BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

Meeting Date: June 21, 2006 - MAR Division: Engineering

Bulk Item: Yes X No ____ Department: Engineering
Staff Contact Person: Judy Steele

AGENDA ITEM WORDING:
Approval of *First Amendment to Supplemental Agreement for Road and Bridge Funds* between Islamorada Village of Islands and Monroe County, FL to extend the termination date to July 1, 2008.

ITEM BACKGROUND:
On July 18, 2001 the Board entered into a *Supplemental Interlocal Agreement for Road and Bridge Funds* with the Village whereby the County would make payments to the Village for roadway improvements to formerly known State Road 4A or County Road 904 situated within the municipal limits of the Village. The Agreement provided a termination date of July 1, 2006. The Village and County agree that additional time is needed to provide all parties adequate time to complete all acts agreed to in the Agreement. Both parties are requesting an extension of the termination date of the ILA to July 1, 2008.

PREVIOUS RELEVANT BOCC ACTION:
On 5/17/01 BOCC approved an *Interlocal Agreement* with Islamorada Village of Islands to resolve fund balances
On 7/18/01 BOCC approved a *Supplemental Interlocal Agreement for Road and Bridge Funds* with Islamorada Village of Islands to terminate July 1, 2006
On 12/19/01 BOCC approved an *Amendment* to the Agreement clarifying the effective date of the agreement as May 17, 2001.

CONTRACT/AGREEMENT CHANGES: N/A

STAFF RECOMMENDATIONS:
Approval of *First Amendment to Supplemental Agreement for Road and Bridge Funds.*

TOTAL COST: N/A **BUDGETED:** Yes ____ No ____

COST TO COUNTY: N/A **SOURCE OF FUNDS:** _____

REVENUE PRODUCING: Yes ___ No ___ **AMOUNT PER MONTH**____ **Year** ____

APPROVED BY: County Atty ___ OMB/Purchasing ___ Risk Management ___

DIVISION DIRECTOR APPROVAL: _____
DAVID S. KOPPEL, P.E., COUNTY ENGINEER

DOCUMENTATION: Included X To Follow_____ Not Required_____

DISPOSITION:_____ **AGENDA ITEM #**_____

Revised 2/27/01

FIRST AMENDMENT TO
SUPPLEMENTAL AGREEMENT FOR ROAD AND BRIDGE FUNDS
BETWEEN ISLAMORADA VILLAGE OF ISLANDS AND MONROE COUNTY

This First Amendment to the Supplemental Agreement for Road and Bridge Funds between Islamorada Village of Islands and Monroe County (the "First Amendment") is made and entered into this _____ day of June, 2006 by and between Islamorada Village of Islands, Florida, a municipal corporation of the State of Florida (the "Village") and Monroe County, Florida, a political subdivision of the State of Florida (the "County").

WITNESSETH

WHEREAS, on July 18, 2001 the County entered into a Supplemental Interlocal Agreement for Road and Bridge Funds with the Village to resolve fund balance issues, attached as Exhibit "A," whereby the County would make payments to the Village for roadway improvements to formerly known State Road 4A or County Road 904 situated within the municipal limits of the Village (the "Agreement"); and

WHEREAS, the Supplemental Agreement provided for a termination date of July 1, 2006; and

WHEREAS, the Board of County Commissioners desires to extend the Supplemental Agreement in order to provide the parties additional time to complete all acts as contemplated under the Agreement.

NOW THEREFORE, in consideration of the mutual covenants set forth in this First Amendment, the parties hereby amend the Supplemental Agreement dated July 18, 2001, as follows:

Section 1. Amendment to Agreement. The parties amend Section 17 of the Agreement dated July 18, 2001, to read as follows:

17. This Supplemental Agreement will expire on July 1, 2008, or upon completion of all acts contemplated by this Supplemental Agreement, whichever shall occur first, unless extended by other provisions contained herein (the "Termination Date").

Section 2. **No Further Modifications.** All other terms and conditions of the Supplemental Agreement not in conflict or superseded by this First Amendment shall remain in full force and effect as if set forth in full herein.

IN WITNESS WHEREOF, the parties hereto have accepted, made and executed this First Amendment upon the terms and conditions above stated on the day and year First above written.

ISLAMORADA VILLAGE OF ISLANDS:

_____
Chris Sante, Mayor

Date:_____

Approved as to form and legal sufficiency:

_____ Date:_____
Village Attorney

Attest:

_____ Date:_____
Village Clerk

BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:

By:_____
Mayor/Chairman

Date:_____

ATTEST: DANNY L. KOLHAGE, CLERK

By: _____
Deputy Clerk

Approved as to form:

_____ Date:_____
County Attorney

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM:
SM Grimsley 6-9-06
SUSAN M. GRIMSLEY
ASSISTANT COUNTY ATTORNEY

SUPPLEMENTAL AGREEMENT
FOR ROAD AND BRIDGE FUNDS

between

ISLAMORADA VILLAGE OF ISLANDS, FLORIDA

and

MONROE COUNTY

This is a Supplemental Interlocal Agreement (this "Agreement") between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, a Florida municipal corporation (the "VILLAGE"), and MONROE COUNTY, a political subdivision of the State of Florida (the "COUNTY"), entered into this 18th day of July, 2001.

WHEREAS, subsequent to the VILLAGE's incorporation, certain funds in the COUNTY's possession derived from taxes and assessments and other revenues originating from taxpayers and properties located within the VILLAGE remained in the COUNTY's budget and treasury; and

WHEREAS, pursuant to Chapter 97-348, Laws of Florida, the VILLAGE was incorporated on December 31, 1997 and all municipal type services, including planning functions, duties and authority became, after December 31, 1997, vested in the jurisdiction of the VILLAGE and the VILLAGE Council; and

WHEREAS, prior to the VILLAGE's incorporation, certain funds were budgeted by the COUNTY for services and projects within the VILLAGE, including, but not limited to, roadway improvements, planning assistance, parks and beach facilities, and other VILLAGE purposes; and

WHEREAS, such funds were budgeted but not expended by the COUNTY for such VILLAGE purposes; and

WHEREAS, an Interlocal Agreement (the "Interlocal Agreement") was entered into on June 14, 2001 between the VILLAGE and the COUNTY; and

WHEREAS, in the Interlocal Agreement the County agreed to allocate certain funds to the VILLAGE for improvements to that portion of the formerly known State Road 4A or County Road 904 situated within the municipal limits of the VILLAGE (the "Road); and

WHEREAS, the COUNTY determined that the COUNTY purposes to be served by funding said project include improvements to the bicycle path and diversion of traffic from US-1.

NOW THEREFORE, in consideration of the promises, covenants, and obligations contained herein, the undersigned parties agree as follows:

1. Adoption Of Recitals. The above-referenced recitals are true and correct and incorporated herein.

2. Road Improvements. Pursuant to the Interlocal Agreement:

2.1 The COUNTY has allocated $969,000 for improving that portion of the formerly known State Road 4A or County Road 904 situated within the municipal limits of the VILLAGE (the "Road").

2.2 The moneys specified in Section 2.1 shall be transferred to the VILLAGE by the COUNTY in increments proportionate to the extent of completion of improvements to the Road pursuant to a Roadway Improvement Plan (the "Plan") prepared by the VILLAGE and approved by the COUNTY.

2.3 The Plan shall include the design, planning, procurement of services, implementation and construction of improvements to the Road, and shall list all administrative expenses attributable to implementation of the Plan.

2.4 The Village Manager shall prepare and forward to the County Administrator within 60 days of execution of this Agreement, a copy of the Plan. The County Administrator will present the Plan to the BOCC for its approval, which will be deemed granted unless rejected by the BOCC within 30 days following the VILLAGE's submission of the Plan to the COUNTY.

3. Payments.

3.1 The VILLAGE shall submit invoices and requests for payment to the County upon completion of each phase of the Plan. The invoices shall include sufficient backup documentation to support the request and to meet the COUNTY's standard payment authorization requirements.

3.1.1 The requests for payment from the VILLAGE to the COUNTY may, at the election of the Village Manager, be in the form of either (i) a request for the COUNTY to

reimburse the VILLAGE for payments made by the VILLAGE pursuant to the Plan or (ii) a request for the COUNTY to directly pay the VILLAGE's contractors and/or consultants for services performed.

3.2 The COUNTY shall timely forward the VILLAGE's documentation to the Clerk of the Court for Monroe County, Florida (the "Clerk") to pay all amounts due the VILLAGE under this Agreement.

3.3 In the event the County Clerk requires additional documentation, the COUNTY will so advise the VILLAGE in writing within fifteen days after notification by the Clerk.

3.4 The COUNTY shall make payments to the VILLAGE within 45 days from the date of the Clerk's approval of each invoice.

4. Entire Agreement. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein. Nothing contained herein shall supersede or modify anything contained within the Interlocal Agreement except as to the Road and Bridge Funds. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

5. Assignment. Neither this Agreement nor any term or provision hereof or right hereunder shall be assignable by any party and any attempt to make such assignment shall be void.

6. Notices.

6.1 Whenever any party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, or by a nationally recognized overnight express mail service (e.g., Federal Express), addressed to the party for which it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph.

The parties designate the following as the respective places for giving notice:

For the Village:	Islamorada, Village of Islands Charles W. Baldwin, Village Manager P.O. Box 568 Islamorada, Florida 33036 Phone: (305) 664-2345 Facsimile: (305) 664-2399
With a copy to:	Weiss Serota Helfman Pastoriza & Guedes, P.A. Village Attorneys Attention: Nina L. Boniske, Esq. 2665 South Bayshore Drive, Suite 420 Miami, Florida 33133 Phone: (305) 854-0800 Facsimile: (305) 854-2323
For the COUNTY:	James L. Roberts County Administrator 5100 College Road Key West, Florida 33040 Phone: (305) 292-4441 Facsimile: (305) 292-4544
A copy to:	James Hendrick, Esq. County Attorney P.O. Box 1026 Key West, Florida 33041-1026 Phone: (305)292-3470 Facsimile: (305)292-3516

6.2 Unless otherwise required by law, any notice sent hereunder shall (subject to proof of receipt or refusal of same) be deemed to have been delivered on the same day if hand-delivered, on the next business day if sent by overnight courier, or on the day of receipt or refusal, if sent by certified or registered mail.

7. Amendments. This Agreement may be modified only by an agreement in writing authorized by the VILLAGE Council and the Board of County Commissioners of Monroe County.

8. Indemnification. To the extent allowed by law, each party hereto shall indemnify and save harmless the other from any and all claims, liability, losses, and causes of action which may arise out of the other's actions in fulfillment of this Agreement.

9. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceedings arising in any matter pertaining to this Agreement shall, to the extent permitted by law, be held in the Upper Keys Division, Monroe County, Florida.

10. Severability. Should any provision, paragraph, sentence, word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Agreement, shall remain unmodified and in full force and effect.

11. Default/Remedies. In the event of a failure to perform or a breach of any obligation of this Agreement by either the COUNTY or the VILLAGE, which failure or breach is not cured within thirty (30) days of receipt of written notice thereof, such action shall constitute a default of this Agreement.

11.1 If and when any default of this Agreement occurs, the non-defaulting party may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages, injunctive relief and specific performance of this Agreement.

11.2 Such remedies may be exercised in the sole discretion of the non-defaulting party.

11.3 Nothing contained in this Agreement shall limit either party from pursuing any legal or equitable remedies that may apply in the event of default.

12. Execution Date. The date of execution of this Agreement shall mean the last day upon which it becomes fully executed by the last party to sign.

13. Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more strictly against, or more favorably to, one of the parties than the other.

14. Further Assurances. The COUNTY and the VILLAGE each agree to execute and deliver to the other such further documents or instruments as may be reasonable and necessary to insure the performance of the terms, covenants and conditions of this Agreement.

15. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

16. Non-waiver. No waiver by the COUNTY or the VILLAGE of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party. No delay or omission in the exercise of any right or remedy accruing to the COUNTY or the VILLAGE upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by the COUNTY or the VILLAGE of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other breach, or of a subsequent breach of the same or any other term, covenant or condition herein contained.

17. Termination/Term. This Agreement will expire on July 1, 2006, or upon completion of all acts contemplated by this Agreement, whichever shall occur first, unless extended by other provisions contained herein (the "Termination Date").

17.1 The parties recognize that both the VILLAGE and the COUNTY are making significant time and monetary investments in the performance of this Agreement. Accordingly, both parties agree that this Agreement shall not be terminated by either party unless one party is in default and fails to cure said default pursuant to Section 11 of this Agreement. In the event of such termination, the non-defaulting party shall provide the defaulting party thirty (30) days written notice of termination. The non-defaulting party shall be entitled to any and all remedies afforded by law, including, but not limited to, specific performance, injunctive relief, and monetary damages.

17.2 Except as otherwise provided by this Agreement, prior to the Termination Date, all acts contemplated herein shall be completed, and the COUNTY will pay to the VILLAGE all payments due the VILLAGE under this Agreement.

18. Survival. The terms and obligations of the parties under this Agreement shall survive the Termination of this Agreement.

19. Filing Required. This Agreement shall be filed with the Clerk of the Circuit Court as required by Section 163.01(11), Florida Statutes, as currently enacted and as may be amended from time to time.

20. Attorneys' Fees. In the event of any controversy, claim or dispute between the parties arising from or relating to this Agreement including, but not limited to, the enforcement of any indemnity provision, the prevailing party shall be entitled to recover reasonable costs, expenses and attorneys' fees including, but not limited to, court costs and other expenses through all appellate levels.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under such signature.

ISLAMORADA, VILLAGE OF ISLANDS,
a municipal corporation of the State of Florida

By: _____ Dated: 7/17/01
Frank R. Kulisky, Mayor

ATTEST:

By: _____ Dated: 7/17/01
VILLAGE Clerk

Approved as to form
and legal sufficiency:

By: _____ Dated: 7/17/01
VILLAGE Attorney

(SEAL)
Attest: DANNY L. KOLHAGE, Clerk

By: _____
Deputy Clerk

Dated July 18, 2001

Approved as to form
and legal sufficiency:

By: _____
COUNTY Attorney

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By: _____
George Neugent, Mayor

Dated: _____

01 AUG 22 AM 9:58
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA.
FOR RECORD

JdIAVOI71801
436031 Supplemental Agreement

AMENDMENT TO INTERLOCAL AGREEMENT
Village of Islands

THIS IS AN AMENDMENT to an interlocal agreement dated May 17, 2001, (original agreement) entered into by and between Monroe County, (County) a political subdivision of the State of Florida, whose address is Gato Building, 1100 Simonton Street, Key West, FL 33040 and Islamorada, Village of Islands, (Village) a municipal corporation, whose address is Islamorada, Village of Islands, P.O. Box 568, Islamorada, FL 33036. A copy of the original agreement is attached to this amendment and made a part of it.

IN CONSIDERATION of the mutual promises and covenants set forth below, the parties agree as follows:

1. Paragraph 15 of the original agreement is amended to read:

15. Execution Date. The execution date of this agreement shall mean the last day upon which it becomes fully executed by the last party to sign it. Notwithstanding the execution date or the date first written above, (May 17, 2001), the COUNTY shall pay the VILLAGE for the projects, equipment or other purposes, authorized by this Agreement and in the amounts authorized by this Agreement, even though the VILLAGE incurred an obligation to pay for such projects, equipment or other purposes prior to the date first written above.

2. In all other respects the terms and conditions of the original agreement remain in full force and effect.

3. This amendment will take effect on the signature date of the last party to execute it. An original of this amendment must be filed with the Clerk of the Circuit Court and the Village Clerk.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals.

(SEAL)
ATTEST: DANNY L. KOLHAGE, CLERK

By Pamela Hancock
Deputy Clerk
Date December 19, 2001

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

By _____
Mayor/Chairman

FILED FOR RECORD
2002 JAN 24 PM 3:27
DANNY L. KOLHAGE
CLERK CIR. CT.
MONROE COUNTY, FLA.

(SEAL)
ATTEST:

By Beverly Nudelman
Village Clerk
Date 1/22/02

ISLAMORADA, VILLAGE OF ISLANDS,
FLORIDA

By _____
Mayor

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY
BY _____
ROBERT N. WOLFE
DATE 1-3-02

JdiaVOIems2a

CLERK'S ORIGINAL

FILED FOR RECORD
01 JUN 26 AM 1:58
DANNY L. KOLHAGE
CLK. CIR. CT.
MONROE COUNTY, FLA.

INTERLOCAL AGREEMENT

between

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

and

MONROE COUNTY

This is an Interlocal Agreement (this "Agreement") between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, a Florida municipal corporation (the "VILLAGE"), and MONROE COUNTY, a political subdivision of the State of Florida (the "COUNTY"), entered into this 17th day of May, 2001.

WHEREAS, subsequent to the VILLAGE's incorporation, certain funds in the COUNTY's possession derived from taxes and assessments and other revenues originating from taxpayers and properties located within the VILLAGE remained in the COUNTY's budget and treasury; and

WHEREAS, pursuant to Chapter 97-348, Laws of Florida, the Village was incorporated on December 31, 1997 and all municipal type services, including planning functions, duties and authority became, after December 31, 1997, vested in the jurisdiction of the VILLAGE and the Village Council; and

WHEREAS, prior to the VILLAGE's incorporation, certain funds were budgeted by the COUNTY for services and projects within the VILLAGE, including, but not limited to, roadway improvements, planning assistance, parks and beach facilities, and other VILLAGE purposes; and

WHEREAS, such funds were budgeted but not expended by the COUNTY for such VILLAGE purposes; and

WHEREAS, pursuant to Section 125.01(6), Florida Statutes, the VILLAGE adopted Resolution Nos. 98-1 and 00-10-42 in order to request the COUNTY to remit a proportionate share of ad valorem and non-ad valorem revenues, special assessments, service charges, impact fees, and other assessments, taxes, and revenues; and

WHEREAS, the VILLAGE and the COUNTY have participated in the procedures prescribed by Chapter 164, Florida Statutes, the "Florida Governmental Conflict Resolution Act," insofar as necessary to resolve this dispute; and

WHEREAS, Chapters 125 and 166, Florida Statutes, allow counties and municipalities to contract for services to be rendered by the COUNTY to the VILLAGE and by the VILLAGE to the COUNTY; and

WHEREAS, pursuant to Section 163.01, Florida Statutes, the "Florida Interlocal Cooperation Act of 1969," local governments may enter into interlocal agreements to cooperate with other localities to provide services in accord with geographic, economic, population, and other factors.

NOW THEREFORE, in consideration of the promises, covenants, and obligations contained herein, the undersigned parties agree as follows:

1. Adoption Of Recitals. The above-referenced recitals are true and correct and incorporated herein.

2. Land Authority.

2.1 In its capacity as the governing body of the Monroe County Comprehensive Plan Land Authority (the "Land Authority"), the Board of County Commissioners of Monroe County agrees that it will expeditiously, but in any event prior to the end of FY2006, commit sufficient funds to purchase

lands within the Village of Islamorada, exclusive of purchases already closed, having a total purchase price of no less then $2,341,000 and failing the ability to contract for that total sum, the COUNTY will fund the VILLAGE's condemnation of identified lands for the remaining unexpended balance.

2.2 In its capacity as the governing body of the Monroe County Comprehensive Plan Land Authority (the "Land Authority"), the Board of County Commissioners of Monroe County further agrees that in the exercise of the authority granted under Section 9.3-9, Monroe County Code, to select parcels of land for acquisition, the Land Authority shall give due consideration to recommendations of the VILLAGE for acquisitions of land within the municipal limits of the VILLAGE, and to achieving a rough proportionality between (a) Land Authority revenues generated within the VILLAGE and (b) amounts allocated for purchase of land within the municipal limits of the VILLAGE.

3. Road and Bridge Funds. The COUNTY acknowledges that the Road and Bridge Fund is a countywide fund.

3.1 The COUNTY shall allocate $969,000 for improving that portion of the formerly known State Road 4A or County Road 904 situated within the municipal limits of the VILLAGE (the "Road"). COUNTY purposes to be served include improvements to the bicycle path and diversion of traffic from US 1.

3.2 The moneys shall be transferred to the VILLAGE by the COUNTY in increments proportionate to the extent of completion of improvements to the Road pursuant to a Roadway Improvement Plan (the "Plan"). The

contemplated improvements to the Road shall be set forth in a separate agreement ("Supplemental Agreement") to be negotiated and entered into by and between the VILLAGE and the COUNTY within thirty (30) days of execution of this Agreement.

3.3 The Supplemental Agreement shall provide for the VILLAGE to design, plan, procure services, implement and complete improvements to the Road on behalf of the COUNTY, and for the COUNTY to pay directly all costs associated therewith, including any associated administrative expenses of the VILLAGE with respect thereto, up to the sum of $969,000.

4. Planning.

4.1 The VILLAGE and the COUNTY agree that the COUNTY collected $480,571 in growth management funds from within the municipal boundaries of the VILLAGE prior to incorporation for growth management services which were not provided to the VILLAGE. In its capacity as the governing body of the Monroe County General Purpose Municipal Service Taxing Unit, the Board of County Commissioners of Monroe County agrees to expend, on VILLAGE – approved growth management projects, the sum of $480,571 in growth management funds.

5. Upper Keys Health Care Taxing District or Alternative Funding. The VILLAGE will, within ninety (90) days of execution of this Agreement, submit to the BOCC in its capacity as the governing body of the Upper Keys Health Care Taxing District (the "District"), a list of capital equipment, vehicle(s) and facilities within the authorized purposes of the District, at a cost of $440,000. The COUNTY will either approve and fund that request through the District, or will allocate from an

appropriate fund $440,000 to pay for or reimburse the VILLAGE for materials or services identified by the VILLAGE and determined by VILLAGE and COUNTY legal staff to be valid subjects of COUNTY expenditure.

6. Parks and Beaches. In its capacity as the governing body of the Monroe County General Purpose Municipal Service Taxing District (the "General Purpose Taxing District"), the Board of County Commissioners of Monroe County agrees as follows:

6.1 The COUNTY and VILLAGE agree that certain expenditures are appropriately made to improve COUNTY parks and beach facilities, including those situated within the VILLAGE. In respect to such expenditures, the COUNTY agrees to fund improvements to the road and parking at the COUNTY library facility situated within the VILLAGE, via allocation by the COUNTY through the District of the sum certain of $80,000, as follows.

6.2 The said sum certain shall be transferred to the VILLAGE by the COUNTY immediately upon completion satisfactory to the VILLAGE of improvements to the road and parking at the aforementioned COUNTY library facility, for the grounds of which facility the VILLAGE is responsible. The VILLAGE shall be solely responsible to design, plan, procure services, implement and complete improvements to the road and parking at the aforementioned library facility.

7. Entire Agreement. This Agreement supersedes all prior negotiations, correspondence, conversations, agreements or understandings applicable to the matters contained herein and there are no commitments, agreements or understandings concerning the subject matter of this Agreement that are not

contained in this document, except with respect to the Supplemental Agreement contemplated by Sections 3.2 and 3.3 of this Agreement, since the Supplemental Agreement is to be entered into after the execution of this Agreement. Accordingly, no deviation from the terms hereof shall be predicated upon any prior representations or agreements, whether oral or written.

8. Amendments/Assignments. No modification, amendment or alteration of the terms or conditions contained herein shall be effective unless contained in a written document executed with the same formality and of equal dignity herewith. Neither this Agreement nor any term or provision hereof or right hereunder shall be assignable by any party and any attempt to make such assignment shall be void.

9. Notices.

9.1 Whenever any party desires to give notice unto the other, it must be given by written notice, sent by registered United States mail, with return receipt requested, or by a nationally recognized overnight express mail service (e.g., Federal Express), addressed to the party for which it is intended, at the place last specified, and the place for giving of notice shall remain such until it shall have been changed by written notice in compliance with the provisions of this paragraph.

The parties designate the following as the respective places for giving notice:

For the VILLAGE: Islamorada, Village of Islands
Charles W. Baldwin, VILLAGE Manager
PO Box 568
Islamorada, Florida 33036
Phone: (305) 664-2345
Facsimile: (305) 664-2399

With a copy to:	Weiss Serota Helfman Pastoriza Guedes, P.A. Village Attorneys Attention: Nina L. Boniske, Esq. 2665 South Bayshore Drive, Suite 420 Miami, Florida 33133 Phone: (305) 854-0800 Facsimile: (305) 854-2323
For the COUNTY:	James L. Roberts County Administrator 5100 College Road Key West, Florida 33040 Phone: (305) 292-4441 Facsimile: (305) 292-4544
A copy to:	James Hendrick, Esq. County Attorney P.O. Box 1026 Key West, Florida 33041-1026

9.2 Unless otherwise required by law, any notice sent hereunder shall (subject to proof of receipt or refusal of same) be deemed to have been delivered on the same day if hand-delivered, on the next business day if sent by overnight courier, or on the day of receipt or refusal, if sent by certified or registered mail.

10. Amendments. This Agreement may be modified only by an agreement in writing authorized by the Village Council and the Board of County Commissioners of Monroe County.

11. Indemnification. To the extent allowed by law, each party hereto shall indemnify and save harmless the other from any and all claims, liability, losses, and causes of action which may arise out of the other's actions in fulfillment of this Agreement.

12. Governing Law. This Agreement shall be construed in accordance with the laws of the State of Florida, and any proceedings arising in any matter pertaining to this Agreement shall, to the extent permitted by law, be held in the Upper Keys Division, Monroe County, Florida.

13. Severability. Should any provision, paragraph, sentence, word, or phrase contained in this Agreement be determined by a court of competent jurisdiction to be invalid, illegal, or otherwise unenforceable under the laws of the State of Florida, such provision, paragraph, sentence, word, or phrase shall be deemed modified to the extent necessary in order to conform with such laws, then shall be deemed severable, and in this Agreement, shall remain unmodified and in full force and effect.

14. Default/Remedies. In the event of a failure to perform or a breach of any obligation of this Agreement by either the COUNTY or the VILLAGE, which failure or breach is not cured within thirty (30) days of receipt of written notice thereof, such action shall constitute a default of this Agreement.

14.1 If and when any default of this Agreement occurs, the non-defaulting party may avail itself of any legal or equitable remedies that may apply, including, but not limited to, actual damages, injunctive relief and specific performance of this Agreement.

14.2 Such remedies may be exercised in the sole discretion of the non-defaulting party.

14.3 Nothing contained in this Agreement shall limit either party from pursuing any legal or equitable remedies that may apply.

15. Execution Date. The date of execution of this Agreement shall mean the last day upon which it becomes fully executed by the last party to sign.

16. Joint Preparation. The preparation of this Agreement has been a joint effort of the parties and the resulting document shall not, solely as a matter of judicial construction, be construed more strictly against, or more favorably to, one of the parties than the other.

17. Further Assurances. The COUNTY and the VILLAGE each agree to execute and deliver to the other such further documents or instruments as may be reasonable and necessary in furtherance of the performance of the terms, covenants and conditions of this Agreement.

18. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original but all of which shall constitute one and the same Agreement.

19. Non-waiver. No waiver by the COUNTY or the VILLAGE of any provision hereof shall be deemed to have been made unless expressed in writing and signed by such party. No delay or omission in the exercise of any right or remedy accruing to the COUNTY or the VILLAGE upon any breach under this Agreement shall impair such right or remedy or be construed as a waiver of any such breach theretofore or thereafter occurring. The waiver by the COUNTY or the VILLAGE of any breach of any term, covenant or condition herein stated shall not be deemed to be a waiver of any other breach, or of a subsequent breach of the same or any other term, covenant or condition herein contained.

20. Termination/Term. This Agreement will expire on September 30, 2006 or upon completion of all acts contemplated by this Agreement, whichever

shall occur first, unless extended by other provisions contained herein (the "Termination Date").

20.1 The parties recognize that both the VILLAGE and the COUNTY are making significant time and monetary investments in the performance of this Agreement. Accordingly, both parties agree that this Agreement shall not be terminated by either party unless one party is in default and fails to cure said default pursuant to Section 15 of this Agreement. In the event of such termination, the non-defaulting party shall provide the defaulting party thirty (30) days written notice of termination. The non-defaulting party shall be entitled to any and all remedies afforded by law, including, but not limited to, specific performance, injunctive relief, and monetary damages.

20.2 Except as otherwise provided by this Agreement, prior to the Termination Date, all acts contemplated herein shall be completed, the COUNTY will pay to the VILLAGE all payments due the VILLAGE under this Agreement and the COUNTY will furnish to the VILLAGE any equipment and property due the VILLAGE under this Agreement.

21. Survival. The terms and obligations of the parties under this Agreement shall survive the Termination of this Agreement.

22. Filing Required. This Agreement shall be filed with the Clerk of the Circuit Court as required by Section 163.01(11), Florida Statutes, as currently enacted and as may be amended from time to time.

23. Attorneys' Fees. In the event of any controversy, claim or dispute between the parties arising from or relating to this Agreement including, but not limited to, the enforcement of any indemnity provision, the prevailing party shall be

entitled to recover reasonable costs, expenses and attorneys' fees including, but not limited to, court costs and other expenses through all appellate levels.

IN WITNESS WHEREOF, the parties hereto have made and executed this Agreement on the respective dates under such signature.

ISLAMORADA, VILLAGE OF ISLANDS,
a municipal corporation of the State of Florida

By: _____ Dated: 6/14/01
Frank R. Kulisek, Mayor

ATTEST:

_____ Dated: 6/14/01
Village Clerk

Approved as to form
and legal sufficiency:

By: _____ Dated: 6/14/01
Village Attorney

MONROE COUNTY, a political subdivision
Of the State of Florida

By: _____ Dated: 5/17/01
George Neugent, Mayor

ATTEST: DANNY L. KOLHAGE, Clerk

By: _____ Dated: 5/17/01
Deputy Clerk

Approved as to form
and legal sufficiency:

By: _____ Dated: _____
County Attorney

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