

RESOLUTION NO. 02-12-80

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING A CHAPTER 380 AGREEMENT BETWEEN THE DEPARTMENT OF COMMUNITY AFFAIRS, AND ISLAMORADA, VILLAGE OF ISLANDS; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE THE AGREEMENT; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE ANY ADDITIONAL DOCUMENTS PERTAINING TO THE AGREEMENT AND TAKE ALL ACTION NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE AGREEMENT; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village desires to construct a central wastewater treatment facility on certain property on Plantation Key that is 0.78 acres in area; and

WHEREAS, the Department of Community Affairs has encouraged the construction of central wastewater treatment facilities in the Florida Keys to alleviate surface water pollution resulting from the use of on-site wastewater treatment facilities (septic tanks and cesspits).

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

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

Section 2. That the 380 Agreement ("Agreement") between the Village, and the Department of Community Affairs in the form attached hereto as Attachment "A" is approved together with such non-substantial changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. That the appropriate Village officials including the Mayor are authorized to execute and deliver the Agreement.

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Gail Chiocchini

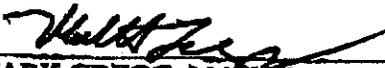
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Section 4. That the appropriate Village officials including Village Manager and Village Attorney are authorized to execute and deliver any additional documents pertaining to the Agreement, to take all action necessary to implement the terms and conditions of the Agreement.

Section 5. That this Resolution shall become effective immediately upon its adoption.

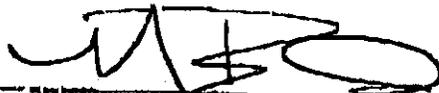
PASSED AND ADOPTED THIS 12TH OF DECEMBER, 2002.


MARK GREGG, MAYOR

ATTEST:


VILLAGE CLERK

APPROVED AS TO LEGAL SUFFICIENCY


VILLAGE ATTORNEY

ATTACHMENT A

AGREEMENT BETWEEN ISLAMORADA VILLAGE OF ISLANDS AND THE DEPARTMENT OF COMMUNITY AFFAIRS PURSUANT TO §380.032(3), FLORIDA STATUTES

THIS AGREEMENT is entered into between Islamorada, Village of Islands ("Village"), a Florida municipal corporation and the Department of Community Affairs ("DCA"), an agency of the State of Florida.

WHEREAS, the Village is a local government within the Florida Keys Area of Critical State Concern pursuant to Section 380.0552, Florida Statutes (2002); and

WHEREAS, DCA is the state land planning agency having the power and duty to exercise general supervision of the administration and enforcement of Chapter 380, Florida Statutes, which includes provisions relating to Areas of Critical State Concern; and

WHEREAS, DCA is authorized by Section 380.032(3), Florida Statutes, to enter into an agreement with any landowner, developer or governmental agency as may be necessary to effectuate the provisions and purposes of Chapter 380, Florida Statutes, or any related rule; and

WHEREAS, the Village wishes to purchase certain property on Plantation Key that is 0.78 acres in area, and legally described on the attached Exhibit "A," incorporated herein by this reference ("Property"); and

WHEREAS, the Village desires to construct on the Property a central wastewater treatment facility with a capacity of approximately 226,940 gallons per day; and

WHEREAS, the Property is a tropical hardwood hammock and a preliminary analysis of its quality indicates that it is a low quality hammock; and

WHEREAS, the quality of a tropical hardwood hammock on land in the Village proposed for development determines the percentage of the parcel that is required to be left as open space and the percentage of the parcel that is allowed to be cleared; and

WHEREAS, since the Property contains a low quality hammock, under Policy 1-2.1.6 of the Village's Comprehensive Plan ("Plan") and Section 7.3.4 of the Village's Land Development Regulations ("LDRs") fifty (50) percent of the Property is required to be left as open space, and fifty (50) percent of the Property is allowed to be cleared; and

WHEREAS, the strict enforcement of Policy 1-2.1.6 of the Plan and Section 7.3.4 of the LDRs would be a significant impediment to the construction of the desired central wastewater treatment facility; and

WHEREAS, both DCA and the Village are mindful of the critical need to protect and preserve the remaining tropical hardwood hammocks in the Florida Keys.

NOW, THEREFORE, in consideration of the terms and conditions set forth hereafter and the full, complete and final settlement of all potential claims arising out of these unique circumstances, the parties hereto agree as follows:

1. **Representations.** The representations set forth above are incorporated herein and are essential elements hereof.
2. **Site Plan Approval.** The Village shall submit to DCA for approval the proposed site plans for the construction of the central wastewater treatment facility on the Property in order to ensure that the facility is sited so as to minimize the amount of clearing of tropical hardwood hammock that is needed.
3. **Mitigation Land Acquisition.** In order to offset the impact of the clearing of tropical hardwood hammock on the Property, the Village agrees to acquire within one (1) year of this Agreement land which contains tropical hardwood hammock which is of a quality that is the same or higher than that of the tropical hardwood hammock that will be cleared at the Property and which is of an area that is at least two times the area of the tropical hardwood hammock that will be cleared. The Village shall endeavor to acquire such tropical hardwood hammock at a location that is adjacent to other publicly owned land or land that is under a conservation easement.
4. **Habitat Evaluation.** The Village, with the approval of DCA, shall select a biological consultant qualified to conduct a habitat evaluation of tropical hardwood hammock who shall then perform an evaluation of the tropical hardwood hammock at the Property and at the land to be acquired under Paragraph 3 in order to establish the quality of the hammock at the Property and to ensure that the quality of the hammock to be purchased under Paragraph 3 is the same or higher than that on the Property which is to be cleared.
5. **Conservation Easement.** The Village agrees to place a conservation easement in perpetuity over the entirety of the tropical hardwood hammock acquired under the requirement of Paragraph 3. Said conservation easement shall prohibit any future development or clearing of this property.
6. **Funds for Acquisition.** The Village shall not use funds from any State of Florida land acquisition program to acquire the tropical hardwood hammock to be acquired under the requirements of Paragraph 3.
7. **Management Plan.** After the acquisition of the tropical hardwood hammock under Paragraph 3, the Village shall consult with DCA to develop a management plan for the property thus acquired. After DCA approves the management plan for the property, the Village shall implement said plan.

8. **Waiver of Appeal.** Based on the foregoing representations and in consideration for the Village's agreement to the foregoing, DCA agrees to allow the Village to clear 100 percent of the Property and to waive its right to appeal any action by the Village relating to the development of the Property under Subsection 380.07(2), Florida Statutes.

9. **Entirety of Agreement.** The parties further agree that this Settlement Agreement contains the entire and exclusive understanding and agreement among the parties and may not be modified in any manner except by an instrument in writing and signed by the parties.

10. **Duplicate Originals.** This Settlement Agreement may be executed in any number of originals, all of which evidence one agreement, and only one of which need be produced for any purpose.

11. **Enforcement.** In the event of a breach of this Agreement or failure to comply with any condition of it or if it has been based upon materially inaccurate information, the DCA may enforce this Agreement as provided in Section 380.11, Florida Statutes.

12. **Scope of Authority.** This Agreement affects the rights and obligations of the parties under Chapter 380, Florida Statutes. It is not intended to influence or determine the authority or decisions of any other state or local government or agency in issuance of any other permits or approvals that might be required by state law or local ordinance for any development authorized by this Agreement.

13. **Date of Execution.** The date of execution of this Agreement shall be the date that the last party signs and acknowledges this Agreement.

IN WITNESS THEREOF, the parties by and through their respective undersigned duly authorized representatives have executed this Agreement on the dates and year below written.

Attest:

Islamorada, Village of Islands

B. Waly
Village Clerk

By: Mark H. Gregg
Mark H. Gregg, Mayor

Date: 12/12/02

Approved as to form and sufficiency:

[Signature]
City Attorney

Department of Community Affairs

By: 

SONNY TIMMERMAN, DIRECTOR
Division of Community Planning
Department of Community Affairs
2555 Shumard Oak Boulevard
Tallahassee, Florida 32399-2100

Date: 12/18/02

Approved as to form and legal sufficiency:

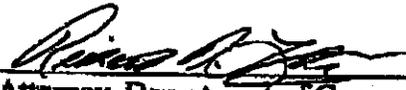

Attorney, Department of Community Affairs

EXHIBIT A

ISLAMORADA WASTEWATER TREATMENT PLANT SITE

Property RE Numbers

00418110-000000

00418120-000000

00418130-000000

00418140-000000

00418250-000000

00418260-000000

LEGAL

Lots 3 thru 6 Lake Harbor Ests P 4/84

Lots 17 and 18 Lake Harbor Ests Blk 1

RESOLUTION NO. 03-02-09

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, APPROVING THE CONTRACT FOR SALE AND PURCHASE BETWEEN UNIVERSITY OF MIAMI, AS SELLER, AND ISLAMORADA, VILLAGE OF ISLANDS, AS BUYER; AUTHORIZING THE APPROPRIATE VILLAGE OFFICIALS TO EXECUTE ANY ADDITIONAL DOCUMENTS PERTAINING TO THE CONTRACT AND TAKE ALL ACTION NECESSARY TO IMPLEMENT THE TERMS AND CONDITIONS OF THE CONTRACT AND CLOSE ON THE PURCHASE OF THE PROPERTY; FINDING AND DETERMINING THAT THE PROPERTY ACQUIRED BY THE VILLAGE SHALL BE USED FOR MUNICIPAL OR PUBLIC PURPOSES; AUTHORIZING THE VILLAGE CLERK TO PROVIDE A COPY OF THE RESOLUTION TO THE PROPERTY APPRAISER OF MONROE COUNTY; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, University of Miami (a Florida non-profit corporation) ("Seller") is the owner of certain real property ("Property") located within the municipal boundaries of Islamorada, Village of Islands ("Village"), which property is more particularly described in that certain Contract for Sale and Purchase attached hereto as Exhibit "A" ("Contract"); and

WHEREAS, the Village Council previously authorized the Village Manager to acquire the Property for the appraised value; and

WHEREAS, based upon the Village Council's authorization, the Village entered into a contract with the seller to purchase the property at the appraised value of \$ 120,000.00; and

WHEREAS, pursuant to Article VII, Section 3(a) of the Florida Constitution, and Section 196.199(1)(c), Florida Statutes, all property owned by a municipality and used by the municipality for a municipal or public purpose is exempt from ad valorem taxation; and

WHEREAS, the Village intends to acquire the Property for public purposes, specifically for construction of a wastewater treatment facility for Plantation Key.

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

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

Section 2. That the Contract for Sale and Purchase ("Contract") between the Village and Seller both in the form attached hereto as Exhibit "A" are approved together with such non-substantial changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. That the appropriate individuals including the Mayor are authorized to execute and deliver the Agreement.

Section 5. That the appropriate Village officials including Village Manager and Village Attorney are authorized to execute and deliver any additional documents pertaining to the Agreement including the closing documents, to take all action necessary to implement the terms and conditions of the Agreement, and to close on the purchase of the Property.

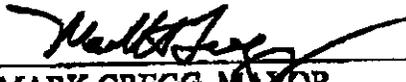
Section 6. The Village Council finds and determines that the Property shall be held or used for public purposes, specifically for construction of a wastewater treatment facility for Plantation Key.

Section 7. The Village Council requests the Monroe County Property Appraiser to exempt the Property from the tax rolls of Monroe County.

Section 8. That the Village Clerk is directed to provide a certified copy of this Resolution to the Monroe County Property Appraiser.

Section 9. That this Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED THIS 13th DAY OF FEBRUARY, 2003.


MARK GREGG, MAYOR

ATTEST:


VILLAGE CLERK

APPROVED AS TO LEGAL SUFFICIENCY


VILLAGE ATTORNEY

Motion to adopt by Councilman Geisler seconded by Councilman Johnson.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

<i>Mayor Mark Gregg</i>	<u>YES</u>
<i>Vice Mayor Michael Forster</i>	<u>YES</u>
<i>Councilmember George Geisler</i>	<u>YES</u>
<i>Councilmember Robert E. Johnson</i>	<u>YES</u>
<i>Councilmember Chris Sante</i>	<u>YES</u>