RESOLUTION NO. 12-10-93

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CONSIDERING AN AFFORDABLE HOUSING AGREEMENT WITH ISLAMORADA CHAMBER OF COMMERCE, INC.; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE THE AFFORDABLE HOUSING AGREEMENT AND ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AFFORDABLE HOUSING AGREEMENT AND TO TAKE ALL ACTIONS NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AFFORDABLE HOUSING AGREEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, Islamorada Chamber of Commerce, Inc. (the “Developer”) proposes to construct a 2,419 visitor center and offices for the chamber of commerce (the “Project”), located at 87100 Overseas Highway, Plantation Key, Islamorada, Florida; and

WHEREAS, pursuant to Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 16 “Affordable Housing Standards,” Section 30-638(b)(7) “Affordable housing agreement” of the Village Code of Ordinances (the “Village Code”), the Developer has agreed to implement the mitigation plan for the proposed Project; and

WHEREAS, the mitigation plan approved by the Director of Development Services provides for the payment of a $10,544.76 in-lieu fee; and

WHEREAS, the Village Council of Islamorada, Village of Islands (the “Village Council”) has recognized the need for affordable housing to ensure the availability of a stable and qualified workforce, consistent with the requirements of the Village’s Comprehensive Plan, Village Code and Florida Statutes; and
WHEREAS, the Village Council desires to enter into this Affordable Housing Agreement, a copy of which is attached hereto as Exhibit “A” (the “Agreement”).

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

Section 1. Recitals. The above Recitals are true and correct and are incorporated herein by this reference.

Section 2. Approval of the Agreement. The Village Council hereby approves the execution of the Agreement and any additional documents pertaining to the Agreement.

Section 3. Authorization. The appropriate Village officials including the Mayor, Village Manager and Village Attorney are authorized to execute and deliver the Agreement and any additional documents pertaining to the Agreement, and to take all action necessary to implement the terms and conditions of the Agreement.

Section 4. Effective Date. This Resolution shall be effective immediately upon its adoption.

The foregoing Resolution was offered by Councilman Purdo, who moved for its adoption on first reading. This motion was seconded by Councilman Reckwerdt, and upon being put to a vote, the vote was as follows:

FINAL VOTE AT ADOPTION
VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Ken Philipson       YES
Vice Mayor Ted Blackburn  YES
Councilman Don Achenberg  YES
Councilman Dave Purdo     YES
Councilman Michael Reckwerdt   YES

ATTEST:

DEPUTY VILLAGE CLERK

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

VILLAGE ATTORNEY
AFFORDABLE HOUSING MITIGATION AGREEMENT

This Affordable Housing Mitigation Agreement ("Agreement") is made and entered into by and between Islamorada Chamber of Commerce, Inc. ("Developer") and the Islamorada, Village of Islands ("the Village").

WHEREAS, Islamorada Chamber of Commerce, Inc. is the developer of a 2,419 square foot offices for a chamber of commerce and visitor center (the "Project"), located at 87100 Overseas Highway, Plantation Key, Islamorada, Florida, more particularly described on Exhibit "1" attached hereto; and

WHEREAS, by adoption of Ordinance 2007-23, codified within Division 16 "Affordable Housing Standards" of Article IV "Administrative Procedures" of the Village Code of Ordinances (the "Village Code"), the Village Council of Islamorada, Village of Islands (the "Village Council") recognized the need for affordable housing to ensure the availability of a stable and qualified workforce, consistent with the requirements of the Village’s Comprehensive Plan and Florida Statutes; and

WHEREAS, to accomplish this goal and implement the comprehensive plan and the "principles for guiding development," the affordable housing standards in Division 16 of the Village Code were adopted by the Village Council; and

WHEREAS, the Project site plan indicates a total square footage of 2,419 square feet of nonresidential development; and

WHEREAS, pursuant to Section 30-638 of the Village Code, the affordable housing needs generated by the Project have been determined to be an in-lieu fee of $10,544.76; and

WHEREAS, Section 30-639 of the Village Code provides for alternative methods of mitigation for affordable housing demand generated by nonresidential development; and

WHEREAS, the Developer has submitted an affordable housing mitigation plan, attached as Exhibit "2", in accordance with Section 30-638 of the Village Code, and has demonstrated that the affordable housing requirement results in less than one affordable residential dwelling unit; and

WHEREAS, Section 30-639(a)(1)c. of the Village Code provides that "if the affordable housing requirement results in less than one affordable residential dwelling unit, then the director may accept a fee in-lieu, pursuant to subsection 30-639(e)."; and

WHEREAS, to satisfy the affordable housing mitigation requirements of the Village Code, the Developer has proposed payment of a $10,544.76 in-lieu fee, as more particularly described in the affordable housing mitigation plan attached hereto as Exhibit "2"; and
7. **Notices.** All notices which are required or permitted under this Agreement shall be given to the parties by certified mail with return receipt requested, hand delivery, or express courier, and shall be effective upon receipt when delivered to the parties at the addresses set forth herein below (or such other address as provided by the parties by written notice delivered in accordance with this paragraph):

VILLAGE MANAGER  
ISLAMORADA, VILLAGE OF ISLANDS  
86800 Overseas Highway  
Islamorada, Florida 33036

ISLAMORADA CHAMBER OF COMMERCE, INC.  
PO Box 915  
Islamorada, Florida 33036

8. **Amendments.** No amendment, modification, or other changes in this Agreement shall be binding upon the parties unless in writing executed by all of the parties.

9. **Successors and Assigns Bound.** The rights and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, including any successor in title to the Developer to all or any part of the Property.

10. **Recording.** The Developer shall record this Agreement in the Public Records of Monroe County, Florida at the Developer's expense.

11. **Effective Date.** This Agreement shall become effective upon the date it is executed by the last party to execute the Agreement.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute duplicates of one and the same instrument.

STATE OF FLORIDA  
COUNTY OF MONROE
A portion of Section 18, Township 63 South, Range 38 East, Plantation Key, Monroe County, Florida and being more particularly described as follows: Commencing at the intersection formed by the West line of Section 18 with the Northwesterly right-of-way line of U.S. Highway No. 1; thence run N.66°23'46"E. along the Northwesterly right-of-way of U.S. Highway No. 1 for a distance of 268.86 feet to a point of curvature of a circular curve concave to the Northwest, thence continue in a Northeasterly direction along the Northwesterly right-of-way line of U.S. Highway No. 1 and along said curve having for its elements a radius of 2814.93 feet, chord distance of 303.44 feet, for an arc distance of 303.59 feet to the Point of Beginning of the Lease Parcel hereinafter described: From said Point of Beginning continue along the arc of said curve for 103.42 feet, thence bear N.30°27'22"W. for a distance of 50.42 feet, then run S.79°32'56"W. for 18.57 feet, thence run S.71°24'30"W. for 35.12 feet, thence run S.62°21'32"W. for 28.39 feet, thence run S. 60°20'20"W. for 23.24 feet, then S.30°27'22"E. for 66.40 feet back to the Point of Beginning. Containing 6,404± sq. ft.
Islamorada Ordinance 07-23 requires that all new developments, expanded developments or changes of use mitigate their impacts on the need for affordable housing. As the Islamorada Chamber of Commerce proposes an expanded use, the project is subject to the requirements of the ordinance. Ordinance 12-06 temporarily lowers the affordable housing goal for nonresidential in-lieu fees to no less than 15 percent of the generated local workforce and their families through October 2014. Below is an analysis of the applicability of the ordinances to the project, and the plan for the mitigation of impacts on affordable housing.

**Existing & Proposed Development**
There exists 16,852 square feet of existing non-residential BPAS “credit” on the entire Park property. Ordinances 07-23 and 12-06 classifies this space as 16,852 square feet of governmental, at a ratio of 0.00019 units of affordable housing impact per square foot for governmental, for a total existing development “credit” of $103,134.24.

The site plan submitted to the Village as part of the relevant Major Conditional Use Application shows a total proposed a square footage of 18,575 (an increase of 1,723), at a ratio of 0.00019 units per square foot, for a total development “impact” of $113,679.00.

**Impacts to Be Mitigated**
Therefore, the net impacts to affordable housing from the proposed development are $10,544.76.

**Methods of Mitigation**
Ordinances 07-23 and 12-06 provides for methods to mitigate these impacts on affordable housing within the Village. Relevant sections below:

“Sec. 30-639. Affordable housing standards.

...c. If the affordable housing requirement results in less than one affordable residential dwelling unit, then the director may accept a fee in-lieu, pursuant to subsection 30-639(e).”

**Payment of Fee In-Lieu**
The payment of $10,544.76 to the affordable housing fund would mitigate the impacts on affordable housing for a total impact. Per Section 30-639(a)(1)c. of the Village Code, the Director of Planning and Development Services may accept a fee in-lieu because the affordable housing requirement results in less than one affordable residential dwelling unit.

**Affordable Housing Agreement**
The Affordable Housing Agreement will be on a form approved by the Village Attorney and will comply with all relevant requirements of the Village Code.
AFFORDABLE HOUSING MITIGATION AGREEMENT

This Affordable Housing Mitigation Agreement ("Agreement") is made and entered into by and between Islamorada Chamber of Commerce, Inc. ("Developer") and the Islamorada, Village of Islands ("the Village").

WHEREAS, Islamorada Chamber of Commerce, Inc. is the developer of a 2,419 square foot offices for a chamber of commerce and visitor center (the "Project"), located at 87100 Overseas Highway, Plantation Key, Islamorada, Florida, more particularly described on Exhibit "1" attached hereto; and

WHEREAS, by adoption of Ordinance 2007-23, codified within Division 16 "Affordable Housing Standards" of Article IV "Administrative Procedures" of the Village Code of Ordinances (the "Village Code"), the Village Council of Islamorada, Village of Islands (the "Village Council") recognized the need for affordable housing to ensure the availability of a stable and qualified workforce, consistent with the requirements of the Village’s Comprehensive Plan and Florida Statutes; and

WHEREAS, to accomplish this goal and implement the comprehensive plan and the "principles for guiding development," the affordable housing standards in Division 16 of the Village Code were adopted by the Village Council; and

WHEREAS, the Project site plan indicates a total square footage of 2,419 square feet of nonresidential development; and

WHEREAS, pursuant to Section 30-638 of the Village Code, the affordable housing needs generated by the Project have been determined to be an in-lieu fee of $10,544.76; and

WHEREAS, Section 30-639 of the Village Code provides for alternative methods of mitigation for affordable housing demand generated by nonresidential development; and

WHEREAS, the Developer has submitted an affordable housing mitigation plan, attached as Exhibit "2", in accordance with Section 30-638 of the Village Code, and has demonstrated that the affordable housing requirement results in less than one affordable residential dwelling unit; and

WHEREAS, Section 30-639(a)(1)c. of the Village Code provides that "if the affordable housing requirement results in less than one affordable residential dwelling unit, then the director may accept a fee in-lieu, pursuant to subsection 30-639(e).”; and

WHEREAS, to satisfy the affordable housing mitigation requirements of the Village Code, the Developer has proposed payment of a $10,544.76 in-lieu fee, as more particularly described in the affordable housing mitigation plan attached hereto as Exhibit "2"; and
WHEREAS, the Village has determined that the payment of a $10,544.76 in-lieu fee, as more particularly described in the affordable housing mitigation plan attached as Exhibit "2", will meet the affordable housing mitigation requirements of the Village Code.

NOW, THEREFORE, in consideration of the representations herein, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Incorporation of Recitals.** The foregoing recitals are true and correct, and are hereby incorporated by the parties as part of this Agreement as provided for herein.

2. **Affordable Housing Mitigation Agreement.**

   A. **Affordable Housing Mitigation Calculation.** Based upon the affordable housing calculation standards of Section 30-638 and Section 30-639 of the Village Code, the Village has determined that the Developer is required to pay an in-lieu fee of $10,544.76, as more particularly described in the affordable housing mitigation plan attached as Exhibit "2".

   B. **Compliance with Affordable Housing Mitigation Requirements.** The Developer and the Village hereby acknowledge that the payment of the in-lieu fee, as particularly described in Exhibit "2", satisfies the Project’s affordable housing mitigation requirements pursuant to Section 30-638(b)(6) of the Village Code.

3. **Satisfaction of Affordable Housing Requirements.** The Village hereby acknowledges and agrees that, upon the payment of the in-lieu fee described in Exhibit "2" as required herein, the Developer shall be deemed to have satisfied all requirements under Division 16 “Affordable Housing Standards” of Article IV “Administrative Procedures” of the Village Code.

5. **Governing Law/Binding Effect.** This Agreement shall be interpreted and governed by Florida Law. Each of the parties hereto warrants and represents that this Agreement is valid, binding and enforceable against them in accordance with the terms and conditions of Florida law.

6. **Remedies.** The parties hereto shall have all rights and remedies provided herein and under Florida Law with respect to the enforcement of this Agreement, and hereby acknowledge and agree that each party hereto shall have the right and remedy to bring an action or actions for specific performance and such other equitable or injunctive relief, as appropriate and necessary, to enforce this Agreement. The parties agree that the venue for any enforcement action shall be the Circuit Court in Monroe County, Florida. The parties further acknowledge and agree that, in the event the Developer fails to pay the required in-lieu fee for the required affordable housing mitigation as provided in this Agreement, no building permit shall be issued for the Project.
7. **Notices.** All notices which are required or permitted under this Agreement shall be given to the parties by certified mail with return receipt requested, hand delivery, or express courier, and shall be effective upon receipt when delivered to the parties at the addresses set forth herein below (or such other address as provided by the parties by written notice delivered in accordance with this paragraph):

VILLAGE MANAGER  
ISLAMORADA, VILLAGE OF ISLANDS  
86800 Overseas Highway  
Islamorada, Florida 33036

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PO Box 915  
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8. **Amendments.** No amendment, modification, or other changes in this Agreement shall be binding upon the parties unless in writing executed by all of the parties.

9. **Successors and Assigns Bound.** The rights and obligations contained in this Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of the parties hereto, including any successor in title to the Developer to all or any part of the Property.

10. **Recording.** The Developer shall record this Agreement in the Public Records of Monroe County, Florida at the Developer’s expense.

11. **Effective Date.** This Agreement shall become effective upon the date it is executed by the last party to execute the Agreement.

12. **Counterparts.** This Agreement may be executed in any number of counterparts, each of which, when executed and delivered, shall be an original, but all counterparts shall together constitute duplicates of one and the same instrument.

STATE OF FLORIDA  
COUNTY OF MONROE
The foregoing instrument was acknowledged before me this 31st day of October, 2012, by Robert Stober, who is personally known to me or who has produced __________________ as identification.

KIMBERLY K FORD
MY COMMISSION # EE143182
EXPIRES November 01, 2013

Print

Name: ____________________________
Notary Public in and for the County and State last aforesaid.
My Commission Expires: __________
Serial No., if any: ________________

AUTHORIZED SIGNATORY FOR ISLAMORADA, CHAMBER OF COMMERCE, INC.

[INSERT NAME] ____________________
Robert Stober
As Officer

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 26th day of October, 2012, by Edward Kocoris, who is personally known to me or who has produced __________________ as identification.

Print

Name: ____________________________
Notary Public in and for the County and State last aforesaid
My Commission Expires: __________
Serial No., if any: ________________

ISLAMORADA, VILLAGE OF ISLANDS

Edward Kocoris, Village Manager
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Islamorada Chamber of Commerce and Visitor Center

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RESOLUTION NO. 12-10-93

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ATTEST:

DEPUTY VILLAGE CLERK

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

VILLAGE ATTORNEY