RESOLUTION NO. 15-08-83

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, NOMINATING CERTAIN PROPERTY WITHIN THE VILLAGE FOR PURCHASE BY THE MONROE COUNTY COMPREHENSIVE PLAN LAND AUTHORITY AS CONSERVATION LAND; REQUESTING THAT TITLE TO THE SUBJECT PROPERTY BE TRANSFERRED TO THE VILLAGE AFTER ACQUISITION; AUTHORIZING THE MAYOR TO EXECUTE A CONSERVATION EASEMENT; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, tropical hardwood hammock is an environmentally sensitive ecosystem that occurs primarily within Monroe County, Florida and is a critical habitat for many threatened and endangered species; and

WHEREAS, Part of Lot 5 (RE number 00418770-000000), Randal Adams Subdivision, according to the plat thereof as recorded in Plat Book 1 Page 110 of the Public Records of Monroe County, Florida (hereinafter "subject property") is located within the municipal boundaries of Islamorada, Village of Islands (the "Village") and consists of environmentally sensitive land populated with tropical hardwood hammock; and

WHEREAS, the Village owns conservation land (RE number 00418770-000500) approximately one hundred (100) feet from the subject property; and

WHEREAS, purchase of the subject property as conservation land is consistent with the policies of the Village’s Comprehensive Plan and Land Development Regulations; and

WHEREAS, the property owner has agreed to sell the subject property to the Monroe County Land Authority (hereinafter "Land Authority") as conservation land; and

WHEREAS, the Land Authority has determined that the property is ideal for purchase as conservation land; and
WHEREAS, the Land Authority desires to purchase the subject property as conservation land and transfer title to the subject property to the Village subject to the execution of a conservation easement thereupon; and

WHEREAS, the Village Council desires to nominate the subject property for purchase by the Land Authority as conservation land and request that the Land Authority subsequently transfer title to the subject property to the Village.

NOW, THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE 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. Nomination and Transfer of Title. The Village Council of Islamorada, Village of Islands, hereby nominates Part of Lot 5 (RE number 00418770-000000) Randal Adams Subdivision, according to the plat thereof as recorded in Plat Book 1, Page 110 of the Public Records of Monroe County, Florida for purchase by the Monroe County Land Authority as conservation land. Upon the Land Authority’s purchase of the subject property, the Village Council hereby requests that the Land Authority transfer title to the subject property to the Village.

Section 3. Authorization to Execute Conservation Easement. The Village Council hereby authorizes the Mayor to execute the Conservation Easement attached as Exhibit “A” hereto in favor of the Monroe County Land Authority.

Section 4. Effective Date. This resolution shall take effect immediately upon its adoption.
The foregoing Resolution was offered by Councilman Dennis Ward, who moved for its adoption. This motion was seconded by Councilman Chris Sante, and upon being put to a vote, the vote was as follows:

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

    Mayor Mike Forster          YES
    Vice Mayor Deb Gillis       YES
    Councilman Jim Mooney       YES
    Councilman Dennis Ward      YES
    Councilman Chris Sante      YES

PASSED AND ADOPTED ON THIS 20TH DAY OF AUGUST, 2015.

MIKE FORSTER, MAYOR

ATTEST:

KELLY TOTH, VILLAGE CLERK

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

ROGET V. BRYAN, VILLAGE ATTORNEY
EXHIBIT “A”

THIS INSTRUMENT PREPARED BY AND RETURN TO:
Adele V. Stones, Esq.
1200 Truman Avenue, Suite 207
Key West, FL 33040

Property Appraiser’s Parcel Identification (Folio) Number:
00418770-000000

GRANT OF CONSERVATION EASEMENT

THIS GRANT OF EASEMENT is made on this 19 day of November, 2015, by Islamorada, Village of Islands of 86800 Overseas Highway, Islamorada, Florida 33036, Grantor, to Monroe County Comprehensive Plan Land Authority, a land authority under Section 380.0663 (1), Florida Statutes and Monroe County Ordinance No. 031-1986, whose address is 1200 Truman Avenue, Suite 207, Key West, Florida 33040, as Grantee.

A) The Grantor is the owner of certain real property (the servient estate) located in Monroe County, Florida, and more particularly described in Exhibit A.

B) This easement is a conservation easement created pursuant to Section 704.06, Florida Statutes, and is to be governed by, construed, and enforced in accordance with that statute along with applicable laws of the State of Florida.

1. Grant of easement.
   In consideration for the sum of Ten and 00/100 Dollars ($10.00) and other good and valuable considerations to said Grantor in hand paid by said Grantee, the receipt of which is hereby acknowledged, the Grantor hereby grants to Grantee the easement described below.

2. Easement area.
   The location of the easement area on the servient estate is as follows: all of the area described in Exhibit A less and except the 20 feet wide Ingress and Egress easement described in Exhibit A.

3. Baseline conditions within easement area.
   The Grantor acknowledges as of the date of this instrument the easement area is undeveloped upland forested with tropical hardwood hammock vegetation with no clearing, development, or structures of any kind.
4. *Restraints imposed by the conservation easement.*
   The conservation easement granted by this instrument prohibits the following within the easement area:

   a) Construction or placing of buildings, roads, signs, billboards or other advertising, utilities, or other structures on or above the ground.
   b) Dumping or placing of soil or other substance or material as landfill or dumping or placing of trash, waste, or unsightly or offensive materials.
   c) Removal or destruction of trees, shrubs, or other vegetation except non-native vegetation whose removal is authorized by the Grantee.
   d) Excavation, dredging, or removal of loam, peat, gravel, soil, rock, or other material substance in such manner as to affect the surface.
   e) Surface use except for purposes that permit the land or water area to remain predominately in its natural condition.
   f) Activities detrimental to drainage, flood control, water conservation, erosion control, soil conservation, or fish and wildlife habitat preservation; specifically no suffering, permitting, or allowing invasive exotic species of animals or plants to exist.
   g) Acts or uses detrimental to such retention of land or water areas.
   h) Transfer of development rights to or from the easement area.

5. *Terms and persons bound.*
   This conservation easement is perpetual, runs with the land and is binding on all present and subsequent owners and mortgagees of the servient estate. Grantor represents that the mortgagee(s), if any, whose consent is attached hereto, is (are) the only mortgagee(s) having a security interest in the servient estate.

   No modification of this easement is binding unless evidenced in writing and signed by an authorized representative of the Grantee.

7. *Attorney's fees.*
   In the event of any controversy, claim or dispute arising under this instrument, the prevailing party shall be entitled to recover reasonable attorney's fees and costs, including appeals.

   The Grantee may enter upon the servient estate, after first furnishing the Grantor no less than 24 hours notice, for the purpose of inspection to determine the Grantor's compliance with this Grant of Easement.

9. *Limitation on Liability for Personal Injury or Injury to Property.*
   The Grantor waives any rights the Grantor may have to bring a claim against Grantee for personal injury or injury to property that is caused by the negligent action or inaction of Grantee or an employee or agent of Grantee during the course of Grantee’s activity related to this Grant of Easement. To the extent allowed by law, the Grantor is liable for and must fully defend, release, discharge, indemnify and hold harmless the Grantee, its officers and employees, agents and contractors, from and against any and all claims,
demands, causes of action, losses, costs and expenses of whatever type - including investigation and witness costs and expenses and attorneys' fees and costs - that arise out of or are attributable to the Grantor's operations on the premises except for those claims, demands, damages, liabilities, actions, causes of action, losses, costs and expenses that are the result of the sole negligence of the Grantee. Grantor and Grantee do not waive any of their sovereign immunity rights, including, but not limited to, those expressed in Section 768.28, Florida Statutes.

10. Notice.
Any notice provided for or concerning this grant of easement must be in writing and is sufficiently given when sent by certified or registered mail, or via an equivalent service furnished by a private carrier, to the respective address of each party as set forth at the beginning of this Grant of Easement.

IN WITNESS WHEREOF, Grantor grants the Conservation Easement above and executes this instrument on the date first above written.

Grantor: Islamorada, Village of Islands

By: Mike Forster, Mayor

IN WITNESS WHEREOF, Grantee accepts the Conservation Easement granted above and executes this instrument.

Grantee: Monroe County Comprehensive Plan Land Authority

By: David P. Rice, Chairman

Witness #1 Signature

Witness #1 Printed Name

Mark J. Rosch

Witness #1 Printed Name

Witness #2 Signature

Witness #2 Printed Name

Adele V. Azon

Witness #2 Printed Name

Adele V. Stone
STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 19th day of November, 2015, by Mike Forster, Mayor of Islamorada, Village of Islands, Florida who is personally known to me or has produced as identification.

Signature of Notary Public

Ariana S. Lawson
Printed Name of Notary Public

STATE OF FLORIDA
COUNTY OF MONROE

The foregoing instrument was acknowledged before me this 19th day of November, 2015, by David P. Rice, Chairman of the Monroe County Comprehensive Plan Land Authority who is personally known to me or has produced as identification.

Signature of Notary Public

Dina Gambuzza
Printed Name of Notary Public
EXHIBIT A

A portion of Lot 5, according to the plat of Randal Adam’s Subdivision on Plantation Key as recorded in Plat Book 1, at Page 110, of the Public Records of Monroe County, Florida, being more particularly described as follows:

Commencing at the intersection of the Northwesterly Right-of-Way line of State Road #5 (U.S. Highway No. 1) with the Southwesterly line of said Lot 5, run Northwesterly along the said Southwesterly line for 700.96 feet to the Point of Beginning of the herein described parcel of land. From the said Point of Beginning, continue Northwesterly along the Southwesterly line of said Lot 5 for 100.00 feet; thence run Northeasterly and parallel to the Northwesterly right-of-Way line of State Road No. 5 for a distance of 122.00 feet more or less to the Northeasterly property line of said Lot 5; thence run Southeasterly along the said Northeasterly property line of said Lot 5 a distance of 100.00 feet; thence run Southwesterly and parallel to the Northwesterly Right-of-Way line for a distance of 122.00 feet more or less to the Southwesterly line of said Lot 5 and the Point of Beginning of the hereinabove described parcel of land.

Subject to and together with a 20 feet wide Ingress and Egress easement on the Northeasterly side of said Lot 5, said easement beginning at the Northwesterly right-of-Way line and running 900.91 feet along the Northwesterly line of said Lot 5.