

RESOLUTION NO. 22-06-47

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA, APPROVING THE
SETTLEMENT OF ALL CLAIMS OF ALIBI 4, INC.; AUTHORIZING
EXECUTION OF THE SETTLEMENT AGREEMENT; AND
PROVIDING FOR AN EFFECTIVE**

WHEREAS, on January 16, 2018, the Islamorada, Village of Islands (the "Village") Code Compliance Hearing Officer (the "Hearing Officer") entered an order imposing fines for violations of Section 6-61(b)(1) of the Village Code against the property located at 84961 Old Highway, Unit 26, Islamorada, FL 33036 (the "Property"), which is owned by Alibi 4, Inc. ("Alibi"), in the amount of \$147,000 (the "Code Case"); and

WHEREAS, on October 20, 2020, after hearing testimony, the Hearing Officer reduced the fines to \$73,625.00; and

WHEREAS, Alibi filed a written request for reconsideration by the Village Council seeking a further reduction in the fines; and

WHEREAS, the Village Council determined there was no good cause to reduce the fines below the reduction guidelines and recommended that the fines not be further reduced; and

WHEREAS, on February 15, 2022, the Hearing Officer entered an order affirming the reduced fines in the amount of \$73,625.00 and ordering Alibi to pay such amount (the "Code Fines"); and

WHEREAS, on or about May 4, 2021, Alibi filed a lawsuit, styled *Alibi 4, Inc. v. Islamorada, Village of Islands*, in the Circuit Court of the Sixteenth Judicial Circuit in and for Monroe County, Florida, Case No. 21-CA-183-P, against the Village for injunctive relief, and for mandamus, to enforce Florida's Public Records Law, as codified in Chapter 119, Florida Statutes (the "Lawsuit"); and

WHEREAS, the records sought by Alibi pertained to the Property; and

WHEREAS, the Village desires to settle the Lawsuit and Code Case with Alibi with Alibi paying the Village a lump sum payment of \$75,000 to resolve the Lawsuit and the Code Case (the "Settlement"); and

WHEREAS, although the Village disputes the merits to the Lawsuit, the Village Council is willing to approve the above-referenced settlement terms, thereby disposing of all claims against the Village by the Alibi and satisfying the Code Case; and

WHEREAS, the Village Council finds that it is in the best interests of the Village to approve the Settlement and authorize execution of a Settlement agreement.

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 Settlement. The Village Council hereby approves the Settlement, with Alibi paying the Village a lump sum payment of \$75,000 to resolve the Lawsuit and the Code Case.

Section 3. Authorization of Village Officials. The appropriate Village Officials are hereby authorized to execute all documents deemed necessary by the Interim Village Attorney to implement the intent of this Resolution and to provide for payment as indicated.

Section 4. Effective Date. This Resolution shall take effect immediately upon adoption.

Motion to adopt by Mayor Pete Bacheler, second by Councilman David Webb.

FINAL VOTE AT ADOPTION


VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Pete Bacheler	YES
Vice Mayor Henry Rosenthal	YES
Councilman Mark Gregg	YES
Councilman Joseph B. Pinder III	YES
Councilman David Webb	YES

PASSED AND ADOPTED THIS 2nd DAY OF JUNE, 2022.


PETE BACHELER, 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

Settlement Agreement

1. The Plaintiff will pay the Village \$75,000, dismiss the pending lawsuit (Case No. 21-CA-183) with prejudice, and waive any rights associated with any pending or potential appeal in Case No. CEBDGC20170000308.

2. Within 10 business days after its receipt of the \$75,000 and the Plaintiff's full performance of the obligations in paragraph 1, the Village will issue and record a valid satisfaction of the February 25, 2022, code enforcement order recorded at Official Record Book 3157, Page 737 (attached to this Settlement Agreement).

3. Counsel for the Village, Jeffrey Hochman, Esq., will highly recommend the settlement terms in paragraphs 1 and 2 to the Village Council. The proposed settlement terms are **not** binding until the Village Council adopts a formal resolution accepting the terms in paragraphs 1 and 2, and authorizing the Village Mayor or Village Manager to sign this Settlement Agreement where indicated on signature line No. 4 below. Without such signature, this document amounts to a settlement proposal.

/s/ Jeffrey L. Hochman
Jeffrey L. Hochman
As counsel for Village

/s/ Carl Fernstrom
Carl Fernstrom
As president of Alibi 4, Inc.

/s/ Tyler E. Messmer, Esq.
Tyler E. Messmer, Esq.
As counsel for Alibi 4, Inc.

Maria Bassett
Maria Bassett
As Acting Village Manager
or
Pete Bacheler
As Mayor