

RESOLUTION NO. 22-01-04

**A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA,
VILLAGE OF ISLANDS, FLORIDA APPROVING A DONATION
AGREEMENT BETWEEN ISLAMORADA, VILLAGE OF ISLANDS, AND
ICARE CORPORATION FOR CORAL REEF RESTORATION;
AUTHORIZING THE VILLAGE MANAGER AND VILLAGE ATTORNEY
TO IMPLEMENT THE TERMS OF THE AGREEMENT; AND
PROVIDING FOR AN EFFECTIVE DATE**

WHEREAS, Islamorada, Village of Islands (the "Village"), has identified coral reef deterioration in the offshore waters of the Village as a significant concern; and

WHEREAS, the Florida Attorney General has issued various opinions confirming that public purposes may be carried out through private non-profit corporations as well as through public agencies and that municipalities in Florida may expend public funds by contribution to private non-profit organization for a public purpose; and

WHEREAS, ICARE Corporation ("ICARE") is a non-profit organization based in Islamorada that assists the MOTE Marine Laboratory which operates a coral reef nursery at Bud N' Mary's Marina by transferring corals and branching sponges to reefs; and

WHEREAS, by inclusion of funds in the FY 2021-2022 General Fund budget, the Village Council has determined that donation to ICARE constitutes a public purpose; and

WHEREAS, the Village Council finds that approval of a Donation Agreement between the Village and ICARE 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 Agreement. The Village Council hereby approves the Donation Agreement between the Village and ICARE, a copy of which is attached as Exhibit "A," together with such non-material changes as may be acceptable to the Village Manager and approved as to form and legality by the Village Attorney.

Section 3. Authorization of Village Officials. The Village Manager and/or his designee and the Village Attorney are authorized to take all actions necessary to implement the terms and conditions of the Agreement.

Section 4 Effective Date. This Resolution shall take effect immediately upon adoption. Motion to adopt by Councilman David Webb, seconded by Councilman Buddy Pinder.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

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

PASSED AND ADOPTED ON THIS 27th DAY OF JANUARY, 2021.



PETE BACHELER, MAYOR

ATTEST:



STEPHANIE CONDE, ACTING VILLAGE CLERK

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



ROGET V. BRYAN, VILLAGE ATTORNEY

DONATION AGREEMENT

THIS IS A DONATION AGREEMENT dated the 27th day of January, 2022, between:

ISLAMORADA, VILLAGE OF ISLANDS (the "Village"),
a Florida municipal corporation, hereinafter "VILLAGE,"

and

ICARE CORPORATION,
a not-for-profit organization authorized to do business
in the State of Florida, hereinafter "GRANTEE."

WITNESSETH:

In consideration of the mutual terms and conditions, promises, covenants, and payments hereinafter set forth, VILLAGE and GRANTEE agree as follows:

ARTICLE 1 **PREAMBLE**

In order to establish the background, context and form of reference for this Agreement and to generally express the objectives, and intentions, of the respective parties herein, the following statements, representations and explanations shall be accepted as predicates for the undertakings and commitments included within the provisions which follow and may be relied upon by the parties as essential elements of the mutual considerations upon which this Agreement is based.

1.1 Attorney General Opinion (AGO) 72-198 concluded that a municipality in Florida could expend public funds by contribution to a private non-profit organization for a public purpose.

1.2 AGO 75-71 concluded that public purposes may be carried out through private non-profit corporations as well as through public agencies.

1.3 AGO 77-27 emphasized that the presence of a public purpose is ultimately a factual determination for the legislative and governing body of the municipality, but that initially there must be both some clearly identified and concrete public purpose as a primary objective, and a reasonable expectation that the purpose will be accomplished.

1.4 AGO 77-27 established the following earmarks of a quasi-public organization: (1) nonprofit, (2) voluntary, (3) open to the public, and (4) dedicated to a valid public interest; and

1.5 AGO 77-27 also concluded that some degree of control should be retained by the municipality to assure accomplishment of the public purpose.

1.6 In the Village's preliminary FY 21-22 budget strategic plan discussion, coral reef restoration was identified as a priority of the Village, and the Village Council included \$50,000.00 in the FY 21-22 budget for coral reef restoration.

1.7 GRANTEE has access to the coral nursery located at Bud N' Mary's Marina in Islamorada and that is run by Mote Marine Laboratory.

1.8 The nursery currently hosts endangered corals, and soon it will also have clinging crabs.

1.9 Education and outreach are an incredibly important part of conservation work, and the new coral nursery in Islamorada is an opportunity to enable divers to learn more about this important restoration work.

ARTICLE 2

PURPOSES OF DONATION

2.1 The donation may be used for any charitable, educational, or scientific purpose as permitted to an organization under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended.

2.2 GRANTEE agrees to use the grant award for the following purpose(s):

- Transplant no less than 4,000 coral fragments of both bouldering and branching species on the reefs in Islamorada, including Alligator Reef.
- Supply video and still imagery of the transplanted corals at March 31, 2022, and at September 30, 2022.
- Monitor and maintain 100% of these transplanted corals and provide data regarding coral survival rates.
- Ensure corals have a minimum of 70% survival, unless dramatic environmental events occur which are out of GRANTEE'S control (i.e., hurricane).
- Educate at least 1,000 tourists about coral husbandry and transplanting via dive trips and tours at the coral nursery at Bud N' Mary's Marina.

2.3 In the event GRANTEE is unable to use the grant funds for the purpose stated in this agreement, the GRANTEE will submit a written request for approval of any changes in use from the VILLAGE. This request must be approved by the VILLAGE prior to making any changes in the use of the grant funding. If an alternate use is not approved, the funds will be returned.

ARTICLE 3
OTHER PROVISIONS

3.1 GRANTEE will publicize and acknowledge financial support from ISLAMORADA, VILLAGE OF ISLANDS.

3.2 GRANTEE will submit a Grant Report to the Village by May 31, 2022, explaining and confirming use of the funds. The report will provide a detailed update on the survival rate of corals. Information on all methodologies used in determining the statistics should be included.

3.3 GRANTEE will submit a Grant Report to the Village by September 30, 2022, updating information contained in the May 31, 2022, report and providing photogrammetry of restoration sites. A summary of how funds were used should also be included.

3.4 GRANTEE will submit a letter of support from MOTE Marina Laboratories along with the Grant Reports due May 31, 2022, and September 30, 2022.

3.5 VILLAGE will remit funds to GRANTEE as follows:

- | | |
|---|-------------|
| • Upon execution of Agreement | \$15,000.00 |
| • After receipt of May 31, 2022 Report and Letter from MOTE | \$15,000.00 |
| • After receipt of September 30, 2022 Report and Letter from MOTE | \$20,000.00 |

IN WITNESS WHEREOF, the parties have executed this Agreement on the respective dates under each signature. The VILLAGE, signing by and through its VILLAGE MANAGER, attested to by its Village Clerk, duly authorized to execute same, and by GRANTEE, by and through its president, duly authorized officer to execute same.

AUTHENTICATION

Stephane Grude
VILLAGE CLERK

VILLAGE

By: Maria J Bassett
Maria T. Bassett, Acting Village Manager
Date: 2/11/2022

WITNESS

[Signature]

GRANTEE

ICARE CORPORATION

By: [Signature]
Print Name: MICHAEL GOLDBERG
Title: PRESIDENT
Date: 2/14/22