

SECOND AMENDMENT TO DEVELOPMENT AGREEMENT

THIS SECOND AMENDMENT TO DEVELOPMENT AGREEMENT ("Second Amendment") is binding on the "effective date" as set forth herein between Monroe County, a political subdivision of the State of Florida ("County"), and Key Largo Ocean Resort Condominium Association, Inc. ("KLOR")

WITNESSETH

WHEREAS, KLOR is the owner of real property on Key Largo, Monroe County, Florida, located at approximately mile marker 95 of US highway 1 fronting on the Atlantic Ocean (Property), the legal description of which is contained in that certain **Amendment to Development Agreement**, Doc. No. 1995782, Book #2700, Page #1641, in the Official Records of Monroe County, attached hereto and made a part hereof as Exhibit A ("Amendment" or "Agreement"); and

WHEREAS, there are two hundred eighty-five (285) lots within the KLOR resort which provide for seasonal transient and permanent housing, together with amenities including marina, tennis courts, swimming pool, recreation building, boat ramp, clubhouse, boat trailer parking, open space and administrative offices ("Resort"); and

WHEREAS, the Resort operated as a cooperative association under the name of Key Largo Ocean Resorts Co-op, Inc. for over twenty-five years (25) years providing the lease of lots to KLOR stockholders who have placed their individually owned, recreational vehicles, mobile homes or park model homes on the lots shown on the Survey of the property; and

WHEREAS, from Resort's inception until approximately 1989, Monroe County provided valid building permits to locate mobile homes and park model homes on the Property requiring that they be tied down for hurricane force wind protection; and

WHEREAS, the County provided other building permits for screen room enclosures and other permanent structures on the Property; and

WHEREAS, the Monroe County 2010 Comprehensive Plan, until December 2004, designated all the parcels of the property as "Mixed Use/Commercial" on its Future Land Use Map; and

WHEREAS, the property had been designated as being with the "Recreational Vehicle" (RV) land use district from September 15, 1986, until February 2005, which allowed only transient use of properties within the district and not permanent dwellings or structures; and

WHEREAS, in 1997 the Resort purchased approximately 2.0 acres of additional property consisting of both uplands and wetlands designated "Improved Subdivision", also known as the Northeast 100 feet of the Southeasterly 1/2 of Tract 9, SOUTHCLIFF ESTATES, in order to increase the open space area of the Property

and to provide additional setbacks, which property is shown as Residential Medium on the County's Future Land Use Maps; and

WHEREAS, on January 16, 2002, the Monroe County Board of County Commissioners by eminent domain action acquired 9,318 square feet of the aforementioned portion of Tract 9; and

WHEREAS, over time, structures have been placed within the Resort without the benefit of a building permit, or with a permit which should not have been issued by Monroe County or lawfully constructed for which no permit history can be found; and

WHEREAS, the Resort had the appearance of a mobile home park as the result of the permanent structures being placed in the Resort and the improvements to them being with or without benefit of permit; and

WHEREAS, in 1994 and 1995, the Monroe County Code Enforcement Department began to actively pursue compliance with the requirements of recreational vehicle zoning of the Resort and construction without the benefit of properly issued building permits; and

WHEREAS, as a result of the County's action, KLOR brought legal action against the County seeking relief from the application of the requirements of the recreational vehicle land use district; and

WHEREAS, the Circuit Court of Monroe County granted an injunction against the County, Case Number 96-20160-CA-22, to allow KLOR to seek a change of its land use district designation from "Recreational Vehicle" (RV) designation to "Urban Residential Mobile Home" (URM) in order to resolve some of the code enforcement issues; and

WHEREAS, the court ordered the parties into Mediation, which resulted in a Settlement Agreement signed by the parties in June 2003, approved by the Court on August 4, 2003, which authorized KLOR to submit and apply for a Development Agreement; and

WHEREAS, acting in reliance on the Settlement Agreement, KLOR submitted a proposed Development Agreement to the County; and

WHEREAS, KLOR filed an application to amend the Future Land Use Map designation from Mixed Use/Commercial to High Density Residential and from Residential Medium to Residential High; and

WHEREAS, on August 18, 2004, by unanimous vote, the BOCC approved the amendments to the Future Land Use Map; and

WHEREAS, on August 18, 2004, the BOCC also unanimously approved amendments to the Land Use District Map to classify the property as Urban Residential Mobile Home; and

WHEREAS, the Florida Department of Community Affairs found the proposed amendments to the future Land Use Map in compliance in December 2004, and approved the amendments to the Land Use District Map in February 2005; and

WHEREAS, all of the previous residential improvements and internal roads had been removed in compliance with Monroe County Demo Permit # 10305964; and

WHEREAS, both the County and KLOR recognize that the public noticing and hearing procedures shall follow the requirements of F.S. 163.3225, which require a public hearing before both the Planning Commission and the Board of County Commissioners for consideration of a Development Agreement; and

WHEREAS, Section 163.3220, Florida Statutes, authorizes the County to enter into agreements with landowners and/or governmental agencies to encourage a stronger commitment to comprehensive and capital facilities planning, ensure the provision of adequate public facilities for development, encourage the efficient use of resources, and reduce the economic cost of development; and

WHEREAS, the Monroe County Year 2010 Comprehensive Plan (Comprehensive Plan) contains objectives and policies that seek to reduce the frequency of uses inconsistent with Land Development Regulations and the Future Land Use Map (Objective 101.8) and the objectives of the Settlement Agreement between KLOR and the County; and

WHEREAS, the County found that entering into the Amendment to Development Agreement ("Amendment") furthered the purposes, goals, objectives, and policies of the Comprehensive Plan; and

WHEREAS, the County Planning Commission issued Planning Resolution No. P49-11 which acknowledges the effective date of the Development Agreement as August 22, 2009 as established by Court Order; and

WHEREAS, the May 12, 2013 Circuit Court Order in 16th Judicial Circuit Court Case 96-260-CA-P has determined that the parties are in compliance with this Development Agreement; and

WHEREAS, the amendment of this Development Agreement ("Amendment") is consistent with said May 12, 2013 Order; and

WHEREAS, Key Largo Ocean Resort Condominium Association, Inc., a Florida not for profit corporation, is the lawful successor to Key Largo Ocean Resorts Co-Op, Inc; and

WHEREAS, the Amendment was passed and adopted by the Board of County Commissioners on August 20, 2014; and

WHEREAS, the Amendment expires on December 31, 2018; and

WHEREAS, the Parties desire to extend the Amendment by 18 months, or until June 30, 2020, with an option to extend for an additional twelve (12) month period, upon the mutual agreement of the Senior Director of Planning & Environmental Resources ("Planning Director") and KLOR; and

WHEREAS, the County found that entering into this Second Amendment furthered the purposes, goals, objectives, and policies of the Comprehensive Plan.

NOW THEREFORE, the parties do hereby agree as follows:

I. Purposes

The purpose of this Second Amendment is as follows:

- A. To amend the Amendment and extend the expiration date of the Amendment until June 30, 2020 with an option to extend for an additional twelve (12) month period, upon the mutual agreement of the Planning Director and KLOR, with no need to follow the hearing requirements as set forth in the Amendment.

II. Second Amendment Requirements

The parties recognize the binding effect of Sections 163.3220-163.3243, Florida Statutes, as to the form and content of this Second Amendment and in accordance therewith set forth and agree to the following:

A. Legal Description of Ownership

The legal descriptions for the properties that are subject to this Second Amendment are set forth in **Exhibit A – Amendment to Development Agreement**.

B. Duration of Agreement

The Amendment shall remain in effect until June 30, 2020 with an option to extend for an additional twelve (12) month period, upon the mutual agreement of the Planning Director and KLOR, with no need to follow the hearing requirements as set forth in the Amendment. It is the intention of Monroe County to promote rational and timely development of the Property to maximize best land use management practices consistent with the landowner's rights and commitments described herein.

C. Recording

The County shall record this Second Amendment with the Clerk of the Circuit Court of Monroe County within fourteen (14) days following signature by all parties. Recording fees shall be paid by KLOR.

D. Ratification of Amendment

Except as expressly modified and superseded by this Second Amendment, the terms and provisions of the Amendment are hereby ratified and confirmed and shall continue in full force and effect.

E. Entire Agreement

This Second Amendment incorporates and includes all prior negotiations, correspondence, conversations, agreements, or understandings applicable to the matters contained herein and the parties agree that there are no commitments, agreements, or understandings concerning the subject matter of this Second Amendment that are not contained in or incorporated into this document; accordingly, it is agreed that no deviation from the terms hereof shall be predicted upon any prior representations or agreements, whether oral or written.

F. Severability

If any part of this Second Amendment is contrary to, prohibited by, or deemed invalid under any applicable law or regulation, such provisions shall be inapplicable and deemed omitted to the extent so contrary, prohibited, or invalid; however, the remainder here shall not be invalidated thereby and shall be given full force and effect.

G. Jurisdiction and Governing Law

The parties hereto agree that any and all suits or actions at law shall be brought in Monroe County, Monroe County, Florida, and no other jurisdiction. This Second Amendment shall be construed and interpreted under laws of the State of Florida. Mediation shall be governed by the rules of the 16th Judicial Circuit Court in and for Monroe County, Florida. This Second Amendment is not subject to arbitration.

H. Conflicting Resolutions

All resolutions or parts thereof in conflict with the provisions of this Second Amendment and its resolution are hereby repealed to the extent of such conflict.

I. Successors and Assigns

This Second Amendment shall be binding upon the parties hereto, their successors in interest, heirs, assigns, and personal representatives.

J. Notices

All notices, demands, requests, or replies provided for or permitted by this Second Amendment shall be in writing and may be delivered by any one of the following methods: (a) by personal delivery; (b) by deposit

with the United States Postal Service as Certified or Registered mail, return receipt requested, postage prepaid, to the addresses stated below; or (c) by deposit with an overnight express delivery service. Notice shall be deemed effective upon receipt.

For purposes of notice, demand, request, or replies:

The address of Monroe County shall be:

Emily Schemper, AICP, CFM
Senior Director of Planning
Planning & Environmental Resources
2798 Overseas Highway, Suite 400
Marathon, FL. 33050

The address of Key Largo Ocean Resort Condominium Association, Inc. shall be:

Eduardo Calil, President
Key Largo Ocean Resort Condominium Association, Inc.
94825 Overseas Highway
Key Largo, FL 33037

K. Effective Date

The effective date of this Second Amendment is 30 days after the duly signed and recorded Second Amendment is received by the Florida Department of Community Affairs pursuant to Chapter 380, Fla. Statutes. The effective date of this first amendment is 30 days from the date of its rendering.

IN WITNESS WHEREOF, the parties hereto have set their hands and seals on the day and year below written.

APPROVAL OF KEY LARGO OCEAN RESORT CONDOMINIUM ASSOCIATION, INC.

Signed, sealed, and delivered in the presence of:

Witness:

BRIANA CROWDER

Print name

[Signature]
Signature

For: Key Largo Ocean Resort Condominium Association, Inc.

By:

[Signature]
Eduardo Calil, President

Dated:

1-14-19

The forgoing instrument was acknowledged before me on this 14 day of Jan 2019, by Eduardo Calil He/She is personally known to me or produced _____ as identification and did not take an oath.

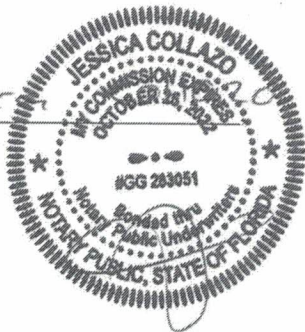
[Signature]
Notary Public

Jessica

Printed Name

My Commission expires:

My Commission number:



APPROVAL OF MONROE BOARD OF COUNTY COMMISSIONERS

On this ____ day of _____, 2018, Monroe County Board of County Commissioners approved this Second Amendment by Monroe County Board of County Commissioners Resolution No. _____.

ATTEST: Kevin Madok, Clerk

MONROE COUNTY, FLORIDA

Deputy Clerk

BY: MAYOR SYLVIA J. MURPHY