term through the time the FDOT Public Transit Service Development Program Grant (the "FDOT Transit Development Grant") becomes effective. The new agreement included the following new provisions:

- Vehicles in the Freebee fleet for the Village would include two Tesla X 7-passenger vehicles and one XL Vans instead of one Tesla X and two XL Vans. Freebee based the recommended change on feedback received from passengers saying they prefer to be picked up in the Tesla. Additionally, the Teslas have over two (2) times the battery range capacity, greatly reducing the out-of-service periods for charging. The Tesla X seats a maximum of seven (7) passengers, and the XL vans seat a maximum of nine (9) passengers and can accommodate a wheelchair. Freebee reported that the XL vans are rarely at maximum capacity. The change helped to increase ridership while decreasing wait times.

- The Agreement effective June 1, 2022, included a new monthly rate of \$28,542.00, which was an increase of \$2,102.00 per month or 8%. The total contract cost for the 13-month term was \$371,046.00.
- The Agreement effective June 1, 2022 continued to provide 70 hours of operation for the three vehicles, but the schedule was changed so that the three vehicles would no longer follow the same schedule (usually 10:00 a.m. to 10:00 p.m. with service to 12:00 a.m. on Fridays and Saturdays). The current service is available seven days per week, and service for one vehicle starts at 7:00 a.m. Through this change, the hours of operation were expanded to provide services beginning at 7:00 a.m. but provides only one vehicle in service during those early hours and one vehicle from 10:00 p.m. to midnight. The following schedule was adopted and became effective July 1, 2022:

Vehicle #1	7:00 a.m. to 5:00 p.m.	10 hrs/day; 7 days/week
Vehicle #2	12:00 p.m. to 10:00 p.m.	10 hrs/day; 7 days/week
Vehicle #3	2:00 p.m. to 12:00 a.m.	10 hrs/day; 7 days/week

• **FDOT Public Transit Grant**

The Florida Department of Transportation (“FDOT”) Public Transit Service Development Program Grant (the “FDOT Transit Development Grant”) is available specifically for new transit service development. To be eligible for the funding, existing Freebee services in the Village would need to be expanded with the addition of vehicles, increased route areas, and/or increased service hours.

At the direction of the Village Council to utilize state funds for the Freebee program, in May 2022, Village staff applied for the FDOT SFY 2024 Transit Development Grant for funding for an expansion of Freebee’s services eligible for the FDOT Transit Development Grant to begin as early as July 1, 2023 coinciding with the State fiscal year of July 1 to June 30. The Village was subsequently awarded the FDOT SFY 2024 grant to provide 50% funding for the proposed expanded program to provide all three Freebee vehicles to operate seven (7) days per week from 7:00 AM to 12:00 AM. The Village received the FDOT Grant Agreement for approval in August 2023 and is requesting Council approval of the Grant Agreement on September 7, 2023.

• **Proposed New Freebee Agreement to be Effective October 1, 2023 (or soon thereafter for a twelve-month term)**

To meet the provisions of the program funded by the FDOT 2024 Public Transit Services Development Grant, the proposed new Freebee Agreement includes the following provisions:

- Vehicles in the Freebee fleet for the Village would continue to include two Tesla X 7-passenger vehicles and one XL Van with all three vehicles operating seven days per week from 7:00 AM to 12:00 AM.
- The daily operation of all three vehicles from 7:00 AM to 12:00 AM is an expansion of services from 210 hours per week to 357 hours per week. The annual Freebee program costs would increase from \$342,504.00 to \$553,330.00. Village Council acceptance of the FDOT grant would allow reimbursement from FDOT in the amount of \$276,665.00. The Village’s share would also be \$276,665.00. This would result in a \$65,839.00 annual reduction of expenditures while providing a significantly expanded program.

- The proposed Freebee Agreement would be effective October 1, 2023, or soon thereafter, based upon full execution of the FDOT Transit Development Grant, for a period of twelve (12) months with the option to renew for two (2) additional twelve (12) month periods with Village Council approval.
- The proposed Agreement provides for termination by either party for convenience upon forty-five (45) days' written notice.

Analysis:

Attachment B provides a summary of ridership reports from the time Freebee's services began. In this summary, the per passenger and per trip cost are provided with averages for each month and calendar year the contract has been in effect. Attachment C is a report from Freebee summarizing services from the beginning and the expansion of services proposed through the grant FDOT Transit Development Grant funding.

The expanded services are predicted to increase ridership and decrease wait times.

If the Village Council accepted the 2024 FDOT Transit Development Grant Agreement (at the previous Tab of the agenda) to fund 50% of the increased cost of expanded services, the Village and Freebee would need to enter into the Agreement for the expanded services described above to be eligible for the \$276,665.00 grant funding.

Budget Impact:

The current Freebee services are provided at a cost of \$342,504.00 annually paid in twelve (12) payments of \$28,542.00 and are accounted for in the Transportation Fund. The cost of the expanded services would be \$553,330.00 annually paid in twelve (12) payments of \$46,110.00. The grant would provide 50% funding (\$276,665.00), and the Village's share would also be \$276,665.00. This would result in a \$65,839.00 annual reduction of expenditures in the Transportation Fund while providing an increased level of service.

Staff Impact:

Village staff would continue to coordinate services with Freebee.

Recommendation:

It is recommended that the Village Council consider the services provided by Freebee as impacted by whether the FDOT SFY 2024 Public Transit Development Program Grant Agreement was approved and choose whether to adopt the resolution, provided as Attachment A, to approve a renewal Agreement to continue Freebee services with the expanded program described.

- Attachments:**
1. Attachment A: Resolution Freebee 2023 Agreement-with Exhibit
 2. Attachment B: Freebee Cost Analysis through Jul 2023
 3. Attachment C: Freebee Islamorada Services Presentation

RESOLUTION NO. 23-

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING EXECUTION OF AN AGREEMENT WITH BEEFREE, LLC., d/b/a FREEBEE WITH EXTENDED SERVICE HOURS; 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 AGREEMENT; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; AND PROVIDING AN EFFECTIVE DATE

WHEREAS, Islamorada, Village of Islands (the "Village") experiences heavy vehicular traffic and traffic delays especially during the peak tourist season; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the "Village Council"), has sought measures to reduce vehicular traffic within Islamorada; and

WHEREAS, BEEFREE, LLC. d/b/a Freebee ("Freebee") developed a service to provide local transportation utilizing electric vehicles and has implemented the environmentally friendly transit service in many South Florida communities; and

WHEREAS, Freebee local transit services are funded by a combination of private advertising dollars and municipal funds through an Agreement with the local government; and

WHEREAS, the Village Council initially approved a six-month trial period beginning November 2019 for the Freebee services limited to Upper Matecumbe Key, assigned funds in the Fiscal Year 2018-2019 Budget to fund the service and subsequently approved an extension of the trial period to prepare for an expansion of Freebee services in response to the popularity of the local transit program and requests to expand the program to all areas of the Village; and

WHEREAS, in July 2019, the Village Council approved a two-year Agreement with Freebee

for to provide a Village-wide local transit services program and has approved budgeted funds annually to continue the program; and

WHEREAS, the Village-wide services began March 1, 2020 and have continued through the approval of subsequent agreements and incremental service expansions and enhancements, with suspension of services only during April and May 2020 at the beginning of the COVID-19 pandemic; and

WHEREAS, the Village Council desired to expand the hours of service of the Freebee vehicles and directed staff to apply for the Florida Department of Transportation ("FDOT") Public Transit Service Development Program Grant (the "FDOT Transit Development Grant") that is available specifically to fund new transit service development; and

WHEREAS, the Village was awarded the FDOT SFY 2024 grant to provide fifty percent (50%) funding for the expanded program proposed in the grant application to provide all three Freebee vehicles to operate seven (7) days per week from 7:00 AM to 12:00 AM, an expansion of services from 210 hours per week to 357 hours per week; and

WHEREAS, the Village Council accepted the FDOT Transit Development Grant at its meeting on September 7, 2023; and

WHEREAS, the Village Council finds that entering into a new Agreement with Freebee to continue the Village-wide local transit services program for residents and visitors, expand the services provided utilizing FDOT Transit Development Grant funds and a 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 Agreement.** The Village Council hereby approves the Agreement with BEEFREE, LLC., d/b/a Freebee, as set forth in Exhibit "1" attached hereto.

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 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 services.

Section 5. **Execution of Agreement.** The Village Manager is authorized to execute the Agreement with BEEFREE, LLC., d/b/a Freebee, 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 6. **Waiver of Competitive Bidding.** In accordance with Section 2-328(1) and Section 2-328(6) of the Village Code, the Village Council waives the purchasing provisions of the Village Code to utilize the services of BEEFREE, LLC., d/b/a Freebee without conducting a competitive bid process.

Section 7. **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, VILLAGE ATTORNEY

AGREEMENT

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

ISLAMORADA, VILLAGE OF ISLANDS

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

and

BEEFREE, LLC,

a limited liability company d/b/a FREEBEE, 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 transportation services to residents and tourists within the Village.

Section 1.02 CONTRACTOR has developed a service to provide no-fare local transportation utilizing electric vehicles ("Freebees") and has implemented the environmentally friendly transit service in several South Florida communities.

Section 1.03 The VILLAGE approved a six-month trial period for the Freebee services limited to Upper Matecumbe Key, assigned funds in the Fiscal Year 2018-2019 Budget to fund the services, and subsequently approved a two-month extension of the trial period.

Section 1.04 The trial period for CONTRACTOR's Freebee service from November 29, 2018 to May 28, 2019, which was subsequently extended to July 31, 2019, has been popular with both residents and visitors, and residents requested expansion of Freebee services to provide transportation to all four (4) islands of the Village.

Section 1.05 On July 8, 2019, the VILLAGE received a proposal from CONTRACTOR to continue providing and expanding mobile application-based transportation and marketing services to VILLAGE residents, tourists, and visitors via CONTRACTOR's 100% electric and customized low-speed vehicles known as "Freebees" (the "Services").

Section 1.06 On July 18, 2019, the Village Council of Islamorada, Village of Islands adopted Resolution No. 19-07-48, thereby accepting the proposal from CONTRACTOR and authorizing the Village to negotiate an Agreement with CONTRACTOR for the proposed services.

Section 1.07 The Village and CONTRACTOR entered into an Agreement on October 15, 2019 that provided for a term of twenty-four (24) months from the date of delivery and deployment of new vehicles able to travel Village-wide. The Agreement was extended by two (2) months in acknowledgment of a two-month suspension of services and payments during the COVID-19 pandemic, and it terminated on May 31, 2022.

Section 1.08 On May 12, 2022, the Village Council approved an agreement between VILLAGE and CONTRACTOR for the continued provision of the Services through June 30, 2023, for seventy (70) hours per week according to a staggered schedule whereby all three vehicles would operate different hours for a total annual cost of \$342,504.00.

Section 1.09 The Agreement dated May 12, 2022, was extended by the Village Council on June 8, 2023 to continue in its entirety until approval of the Public Service Transit Grant from the Florida Department of Transportation ("FDOT") for the State Fiscal Year 2024 intended to reimburse the Village for fifty percent (50%) of an expanded program to be implemented by CONTRACTOR.

Section 1.10 The FDOT drafted and transmitted a Grant Agreement to the Village that was approved by the Village Council on September 7, 2023 with a term to begin upon full execution by both parties.

Section 1.11 VILLAGE and CONTRACTOR desire to enter into an Agreement for the continued provision of the Services as set forth herein, including the expanded service hours with all vehicles in service from 7:00 AM to 12:00 AM seven days per week in conjunction with the FDOT Grant Agreement.

Section 1.12 The Village Manager is authorized to execute an agreement with CONTRACTOR for services related to the scope of work set forth in the Rates and Services Addendum attached hereto as Exhibit "A" and as more particularly described herein.

Article II. SCOPE OF WORK

Section 2.01 The CONTRACTOR shall furnish all of the materials, tools, supplies, and labor necessary to perform all of the work described in the Rates and Services Addendum, 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 manpower to perform the services to be provided by CONTRACTOR 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 contract shall be subcontracted beyond that shown on List of Major Subcontractors submitted to the VILLAGE by CONTRACTOR, unless CONTRACTOR obtains prior written consent from the VILLAGE. Approved subcontractors shall be subject to each provision of this contract 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 services as directed by VILLAGE and in accordance with a project implementation timeline to be provided to CONTRACTOR by the VILLAGE. CONTRACTOR shall perform all services in a timely manner in accordance with the project timeline and as stated in Exhibit "A" to this Agreement.

Section 3.02 This Agreement and the services hereunder shall commence on October 1, 2023 or the date the Village receives the fully executed Grant Agreement from the FDOT, whichever is later, and shall continue for twelve (12) months from the date of commencement.

Section 3.03 Anything to the contrary notwithstanding, minor adjustment to the timetable 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.

Article IV. CONTRACT PRICE AND GUARANTEES

Section 4.01 The VILLAGE hereby agrees to pay CONTRACTOR for the faithful performance of this Agreement, for services rendered in accordance with the Rates and Services Addendum attached hereto as Exhibit "A", and as directed by VILLAGE. Prices for work completed by the CONTRACTOR shall be as reflected in CONTRACTOR's Rates and Services Addendum attached hereto and made a part hereof as Exhibit "A". A total contact price hereto is referred to as Contract Sum and shall not exceed **Five Hundred Fifty-three Thousand Three Hundred and no/100 Dollars (\$553,330.00) per annum.**

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 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 per occurrence; \$5,000,000 annual general aggregate; and

Vehicle Liability (Owned, non-owned and hired vehicles) - \$1,000,000 per Occurrence, \$1,000,000 per Accident for bodily injury and \$1,000,000 per accident for property damage.

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 activities under this Agreement 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 and shall provide a thirty (30) day written notice to CONTRACTOR if any changes to insurance obligations are required. Notwithstanding the foregoing, in the event the VILLAGE requires any change in insurance coverage or additional insurance coverage which exceeds the scope of coverage or coverage limits expressly required under this Agreement, CONTRACTOR may, in its sole discretion, terminate this Agreement without further obligation by providing thirty (30) days' prior written notice to VILLAGE. In the event of such termination, CONTRACTOR shall be paid for all work satisfactorily performed through the date of termination.

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 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
DESCRIPTION OF AMENDMENT
ESTIMATED COST FOR ADDITION OR CHANGE TO PROJECT

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 and the services hereunder shall commence on October 1, 2023 or the date the Village receives the fully executed Grant Agreement from the FDOT, whichever is later, and shall continue for twelve (12) months from the date of commencement.

Section 10.02 This Agreement may be terminated by either party for cause, or the VILLAGE for convenience, upon forty-five (45) days written notice. If this Agreement is terminated by either party for convenience, 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 in a manner not permitted under the terms of the Agreement, 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 10.03 This Agreement may be terminated by either party for cause upon fifteen (15) days written notice by the party not in default providing the defaulting party with a specific description of the default and an opportunity to cure. If this Agreement is terminated by either party for cause, the CONTRACTOR shall be paid its compensation for services satisfactorily performed to the termination date.

Section 10.04 The Term of this Agreement may be extended upon mutual written Agreement of CONTRACTOR and the VILLAGE for two (2) additional terms of twelve (12) months, subject to approval by the Village Council.

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:	Jason Spiegel, Managing Partner BEEFREE, LLC d/b/a FREEBEE

2312 N. Miami Avenue
Miami, Florida 33127
jason@ridefreebee.com

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"

BEEFREE, LLC

"RATES AND SERVICES ADDENDUM"

(Rates and Services Addendum for "Freebee" Transportation Services)

This Rates and Services Addendum ("Addendum") supplements the Agreement between BEEFREE, LLC ("BEEFREE") and ISLAMORADA, VILLAGE OF ISLANDS ("the VILLAGE"), made and entered into on the ____ day of _____, 2023 (the "Agreement"). This Addendum is subordinate to, and fully incorporates the terms and conditions of the Agreement, unless expressly stated otherwise herein. In consideration of the promises and covenants contained herein, and for good and valuable consideration, BEEFREE and VILLAGE (collectively, the "Parties"), intending to be legally bound, hereby agree as follows:

1. **Term.** The term of the Services set forth under this Addendum shall commence on shall commence on October 1, 2023 or the date the Village receives the fully executed Grant Agreement from the FDOT, whichever is later, and shall continue for twelve (12) months from the date of commencement, unless terminated sooner or extended pursuant to the terms of the Agreement.
2. **Services.** This Addendum is limited in scope to the following services (the "Services"), which BEEFREE agrees to provide to VILLAGE at the rates specified herein (the "Rates"):
 - a. BEEFREE will provide three (3) "Freebee" vehicles (One (1) XL van and two (2) Tesla X vehicles) dedicated to VILLAGE (the "Vehicles") for the duration of the Term. At least one of the Vehicles dedicated to VILLAGE will be wheelchair accessible, and BEEFREE will otherwise use its best efforts to be and remain in compliance with all Americans with Disabilities Act ("ADA") requirements. BEEFREE shall be responsible for providing appropriate training to its drivers who will be operating the wheelchair accessible Vehicle, including but not limited to, training as to the operation of the ramping system and securing of wheelchairs.
 - b. BEEFREE will operate the Vehicles within VILLAGE's designated service area at all times during VILLAGE's operating hours (weather and conditions permitting) as reflected in Section 5 herein, with the exception being when a driver takes their thirty (30) minute meal break. At such times during a driver break, two (2) vehicles will be in operation and BEEFREE will try to limit this to downtime in service. BEEFREE agrees that, to the extent feasible, at all times during VILLAGE's operating hours, at least one (1) wheelchair-accessible Vehicle will be available to accommodate passengers, upon request, and BEEFREE will operate the ramping system and secure any wheelchairs to the vehicle should such accommodations be requested.
 - c. Prior to the beginning of the Term, BEEFREE will add VILLAGE as an additional insured on BEEFREE's automobile insurance policy (of at least \$1 million), and on BEEFREE's general liability policy (of at least \$5 million). VILLAGE will remain as an additional

insured on said policies throughout the Term. BEEFREE must also otherwise comply with the insurance requirements as set forth in the Agreement.

- d. BEEFREE will assist VILLAGE in developing a marketing plan to encourage ridership on the Vehicles during the Term.
 - e. Beginning with the first month of the Term and continuing for each month of the Term thereafter, BEEFREE will provide VILLAGE with a monthly report showing data and analytics related to ridership in the Vehicles for the preceding month(s). BEEFREE will provide these reports within ten (10) business days of the last day of each month, unless another time frame is agreed to between the Parties.
 - f. BEEFREE agrees that any questions, complaints, or concerns reported to BEEFREE (through its drivers or otherwise) regarding ADA issues will be reported to the VILLAGE within one business day.
3. Rates. As consideration for the Services listed above, VILLAGE shall pay BEEFREE at the following Rates:
- a. The total payment for the Services to be provided under this Addendum shall not exceed Five Hundred Fifty-three Thousand Three Hundred and no/100 Dollars (\$553,330.00) per annum, with the ability to subsidize total payment with advertising revenue, as stipulated under Section 5(d) herein.
 - b. The breakdown for the Services charge is as follows:
1 XL Vehicle and 2 Tesla X Vehicles
Service: Monday - Sunday
One Hundred Nineteen (119) Hours of labor per vehicle weekly
Cost: \$553,300.00 Annually
4. Payment Terms. VILLAGE agrees to pay the Rates in monthly installments, as follows:
- a. Twelve (12) payments of \$46,110.00 per month, payable on or before the 15th day of each month, beginning the first month of the Term of this Agreement.
5. Additional Terms.
- a. VILLAGE's operating hours, as contemplated in Section 2.b. above, shall be as follows: Monday through Sunday, 7:00 a.m. to 12:00 a.m. These hours may be modified by mutual written agreement of the Parties as ridership data becomes available throughout the Term.
 - b. VILLAGE shall be responsible for providing a location for installation of the fast chargers. Any costs always associated therewith after acceptance of the delivery will be the responsibility of BEEFREE. Notwithstanding the foregoing, all fast chargers delivered to VILLAGE by BEEFREE shall remain the property of BEEFREE and shall be subject to return upon conclusion of the Term.
 - c. BEEFREE will operate the Vehicles in VILLAGE'S designated service area as delineated in the attached map.

- d. Should local law allow for BEEFREE to sell advertising space on the Vehicles at any time during the Term and provided that BEEFREE is able to sell such advertising space, BEEFREE may enter into separate agreements with advertisers for the placement of advertising on the Vehicles. All advertising shall be subject to VILLAGE's approval prior to placement on the Vehicles. The first \$120,000.00 of advertising revenue generated will remain the Property of BEEFREE. Any advertising revenue generated above \$120,000.00 from the sale of advertising on the Vehicles during the Term shall be divided equally between BEEFREE and VILLAGE, with each entitled to 50% of advertising revenue that is generated and actually received. VILLAGE shall be permitted to apply its share of such revenue, if any, towards subsidizing the Rates it has agreed to pay hereunder. Nothing in this section should be deemed to constitute a guarantee that BEEFREE will sell such advertising space or generate any revenue by selling advertising on the Vehicles during the Term, and VILLAGE expressly acknowledges that no such guarantee has been made by BEEFREE.

Islamorada, Village of Islands
FreeBee Service Cost Analysis

Trial Period	Days	Hours	Hours / Week	Vehicles:										MONTHLY AVERAGE
	Thursday	4P to 12A	8	2 6-passenger not able to go over the bridges (Upper Matecumbe only)										
	Friday	4P to 12A	8											
	Saturday	12P to 12A	12											
	Sunday	11A to 8P	9											
			37											
	2019													
	January	February	March	April	May	June	July	August	September	October	November	December	TOTAL	
Completed Rides	354	581	752	546	585	616	508	635	371	583	675	616	6,822	569
Total Passengers	773	1,388	1,770	1,265	1,383	1,601	1,220	1,379	828	1,347	1,646	1,370	15,970	1,331
Monthly Payment	\$ 13,500.00	\$ 13,500.00	\$ 13,500.00	\$ 13,500.00	\$ 13,500.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 114,750.00	
Ad Subsidy	\$ (1,325.00)	\$ (1,325.00)	\$ (1,325.00)	\$ (1,325.00)	\$ (1,325.00)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (6,625.00)	
Net Payment	\$ 12,175.00	\$ 12,175.00	\$ 12,175.00	\$ 12,175.00	\$ 12,175.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 6,750.00	\$ 108,125.00	
Cost / Ride	\$ 34.39	\$ 20.96	\$ 16.19	\$ 22.30	\$ 20.81	\$ 10.96	\$ 13.29	\$ 10.63	\$ 18.19	\$ 11.58	\$ 10.00	\$ 10.96		\$ 16.69
Cost / Passenger	\$ 15.75	\$ 8.77	\$ 6.88	\$ 9.62	\$ 8.80	\$ 4.22	\$ 5.53	\$ 4.89	\$ 8.15	\$ 5.01	\$ 4.10	\$ 4.93		\$ 7.22

Expanded Service	<u>Hours</u>	<u>Hours / Week</u>	<u>Vehicles:</u>
Tuesday	10A to 10P	12	2 xl-passenger vans able to go over the bridges
Wednesday	10A to 10P	12	1 6-passenger golf cart not able to go over the bridges used until April 2021
Thursday	11A to 11P	12	
Friday	11A to 12A	13	On April 21, 2021, 1 Tesla X able to go over bridges replaced golf cart (no rate increase)
Saturday	12P to 12A	12	On June 15, 2021, service was expanded to Tavernier Town, Mariners Hospital and Good Health Clinic (no rate increase)
Sunday	11A to 8P	9	Effective July 1, 2022, scheduled revised so that one vehicle starts at 7:00 a.m.; services 7 days per week.
		70	

2020													MONTHLY
<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>	<u>November</u>	<u>December</u>	<u>TOTAL</u>	AVERAGE
(service reduction during COVID-19 - no ride sharing - single pickups only June 2020 through May 2021)													
Completed Rides	740	700	927		754	995	1,205	1,388	1,530	1,339	1,507	11,085	1,109
Total Passengers	1,741	1,532	1,921		1,609	1,896	2,217	2,371	2,804	2,419	2,781	21,291	2,129
Monthly Payment	\$ 6,750.00	\$ 6,750.00	\$ 26,440.00	(service suspension-Covid 19)	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 225,020.00	
Ad Subsidy	\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Monthly Payment	\$ 6,750.00	\$ 6,750.00	\$ 26,440.00		\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 225,020.00	
Cost / Ride	\$ 9.12	\$ 9.64	\$ 28.52		\$ 35.07	\$ 26.57	\$ 21.94	\$ 19.05	\$ 17.28	\$ 19.75	\$ 17.54		\$ 20.45
Cost / Passenger	\$ 3.88	\$ 4.41	\$ 13.76		\$ 16.43	\$ 13.95	\$ 11.93	\$ 11.15	\$ 9.43	\$ 10.93	\$ 9.51		\$ 10.54

2021														MONTHLY
	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>	<u>November</u>	<u>December</u>	<u>TOTAL</u>	<u>AVERAGE</u>
(service reduction during COVID-19 - single pickups only thorough May 2021)														
Completed Rides	1,581	1,722	1,834	1,510	1,502	1,478	1,613	1,583	1,671	1,626	1,599	1,799	19,518	1,627
Total Passengers	2,898	3,278	3,574	2,898	2,684	2,848	3,038	2,644	2,764	2,839	2,897	3,014	35,376	2,948
Monthly Payment	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 317,280.00	
Ad Subsidy	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Monthly Payment	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 317,280.00	
Cost / Ride	\$ 16.72	\$ 15.35	\$ 14.42	\$ 17.51	\$ 17.60	\$ 17.89	\$ 16.39	\$ 16.70	\$ 15.82	\$ 16.26	\$ 16.54	\$ 14.70		\$ 16.33
Cost / Passenger	\$ 9.12	\$ 8.07	\$ 7.40	\$ 9.12	\$ 9.85	\$ 9.28	\$ 8.70	\$ 10.00	\$ 9.57	\$ 9.31	\$ 9.13	\$ 8.77		\$ 9.03

2022														MONTHLY
	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>	<u>November</u>	<u>December</u>	<u>TOTAL</u>	<u>AVERAGE</u>
Completed Rides	1,675	1,661	1,771	1,621	1,699	1,574	2,024	2,184	1,755	1,925	2,091	2,329	22,309	1,859
Total Passengers	2,902	2,945	3,195	2,788	2,998	2,698	3,422	3,341	2,499	3,070	3,268	3,626	36,752	3,063
Monthly Payment	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 331,994.00	
Ad Subsidy	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Monthly Payment	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 26,440.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 331,994.00	
Cost / Ride	\$ 15.79	\$ 15.92	\$ 14.93	\$ 16.31	\$ 15.56	\$ 18.13	\$ 14.10	\$ 13.07	\$ 16.26	\$ 14.83	\$ 13.65	\$ 12.26		\$ 15.07
Cost / Passenger	\$ 9.11	\$ 8.98	\$ 8.28	\$ 9.48	\$ 8.82	\$ 10.58	\$ 8.34	\$ 8.54	\$ 11.42	\$ 9.30	\$ 8.73	\$ 7.87		\$ 9.12

2023														MONTHLY
	<u>January</u>	<u>February</u>	<u>March</u>	<u>April</u>	<u>May</u>	<u>June</u>	<u>July</u>	<u>August</u>	<u>September</u>	<u>October</u>	<u>November</u>	<u>December</u>	<u>TOTAL</u>	<u>AVERAGE</u>
Completed Rides	2,585	2,684	3,109	2,910	2,864	2,511	2,578						19,241	2,749
Total Passengers	4,106	4,356	5,071	4,722	4,312	3,882	3,857						30,306	4,329
Monthly Payment	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00						\$ 199,794.00	
Ad Subsidy	\$ -	\$ -	\$ -										\$ -	
Monthly Payment	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ 28,542.00	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 199,794.00	
Cost / Ride	\$ 11.04	\$ 10.63	\$ 9.18	\$ 9.81	\$ 9.97	\$ 11.37	\$ 11.07							\$ 10.44
Cost / Passenger	\$ 6.95	\$ 6.55	\$ 5.63	\$ 6.04	\$ 6.62	\$ 7.35	\$ 7.40							\$ 6.65

○ ○ ○ ○

freebee +



PROGRAM RECAP

August 2023

○ ○ ○ ○

PROGRAM GOALS

- Establish an innovative and effective public transportation option for Islamorada, Village of Islands
- Transform Islamorada into a community where you can live, work, and play without the need of a personal vehicle
- Alleviate traffic congestion by encouraging residents to opt for public transportation.
- Increase parking availability by reducing the number of cars on the road.
- Contribute to environmental sustainability by operating a fleet of 100% electric vehicles, thereby reducing the Village's carbon footprint.
- Drive local economic growth by providing a convenient transportation service that brings customers directly to local businesses.
- Facilitate seamless commuting for workers by providing a reliable and efficient transportation solution, ensuring easy access to their places of employment.
- Enhance public safety by curbing instances of drinking and driving through accessible Freebee transportation.

freebee +



EXECUTIVE SUMMARY

The Freebee Islamorada microtransit program has set a new standard for transportation excellence, positioning itself as a shining example not just within Monroe County, but throughout the entire State of Florida. With an impressive ridership exceeding 130,000 passengers since inception, the Freebee service within Islamorada has demonstrated its capability as a reliable and sought-after mode of public transport. What's even more remarkable is the resounding positive feedback from our passengers, with customer satisfaction levels reaching an all-time high, surpassing those of all other Freebee service areas.

The success of the Freebee Islamorada microtransit program can be attributed to its unwavering commitment to inclusivity and accessibility. Embracing an equitable approach, this service has resonated with people of all ages and backgrounds, whether they are local residents or visitors to this vibrant island community. Freebee has not only redefined how people move around Islamorada but has also enriched their experiences by connecting them seamlessly with the community's thriving local businesses and attractions.

We are incredibly proud of what we have accomplished, and we eagerly look forward to building on this momentum, setting the bar even higher for the future of Freebee within Islamorada.



LAUNCHED

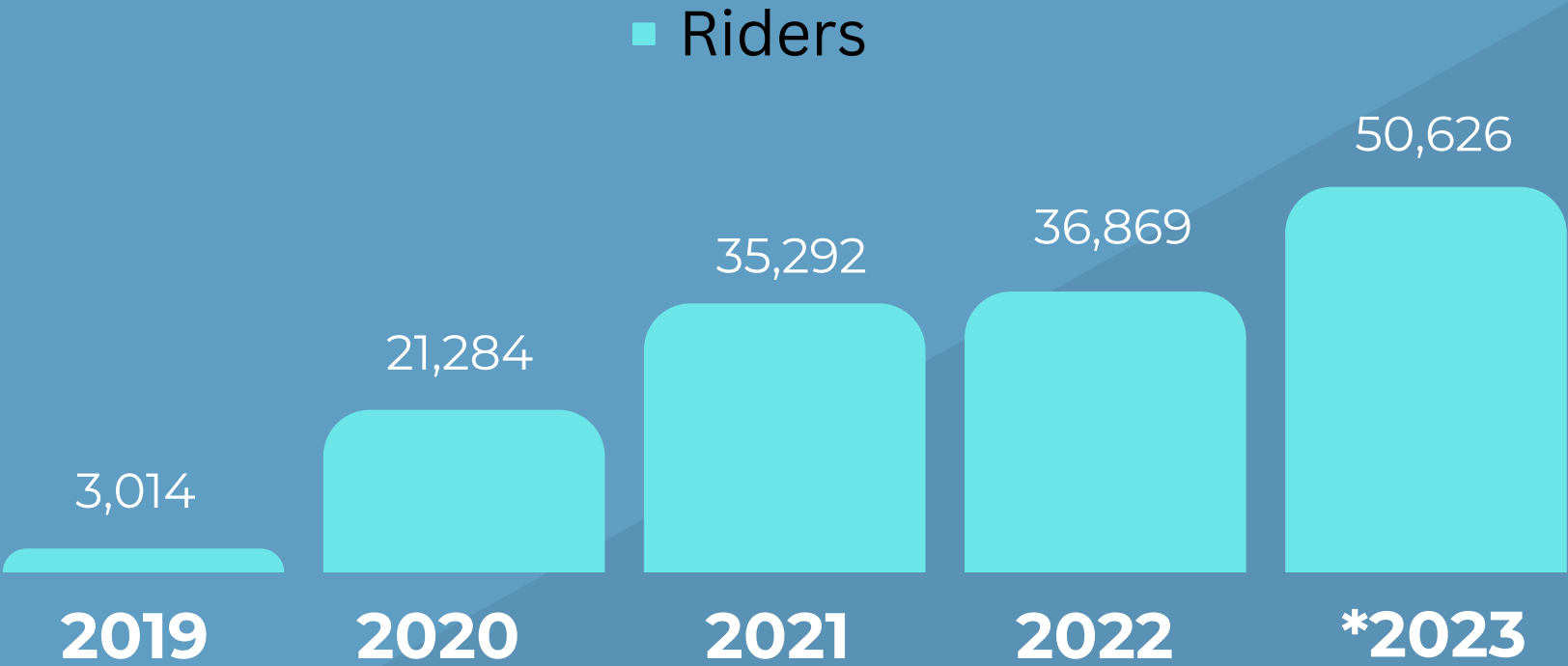
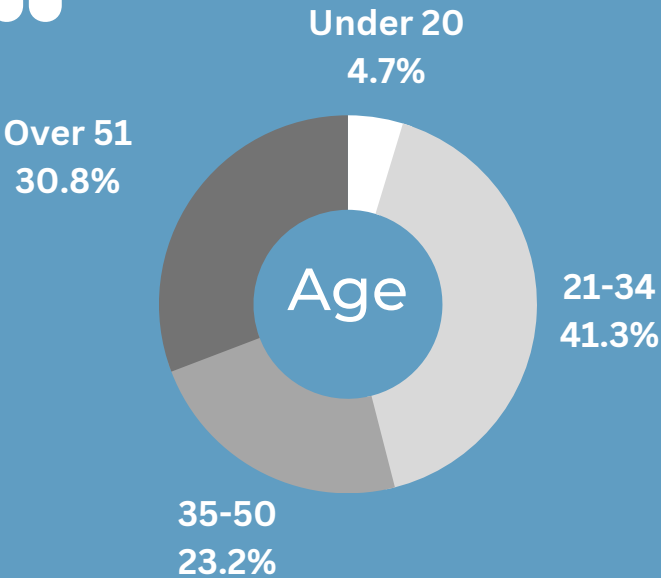
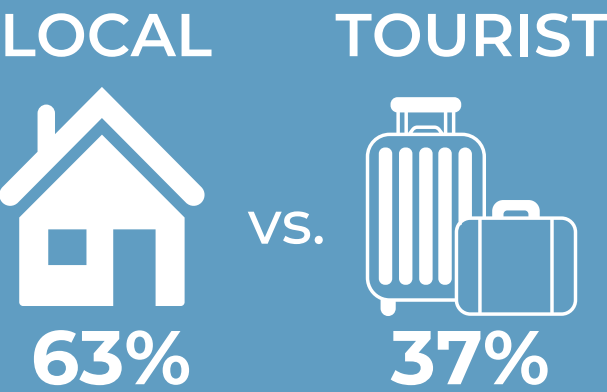
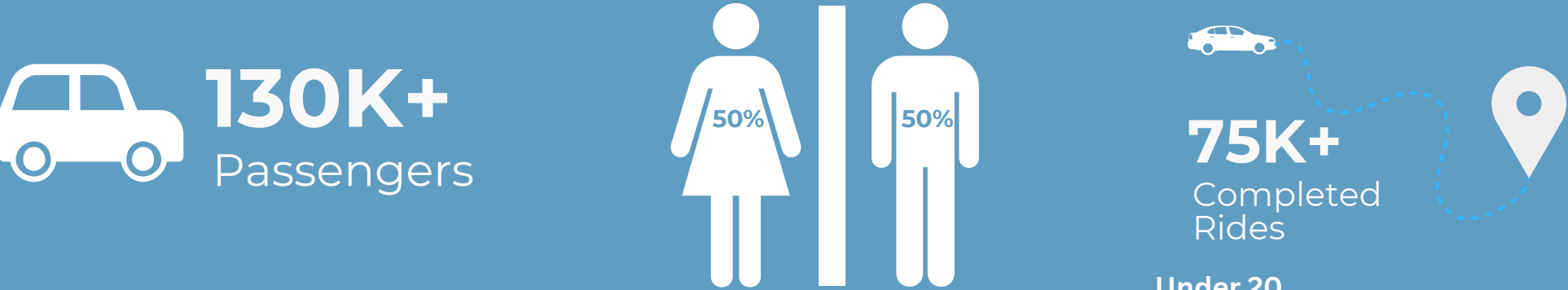
Sun - Thu 7am - 10pm
Fri & Sat 7am - 12am

3 (2) Tesla X
(1) Van



On-demand, door-to-door transportation funded by the Village of Islamorada

RIDERSHIP



*Projected Annual number

The Freebee Islamorada microtransit system has remarkably served over 130,000 passengers since its inception, solidifying its status as one of Florida's standout microtransit services. Its outstanding performance isn't solely attributed to seasonal visitor engagement; notably, it has become a cornerstone for locals, contributing to more than 63% of all completed rides since the launch of the program. This deeply rooted local patronage is testament to the service's localization focus, fostering an essential transportation solution within the community, including its vital role in providing reliable commuting options for workers. This inclusive service saw equitable participation from all age demographics and socio- demographic groups, catering to both transit- dependent and choice riders. With expanded service levels commencing in October 2023, we anticipate massive year-over-year growth and continued success for the Freebee Islamorada microtransit system.

CONSUMER EXPERIENCE

Freebee +



AVG. WAIT-TIMES

17.71 Minutes



CUSTOMER SATISFACTION

98.8% ★★★★★



PEAK TIMES

M-Th 3pm-8pm
F 3pm-11pm
Sa 4pm-11pm
Su 3pm-7pm

5

Freebee offers an exceptional customer experience, marked by convenience, engagement, and community connection. Customers relish the seamless ease of use, which makes moving around town not just simple but also enjoyable.

Our drivers, known for their friendly demeanors and local knowledge, play a significant role in enhancing the Freebee experience. They serve as invaluable guides, sharing insights about the community, local businesses, and attractions, transforming an ordinary ride into a journey of discovery.

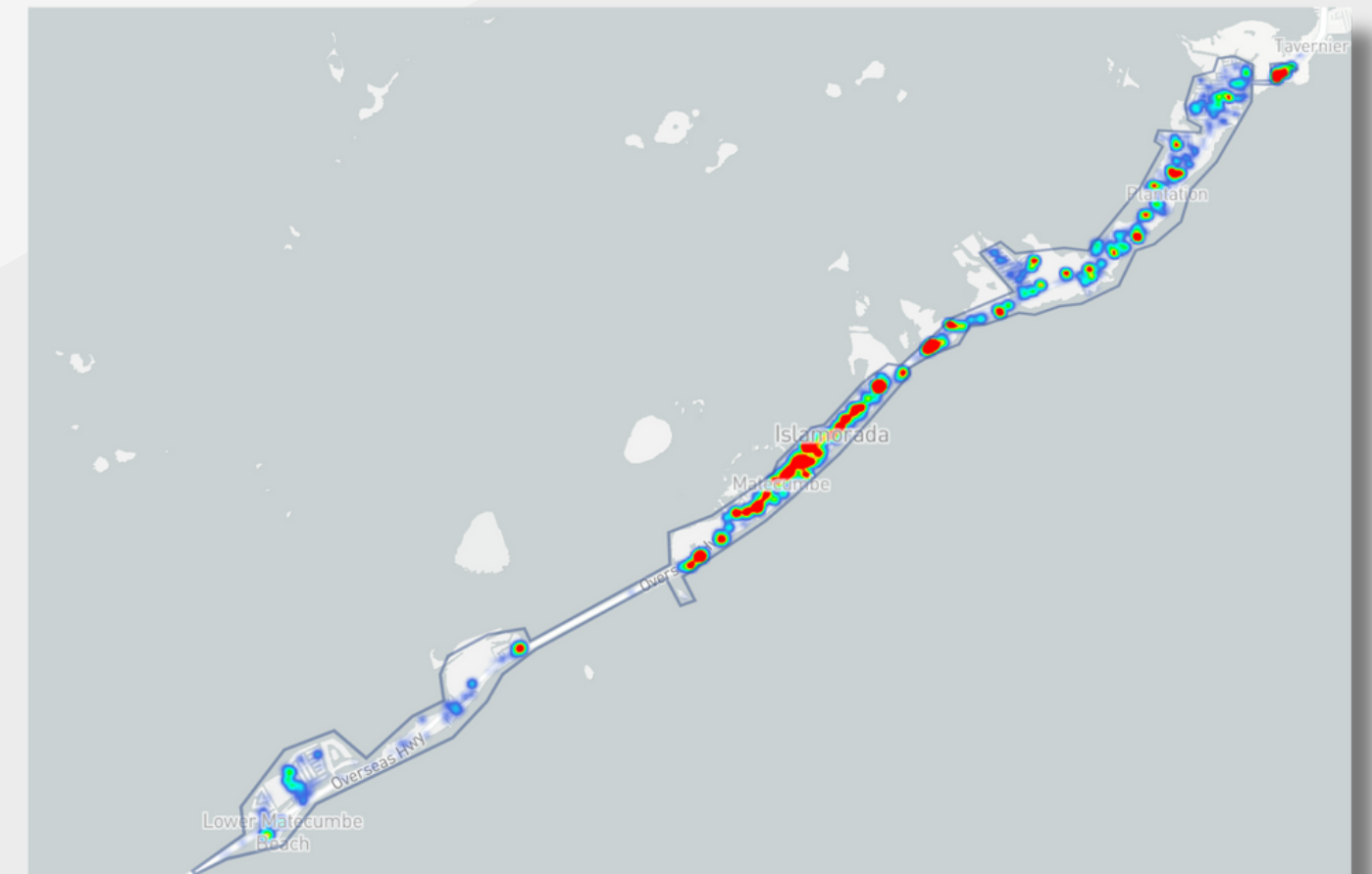
This uniquely enjoyable and informative travel experience has cultivated a high level of customer satisfaction, with users expressing a genuine fondness for Freebee. Not only does Freebee make transportation accessible and hassle-free, but also fosters a sense of connection within the community that customers love and relate back to their experience on Islamorada.

"Elizabeth was an amazing driver, very knowledgeable and informative about the vehicle and the Village." ~ Mark S.

*"Our driver was SUPER nice!! Great conversation!! Had great recommendations! A great person to have as a driver!
~ Jill M.*



WHERE ARE PEOPLE RIDING?





ECONOMIC IMPACT

CONNECTIONS MADE EASY



With the Ride Freebee app, people have access to learn about **85+** Islamorada restaurants and other local businesses and then 1-click request a free ride to their destination.

EMPOWERING LOCAL BUSINESSES



The Freebee App goes the extra mile to connect with local businesses to explain how their business benefits from this amazing service.

SAVING MONEY, SUPPORTING LOCAL EXPERIENCES



Saving people \$25+ on round trip rideshares when they go out, Freebee enables them to keep that money in their pocket and instead spend it on a local experience.

CONVENIENCE = VIBRANT LOCAL COMMUNITIES



People love convenience! Convenience makes it easy to go shopping, touring, or out for a night on the town. Inconvenience keeps people home.

STAFFING SOLUTIONS WITH FREEBEE



A ride to work can be the difference between businesses being fully staffed for the day. Lack of staffing has been plaguing businesses across the country and Freebee mitigates this problem.

REDUCING CONGESTION, ENHANCING EXPERIENCES



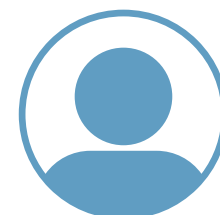
Freebee reduces traffic congestion! Time spent in traffic or hunting for parking is time that can be better spent enjoying what the amazing local business community has to offer.

SAFE AND RESPONSIBLE TRAVEL WITH FREEBEE



Freebee is a real alternative to drinking + driving. Alcohol-related traffic accidents are costly, both in terms of monetary and quality of life.

FREE PROFILES FOR LOCAL BUSINESSES



We connect local businesses to our ridership by offering a free profile on the Freebee app to the businesses that we connect with.

EASING PARKING DEMAND AND COMMUTING WOES



Freebee lowers the demand for parking spots. Thus freeing up parking spots for customers that want to drive in from farther away. People are less likely to drive to areas that are not likely to have available parking.

ENVIRONMENTAL IMPACT

We're proud to lead the charge in sustainable transportation with our 100% electric car fleet, making a significant contribution to environmental protection. Our use of electric vehicles (EVs) enables us to reduce the greenhouse gas emissions usually associated with conventional vehicles, creating cleaner air and a healthier environment.

Our electric fleet demonstrates not just our commitment to modern, efficient transportation, but also to a sustainable future. We are actively promoting renewable energy use, diminishing reliance on fossil fuels, and proving that public transport can operate seamlessly with minimal environmental impact.

By operating EVs in densely populated areas like Islamorada, we're also contributing to noise pollution reduction, resulting in quieter, more peaceful urban environments. In essence, we at Freebee aren't just revolutionizing travel; we're playing a crucial part in combating climate change and securing a greener future for our communities.

100% Electric Vehicles



71,635,540g of CO₂e
=
78.97 US tons of CO₂ Saved
for Islamorada





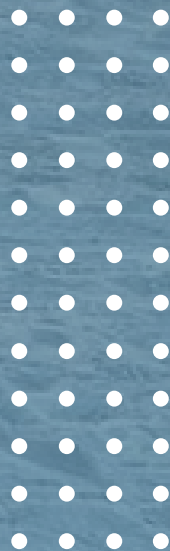
THANK YOU

Freebee has undeniably played a vital role in Islamorada, elevating the transportation experience for residents and visitors alike. Our exceptional customer satisfaction levels, dedicated ambassador drivers, and convenient on-demand service have made Freebee an indispensable part of the Village's mobility landscape. To foster continued growth, prioritizing the enhancement and expansion of Freebee's service is crucial, as it promises to cultivate stronger connections within the community, boost local businesses, and ensure a more sustainable and enjoyable future for all.

JASON SPIEGEL
MANAGING PARTNER

 (215) 370-5699

 www.RideFreebee.com





Council Communication

To: Mayor and Village Council
From: John Quick, Interim Village Attorney
Date: October 10, 2023
SUBJECT: Ordinance Calling for a Referendum to Increase Council Compensation - **Second Reading - TAB 13**

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. Thereafter, at its regular meeting on September 28, 2023, the Village Council passed (by a vote of 4-1) the proposed ordinance on first reading, with the modification that the proposed increase be reduced from \$3,000 to \$2,000. In addition, the election would be held on November 5, 2024 in accordance with the Village Charter.

Analysis:

The proposed ordinance would create a ballot item for the November 5, 2024 election which would ask the voters to approve an increase in Council pay from \$1,000 per month to \$2,000 per month.

Section 5(5) of the Charter requires four (4) affirmative votes in order to place this question on the ballot.

Budget Impact:

If this is approved by the voters, compensation per Councilmember would increase from \$12,000 per year to \$24,000 per year. The total additional annual increase would be \$60,000.

Staff Impact:

N/A

Recommendation:

Attachments: 1. 479653404-Ordinance calling for referendum increasing compensation of Council (updated 10-3-23)

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 REGULAR VILLAGE ELECTION ON NOVEMBER 5, 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. Charter and/or 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~~ \$2,000¹ 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 regular Village election, to be held on November 5, 2024, 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 \$2,000 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 \$2,000 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 Charter/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 Charter and/or 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: October 10, 2023
SUBJECT: **Amending Administrative Relief Under the Building Permit Allocation System (BPAS) - TAB 14**

Background:

The Village has established Land Development Regulations (“LDRs”) to properly guide development and protect the health, safety, and welfare of the public and Council desires to amend existing provisions under Division 11, “Building Permit Allocation System,” of Article IV of the Village’s LDRs relating to administrative relief from Building Permit Allocation System (“BPAS”) regulations. Specifically, Council desires to amend Section 30-477, “Administrative Relief,” of the Village Code to allow the authority to grant administrative relief to individuals, prior to July 6, that are currently in the market rate BPAS queue that have earned additional points for land dedication. In addition, Council seeks the authority to grant administrative relief to individuals in accordance with a court order or settlement agreement. These proposed provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern.

The BPAS administrative relief pool is comprised of unused market rate allocations. There are currently twenty-three (23) available allocations in the administrative relief pool.

Analysis:

The proposed text was recommended by the Council and would provide additional flexibility for the granting on BPAS administrative relief pool allocations.

Budget Impact:

None

Staff Impact:

None

Recommendation:

Attachments: 1. Ordinance Amending Section 30-477 Administrative Relief (2)

ORDINANCE NO. 23- ____

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.

WHEREAS, Islamorada, Village of Islands (the "Village") has established Land Development Regulations ("LDRs") to properly guide development and protect the health, safety, and welfare of the public; and

WHEREAS, the Village Council desires to amend existing provisions under Division 11, "Building Permit Allocation System," of Article IV of the Village's LDRs relating to administrative relief from Building Permit Allocation System ("BPAS") regulations; and

WHEREAS, specifically, the Village Council desires to amend Section 30-477, "Administrative Relief," of the Village Code to allow the Village Council the authority to grant administrative relief to individuals that have dedicated vacant, legally platted buildable lots and/or vacant, unplatted buildable lots that are at least one acre in size prior to July 6, 2023; and

WHEREAS, the Village Council desires to further amend administrative relief provisions under BPAS in order to allow the Village Council the authority to grant

administrative relief to individuals in accordance with a Court order or settlement agreement; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development within the Florida Keys Area of Critical State Concern; and

WHEREAS, the Village Council finds that the provisions of this Ordinance are intended to advance the public health, safety, and welfare of the citizens of the Village.

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. **Amendment to the Code.** That Division 11, "Building Permit Allocation System," of Article IV, "Administrative Procedures," of Chapter 30, "Land Development Regulations," of the Village Code is hereby amended as follows:¹

CHAPTER 30 – LAND DEVELOPMENT REGULATIONS

ARTICLE IV. – ADMINISTRATIVE PROCEDURES.

DIVISION 11. BUILDING PERMIT ALLOCATION SYSTEM

Section 30-477. Administrative relief.

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.

(a) *Eligibility.* An applicant is eligible for administrative relief under the provisions of this section if ~~all the following criteria are met:~~

(1) The applicant meets the following criteria:

a. The applicant ~~has complied~~ is in compliance with all requirements of the building permit allocation system;

~~(2) b.~~ The subject application has not been withdrawn;

~~(3) c.~~ The subject application has been considered in at least four consecutive annual allocation periods and has failed to receive an allocation award; and

~~(4) d.~~ The applicant for the subject application has not been granted an allocation award deferral pursuant to Code section 30-475(m); or and

~~(5) The granting of administrative relief in the form of the issuance of a building permit shall be prohibited for lands within the Florida Forever targeted acquisition area unless, after 60 days from receipt of a complete application for administrative relief, it has been determined that the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The village shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least six months prior to the deadline for administrative relief;~~

(2) The applicant dedicated one or more vacant, legally platted buildable lots and/or unplatted buildable land that is at least one acre in size to the Village prior to July 6, 2023, by warranty deed or such other means deemed appropriate by the Village Council; or

(3) The granting of such administrative relief under this section is done in accordance with a Court order or settlement agreement.

Notwithstanding the foregoing, the granting of administrative relief in the form of the issuance of a building permit shall be prohibited for lands within the Florida Forever targeted acquisition area unless, after 60 days from receipt of a complete application for administrative relief, it has been determined that the parcel cannot be purchased for conservation purposes by any county, state or federal agency or any private entity. The Village shall routinely notify the Department of Environmental Protection of upcoming administrative relief requests at least six months prior to the deadline for administrative relief.

(b) *Application.* An application for administrative relief shall be made on a form prescribed by the director and may be filed with the department of planning and development services no earlier than the conclusion of the fourth annual allocation

period and no later than 120 days following the close of the fourth annual allocation period.

- (c) *Forwarding of records to village council; effect of failure to file application.* Upon the filing of an application for administrative relief, the director shall forward to the village council all relevant files and records relating to the subject applications. Failure to file an application shall constitute a waiver of any rights under this section to assert that the subject property has been taken by the village without payment of just compensation as a result of the building permit allocation system.
- (d) *Public hearing.* Upon receipt of an application for administrative relief, the village council shall notice and hold a public hearing at which the applicant will be given an opportunity to be heard.
- (e) *Procedures.* The village council shall consider the application under the procedures established in sections 30-552 and 30-553.
- (f) *Action by village council.* At the conclusion of the public hearing, the village council may take any or a combination of the following actions:
 - (1) Grant the applicant an allocation award for all or part of the allocation requested in the next succeeding allocation period or extended pro rata over several succeeding allocation periods.
 - (2) Offer to purchase the property at its fair market value.
 - (3) Suggest such other relief as may be necessary and appropriate.

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. Transmittal. The Village Clerk is authorized to forward a copy of this Ordinance to the State Department of Economic Opportunity (the "DEO") for approval pursuant to section 380.05, Florida Statutes.

Section 7. Effective Date. This Ordinance shall not be effective immediately upon adoption. The Amendment shall not take effect until the date a final order is issued by the DEO. The DEO notice of intent to find this Ordinance in compliance shall be deemed to be the final order if no timely petition challenging this Ordinance is filed.

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, INTERIM VILLAGE ATTORNEY