

**RESOLUTION NO. 23-03-26**

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA APPROVING A FIRST AMENDMENT TO THE MAINTENANCE MEMORANDUM OF AGREEMENT ("MMOA") FOR CONTRACT NO. E6K84, BETWEEN THE FLORIDA DEPARTMENT OF TRANSPORTATION AND ISLAMORADA, VILLAGE OF ISLANDS; AUTHORIZING THE VILLAGE MANAGER TO EXECUTE THE AGREEMENT; AUTHORIZING THE VILLAGE MANAGER TO EXPEND BUDGETED FUNDS; AUTHORIZING THE VILLAGE MANAGER TO TAKE NECESSARY ACTION; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, Islamorada, Village of Islands (the "Village") desires to provide a high level of maintenance services to its citizens and visitors; and

**WHEREAS**, the Village's Public Works Department has maintained the U.S. Highway 1 right-of-way located within the Village's municipal boundaries through an agreement with the Florida Department of Transportation ("FDOT") since State Fiscal Year 2007-2008; and

**WHEREAS**, in accordance with Section 287.058, Florida Statutes, FDOT has agreed to pay the Village quarterly compensation to offset the cost of U.S. Highway 1 right-of-way maintenance in the total amount of \$65,644.00; and

**WHEREAS**, FDOT and the Village entered into a Maintenance Memorandum of Agreement ("MMOA") dated August 11, 2017, in order to address the maintenance obligations of each party with respect to the beautification improvements designed under Contract # E6K84 (the "Improvements"), to be installed on SR-5 (Overseas Highway) from South of Lignumvitae Channel Bridge (MM 77.47) to North of Jerome Avenue (MM 81.44), (the Project Limits), as described in the MMOA; and

**WHEREAS**, In coordination with the Village, FDOT has extended the Project Limits from MM 77.47 to MM 75.02 and has modified the plans for Contract # E6K84 accordingly; and

**WHEREAS**, the Village Council finds that approval of the First Amendment to the MMOA attached hereto as Exhibit "A" is in the best interest of the Village and its residents.

**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 incorporated into this Resolution by this reference.

**Section 2.**     **Approval of First Amendment.** The Village Council hereby approves the First Amendment to the MMOA attached hereto as Exhibit "A".

**Section 3.**     **Execution of First Amendment.**     The Village Manager is authorized to execute the First Amendment to the MMOA on behalf of the Village, to execute any required documents to implement the terms and conditions of the Amendment subject to approval as to form and legality by the Village Attorney.

**Section 4.**     **Authorization of Fund Expenditures.** Notwithstanding the limitations imposed upon the Village Manager pursuant to the Village's Purchasing Procedures Ordinance, the Village Manager is hereby authorized to expend budgeted funds for the Services.

**Section 5.**     **Effective Date.** This Resolution shall become effective immediately upon its adoption.

Motion to adopt by Council Member Mark Gregg, seconded by Council Member Elizabeth Jolin.

**FINAL VOTE AT ADOPTION**

**VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS**

Mayor Joseph B Pinder III	<u>Mg</u>
Vice Mayor Sharon Mahoney	<u>Mg</u>
Councilman Mark Gregg	<u>Mg</u>
Councilwoman Elizabeth Jolin	<u>Mg</u>
Councilman Henry Rosenthal	<u>Mg</u>

**PASSED AND ADOPTED THIS 30th DAY OF MARCH, 2023.**

  
JOSEPH B PINDER, MAYOR

ATTEST:

  
MARNE MCGRATH, VILLAGE CLERK

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

  
JOHN J. QUICK, INTERIM VILLAGE ATTORNEY



**FIRST AMENDMENT TO  
FLORIDA DEPARTMENT OF TRANSPORTATION  
LANDSCAPE AND OTHER INCIDENTAL FEATURES  
MAINTENANCE MEMORANDUM OF AGREEMENT  
WITH THE  
ISLAMORADA, VILLAGE OF ISLANDS**

This First Amendment to the Florida Department of Transportation Maintenance Memorandum of Agreement (MMOA) for landscape and other incidental features, with Islamorada, Village of Islands, dated August 11<sup>th</sup>, 2017, is entered into this 3<sup>rd</sup> day of May, 2023.

**RECITALS:**

A. The Florida Department of Transportation ("Department") and Islamorada, Village of Islands ("Village") entered into the MMOA in order to address the maintenance obligations of each party with respect to the beautification improvements designed under Contract # E6K84 (the IMPROVEMENTS), to be installed on SR-5 (Overseas Highway) from South of Lignumvitae Channel Bridge (MM 77.47) to North of Jerome Avenue (MM 81.44), (the PROJECT LIMITS), as described in the August 11<sup>th</sup>, 2017, MMOA.

B. The MMOA addressed the obligations of each party with respect to the IMPROVEMENTS within the PROJECT LIMITS

C. In coordination with the Village, the Department has extended the southern limits from MM 77.47 to MM 75.02, extending the PROJECT LIMITS.

D. In coordination with the Village, the Department has modified the plans for Contract # E6K84 to include the additional IMPROVEMENTS up to MM 75.02.

E. As a result of this coordinated effort, the parties have agreed to amend the MMOA executed on August 11<sup>th</sup>, 2017, to ratify the Village's maintenance obligations with respect to the additional portion of the IMPROVEMENTS designed to be installed up to MM 75.02, the new PROJECT LIMITS. Maintenance obligations for the new portion of the IMPROVEMENTS shall begin upon final acceptance of project # E6K84 by the Department.

F. As a result of this coordinated effort, the parties have agreed that the Village will execute a new Resolution 23-03-25, dated March, 30<sup>th</sup>, 2023, applicable to the IMPROVEMENTS to be installed under Contract # E6K84.

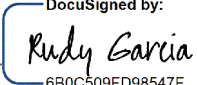
**NOW, THEREFORE**, the parties hereto, in consideration of the mutual covenants and benefits set forth herein and other good and valuable consideration, receipt of which is hereby acknowledged, hereby agree as follows:


1. The Recitals to this First Amendment are true and correct and are hereby incorporated herein by reference and made a part hereof.
2. Except as amended and modified herein, the terms and provisions of the MMOA shall remain in full force and effect. Wherever the provisions of this First Amendment and the provisions of the MMOA are in conflict, the provisions of this First Amendment shall govern and control.
3. Each signatory to this Agreement represents and warrants that he or she is duly authorized and has legal capacity to execute and deliver this Amendment, and that the execution and delivery of the Amendment and the performance of the obligations hereunder have been duly authorized, binding, and enforceable in accordance with its terms.

IN WITNESS WHEREOF, the Parties hereto have made and executed this First Amendment, by the duly authorized signatory of each party.

State of Florida,  
Department of Transportation

Islamorada, Village of Islands

By:  \_\_\_\_\_  
DocuSigned by:  
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Name: Rudy Garcia  
Title: District Director of Operations

By:  \_\_\_\_\_  
Name: Ted Yates  
Title: Village Manager

Attest:

By:  \_\_\_\_\_  
DocuSigned by:  
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Exe

Legal review:

By:  \_\_\_\_\_  
DocuSigned by:  
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