

**DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is entered into on the \_\_\_ day of \_\_\_\_\_, 2017, by and between **MONROE COUNTY, FLORIDA**, a Political Subdivision of the State of Florida (“Monroe County”) and **QUARRY PARTNERS, LLC**, a Florida limited liability company (“Quarry”) (collectively, the “Parties”), pursuant to Sections 110-132 and 110-133 of the Monroe County, Florida, Code of Ordinances (“Monroe County Code”), and the Florida Local Government Development Agreement Act, Florida Statutes Sections 163.3220-163.3243 (2016), and is binding on the “Effective Date” set forth herein:

**WITNESSETH:**

The Parties hereby agree as follows:

**I. RECITALS**

- A. This Agreement involves the development of real property located on Big Coppitt Key, Florida with Monroe County Parcel ID 00120940-000100, 00120940-000302, and 00120940-00201, consisting of approximately 15.035 acres of upland and 6.736 acres of submerged land (the “Property”).
- B. All Parties have the authority to enter into this Agreement through Florida Statutes Chapter 163 and Quarry has the sole and undivided ownership of the Property.
- C. Section 163.3220, Florida Statutes, authorizes Monroe County to enter into development 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.
- D. This Agreement, among other things, is intended to and shall constitute a development agreement among the Parties pursuant to the Florida Local Government Development Agreement Act, Section 163.3220, *et seq.*, Florida Statutes (the “Act”).
- E. The Parties recognize that the public noticing and hearing procedures shall follow the requirements of Section 163.3225, Florida Statutes, which requires the local government to conduct two public hearings, one of which may be before the Planning Commission.
- F. Monroe County finds that entering into this Agreement furthers the purposes, goals, objectives and policies of the Monroe County Comprehensive Plan which contains goals and objectives that seek to encourage the provision of affordable housing through incentive programs and regulations (including but not limited to Goal 601, Objective 601.1 and Objective 601.2).

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2 G. Comprehensive Plan Policy 107.1.6 (which shall be referred to herein as the “Site Specific  
3 Regulations”) provides as follows:  
4

5 “Development in the Big Coppitt Mixed Use Area 1 shall be subject to regulations  
6 applicable to the Mixed Use/Commercial (MC) Future Land Use Designation as well as  
7 an additional restriction set out below:  
8

9 1. Residential units developed on the Big Coppitt Mixed Use Area 1 shall be  
10 restricted to affordable housing only (with a minimum mix of at least 10% median  
11 and at least a 20% combination of low and very low income categories) and  
12 subject to affordable housing regulations pursuant to Section 130-161<sup>1</sup> of the  
13 Monroe County Code of Ordinances.  
14

15 2. There shall be no nonresidential uses. Accessory uses to the residential  
16 development, such as a club house or recreational facilities are permitted.  
17

18 3. There shall be no market rate or transient residential units.  
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20 4. There shall be no dredging.  
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22 5. All habitable building located within the 65-69 DNL (Day-Night Average  
23 Sound Level) noise contour pursuant to the 2013 Navy Environmental Impact  
24 Statement shall be sound attenuated to achieve an indoor Noise Level Reduction  
25 of at least 25 decibels.  
26

27 6. No residential buildings shall be located within the 70-74 DNL.  
28

29 7. Any development located within the Big Coppitt Mixed Use Area 1 shall  
30 not utilize Puerta Drive for ingress and egress.  
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32 8. All habitable buildings located within the 70-74 DNL noise contour  
33 pursuant to the 2013 Navy Environmental Impact Statement shall be sound  
34 attenuated to achieve an indoor Noise Level Reduction of at least 30 decibels.  
35

36 9. A development agreement shall be required for any proposed development  
37 of an affordable housing project within the Big Coppitt Mixed Use Area 1 and to  
38 evaluate the ingress and egress of the development proposal.”  
39

40 H. In order to ensure the success and viability of the affordable housing project on the Property,  
41 Quarry requires the necessary 208 affordable ROGO allocations as set forth below:  
42

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<sup>1</sup> As of the execution of this Agreement, the reference to Section 130-161<sup>1</sup> of the Monroe County Code of Ordinances is actually Section 139-1 of the Monroe County Code, as the Monroe County Code has been updated.

- 1) 104 ROGOs from the City of Key West consisting of unallocated ROGOs from prior years which have been transferred to Monroe County for use on the Property through a Florida Statutes Section 380.032 agreement ~~dated \_\_\_\_\_, 2017~~ (attached hereto and incorporated herein as Exhibit “A”<sup>2</sup>) by and between Monroe County, City of Key West, Islamorada Village of Islands, City of Layton and City of Marathon to be utilized for development of Buildings 5, 6, 7, 8 and 9 as depicted on the conceptual site plan (“Site Plan”) attached as Exhibit “B”, and which shall be utilized all as Moderate income affordable ROGO (“Key West ROGOs”);
- 2) The Key West ROGOs were reserved ~~and allocated~~ to the Property pursuant to Monroe County Resolution 213-2017;
- 3) Ninety-Six (96) ROGO allocations consisting of forty-four (44) Low, twenty (20) Median<sup>23</sup> and thirty-two (32) Moderate Income affordable ROGO allocations for development of the 96 units proposed as part of a Low Income Housing Tax Credit financial assistance that Quarry has received (“Monroe ROGOs”), such Monroe ROGOs having been reserved pursuant to Monroe County Resolution 323-2016;
- 4) An additional Eight (8) ROGO allocations were reserved by Monroe County ~~and allocated to the Property~~ pursuant to Monroe County Resolution 212-2017 so that the ~~one~~ One Hundred Four (104) ~~ROGO allocations made up of the 8 ROGOs and~~ Monroe ROGOs allocations consist of the following: one (1) Very Low, Fifty-One (51) Low (which may only be occupied by households whose total household incomes do not exceed sixty percent (60%) of the median monthly household income), Twenty (20) Median and Thirty-Two (32) Moderate affordable ROGO allocations.

I. The Property is generally described as follows:

1. Quarry owns the Property. Copies of the Special Warranty Deeds evidencing Quarry’s ownership are attached hereto and incorporated herein as Exhibit “C”. Historically the Property was a mining operation and currently the Property is vacant land.
2. A complete legal description of the Property is attached hereto and incorporated herein as Exhibit “D”.
3. As of the date of this Agreement, the Property is assessed by the Monroe County Property Appraiser as real estate numbers 00120940-000100, 00120940-000302, and 00120940-000201.
4. The Property currently has Mixed Use (“MU”) Land Use (Zoning) District designation and a corresponding Mixed Use/Commercial (“MC”) Future Land Use Map designation.

<sup>2</sup> Fully executed agreement will be provided and inserted as Exhibit “A” once received.

<sup>23</sup> Note that the Monroe County Resolutions use the term “Medium” but the correct term per the Code is “Median”.

- 1 5. The Property currently has a Tier Overlay District designation of Tier III.  
2  
3 6. The Property consists of approximately 15.035 acres of upland and 6.736 acres of  
4 submerged land.  
5

6 **II. PURPOSE**  
7

- 8 A. The overall purpose of this Agreement is to allow the Parties to implement the provisions of  
9 Monroe County Code Chapter 139 as applied to the Property in order to insure the continued  
10 provision of needed affordable housing in the unincorporated Lower Keys.  
11  
12 B. The Agreement allows for the development of 208 affordable housing dwelling units on the  
13 Property on Big Coppitt, Monroe County, Florida, in compliance with all applicable  
14 provisions of Florida Statutes, the Principles for Guiding Development in the Florida Keys  
15 Area of Critical State Concern, the Monroe County Comprehensive Plan, and the Monroe  
16 County Code.  
17  
18 C. The Agreement allows the Parties to implement the provisions of Comprehensive Plan Policy  
19 107.1.6 as applied to the Property in order to supply much needed affordable housing in the  
20 unincorporated Lower Keys and to allow for a reasonable use of the Property by utilizing the  
21 previously unused Key West ROGOs and Monroe ROGOs for development at the Property.  
22  
23

24 **III. AGREEMENT REQUIREMENTS**  
25

- 26 A. **Recitals.** The recitals explaining the intent and purpose of the project as set forth in the  
27 preceding clauses are incorporated herein and form a material part of this Agreement. The  
28 Parties recognize the binding effect of Florida Statutes Sections 163.3220-163.3243, as to the  
29 form and content of this Agreement and in accordance therewith set forth and agree to the  
30 following.  
31  
32 B. **Legal Description and Ownership.** The legal descriptions for the Property subject to this  
33 Agreement are set forth in Exhibit “D”.  
34  
35 C. **Duration of Agreement.** This Agreement shall remain in effect for ten (10) years from the  
36 “Effective Date” as defined herein, and may be extended by mutual consent of the Parties  
37 and approval at a public hearing, in accordance with Section 163.3229, Florida Statutes. For  
38 the duration of this Agreement, the Parties agree that any development shall comply with and  
39 be controlled by this Agreement, the Monroe County Code, and the Monroe County  
40 Comprehensive Plan governing the development of land in effect on the date of execution of  
41 this Agreement, in accordance with Section 163.3220, Florida Statutes.  
42  
43 D. **Permitted Uses.**  
44  
45 1. The Property currently has a MU Land Use (Zoning) District designation and a  
46 corresponding MC Future Land Use Map designation.

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a. The principal purpose of the Mixed Use/ Commercial land use category is to provide for the establishment of commercial land use (zoning) districts where various types of commercial retail and office may be permitted at intensities which are consistent with the community character and the natural environment. Employee housing and commercial apartments are also permitted. In addition, Mixed Use/Commercial land use districts are to establish and conserve areas of mixed uses, which may include maritime industry, light industrial uses, commercial fishing, transient and permanent residential, institutional, public, and commercial retail uses.

This land use category is also intended to allow for the establishment of mixed use development patterns, where appropriate. Various types of residential and non-residential uses may be permitted; however, heavy industrial uses and similarly incompatible uses shall be prohibited. Monroe County shall continue to take a proactive role in encouraging the maintenance and enhancement of community character and recreational and commercial working waterfronts.

In order to protect environmentally sensitive lands, the following development controls shall apply to all hammocks, pinelands, and disturbed wetlands within this land use category:

- 1. only low intensity commercial uses shall be allowed;
- 2. a maximum floor area ratio of 0.10 shall apply; and
- 3. maximum net residential density shall be zero.

b. In accordance with this Agreement and with the MU Land Use (Zoning) District, as set forth in Monroe County Code Section 130-88, and in compliance with other provisions of the Monroe County Code, the permitted uses in the MU Land Use (Zoning) District include commercial retail; office; commercial fishing; attached residential dwelling units; hotels; marinas and accessory uses. Provided that pursuant to Comp. Plan Policy 107.1.6, the Site-Specific Regulations applicable to the Property prohibit nonresidential uses, market rate residential units, and transient residential units. Pursuant to Section 130-88(c)(3) of the Monroe County Code, attached dwelling units are permitted in the MU District as a major conditional use, provided that:

- 1. The structures as designed and located so that they are visually compatible with established residential development within 250 feet of the parcel proposed for development; and
- 2. The parcel proposed for development is separated from any established residential use by a class C bufferyard.

c. In accordance with this Agreement and Comprehensive Plan Policy 107.1.6, the development on the Property must be in compliance with the Site Specific Regulations.

- 1
- 2 d. The development of the Property includes the addition of up to 208 new,  
3 affordable residential dwelling units and other accessory development. The  
4 residential density shall not exceed 208 permanent residential units.  
5
- 6 e. The height of any new structure associated with the development of the Property  
7 shall not exceed 35 feet, except as provided in Monroe County Code, as amended.  
8 “Grade” as defined in the Monroe County Code shall be 5.7 feet NGVD as shown  
9 in the attached topographic survey attached as Exhibit “E”.

10

11 **E. Public Facilities.**

- 12
- 13 1. The Florida Keys Aqueduct Authority provides domestic potable water to the Property.  
14 The Florida Keys Aqueduct Authority will meter any new development.  
15
- 16 2. Keys Energy Services provides electric service to the Property. Excluding existing  
17 development that may already be metered, Keys Energy Services will meter any new  
18 development. In addition, excluding existing development that may already be metered,  
19 Keys Energy Services will meter other types of development accordingly.  
20
- 21 3. Solid waste service is provided to the Property by a solid waste collection system  
22 franchised by Monroe County.  
23
- 24 4. The Property is connected to central sewer via Big Coppitt Regional sewer system.  
25
- 26 5. Transportation facilities. The Non-Exclusive Ingress and Egress Easement Agreement  
27 dated April 21, 2017 and Memorandum of Interdevelopment and Operating Agreement  
28 attached as Exhibit “EF” provides satisfactory access and ingress/egress to and from the  
29 Property and ~~Barcelona Drive~~ US-1.

30

31 **F. Reservation or Dedication of Land.** There is no reservation or dedication of land for public  
32 purposes contemplated by this Agreement.  
33

34 **G. Affordable Compliance** The requirement under Comprehensive Plan Policy 107.1.6  
35 regarding “a minimum of at least 10% median and at least a 20% combination of low and  
36 very low income categories” is satisfied ~~for the period after (i) during~~ the Increased  
37 Affordable Restriction ~~expires, as provided in Section III.M. below, by the Twenty (20)~~  
38 ~~Median and Ten (10) Low income residential units, which Ten (10) Low income residential~~  
39 ~~units are in excess of the minimum threshold of a 20% combination of low and very low~~  
40 ~~income categories which is satisfied by the Forty one (41) Low and One (1) Very Low~~  
41 ~~income category residential units being provided for ninety nine years. and (ii) after the~~  
42 expiration of the Increased Affordable Restriction, as the Fifty-One (51) very low/low units  
43 represent 25% of the 208 units (which is a substantial increase over the 20% requirement)  
44 and combined with the 20 median income units (9.6%) represent 34% of the total units.  
45

1 H. **Development Allowed.** The following specific criteria are those which will guide  
2 development of the Property, and are standards by which any further approvals shall be  
3 measured and shall be as follows:

4  
5 a. Provided such development can be designed and approved by all applicable  
6 regulations and cumulative density/intensity provisions, including but not limited to  
7 the Monroe County Comprehensive Plan, Monroe County Code and Florida Building  
8 Code, the Property is permitted to develop the following buildings, facilities and  
9 structures on the Property pursuant to this Agreement:

- 10  
11 i. Up to and including one hundred two hundred eight (208) new, affordable  
12 residential dwelling units.  
13  
14 ii. Additional amenities ancillary and accessory to the affordable housing project,  
15 including a gatehouse, offices, club house, fitness center and maintenance, and  
16 housekeeping consisting of up to 10,000 square feet.  
17  
18 iii. Parking areas and landscaping.  
19  
20 iv. Playground, parks and/or pools or other outdoor recreation facilities as  
21 accessory uses to the affordable residential development.  
22

23 I. **Required Approvals.** The following list of all development approvals and permits approved  
24 or needed to be approved for the redevelopment of the Property, as specified in this  
25 Agreement:

26  
27 Conditional Use Approval and building permits will be required for the development of  
28 the Property into 208 new, affordable residential dwelling units as permitted under  
29 Monroe County's Land Development Regulations. The development shall be consistent  
30 with all applicable codes, including but not limited to the Monroe County Comprehensive  
31 Plan and Monroe County Code.  
32

33 J. **Military Installation Area of Impact.** Quarry acknowledges and understands the Property  
34 and proposed development is within the Military Installation Area of Impact Overlay as  
35 defined by the Monroe County Comprehensive Plan. The Property is located in the 65 – 69  
36 DNL (Day-Night Average Sound Level) noise contours pursuant to the 2013 Navy Final  
37 Environmental Impact Statement. Quarry agrees to sound attenuate all habitable buildings  
38 and shall strive to achieve an outdoor to indoor Noise Level Reduction Level (NLR) of at  
39 least 25 decibels. No residential buildings shall be located within the 70-74 DNL.  
40

41 ~~K. **Ingress/Egress.** Ingress and egress access to the proposed development on the Property is  
42 permitted pursuant to the Non-Exclusive Ingress and Egress Easement Agreement dated  
43 April 21, 2017 and attached as Exhibit "E". Such ingress and egress shall be from and to  
44 Barcelona Drive. There shall be no ingress or egress to the Property via Puerta Drive.~~

45 K. **Ingress/Egress.** Ingress and egress access to the proposed development on the Property shall  
46 be provided as depicted on the site plan attached as Exhibit "B". There shall be no ingress or

1 egress to the Property via Puerta Drive. Quarry has obtained an easement to access US1  
2 directly pursuant to the Non-Exclusive Ingress and Egress Easement Agreement dated (“US1  
3 Easement”). To obtain access via the US1 Easement, Quarry, must first obtain all required  
4 local, state, and federal permits. Quarry shall use best efforts to obtain these permits. If  
5 Quarry obtains all necessary permits for direct access to US1 utilizing the US1 Easement,  
6 Quarry shall construct the necessary road directly to US1 and shall cease ingress and egress  
7 through Calle Dos and Calle Uno to US1. Monroe County does hereby agree to contribute  
8 up to \$1,500,000 toward Quarry’s actual construction costs of the road depicted in the site  
9 plans to Calle Dos and US1 Easement directly to US1. The Parties agree that until such time  
10 as the portion of the road which shall be located on the US1 Easement area is completed,  
11 Quarry and its agents, licensees, employees, invitees, successors, construction crews and  
12 contractors, tenants and assigns shall be permitted to use Calle Dos and Calle Uno to access  
13 US-1 as shown on the site plan.  
14

15 L. **Site Plan Approval.** Monroe County does hereby accept the Site Plan of the Property. The  
16 development shall be consistent with all applicable codes, including but not limited to the  
17 Monroe County Comprehensive Plan and Monroe County Code. Following a review of  
18 compliance with such codes, the final site plan must be approved by the Monroe County  
19 Planning Commission as part of a Major Conditional Use approval. The Planning  
20 Commission has final authority over the site plan and the site plan may be amended by the  
21 Planning Commission.  
22

23 M. **Increased Affordable Restriction.** In exchange for the waivers set forth in Section III.N.  
24 below, Quarry agrees that for the initial 50 year term of affordable restrictions on the  
25 Property, the residential units on the Property shall consist of the following (such residential  
26 unit affordable restrictions to be defined as the “Increased Affordable Restriction”): Eleven  
27 (11) Very Low which may only be occupied by households whose total household incomes  
28 do not exceed twenty-five percent (25%) of the median monthly household income), Eighty-  
29 Three (83) Low (which may only be occupied by households whose total household incomes  
30 do not exceed sixty percent (60%) of the median monthly household income), Twenty-One  
31 (21) Median and Ninety-Three (93) Moderate affordable residential units.  
32

33 At the expiration of the 50-year Increased Affordable Restriction term, for the remaining 49  
34 years that the Property remains subject to affordable restrictions, the affordable restrictions  
35 on the Property shall consist of the following: one (1) Very Low, Fifty-One (51) Low (which  
36 may only be occupied by households whose total household incomes do not exceed sixty  
37 percent (60%) of the median monthly household income), Twenty (20) Median and One  
38 Hundred Thirty-Six (136) Moderate affordable residential units.  
39  
40

41 N. **Impact Fee and Building Permit Fee Waiver.** Per Section 126-~~4(h)(6)~~ of the Monroe  
42 County Code, all impact fees are hereby waived by Monroe County. County also agrees that  
43 all building permit fees and wastewater capacity reservation fees for the Big Coppitt  
44 Wastewater Treatment Plant are waived in consideration of the Increased Affordable  
45 Restriction.  
46

1 O. **Finding of Consistency.** By entering into this Agreement, Monroe County finds that the  
2 development permitted or proposed herein is consistent with the Monroe County  
3 Comprehensive Plan and Monroe County Code.  
4

5 P. **Breach, Amendment, Enforcement, and Termination.**  
6

7 a. **Material Breach:** A material breach by the Parties is the failure of any Party to  
8 comply with the terms of this Agreement after Notice as provided herein.  
9

10 b. **Notice:** Upon any Party's material breach of the terms and conditions of this  
11 Agreement, the non-breaching Party shall serve written Notice of the breach upon the  
12 breaching Party pursuant to the procedure established in this Agreement and shall  
13 provide the opportunity, within ninety (90) days of the date such Notice is served, to  
14 propose a method of fulfilling the Agreement's terms and conditions or curing the  
15 breach. The breaching Party shall be provided an additional ninety (90) days to cure  
16 the material breach or to negotiate an amendment to this Agreement within a  
17 reasonable time, as mutually agreed to by the Parties. This Agreement is not subject  
18 to arbitration and must be amended in accordance with the statutory requirements.  
19 This notice provision does not apply to sections II.E. and III.K.c.iii. which contains  
20 its own, separate process for Monroe County to declare this Agreement void.  
21

22 c. **Amendment or Termination:** The Parties hereto shall at all times adhere to the  
23 terms and conditions of this Agreement. Amendment, termination, extension, or  
24 revocation of this Agreement shall be made in accordance with the notification and  
25 procedural requirements set forth herein.  
26

27 i. Amendments to this Agreement shall subject Parties to the laws and policies  
28 in effect at the time of the amendment only if the conditions of Section  
29 163.3233(2), Florida Statutes, are met.  
30

31 ii. No modifications, extensions, amendments, or alterations of the terms or  
32 conditions contained herein shall be effective unless contained in a written  
33 document approved and executed by the Parties.  
34

35 iii. Amendment, extension or termination shall require at least two (2) public  
36 hearings. The hearings shall be held pursuant to an application filed with  
37 Monroe County by the Party seeking to amend or terminate this Agreement,  
38 along with the requisite filing fee. Notice of public hearing shall be in  
39 accordance with Monroe County Ordinances and Florida Statutes.  
40

41 iv. If the terms of the compliance schedule are not met, the development  
42 agreement shall be voidable at the sole option of Monroe County at a public  
43 hearing of the Board of County Commissioners.  
44

45 d. **Enforcement:**  
46

- 1           i.       After notice and an opportunity to respond and/or cure the material breach as  
2           provided for below. In addition, Monroe County may utilize appropriate code  
3           compliance remedies to cure any breach after notice or arising after the  
4           execution of this Agreement and an opportunity to cure as provided herein.  
5  
6           ii.       Monroe County, the other Parties, their successors or assigns, or any  
7           aggrieved or any adversely affected party as defined in Section 163.3215(2),  
8           Florida Statutes, may file an action for injunctive relief in the Circuit Court of  
9           Monroe County to enforce the terms of this Agreement or to challenge  
10          compliance with the provisions of Sections 163.3243, Florida Statutes.  
11  
12          iii.      Nothing contained herein shall limit any other powers, rights, or remedies that  
13          either party has, or may have in the future, to enforce the terms of this  
14          Agreement.  
15

16 **Q. Binding Effect of Agreement.** The covenants, agreements, and obligations herein contained,  
17 except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit  
18 of the Parties hereto and their respective personal representatives, heirs, successors and  
19 assigns.  
20

21 **R. State and Federal Law.** If State or Federal laws enacted after the effective date of this  
22 Agreement preclude either Party's compliance with the terms of this Agreement, this  
23 agreement shall be modified as is necessary to comply with the relevant State or Federal  
24 Laws.  
25

26 **S. Compliance with Other Laws.** The failure of this Agreement to address a particular permit,  
27 condition, term, or restriction shall not relieve the Parties of the necessity of complying with  
28 the laws governing said permitting requirements, conditions, terms or restrictions.  
29

30 **T. Reservation of Rights.** This Agreement shall not affect any rights, which may have accrued  
31 to any party to this Agreement under applicable law. The Parties reserve any and all such  
32 rights. All approvals referenced in this Agreement are subordinate to compliance with all  
33 applicable laws, codes, and land development regulations and permits, except to the extent  
34 otherwise provided for in this Agreement.  
35

36 **U. No Permit.** This Agreement is not and shall not be construed as a Development Permit,  
37 Development Approval or authorization to commence development, nor shall it relieve the  
38 Parties other than Monroe County of the obligations to obtain necessary Development  
39 Approvals that are required under applicable law and under and pursuant to the terms of this  
40 Agreement and Monroe County Code.  
41

42 **V. Good Faith; Further Assurances; No Cost.** The Parties to this Agreement have negotiated  
43 in good faith. It is the intent and agreement of the Parties that they shall cooperate with each  
44 other in good faith to effectuate the purposes and intent of, and to satisfy their obligations  
45 under, this Agreement in order to secure themselves the mutual benefits created under this  
46 Agreement. The Parties agree to execute such further documents as may be reasonably

1 necessary to effectuate the provisions of this Agreement; provided that the foregoing shall in  
2 no way be deemed to inhibit, restrict or require the exercise of Monroe County's police  
3 power or actions of Monroe County when acting in a quasi-judicial capacity. Wherever in  
4 this Agreement a provision requires cooperation, good faith or similar effort to be undertaken  
5 at no cost to a party, the party co-operating, reviewing or undertaking the effort shall,  
6 nonetheless, bear its cost of attendance at meetings, hearings, or proceedings and comment  
7 and/or execution of documents, inclusive of the expense of its counsel.  
8

9 **W. Successors and Assigns.** This Agreement shall constitute a covenant running with the land,  
10 which shall be binding upon the Parties hereto, their successors in interest, heirs, assigns, and  
11 personal representatives.  
12

13 **X. Joint Preparation.** This Agreement has been drafted with the participation of the Parties  
14 and their counsel, and shall not be construed against any party on account of draftsmanship.  
15 The captions of each article, section and subsection contained in this Agreement are for ease  
16 of reference only and shall not affect the interpretational meaning of this Agreement.  
17 Whenever the term "included" is used in this Agreement, it shall mean that the included  
18 items, or terms are included without limitation as to any other items or terms, which may fall  
19 within the listed category.  
20

21 **Y. Notices.** All notices, demands, requests or replies provided for or permitted by this  
22 Agreement shall be in writing and may be delivered by any one of the following methods: (a)  
23 by personal delivery; (b) by deposit with the United States Postal Service as Certified or  
24 Registered mail, return receipt requested, postage prepaid, to the addresses stated below; or  
25 (c) by deposit with an overnight express delivery service with proof of receipt to the  
26 addresses stated below. Notice shall be deemed effective upon receipt. For purposes of  
27 notice, demand, request, or replies:  
28

29 The address of Monroe County shall be:

30  
31 County Administrator  
32 1100 Simonton Street  
33 Room 2-205  
34 Key West, Florida 33040  
35

36 And a copy to:

37  
38 Robert Shillinger, Esq.  
39 County Attorney  
40 PO Box 1026  
41 Key West, Florida 33041  
42 and  
43 1111 12<sup>th</sup> Street, Suite 408  
44 Key West, Florida 33040  
45

46 The address of Quarry shall be:  
47

1 3030 Hartley Road  
2 Suite 310  
3 Jacksonville, FL 32257  
4

5 And a copy to:

6  
7 Barton W. Smith, Esq.  
8 Smith Hawks, PL  
9 138 Simonton Street  
10 Key West, Florida 33040  
11

12 It is the responsibility of the Parties to promptly notify all other Parties of any change in  
13 name or address for receipt of notice, demand, request, or replies.  
14

15 **Z. Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes,  
16 acts of God, inability to obtain labor or materials or reasonable substitutes therefore, riot,  
17 civil commotion, fire or other casualty and other causes beyond the reasonable control of the  
18 party obligated to perform, excluding the financial inability of such party to perform and  
19 excluding delays resulting from appeals or rehearing, shall excuse the performance by such  
20 party for a period equal to any such period of prevention, delay or stoppage. In order to avail  
21 itself of this force majeure provision, the party invoking the same shall provide the other  
22 party with a written notice that shall consist of a recitation of all events that constitute force  
23 majeure events under this Section, together with the beginning and ending dates of such  
24 events.  
25

26 **AA. Construction.** This Agreement shall be construed in accordance with the laws of the State  
27 of Florida. The Parties to this Agreement have participated fully in the negotiation and  
28 preparation hereof; and, accordingly, this Agreement shall not be more strictly construed  
29 against any one of the Parties hereto. In construing this Agreement, the use of any gender  
30 shall include every other and all genders, and captions and section and paragraph headings  
31 shall be disregarded. All of the exhibits attached to this Agreement are incorporated in, and  
32 made a part of, this Agreement.  
33

34 **BB. Omission.** The Parties hereto recognize and agree that the failure of this Agreement to  
35 address a particular permit, condition, terms or restriction shall not relieve either Party of the  
36 necessity of complying with the law governing said permitting requirements, conditions,  
37 term, or restriction notwithstanding any such omission.  
38

39 **CC. Jurisdiction and Governing Law.** The Parties hereto agree that any and all suits or actions  
40 at law shall be brought in Monroe County, Florida and no other jurisdiction. This Agreement  
41 shall be construed and interpreted under the laws of the State of Florida.  
42

43 **DD. Attorney's Fees and Costs.** The Parties agree that in the event any cause of action or  
44 administrative proceeding is initiated or defended by any party relative to the enforcement or  
45 interpretation of this Agreement, the prevailing party shall be entitled to reasonable  
46 attorney's fees, court costs, as an award against the non-prevailing party, and shall include

1 attorney's fees, courts costs, in appellate proceedings. Mediation proceedings initiated and  
2 conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil  
3 Procedure and usual and customary procedures required by the circuit court of Monroe  
4 County.

5  
6 **EE. Time of Essence.** Time shall be of the essence for each and every provision of this  
7 Agreement.

8  
9 **FF. Entire Agreement.** This Agreement, together with the documents referenced herein,  
10 constitute the entire agreement and understanding among the Parties with respect to the  
11 subject matter hereof, and there are no other agreements, representations or warranties other  
12 than as set forth herein. This Agreement may not be changed, altered or modified except by  
13 an instrument in writing signed by the Party against whom enforcement of such change  
14 would be sought and subject to the requirements for the amendment of development  
15 agreements in the Act.

16  
17 **GG. Counterparts.** This Agreement may be executed in one or more counterparts, and by  
18 different Parties hereto in separate counterparts, each of which when executed shall be  
19 deemed an original but all which taken together constitute one and the same agreement.

20  
21 **HH. Recording.** Monroe County shall record this Agreement with the Clerk of the Circuit Court  
22 of Monroe County within fourteen (14) days following signature by all Parties. Quarry agrees  
23 that it shall be responsible for all recording fees and other related fees and costs related to the  
24 recording and delivery of this Agreement as described in this section. The provisions hereof  
25 shall remain in full force and effect during the term provided herein and shall be binding  
26 upon all successors in interest to the Parties to this Agreement.

27  
28 **II. Conflicting Resolutions.** All resolutions or parts thereof in conflict with the provisions of  
29 this Agreement and its resolution are hereby repealed to the extent of such conflict.

30  
31 **JJ. Severability.** If any part of this Agreement is contrary to, prohibited by, or deemed invalid  
32 under any applicable law or regulation, such provisions shall be inapplicable and deemed  
33 omitted to the extent so contrary, prohibited, or invalid; however, the remainder of the  
34 Agreement shall not be invalidated thereby and shall be given full force and effect as if the  
35 contrary, prohibited, or invalid provision was never a part hereof.

36  
37 **IV. Effective Date.** The "Effective Date" of this Agreement is forty-five (45) days after the duly  
38 signed and recorded Agreement is received by the Florida Department of Economic  
39 Opportunity pursuant to Chapter 380, Florida Statutes, and if appealed, the date the appeal is  
40 resolved.

41  
42  
43 [Balance of this page intentionally left blank, signature page to follow]  
44  
45

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

3  
4 **QUARRY PARTNERS, LLC, a Florida limited**  
5 **liability company**

6  
7 By: TVC Big Coppitt, LLC, a Florida limited  
8 liability company, its Manager

9  
10 BY: \_\_\_\_\_  
11 Clarence S. Moore, Vice President

12  
13 STATE OF FLORIDA )  
14 ) SS:  
15 COUNTY OF MONROE )

16  
17 Sworn to and subscribed before me this \_\_\_ day of \_\_\_\_\_, 2017, by Clarence S.  
18 Moore, Vice President of TVC Big Coppitt, LLC, a Florida limited liability company, Manager  
19 of QUARRY PARTNERS, LLC, a Florida limited liability company, on behalf of the company.  
20 Each  is personally known to me or  has produced \_\_\_\_\_ as identification.

21  
22 \_\_\_\_\_  
23 Name: \_\_\_\_\_  
24 Notary Public, State of \_\_\_\_\_  
25 My Commission Expires: \_\_\_\_\_  
26  
27  
28  
29  
30  
31  
32  
33

34  
35 ATTEST: AMY HEAVILIN, CLERK

**MONROE COUNTY BOARD OF**  
**COUNTY COMMISSIONERS**

36  
37  
38 \_\_\_\_\_  
39 DEPUTY CLERK

\_\_\_\_\_ MAYOR

Comparison Details	
Title	<b>pdfDocs compareDocs Comparison Results</b>
Date & Time	12/18/2017 9:11:34 AM
Comparison Time	0.98 seconds
compareDocs version	v4.3.0.48

Sources	
Original Document	[#00088493.DOCX] [v6] Quarry Partners Development Agreement.DOCX
Modified Document	[#00105254.DOCX] [v2] 17 Development Agreement.DOCX

Comparison Statistics	
Insertions	8
Deletions	9
Changes	10
Moves	6
Font Changes	0
Paragraph Style Changes	0
Character Style Changes	0
<b>TOTAL CHANGES</b>	<b>33</b>

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<u>Insertions</u>	
<del>Deletions</del>	
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Font Changes	
Paragraph Style Changes	
Character Style Changes	
Inserted cells	
Deleted cells	
Merged cells	
Changed lines	Mark left border.
Comments color	By Author.
Balloons	False

compareDocs Settings Used	Category	Option Selected
Open Comparison Report after Saving	General	Always
Report Type	Word	Formatting
Character Level	Word	False
Include Headers / Footers	Word	True
Include Footnotes / Endnotes	Word	True
Include List Numbers	Word	True
Include Tables	Word	True
Include Field Codes	Word	True
Include Moves	Word	True
Show Track Changes Toolbar	Word	True
Show Reviewing Pane	Word	True
Update Automatic Links at Open	Word	False
Summary Report	Word	End
Include Change Detail Report	Word	Separate
Document View	Word	Print
Remove Personal Information	Word	False
Flatten Field Codes	Word	True

**DEVELOPMENT AGREEMENT**

**THIS DEVELOPMENT AGREEMENT** (“Agreement”) is entered into on the \_\_\_ day of \_\_\_\_\_, 2017, by and between **MONROE COUNTY, FLORIDA**, a Political Subdivision of the State of Florida (“Monroe County”) and **QUARRY PARTNERS, LLC**, a Florida limited liability company (“Quarry”) (collectively, the “Parties”), pursuant to Sections 110-132 and 110-133 of the Monroe County, Florida, Code of Ordinances (“Monroe County Code”), and the Florida Local Government Development Agreement Act, Florida Statutes Sections 163.3220-163.3243 (2016), and is binding on the “Effective Date” set forth herein:

**WITNESSETH:**

The Parties hereby agree as follows:

**I. RECITALS**

- A. This Agreement involves the development of real property located on Big Coppitt Key, Florida with Monroe County Parcel ID 00120940-000100, 00120940-000302, and 00120940-00201, consisting of approximately 15.035 acres of upland and 6.736 acres of submerged land (the “Property”).
- B. All Parties have the authority to enter into this Agreement through Florida Statutes Chapter 163 and Quarry has the sole and undivided ownership of the Property.
- C. Section 163.3220, Florida Statutes, authorizes Monroe County to enter into development 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.
- D. This Agreement, among other things, is intended to and shall constitute a development agreement among the Parties pursuant to the Florida Local Government Development Agreement Act, Section 163.3220, *et seq.*, Florida Statutes (the “Act”).
- E. The Parties recognize that the public noticing and hearing procedures shall follow the requirements of Section 163.3225, Florida Statutes, which requires the local government to conduct two public hearings, one of which may be before the Planning Commission.
- F. Monroe County finds that entering into this Agreement furthers the purposes, goals, objectives and policies of the Monroe County Comprehensive Plan which contains goals and objectives that seek to encourage the provision of affordable housing through incentive programs and regulations (including but not limited to Goal 601, Objective 601.1 and Objective 601.2).

1  
2 G. Comprehensive Plan Policy 107.1.6 (which shall be referred to herein as the “Site Specific  
3 Regulations”) provides as follows:  
4

5 “Development in the Big Coppitt Mixed Use Area 1 shall be subject to regulations  
6 applicable to the Mixed Use/Commercial (MC) Future Land Use Designation as well as  
7 an additional restriction set out below:  
8

9 1. Residential units developed on the Big Coppitt Mixed Use Area 1 shall be  
10 restricted to affordable housing only (with a minimum mix of at least 10% median  
11 and at least a 20% combination of low and very low income categories) and  
12 subject to affordable housing regulations pursuant to Section 130-161<sup>1</sup> of the  
13 Monroe County Code of Ordinances.  
14

15 2. There shall be no nonresidential uses. Accessory uses to the residential  
16 development, such as a club house or recreational facilities are permitted.  
17

18 3. There shall be no market rate or transient residential units.  
19

20 4. There shall be no dredging.  
21

22 5. All habitable building located within the 65-69 DNL (Day-Night Average  
23 Sound Level) noise contour pursuant to the 2013 Navy Environmental Impact  
24 Statement shall be sound attenuated to achieve an indoor Noise Level Reduction  
25 of at least 25 decibels.  
26

27 6. No residential buildings shall be located within the 70-74 DNL.  
28

29 7. Any development located within the Big Coppitt Mixed Use Area 1 shall  
30 not utilize Puerta Drive for ingress and egress.  
31

32 8. All habitable buildings located within the 70-74 DNL noise contour  
33 pursuant to the 2013 Navy Environmental Impact Statement shall be sound  
34 attenuated to achieve an indoor Noise Level Reduction of at least 30 decibels.  
35

36 9. A development agreement shall be required for any proposed development  
37 of an affordable housing project within the Big Coppitt Mixed Use Area 1 and to  
38 evaluate the ingress and egress of the development proposal.”  
39

40 H. In order to ensure the success and viability of the affordable housing project on the Property,  
41 Quarry requires the necessary 208 affordable ROGO allocations as set forth below:  
42

---

<sup>1</sup> As of the execution of this Agreement, the reference to Section 130-161<sup>1</sup> of the Monroe County Code of Ordinances is actually Section 139-1 of the Monroe County Code, as the Monroe County Code has been updated.

- 1) 104 ROGOs from the City of Key West consisting of unallocated ROGOs from prior years which have been transferred to Monroe County for use on the Property through a Florida Statutes Section 380.032 agreement (attached hereto and incorporated herein as Exhibit “A”<sup>2</sup>) by and between Monroe County, City of Key West, Islamorada Village of Islands, City of Layton and City of Marathon to be utilized for development of Buildings 5, 6, 7, 8 and 9 as depicted on the conceptual site plan (“Site Plan”) attached as Exhibit “B”, and which shall be utilized all as Moderate income affordable ROGO (“Key West ROGOs”);
- 2) The Key West ROGOs were reserved to the Property pursuant to Monroe County Resolution 213-2017;
- 3) Ninety-Six (96) ROGO allocations consisting of forty-four (44) Low, twenty (20) Median<sup>3</sup> and thirty-two (32) Moderate Income affordable ROGO allocations for development of the 96 units proposed as part of a Low Income Housing Tax Credit financial assistance that Quarry has received (“Monroe ROGOs”), such Monroe ROGOs having been reserved pursuant to Monroe County Resolution 323-2016;
- 4) An additional Eight (8) ROGO allocations were reserved by Monroe County pursuant to Monroe County Resolution 212-2017 so that the One Hundred Four (104) Monroe ROGOs allocations consist of the following: one (1) Very Low, Fifty-One (51) Low (which may only be occupied by households whose total household incomes do not exceed sixty percent (60%) of the median monthly household income), Twenty (20) Median and Thirty-Two (32) Moderate affordable ROGO allocations.

I. The Property is generally described as follows:

1. Quarry owns the Property. Copies of the Special Warranty Deeds evidencing Quarry’s ownership are attached hereto and incorporated herein as Exhibit “C”. Historically the Property was a mining operation and currently the Property is vacant land.
2. A complete legal description of the Property is attached hereto and incorporated herein as Exhibit “D”.
3. As of the date of this Agreement, the Property is assessed by the Monroe County Property Appraiser as real estate numbers 00120940-000100, 00120940-000302, and 00120940-000201.
4. The Property currently has Mixed Use (“MU”) Land Use (Zoning) District designation and a corresponding Mixed Use/Commercial (“MC”) Future Land Use Map designation.
5. The Property currently has a Tier Overlay District designation of Tier III.

---

<sup>2</sup> Fully executed agreement will be provided and inserted as Exhibit “A” once received.

<sup>3</sup> Note that the Monroe County Resolutions use the term “Medium” but the correct term per the Code is “Median”.

1  
2 6. The Property consists of approximately 15.035 acres of upland and 6.736 acres of  
3 submerged land.  
4

## 5 II. PURPOSE 6

- 7 A. The overall purpose of this Agreement is to allow the Parties to implement the provisions of  
8 Monroe County Code Chapter 139 as applied to the Property in order to insure the continued  
9 provision of needed affordable housing in the unincorporated Lower Keys.  
10  
11 B. The Agreement allows for the development of 208 affordable housing dwelling units on the  
12 Property on Big Coppitt, Monroe County, Florida, in compliance with all applicable  
13 provisions of Florida Statutes, the Principles for Guiding Development in the Florida Keys  
14 Area of Critical State Concern, the Monroe County Comprehensive Plan, and the Monroe  
15 County Code.  
16  
17 C. The Agreement allows the Parties to implement the provisions of Comprehensive Plan Policy  
18 107.1.6 as applied to the Property in order to supply much needed affordable housing in the  
19 unincorporated Lower Keys and to allow for a reasonable use of the Property by utilizing the  
20 previously unused Key West ROGOs and Monroe ROGOs for development at the Property.  
21  
22

## 23 III. AGREEMENT REQUIREMENTS 24

- 25 A. **Recitals.** The recitals explaining the intent and purpose of the project as set forth in the  
26 preceding clauses are incorporated herein and form a material part of this Agreement. The  
27 Parties recognize the binding effect of Florida Statutes Sections 163.3220-163.3243, as to the  
28 form and content of this Agreement and in accordance therewith set forth and agree to the  
29 following.  
30  
31 B. **Legal Description and Ownership.** The legal descriptions for the Property subject to this  
32 Agreement are set forth in Exhibit “D”.  
33  
34 C. **Duration of Agreement.** This Agreement shall remain in effect for ten (10) years from the  
35 “Effective Date” as defined herein, and may be extended by mutual consent of the Parties  
36 and approval at a public hearing, in accordance with Section 163.3229, Florida Statutes. For  
37 the duration of this Agreement, the Parties agree that any development shall comply with and  
38 be controlled by this Agreement, the Monroe County Code, and the Monroe County  
39 Comprehensive Plan governing the development of land in effect on the date of execution of  
40 this Agreement, in accordance with Section 163.3220, Florida Statutes.  
41  
42 D. **Permitted Uses.**  
43  
44 1. The Property currently has a MU Land Use (Zoning) District designation and a  
45 corresponding MC Future Land Use Map designation.  
46

- 1 a. The principal purpose of the Mixed Use/ Commercial land use category is to  
2 provide for the establishment of commercial land use (zoning) districts where  
3 various types of commercial retail and office may be permitted at intensities  
4 which are consistent with the community character and the natural environment.  
5 Employee housing and commercial apartments are also permitted. In addition,  
6 Mixed Use/Commercial land use districts are to establish and conserve areas of  
7 mixed uses, which may include maritime industry, light industrial uses,  
8 commercial fishing, transient and permanent residential, institutional, public, and  
9 commercial retail uses.

10  
11 This land use category is also intended to allow for the establishment of mixed  
12 use development patterns, where appropriate. Various types of residential and  
13 non-residential uses may be permitted; however, heavy industrial uses and  
14 similarly incompatible uses shall be prohibited. Monroe County shall continue to  
15 take a proactive role in encouraging the maintenance and enhancement of  
16 community character and recreational and commercial working waterfronts.

17  
18 In order to protect environmentally sensitive lands, the following development  
19 controls shall apply to all hammocks, pinelands, and disturbed wetlands within  
20 this land use category:

- 21 1. only low intensity commercial uses shall be allowed;  
22 2. a maximum floor area ratio of 0.10 shall apply; and  
23 3. maximum net residential density shall be zero.

- 24  
25 b. In accordance with this Agreement and with the MU Land Use (Zoning) District,  
26 as set forth in Monroe County Code Section 130-88, and in compliance with other  
27 provisions of the Monroe County Code, the permitted uses in the MU Land Use  
28 (Zoning) District include commercial retail; office; commercial fishing; attached  
29 residential dwelling units; hotels; marinas and accessory uses. Provided that  
30 pursuant to Comp. Plan Policy 107.1.6, the Site-Specific Regulations applicable  
31 to the Property prohibit nonresidential uses, market rate residential units, and  
32 transient residential units. Pursuant to Section 130-88(c)(3) of the Monroe County  
33 Code, attached dwelling units are permitted in the MU District as a major  
34 conditional use, provided that:

35  
36 1. The structures as designed and located so that they are visually  
37 compatible with established residential development within 250 feet of the parcel  
38 proposed for development; and

39  
40 2. The parcel proposed for development is separated from any  
41 established residential use by a class C bufferyard.

- 42  
43 c. In accordance with this Agreement and Comprehensive Plan Policy 107.1.6, the  
44 development on the Property must be in compliance with the Site Specific  
45 Regulations.  
46

- 1 d. The development of the Property includes the addition of up to 208 new,  
2 affordable residential dwelling units and other accessory development. The  
3 residential density shall not exceed 208 permanent residential units.  
4  
5 e. The height of any new structure associated with the development of the Property  
6 shall not exceed 35 feet, except as provided in Monroe County Code, as amended.  
7 “Grade” as defined in the Monroe County Code shall be 5.7 feet NGVD as shown  
8 in the attached topographic survey attached as Exhibit “E”.  
9

10 **E. Public Facilities.**

- 11  
12 1. The Florida Keys Aqueduct Authority provides domestic potable water to the Property.  
13 The Florida Keys Aqueduct Authority will meter any new development.  
14  
15 2. Keys Energy Services provides electric service to the Property. Excluding existing  
16 development that may already be metered, Keys Energy Services will meter any new  
17 development. In addition, excluding existing development that may already be metered,  
18 Keys Energy Services will meter other types of development accordingly.  
19  
20 3. Solid waste service is provided to the Property by a solid waste collection system  
21 franchised by Monroe County.  
22  
23 4. The Property is connected to central sewer via Big Coppitt Regional sewer system.  
24  
25 5. Transportation facilities. The Non-Exclusive Ingress and Egress Easement Agreement  
26 and Memorandum of Interdevelopment and Operating Agreement attached as Exhibit  
27 “F” provides satisfactory access and ingress/egress to and from the Property and US-1.  
28

29 **F. Reservation or Dedication of Land.** There is no reservation or dedication of land for public  
30 purposes contemplated by this Agreement.  
31

32 **G. Affordable Compliance** The requirement under Comprehensive Plan Policy 107.1.6  
33 regarding “a minimum of at least 10% median and at least a 20% combination of low and  
34 very low income categories” is satisfied (i) during the Increased Affordable Restriction as  
35 provided in Section III.M. below and (ii) after the expiration of the Increased Affordable  
36 Restriction, as the Fifty-One (51) very low/low units represent 25% of the 208 units (which is  
37 a substantial increase over the 20% requirement) and combined with the 20 median income  
38 units (9.6%) represent 34% of the total units.  
39

40 **H. Development Allowed.** The following specific criteria are those which will guide  
41 development of the Property, and are standards by which any further approvals shall be  
42 measured and shall be as follows:  
43

- 44 a. Provided such development can be designed and approved by all applicable  
45 regulations and cumulative density/intensity provisions, including but not limited to  
46 the Monroe County Comprehensive Plan, Monroe County Code and Florida Building

1 Code, the Property is permitted to develop the following buildings, facilities and  
2 structures on the Property pursuant to this Agreement:

- 3
- 4 i. Up to and including one hundred two hundred eight (208) new, affordable  
5 residential dwelling units.
  - 6
  - 7 ii. Additional amenities ancillary and accessory to the affordable housing project,  
8 including a gatehouse, offices, club house, fitness center and maintenance, and  
9 housekeeping consisting of up to 10,000 square feet.
  - 10
  - 11 iii. Parking areas and landscaping.
  - 12
  - 13 iv. Playground, parks and/or pools or other outdoor recreation facilities as  
14 accessory uses to the affordable residential development.
  - 15

16 **I. Required Approvals.** The following list of all development approvals and permits approved  
17 or needed to be approved for the redevelopment of the Property, as specified in this  
18 Agreement:

19

20 Conditional Use Approval and building permits will be required for the development of  
21 the Property into 208 new, affordable residential dwelling units as permitted under  
22 Monroe County’s Land Development Regulations. The development shall be consistent  
23 with all applicable codes, including but not limited to the Monroe County Comprehensive  
24 Plan and Monroe County Code.

25

26 **J. Military Installation Area of Impact.** Quarry acknowledges and understands the Property  
27 and proposed development is within the Military Installation Area of Impact Overlay as  
28 defined by the Monroe County Comprehensive Plan. The Property is located in the 65 – 69  
29 DNL (Day-Night Average Sound Level) noise contours pursuant to the 2013 Navy Final  
30 Environmental Impact Statement. Quarry agrees to sound attenuate all habitable buildings  
31 and shall strive to achieve an outdoor to indoor Noise Level Reduction Level (NLR) of at  
32 least 25 decibels. No residential buildings shall be located within the 70-74 DNL.

33

34 **K. Ingress/Egress.** Ingress and egress access to the proposed development on the Property shall  
35 be provided as depicted on the site plan attached as Exhibit “B”. There shall be no ingress or  
36 egress to the Property via Puerta Drive. Quarry has obtained an easement to access US1  
37 directly pursuant to the Non-Exclusive Ingress and Egress Easement Agreement dated (“US1  
38 Easement”). To obtain access via the US1 Easement, Quarry, must first obtain all required  
39 local, state, and federal permits. Quarry shall use best efforts to obtain these permits. If  
40 Quarry obtains all necessary permits for direct access to US1 utilizing the US1 Easement,  
41 Quarry shall construct the necessary road directly to US1 and shall cease ingress and egress  
42 through Calle Dos and Calle Uno to US1. Monroe County does hereby agree to contribute  
43 up to \$1,500,000 toward Quarry’s actual construction costs of the road depicted in the site  
44 plans to Calle Dos and US1 Easement directly to US1. The Parties agree that until such time  
45 as the portion of the road which shall be located on the US1 Easement area is completed,  
46 Quarry and its agents, licensees, employees, invitees, successors, construction crews and

1 contractors, tenants and assigns shall be permitted to use Calle Dos and Calle Uno to access  
2 US-1 as shown on the site plan.  
3

4 **L. Site Plan Approval.** Monroe County does hereby accept the Site Plan of the Property. The  
5 development shall be consistent with all applicable codes, including but not limited to the  
6 Monroe County Comprehensive Plan and Monroe County Code. Following a review of  
7 compliance with such codes, the final site plan must be approved by the Monroe County  
8 Planning Commission as part of a Major Conditional Use approval. The Planning  
9 Commission has final authority over the site plan and the site plan may be amended by the  
10 Planning Commission.  
11

12 **M. Increased Affordable Restriction.** In exchange for the waivers set forth in Section III.N.  
13 below, Quarry agrees that for the initial 50 year term of affordable restrictions on the  
14 Property, the residential units on the Property shall consist of the following (such residential  
15 unit affordable restrictions to be defined as the “Increased Affordable Restriction”): Eleven  
16 (11) Very Low which may only be occupied by households whose total household incomes  
17 do not exceed twenty-five percent (25%) of the median monthly household income), Eighty-  
18 Three (83) Low (which may only be occupied by households whose total household incomes  
19 do not exceed sixty percent (60%) of the median monthly household income), Twenty-One  
20 (21) Median and Ninety-Three (93) Moderate affordable residential units.  
21

22 At the expiration of the 50-year Increased Affordable Restriction term, for the remaining 49  
23 years that the Property remains subject to affordable restrictions, the affordable restrictions  
24 on the Property shall consist of the following: one (1) Very Low, Fifty-One (51) Low (which  
25 may only be occupied by households whose total household incomes do not exceed sixty  
26 percent (60%) of the median monthly household income), Twenty (20) Median and One  
27 Hundred Thirty-Six (136) Moderate affordable residential units.  
28  
29

30 **N. Impact Fee and Building Permit Fee Waiver.** Per Section 126-4(h)(6) of the Monroe  
31 County Code, all impact fees are hereby waived by Monroe County. County also agrees that  
32 all building permit fees and wastewater capacity reservation fees for the Big Coppitt  
33 Wastewater Treatment Plant are waived in consideration of the Increased Affordable  
34 Restriction.  
35

36 **O. Finding of Consistency.** By entering into this Agreement, Monroe County finds that the  
37 development permitted or proposed herein is consistent with the Monroe County  
38 Comprehensive Plan and Monroe County Code.  
39

40 **P. Breach, Amendment, Enforcement, and Termination.**  
41

42 a. **Material Breach:** A material breach by the Parties is the failure of any Party to  
43 comply with the terms of this Agreement after Notice as provided herein.  
44

45 b. **Notice:** Upon any Party’s material breach of the terms and conditions of this  
46 Agreement, the non-breaching Party shall serve written Notice of the breach upon the

1 breaching Party pursuant to the procedure established in this Agreement and shall  
2 provide the opportunity, within ninety (90) days of the date such Notice is served, to  
3 propose a method of fulfilling the Agreement's terms and conditions or curing the  
4 breach. The breaching Party shall be provided an additional ninety (90) days to cure  
5 the material breach or to negotiate an amendment to this Agreement within a  
6 reasonable time, as mutually agreed to by the Parties. This Agreement is not subject  
7 to arbitration and must be amended in accordance with the statutory requirements.  
8 This notice provision does not apply to sections II.E. and III.K.c.iii. which contains  
9 its own, separate process for Monroe County to declare this Agreement void.

10  
11 c. **Amendment or Termination:** The Parties hereto shall at all times adhere to the  
12 terms and conditions of this Agreement. Amendment, termination, extension, or  
13 revocation of this Agreement shall be made in accordance with the notification and  
14 procedural requirements set forth herein.

15  
16 i. Amendments to this Agreement shall subject Parties to the laws and policies  
17 in effect at the time of the amendment only if the conditions of Section  
18 163.3233(2), Florida Statutes, are met.

19  
20 ii. No modifications, extensions, amendments, or alterations of the terms or  
21 conditions contained herein shall be effective unless contained in a written  
22 document approved and executed by the Parties.

23  
24 iii. Amendment, extension or termination shall require at least two (2) public  
25 hearings. The hearings shall be held pursuant to an application filed with  
26 Monroe County by the Party seeking to amend or terminate this Agreement,  
27 along with the requisite filing fee. Notice of public hearing shall be in  
28 accordance with Monroe County Ordinances and Florida Statutes.

29  
30 iv. If the terms of the compliance schedule are not met, the development  
31 agreement shall be voidable at the sole option of Monroe County at a public  
32 hearing of the Board of County Commissioners.

33  
34 d. **Enforcement:**

35  
36 i. After notice and an opportunity to respond and/or cure the material breach as  
37 provided for below. In addition, Monroe County may utilize appropriate code  
38 compliance remedies to cure any breach after notice or arising after the  
39 execution of this Agreement and an opportunity to cure as provided herein.

40  
41 ii. Monroe County, the other Parties, their successors or assigns, or any  
42 aggrieved or any adversely affected party as defined in Section 163.3215(2),  
43 Florida Statutes, may file an action for injunctive relief in the Circuit Court of  
44 Monroe County to enforce the terms of this Agreement or to challenge  
45 compliance with the provisions of Sections 163.3243, Florida Statutes.

46

1           iii.     Nothing contained herein shall limit any other powers, rights, or remedies that  
2                     either party has, or may have in the future, to enforce the terms of this  
3                     Agreement.  
4

5 **Q. Binding Effect of Agreement.** The covenants, agreements, and obligations herein contained,  
6 except as herein otherwise specifically provided, shall extend to, bind and inure to the benefit  
7 of the Parties hereto and their respective personal representatives, heirs, successors and  
8 assigns.  
9

10 **R. State and Federal Law.** If State or Federal laws enacted after the effective date of this  
11 Agreement preclude either Party's compliance with the terms of this Agreement, this  
12 agreement shall be modified as is necessary to comply with the relevant State or Federal  
13 Laws.  
14

15 **S. Compliance with Other Laws.** The failure of this Agreement to address a particular permit,  
16 condition, term, or restriction shall not relieve the Parties of the necessity of complying with  
17 the laws governing said permitting requirements, conditions, terms or restrictions.  
18

19 **T. Reservation of Rights.** This Agreement shall not affect any rights, which may have accrued  
20 to any party to this Agreement under applicable law. The Parties reserve any and all such  
21 rights. All approvals referenced in this Agreement are subordinate to compliance with all  
22 applicable laws, codes, and land development regulations and permits, except to the extent  
23 otherwise provided for in this Agreement.  
24

25 **U. No Permit.** This Agreement is not and shall not be construed as a Development Permit,  
26 Development Approval or authorization to commence development, nor shall it relieve the  
27 Parties other than Monroe County of the obligations to obtain necessary Development  
28 Approvals that are required under applicable law and under and pursuant to the terms of this  
29 Agreement and Monroe County Code.  
30

31 **V. Good Faith; Further Assurances; No Cost.** The Parties to this Agreement have negotiated  
32 in good faith. It is the intent and agreement of the Parties that they shall cooperate with each  
33 other in good faith to effectuate the purposes and intent of, and to satisfy their obligations  
34 under, this Agreement in order to secure themselves the mutual benefits created under this  
35 Agreement. The Parties agree to execute such further documents as may be reasonably  
36 necessary to effectuate the provisions of this Agreement; provided that the foregoing shall in  
37 no way be deemed to inhibit, restrict or require the exercise of Monroe County's police  
38 power or actions of Monroe County when acting in a quasi-judicial capacity. Wherever in  
39 this Agreement a provision requires cooperation, good faith or similar effort to be undertaken  
40 at no cost to a party, the party co-operating, reviewing or undertaking the effort shall,  
41 nonetheless, bear its cost of attendance at meetings, hearings, or proceedings and comment  
42 and/or execution of documents, inclusive of the expense of its counsel.  
43

44 **W. Successors and Assigns.** This Agreement shall constitute a covenant running with the land,  
45 which shall be binding upon the Parties hereto, their successors in interest, heirs, assigns, and  
46 personal representatives.

1  
2 **X. Joint Preparation.** This Agreement has been drafted with the participation of the Parties  
3 and their counsel, and shall not be construed against any party on account of draftsmanship.  
4 The captions of each article, section and subsection contained in this Agreement are for ease  
5 of reference only and shall not affect the interpretational meaning of this Agreement.  
6 Whenever the term “included” is used in this Agreement, it shall mean that the included  
7 items, or terms are included without limitation as to any other items or terms, which may fall  
8 within the listed category.  
9

10 **Y. Notices.** All notices, demands, requests or replies provided for or permitted by this  
11 Agreement shall be in writing and may be delivered by any one of the following methods: (a)  
12 by personal delivery; (b) by deposit with the United States Postal Service as Certified or  
13 Registered mail, return receipt requested, postage prepaid, to the addresses stated below; or  
14 (c) by deposit with an overnight express delivery service with proof of receipt to the  
15 addresses stated below. Notice shall be deemed effective upon receipt. For purposes of  
16 notice, demand, request, or replies:  
17

18 The address of Monroe County shall be:

19  
20 County Administrator  
21 1100 Simonton Street  
22 Room 2-205  
23 Key West, Florida 33040  
24

25 And a copy to:

26  
27 Robert Shillinger, Esq.  
28 County Attorney  
29 PO Box 1026  
30 Key West, Florida 33041  
31 and  
32 1111 12<sup>th</sup> Street, Suite 408  
33 Key West, Florida 33040  
34

35 The address of Quarry shall be:

36  
37 3030 Hartley Road  
38 Suite 310  
39 Jacksonville, FL 32257  
40

41 And a copy to:

42  
43 Barton W. Smith, Esq.  
44 Smith Hawks, PL  
45 138 Simonton Street  
46 Key West, Florida 33040  
47

1 It is the responsibility of the Parties to promptly notify all other Parties of any change in  
2 name or address for receipt of notice, demand, request, or replies.  
3

4 **Z. Force Majeure.** Any prevention, delay or stoppage due to strikes, lockouts, labor disputes,  
5 acts of God, inability to obtain labor or materials or reasonable substitutes therefore, riot,  
6 civil commotion, fire or other casualty and other causes beyond the reasonable control of the  
7 party obligated to perform, excluding the financial inability of such party to perform and  
8 excluding delays resulting from appeals or rehearing, shall excuse the performance by such  
9 party for a period equal to any such period of prevention, delay or stoppage. In order to avail  
10 itself of this force majeure provision, the party invoking the same shall provide the other  
11 party with a written notice that shall consist of a recitation of all events that constitute force  
12 majeure events under this Section, together with the beginning and ending dates of such  
13 events.  
14

15 **AA. Construction.** This Agreement shall be construed in accordance with the laws of the State  
16 of Florida. The Parties to this Agreement have participated fully in the negotiation and  
17 preparation hereof; and, accordingly, this Agreement shall not be more strictly construed  
18 against any one of the Parties hereto. In construing this Agreement, the use of any gender  
19 shall include every other and all genders, and captions and section and paragraph headings  
20 shall be disregarded. All of the exhibits attached to this Agreement are incorporated in, and  
21 made a part of, this Agreement.  
22

23 **BB. Omission.** The Parties hereto recognize and agree that the failure of this Agreement to  
24 address a particular permit, condition, terms or restriction shall not relieve either Party of the  
25 necessity of complying with the law governing said permitting requirements, conditions,  
26 term, or restriction notwithstanding any such omission.  
27

28 **CC. Jurisdiction and Governing Law.** The Parties hereto agree that any and all suits or actions  
29 at law shall be brought in Monroe County, Florida and no other jurisdiction. This Agreement  
30 shall be construed and interpreted under the laws of the State of Florida.  
31

32 **DD. Attorney's Fees and Costs.** The Parties agree that in the event any cause of action or  
33 administrative proceeding is initiated or defended by any party relative to the enforcement or  
34 interpretation of this Agreement, the prevailing party shall be entitled to reasonable  
35 attorney's fees, court costs, as an award against the non-prevailing party, and shall include  
36 attorney's fees, courts costs, in appellate proceedings. Mediation proceedings initiated and  
37 conducted pursuant to this Agreement shall be in accordance with the Florida Rules of Civil  
38 Procedure and usual and customary procedures required by the circuit court of Monroe  
39 County.  
40

41 **EE. Time of Essence.** Time shall be of the essence for each and every provision of this  
42 Agreement.  
43

44 **FF. Entire Agreement.** This Agreement, together with the documents referenced herein,  
45 constitute the entire agreement and understanding among the Parties with respect to the  
46 subject matter hereof, and there are no other agreements, representations or warranties other

1 than as set forth herein. This Agreement may not be changed, altered or modified except by  
2 an instrument in writing signed by the Party against whom enforcement of such change  
3 would be sought and subject to the requirements for the amendment of development  
4 agreements in the Act.

5  
6 **GG. Counterparts.** This Agreement may be executed in one or more counterparts, and by  
7 different Parties hereto in separate counterparts, each of which when executed shall be  
8 deemed an original but all which taken together constitute one and the same agreement.

9  
10 **HH. Recording.** Monroe County shall record this Agreement with the Clerk of the Circuit Court  
11 of Monroe County within fourteen (14) days following signature by all Parties. Quarry agrees  
12 that it shall be responsible for all recording fees and other related fees and costs related to the  
13 recording and delivery of this Agreement as described in this section. The provisions hereof  
14 shall remain in full force and effect during the term provided herein and shall be binding  
15 upon all successors in interest to the Parties to this Agreement.

16  
17 **II. Conflicting Resolutions.** All resolutions or parts thereof in conflict with the provisions of  
18 this Agreement and its resolution are hereby repealed to the extent of such conflict.

19  
20 **JJ. Severability.** If any part of this Agreement is contrary to, prohibited by, or deemed invalid  
21 under any applicable law or regulation, such provisions shall be inapplicable and deemed  
22 omitted to the extent so contrary, prohibited, or invalid; however, the remainder of the  
23 Agreement shall not be invalidated thereby and shall be given full force and effect as if the  
24 contrary, prohibited, or invalid provision was never a part hereof.

25  
26 **IV. Effective Date.** The “Effective Date” of this Agreement is forty-five (45) days after the duly  
27 signed and recorded Agreement is received by the Florida Department of Economic  
28 Opportunity pursuant to Chapter 380, Florida Statutes, and if appealed, the date the appeal is  
29 resolved.

30  
31  
32 [Balance of this page intentionally left blank, signature page to follow]  
33  
34

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

3  
4 **QUARRY PARTNERS, LLC, a Florida limited**  
5 **liability company**

6  
7 By: TVC Big Coppitt, LLC, a Florida limited  
8 liability company, its Manager

9  
10 BY: \_\_\_\_\_  
11 Clarence S. Moore, Vice President

12  
13 STATE OF FLORIDA )  
14 ) SS:  
15 COUNTY OF MONROE )

16  
17 Sworn to and subscribed before me this \_\_\_ day of \_\_\_\_\_, 2017, by Clarence S.  
18 Moore, Vice President of TVC Big Coppitt, LLC, a Florida limited liability company, Manager  
19 of QUARRY PARTNERS, LLC, a Florida limited liability company, on behalf of the company.  
20 Each  is personally known to me or  has produced \_\_\_\_\_ as identification.

21 \_\_\_\_\_  
22 Name: \_\_\_\_\_  
23 Notary Public, State of \_\_\_\_\_  
24 My Commission Expires: \_\_\_\_\_  
25  
26  
27  
28  
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30  
31  
32  
33

34  
35 ATTEST: AMY HEAVILIN, CLERK

MONROE COUNTY BOARD OF  
COUNTY COMMISSIONERS

36  
37  
38 \_\_\_\_\_  
39 DEPUTY CLERK

\_\_\_\_\_ MAYOR