RESOLUTION NO. 13-06-31

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING AN AFFORDABLE HOUSING AGREEMENT WITH PLANTATION ACQUISITION, LLC; 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, Plantation Acquisition, LLC (the “Developer”) proposes to construct thirteen hotel units and one deed-restricted affordable housing unit (the “Project”), located at 87760 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 Planning and Development Services provides for the on-site construction of one (1) affordable residential dwelling unit; 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 Councilwoman Deb Gillis, who moved for its adoption on first reading. This motion was seconded by Councilman Mike Forster, 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 Mike Forster YES
Councilwoman Deb Gillis YES
Councilman Dave Purdo YES

PASSED AND ADOPTED this 13th day of June, 2013.

KEN PHILIPSON, MAYOR

ATTEST:

ARIANA S. LAWSON, VILLAGE CLERK

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

VILLAGE ATTORNEY
AFFORDABLE HOUSING AGREEMENT

This Affordable Housing Agreement ("Agreement") is made and entered into by and between Plantation Acquisition, LLC ("Developer") and Islamorada, Village of Islands, Florida ("the Village") in accordance with Chapter 30, Article IV, Division 16 (the "Affordable Housing Standards") of the Village Code of Ordinances.

WHEREAS, the Developer has proposed the development of a 13 hotel units, and one deed-restricted affordable housing managers unit (the “Project”) associated with Site Plan Approval SP-12-03 on property located at 87760 Overseas Highway, Plantation Key, Islamorada, Florida, more particularly described on Exhibit “A” attached hereto (the “Property”); and

WHEREAS, pursuant to Code Section 30-638, the affordable housing need generated by the Project is calculated to be one affordable housing unit, according to the affordable housing mitigation prepared by Daryle Osborn, attached as Exhibit “B”; and

WHEREAS, to satisfy the Affordable Housing Standards of the Village Code, the Developer has proposed the on-site construction of one affordable residential dwelling unit consisting of a two bedrooms, two bathrooms and associated living area totaling 1,347 square feet; and

WHEREAS, the Village has determined that the on-site construction of one affordable residential dwelling unit will meet the Affordable Housing Standards 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 Agreement.** The Developer hereby agrees to implement the Mitigation Plan as follows:

   a. **Construction of Affordable Unit.** Based upon the Affordable Housing Standards of the Village Code, the Developer is required to construct one on-site affordable residential dwelling unit, with the unit consisting of at least two bedrooms, a minimum habitable floor area of 700 square feet, and capable of housing three persons. The on-site unit shall be constructed on the Property. All occupants either renting or purchasing the affordable residential dwelling unit shall meet and adhere to the income standards pursuant to Code Section 30-639(a)(5). The Developer shall submit a building permit application that includes construction specifications and the proposed deed restriction/restrictive covenant to be placed on the affordable residential dwelling unit. The deed restriction/restrictive covenant shall be in a form approved by the Village Attorney, and shall be recorded with the Monroe County Clerk at the Developer’s sole cost prior to issuance of the building permit.

3. **Dedication of Affordable Housing Units by Developer.** In accordance with Code Section 30-639(a)(6), the affordable residential dwelling unit described herein shall receive a Certificate of Occupancy no later than the date of the initial certificate of occupancy of the Project.

4. **Satisfaction of Affordable Housing Mitigation Requirements.** The Village hereby acknowledges and agrees that, upon the issuance of a Certificate of Occupancy for one on-site affordable residential dwelling unit described herein, the Developer shall be deemed to have satisfied all requirements under the Affordable Housing Standards 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.

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):
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 Village 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.
IN WITNESS WHEREOF, the parties have executed this Agreement as of the date set forth below their signatures.

Attest:                               By: _________________________________
                                        Village Manager

Village Clerk

Date Executed: ______________________

Approved As To Form And Legal Sufficiency:

Village Attorney

WITNESSES:                               PLANTATION ACQUISITION, LLC, a limited liability corporation:

Print Name: ___________________________  By: _________________________________
Print name: ___________________________
Title: ________________________________

Print Name: ___________________________
The foregoing instrument was acknowledged before me this _____ day of ____________, 20__, by _________________, as Village Manager and Village Clerk, respectively, of ISLAMORADA, VILLAGE OF ISLANDS, a Florida municipal corporation, who (check one) [ ] are personally known to me or [ ] have produced __________________________ as identification.

____________________________________
NOTARY PUBLIC, State of Florida

My Commission Expires: Print Name:______________________________

The foregoing instrument was acknowledged before me this _____ day of ____________, 20__, by _________________, as ______________, respectively, of PLANTATION ACQUISITION, LLC, a limited liability corporation, who (check one) [ ] are personally known to me or [ ] have produced __________________________ as identification.

____________________________________
Notary Public, State of Florida

My Commission Expires: Print Name:______________________________

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AGREEMENT
Exhibit “A”
(Legal Description)

Lots 4-5-6-7, Square 9, Plantation Beach Subdivision, Plantation Key, according to the plat thereof, as recorded in Plat Book 2 at Page 76 of the public records of Monroe County, Florida with Real Estate Number 00414360-000000; and

Lot 8, Block 9, Plantation Beach Subdivision, Plantation Key, according to the plat thereof, as recorded in Plat Book 2 at Page 76 of the public records of Monroe County, Florida with Real Estate Number 00414370-000000; and

Lot 9, Block 9, Plantation Beach Subdivision, Plantation Key, according to the plat thereof, as recorded in Plat Book 2 at Page 76 of the public records of Monroe County, Florida with Real Estate Number 00414380-000000.
September 11, 2012

Village of Islamorada
Islamorada, Florida

Attn: Planning Department

Re: Affordable Housing Allocation
Islamorada Bungalows
87760 Overseas Highway
Islamorada, Florida

In accordance with Village of Islamorada Ordinance No. 12-06 “Affordable Housing Standards”, one Affordable Housing unit shall be provided for 30% of the full time employees.

The Islamorada Bungalows will have three full time employees which will require one affordable housing unit. Currently the project is designed with one Affordable Housing unit on the property.

If you have any questions, please contact me at 305-852-0262.

Daryle L. Osborn, P.E.