

ORDINANCE NO. 13-19

AN ORDINANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, AMENDING CHAPTER 30 “LAND DEVELOPMENT REGULATIONS,” ARTICLE IV “ADMINISTRATIVE PROCEDURES,” DIVISION 5 “CONCURRENCY MANAGEMENT SYSTEM” OF THE CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE REPEAL OF ALL CODE PROVISIONS AND ORDINANCES INCONSISTENT WITH THIS ORDINANCE; 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, on November 19, 2001, the Village Council adopted Ordinance No. 01-19, which established the Concurrency Management System within Chapter 30, Article IV, Division 5 (the “Concurrency Management System”) of the Code of Ordinances (the “Code”) of Islamorada, Village of Islands, Florida (the “Village”); and

WHEREAS, the Concurrency Management System was previously amended by Ordinance No. 06-21; and

WHEREAS, the Concurrency Management System ensures that certain public facilities and services needed to support development are available concurrent with the impacts of such development; and

WHEREAS, Chapter 2011-139, Laws of Florida, the “Community Planning Act,” made significant changes to Florida’s Statutory Transportation Concurrency requirements and standards; and

WHEREAS, the Community Planning Act provides conditions under which local governments must allow development applicants to satisfy Transportation Concurrency; and

WHEREAS, the Community Planning Act made revisions to the methodology for

calculating proportionate share cost of providing transportation facilities needed to serve the proposed development; and

WHEREAS, the Village Council desires and is currently amending the current level of service for roadways by adopting a countywide level of service standard (LOS) for U.S. 1 not dependent on any single roadway segment as encouraged by Section 163.3180, Florida Statutes; and

WHEREAS, the Village Local Planning Agency reviewed this Ordinance on February 11, 2013 in accordance with the requirements of Chapter 163, Florida Statutes, and recommended approval to the Village Council; and

WHEREAS, the provisions of this Ordinance are consistent with the Village Comprehensive Plan and the Principles for Guiding Development in 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, correct and incorporated herein by this reference.

Section 2. **Concurrency Management System.** Chapter 30 “Land Development Regulations,” Article IV “Administrative Procedures,” Division 5 “Concurrency Management System,” of the Code is hereby amended to read as follows:

Additional text is shown as <u>underlined</u> ;	deleted text is shown as strikethrough
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Sec. 30-301. Intent and purpose.

It is the intent and purpose of this division to establish an ongoing mechanism which ensures that certain public facilities and services needed to support development are available concurrent with the impacts of such development, pursuant to the village comprehensive plan and F.S. § 163.3180. This division applies to wastewater, potable water, solid waste, transportation (roadways), stormwater and recreation and open space facilities.

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Sec. 30-303. Exemptions.

No development order or permit shall be issued that is projected to decrease the existing level of service (LOS) below the adopted standard. However, the following are exempt from the review procedures specified in this division because of their de minimis effect or because they do not decrease the existing level of service:

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(5) Notwithstanding the above, public transit facilities as defined and provided for within F.S. § 163.3180(5)(h)2., as may be amended, are exempt from transportation concurrency.

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Sec. 30-305. Review of development orders and permits.

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(b) *Application for development.* As a condition of approval of a development order, all applicants for development shall file an application with the village in the form prescribed by the director of planning and development services, accompanied by a fee to be set by resolution of the village council. The application shall include a written evaluation of the impact of the anticipated development on the levels of service for public facilities and services and demonstrate that public facilities and services are available prior to or concurrent with the impacts of development as follows:

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(3) *Transportation / roadway facilities.* For transportation / roadway facilities, at a minimum, the village shall ensure that the following standards are met to satisfy concurrency requirements:

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f. The village ~~may~~ shall allow a ~~landowner~~ an applicant to ~~proceed with development of a specific parcel of land notwithstanding a failure of the development to satisfy transportation concurrency,~~ for a development order or permit to satisfy the transportation concurrency requirements of section 30-304(1) when ~~all~~ one of the following factors are is shown to exist:

- ~~1. The village's adopted local comprehensive plan is in compliance.~~
- ~~2. The proposed development would be consistent with the future land use designation for the specific property and with pertinent portions of the adopted village comprehensive plan, as determined by the village.~~
- ~~3. The village plan includes a financially feasible capital improvements element that provides for transportation facilities adequate to serve the proposed development, and the village has not implemented that element.~~
- ~~4. The village has provided a means by which the landowner will be assessed a fair share of the cost of providing the transportation facilities necessary to serve the proposed development.~~
5. 1. The landowner applicant has made enters into a binding commitment to the village agreement to pay the fair for or construct its proportionate share of the costs of providing the necessary transportation facilities to serve the proposed development. The applicant shall provide a bond, letter of credit or other similar security interest when construction of transportation facilities are provided for within such agreement; or
2. The proportionate share contribution or construction is sufficient to accomplish one or more mobility improvements that will benefit a regionally significant transportation facility.

~~g. At the time the development order or permit is issued, the necessary facilities and services are guaranteed in an enforceable proportionate fair share mitigation agreement.~~

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Sec. 30-306. Annual report of public facilities capacity.

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(c) Review procedure for development located in areas specified in annual report.

- (1) *Applicability.* In the event the approved annual report shows that projected growth and development during the next 12 months exceeds public facilities capacity that will be available to serve the projected growth, development in one or more of the affected service areas shall be subject to the procedure established in this section.

- (2) *Areas of inadequate facility capacity.* The village shall not approve applications for development in areas of the village that are served by inadequate facilities as identified in the annual report, unless the requirements of section 30-305 are satisfied. A facilities impact report shall be prepared for applications for development in these areas to demonstrate the standards have been met.
- (3) *Areas of marginally adequate facility capacity.* In areas of marginal facility capacity as identified in the current annual report, the village shall either deny the application or condition the approval so that the level of service standard is not violated. A facilities impact report shall be prepared for applications for development in these areas to demonstrate the standards have been met.

Sec. 30-307. Transportation proportionate ~~fair-share~~ mitigation.

In order to establish a method whereby the impacts of development on transportation facilities can be mitigated by the cooperative efforts of the public and private sectors, there shall be a program known as the transportation proportionate ~~fair-share~~ mitigation program (the "~~fair-share~~ mitigation program"), as required by and in a manner consistent with F.S. § 163.3180(16)(5)(h)3. as may be amended. The ~~fair-share~~ mitigation program shall apply to all developments in the village that have been notified of a lack of capacity to satisfy transportation concurrency, including transportation facilities maintained by the Florida Department of Transportation (the "FDOT") or another government agency which the village relies upon for concurrency determinations. The ~~fair-share~~ mitigation program does not apply to developments of regional impact (DRIs) using proportionate share under F.S. § 163.3180(12), or to developments exempted from concurrency as provided in section 30-303.

(1) General requirements.

- a. An applicant may propose to satisfy the transportation concurrency requirements of the village by making a proportionate ~~fair-share~~ contribution only if the following requirements are met:
 1. The proposed development is consistent with the comprehensive plan and applicable land development regulations; and
 2. The five-year schedule of capital improvements in the village's capital improvements plan ("CIP") includes a transportation improvement(s) that, upon completion, will satisfy the requirements of the village's concurrency management system (the "CMS"). The provisions of subsection b.2. may apply if a proposed project or development which is needed to satisfy concurrency ~~is~~ are not presently contained within the village's CIP.
- b. The village, in its sole discretion, may choose to allow an applicant to satisfy transportation concurrency through the ~~fair-share~~ mitigation program by contributing to an improvement that, upon completion, will satisfy the

requirements of the village's transportation CMS, but is not contained in the five-year schedule of capital improvements in the CIP, where the following conditions are met:

1. The village adopts, by resolution or ordinance, a commitment to add the improvement to the five-year schedule of capital improvements in the CIP no later than the next regularly scheduled update. To qualify for consideration under this section, the proposed improvement ~~must~~ shall be reviewed by the village council, and determined to be ~~financially feasible pursuant to F.S. § 163.3180(16)(b)1~~, consistent with the comprehensive plan, and in compliance with the provisions of this section. ~~Financial feasibility for this section means that additional contributions, payments or funding sources are reasonably anticipated during a period not to exceed five years to fully mitigate impacts on the transportation facilities.~~
2. If the funds allocated for the five-year schedule of capital improvements in the village's CIP are insufficient to fully fund construction of a transportation improvement required by the CMS, the village may still enter into a binding proportionate ~~fair~~-share agreement with the applicant authorizing construction of that amount of development on which the proportionate ~~fair~~-share is calculated if the proportionate ~~fair~~-share amount in such agreement is sufficient to pay for one or more improvements which will, in the sole opinion of the governmental entity or entities maintaining the transportation facilities, significantly benefit the impacted transportation system. The improvement or improvements funded by the proportionate ~~fair~~-share component ~~must~~ shall be adopted into the five-year capital improvements schedule of the comprehensive plan at the next annual capital improvements plan update.
3. Any improvement project proposed to meet the developer's ~~fair~~ proportionate-share obligation ~~must~~ shall meet applicable design standards of the jurisdiction which controls.
4. It shall be in the village's sole discretion whether the requested addition to the CIP shall be added.

(2) *Intergovernmental coordination.* Pursuant to policies in the intergovernmental coordination element of the village's comprehensive plan and applicable policies in the South Florida Regional Planning Council's Strategic Regional Policy Plan for South Florida, the village shall coordinate with affected jurisdictions, including FDOT, regarding mitigation to impacted facilities not under the jurisdiction of the local government receiving the application for proportionate ~~fair~~-share mitigation. An interlocal agreement may be established with other affected jurisdictions for this purpose.

~~(3) *Application process.*~~

- ~~a. Upon notification of a lack of capacity to satisfy transportation concurrency, the applicant shall also be notified in writing of the opportunity to satisfy transportation concurrency through the fair share mitigation program pursuant to the requirements of subsection (1).~~
- ~~b. Prior to submitting an application for a proportionate fair share agreement, a pre-application meeting shall be held to discuss eligibility, application submittal requirements, potential mitigation options, and related issues. If the impacted facility is on the strategic intermodal system ("SIS")/U.S. 1, then the FDOT or any other affected governmental entity will be notified and invited to participate in the pre-application meeting.~~
- ~~c. Eligible applicants shall submit an application to the village that includes an application fee established by the village council and shall contain the following:
 - ~~1. Name, address and phone number of owner(s), developer and agent;~~
 - ~~2. Property location, including parcel identification numbers;~~
 - ~~3. Legal description and survey of property;~~
 - ~~4. Project description, including type, intensity and amount of development;~~
 - ~~5. Phasing schedule, if applicable;~~
 - ~~6. Description of requested proportionate fair share mitigation method(s);~~
 - ~~7. Copy of development application;~~
 - ~~8. Traffic impact analysis; and~~
 - ~~9. Proposed draft proportionate fair share mitigation agreement.~~~~
- ~~d. The director of planning and development services shall review the application and certify that the application is sufficient and complete within 20 business days. If an application is determined to be insufficient, incomplete or inconsistent with the general requirements of the fair share mitigation program as indicated in subsection (1) then the applicant will be notified in writing of the reasons for such deficiencies within 20 business days of submittal of the application. If such deficiencies are not remedied by the applicant within 30 calendar days of receipt of the written notification, then the application will be deemed abandoned. The director of planning and development services may, in his or her sole discretion and upon a showing of good cause, grant an extension of time not to exceed 60 calendar days from the date of the request to cure such deficiencies, provided that the applicant has shown good cause for the extension and has taken reasonable steps to effect a cure.~~
- ~~e. Pursuant to F.S. § 163.3180(16)(e), proposed proportionate fair share mitigation for development impacts to facilities on the SIS/U.S. 1 requires the concurrency of the FDOT. The applicant shall submit evidence of an agreement between the applicant and the FDOT or any other applicable government agency for inclusion in the proportionate fair share agreement.~~

- ~~f. When an application is deemed sufficient, complete, and eligible, the applicant shall be advised in writing and a proposed proportionate fair share obligation and binding agreement will be prepared by the applicant with direction from the village and delivered to the appropriate parties for review, including a copy to the FDOT if on SIS/U.S. 1 no later than 60 days from the date at which the applicant received the notification of a sufficient application.~~
- ~~g. The village shall notify the applicant regarding the date of the council meeting when the development proposal, including the proportionate fair share mitigation agreement executed by the developer, will be considered for final approval. No proportionate fair share agreement will be effective until approved by the council.~~

(4 3) *Determining proportionate fair share obligation.*

- a. Proportionate fair share mitigation for concurrency impacts may include, without limitation, separately or collectively, private funds, contributions of land, and construction and contribution of facilities.
- b. ~~A development shall not be required to pay more than its proportionate fair share. The fair market value of the proportionate fair share mitigation for the impacted facilities shall not differ regardless of the method of mitigation. An applicant shall not be held responsible for the additional cost of reducing or eliminating deficiencies. An applicant shall not be required to pay or construct transportation facilities whose costs would be greater than a development's proportionate share of the improvements necessary to mitigate the development's impacts.~~
- c. The methodology used to calculate an applicant's proportionate fair share obligation shall be as provided for in F.S. § 163.3180(12)(5)(h)3.c.(II), as may be amended, as follows:

~~"The cumulative number of trips from the proposed development expected to reach roadways during peak hours from the complete build out of a stage or phase being approved, divided by the change in the peak hour maximum service volume (MSV) of roadways resulting from construction of an improvement necessary to maintain the adopted LOS, multiplied by the construction cost, at the time of developer payment, of the improvement necessary to maintain the adopted LOS;"~~

OR

$$\text{Proportionate Fair Share} = \sum [(\text{Development Trips}_i) / (\text{SV Increase}_i)] \times \text{Cost}_i$$

Where:

~~Development Trips_i = Those trips from the stage or phase of development under review that are assigned to roadway segment "i" and have triggered a deficiency per the CMS;~~

~~SV Increase_i = Service volume increase provided by the eligible improvement to roadway segment "i".~~

~~Cost_i = Adjusted cost of the improvement to segment "i". Cost shall include all improvements and associated costs, such as design, right of way acquisition, planning, engineering, inspection, and physical development costs directly associated with construction at the anticipated cost in the year it will be incurred.~~

1. The proportionate-share contribution shall be calculated based upon the number of trips from the proposed development expected to reach roadways during the peak hour from the stage or phase being approved, divided by the change in the peak hour maximum service volume of roadways resulting from construction of an improvement necessary to maintain or achieve the adopted level of service, multiplied by the construction cost, at the time of development payment, of the improvement necessary to maintain or achieve the adopted level of service.
2. In using the proportionate-share formula above, the applicant, in its traffic analysis, shall identify those roadways or facilities that have a transportation deficiency in accordance with the transportation deficiency as defined in F.S. § 163.3180(5)(h)3.e., as may be amended. The proportionate-share formula shall only be applied to those facilities that are determined to be significantly impacted by the project traffic under review. If any roadway is determined to be transportation deficient without the project traffic under review, the costs of correcting that deficiency shall be removed from the project's proportionate-share calculation and the necessary transportation improvements to correct that deficiency shall be considered to be in place for purposes of the proportionate-share calculation. The improvement necessary to correct the transportation deficiency is the funding responsibility of the entity that has maintenance responsibility for the facility. The development's proportionate share shall be calculated only for the needed transportation improvements that are greater than the identified deficiency.
3. When the provisions of this section have been satisfied for a particular stage or phase of development, all transportation impacts from that stage or phase for which mitigation was required and provided shall be deemed fully mitigated in any transportation analysis for a subsequent stage or phase of development. Trips from a previous stage or phase that did not result in impacts for which mitigation was required or provided may be cumulatively analyzed with trips from a subsequent stage or phase to

determine whether an impact requires mitigation for the subsequent stage or phase.

4. In projecting the number of trips to be generated by the development under review, any trips assigned to a toll-financed facility shall be eliminated from the analysis.
- d. For the purposes of determining proportionate-~~fair~~-share obligations, the village shall determine improvement costs based upon the actual and/or anticipated cost of the improvement as obtained from the capital improvements element, the MPO transportation improvement program or the FDOT work program. Where such information is not available, improvement cost shall be determined using one of the following methods:
 1. If the village has accepted an improvement project proposed by the applicant, then the value of the improvement shall be based on an engineer's certified cost estimate provided by the applicant and approved by the village; or
 2. If the village has accepted non-site related right-of-way dedication for the proportionate-~~fair~~-share payment, credit for the dedication of the non-site related right-of-way shall be valued on the date of the dedication at 120 percent of the most recent assessed value by the county property appraiser or, at the option of the applicant, by fair market value established by an independent appraisal approved by the village and at no expense to the village. The applicant shall supply a drawing and legal description of the land, and a certificate of title or title search of the land, to the village at no expense to the village. If the estimated value of the non-site related right-of-way dedication proposed by the applicant is less than the village's estimated total proportionate-~~fair~~-share obligation for that development, then the applicant ~~must~~ shall also pay the difference. Prior to purchase or acquisition of any real estate or acceptance of donations of real estate intended to be used for proportionate-~~fair~~-share mitigation, public or private partners should contact the FDOT for essential information about compliance with federal law and regulations. Whether a right-of-way dedication is non-site related shall be in the sole discretion of the village.

(§ 4) Impact fee credit for proportionate-~~fair~~-share mitigation.

- a. ~~Proportionate fair share mitigation shall be applied as a credit against impact fees. Credits will be given for that portion of the applicant's transportation impact fees that would have been used to fund the improvements on which the proportionate fair share contribution is calculated. If the proportionate fair share mitigation is based on only a portion of the development's traffic, the credit will be limited to that portion of the impact fees on which the proportionate fair share contribution is based. The applicant shall receive a credit on a dollar-for-dollar basis for impact fees, mobility fees, and other transportation concurrency mitigation requirements~~

paid or payable in the future for the project. The credit shall be reduced up to 20 percent by the percentage share that the project's traffic represents of the added capacity of the selected improvement, or by the amount specified by ordinance, whichever yields the greater credit.

- ~~b. Impact fee credits for the proportionate fair share contribution will be determined when the transportation impact fee obligation is calculated for the proposed development. If the applicant's proportionate fair share obligation is less than the development's anticipated transportation improvement impact fee for the specific stage or phase of development under review, then the applicant or its successor must pay the remaining impact fee amount to the village pursuant to the requirements of the village's impact fee ordinance.~~
- ~~c. The proportionate fair share obligation is intended to mitigate the transportation impacts of a proposed development at a specific location. As a result, any transportation improvement impact fee credit based upon proportionate fair share contributions for a proposed development cannot be transferred to any other location.~~

(6 5) Proportionate ~~fair~~-share agreements.

- a. Upon the applicant's execution of a proportionate ~~fair~~-share agreement in accordance with subsection (3) the applicant shall receive a determination that concurrency requirements have been satisfied. Should the applicant fail to apply for a development permit within 12 months of the execution of the agreement or other timeframe provided in the CMS, then the ~~fair~~ proportionate-share agreement shall be considered null and void, and the applicant shall be required to reapply.
- b. Payment of the proportionate ~~fair~~-share contribution is due in full prior to issuance of the final development order or recording of the final plat and shall be nonrefundable. If the payment is submitted more than 12 months from the date of execution of the agreement, then the proportionate ~~fair~~-share cost shall be recalculated at the time of payment based on the best estimate of the construction cost of the required improvement at the time of payment, pursuant to subsection (3) and adjusted accordingly.
- c. All developer improvements authorized under this section ~~must~~ shall be completed prior to issuance of a development permit, or as otherwise established in a binding agreement that is accompanied by a security instrument that is sufficient to ensure the completion of all required improvements. Any required improvements shall be completed before issuance of building permits or certificates of occupancy.
- d. Dedication of necessary right-of-way for facility improvements pursuant to a proportionate ~~fair~~-share agreement ~~must~~ shall be completed prior to issuance of the final development order or recording of the final plat.

- e. Any requested change to a development project subsequent to a development order may be subject to additional proportionate-~~fair~~-share contributions to the extent the change would generate additional ~~traffic~~ trips that would require mitigation.
- f. Applicants may submit a letter to withdraw from the proportionate-~~fair~~-share agreement at any time prior to the execution of the agreement. The application fee and any associated advertising costs to the village will be nonrefundable.
- g. The village may enter into proportionate-~~fair~~-share agreements for selected corridor improvements to facilitate collaboration among multiple applicants on improvements to a shared transportation facility.
- h. Proportionate-~~fair~~-share agreements shall contain a provision setting forth the amount of impact fee credit if applicable.

(7 6) *Appropriation of ~~fair~~ proportionate-share revenues.*

- a. Proportionate-~~fair~~-share revenues shall be placed in the appropriate project account for funding of scheduled improvements in the village's CIP, or as otherwise established in the terms of the proportionate-~~fair~~-share agreement. At the discretion of the village, proportionate-~~fair~~-share revenues may be used for operational improvements prior to construction of the capacity project from which the proportionate-~~fair~~-share revenues were derived. Proportionate-~~fair~~-share revenues may also be used as the 50 percent local match for funding under the FDOT transportation regional incentive program (TRIP).
- b. In the event a scheduled facility improvement is removed from the CIP, then the revenues collected for its construction may be applied toward the construction of another improvement within that same corridor or sector that would mitigate the impacts of development pursuant to the requirements of subsection (1)(b)2.
- c. Where an impacted regional facility has been designated as a regionally significant transportation facility in an adopted regional transportation plan as provided in Section F.S. § 339.155, then the village may coordinate with other impacted jurisdictions and agencies to apply proportionate-~~fair~~-share contributions and public contributions to seek funding for improving the impacted regional facility under the FDOT TRIP. Such coordination shall be ratified by the village through an interlocal agreement that establishes a procedure for earmarking of the developer contributions for this purpose.

(8 7) *Cross jurisdictional impacts.*

- a. In the interest of intergovernmental coordination and to reflect the shared responsibilities for managing development and concurrency, the village may enter an agreement with one or more adjacent local governments to address cross

jurisdictional impacts of development on regional transportation facilities. The agreement shall provide for application of the methodology in this section to address the cross jurisdictional transportation impacts of development.

- b. A development application submitted to the village subject to a transportation concurrency determination meeting all of the following criteria shall be subject to this section:
 - 1. All or part of the proposed development is located within a U.S. 1 road segment which is under the jurisdiction, for transportation concurrency, of an adjacent local government; and
 - 2. Using its own concurrency analysis procedures, the village concludes that the additional traffic from the proposed development would use five percent or more of the reserve speed of a regional transportation facility within the concurrency jurisdiction of the adjacent local government "impacted regional facility"; and
 - 3. The impacted regional facility is projected to be operating below the level of service standard, adopted by the adjacent local government, when the traffic from the proposed development is included.
- c. Upon identification of an impacted regional facility pursuant to subsection 8(b), the village shall notify the applicant and the affected adjacent local government in writing of the opportunity to derive an additional proportionate ~~fair~~-share contribution, based on the projected impacts of the proposed development on the impacted adjacent facility.
 - 1. The adjacent local government shall have up to 90 days in which to notify the village of a proposed specific proportionate ~~fair~~-share obligation, and the intended use of the funds when received. The adjacent local government must provide reasonable justification that both the amount of the payment and its intended use comply with the requirements of F.S. § 163.3180(16). Should the adjacent local government decline proportionate ~~fair~~-share mitigation under this section, then the provisions of this section would not apply and the applicant would be subject only to the proportionate ~~fair~~-share requirements of the village.
 - 2. If the subject application is subsequently approved by the village, the approval shall include a condition that the applicant provides, prior to the issuance of any building permit covered by that application, evidence that the proportionate ~~fair~~-share obligation to the adjacent local government has been satisfied. The village may require the adjacent local government to declare, in a resolution, ordinance, or equivalent document, its intent for the use of the concurrency funds to be paid by the applicant.

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Section 3. **Severability.** The provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance is 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 4. **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 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 a part of the Code; that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or other appropriate word.

Section 6. **Transmittal to the Florida Department of Economic Opportunity.** The provisions of this Ordinance constitute a “land development regulation” as State law defines that term. Accordingly, the Village Clerk is authorized to forward a copy of this Ordinance to the Florida Department of Economic Opportunity (“DEO”) for approval pursuant to Sections 380.05(6) and (11), Florida Statutes.

Section 7. **Effective Date.** This Ordinance shall not become effective until approved pursuant to Final Order by the State Department of Economic Opportunity (DEO) pursuant to Chapter 380.05 Florida Statutes or if the final order is challenged, until the challenge to the order is resolved pursuant to Chapter 120, Florida Statutes.

The foregoing Ordinance was offered by Councilman Dave Purdo, who moved for its adoption on first reading. This motion was seconded by Vice Mayor Ted Blackburn, and upon being put to a vote, the vote was as follows:

Mayor Ken Philipson	YES
Vice Mayor Ted Blackburn	YES
Councilman Mike Forster	YES
Councilwoman Deb Gillis	YES
Councilman Dave Purdo	YES

PASSED on first reading this 28th day of March, 2013.

The foregoing Ordinance was offered by Councilman Dave Purdo who moved for its adoption on second reading. This motion was seconded by Councilman Mike Forster, and upon being put to a vote, the vote was as follows:

Mayor Ken Philipson	YES
Vice Mayor Ted Blackburn	YES
Councilman Mike Forster	YES
Councilwoman Deb Gillis	YES
Councilman Dave Purdo	YES

PASSED AND ADOPTED on second reading this 22nd day of August, 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