Memo

DT: **June 13, 2006**

TO: **Honorable Mayor and Members of the Village Council**

FR: **Jacqueline R. Menendez, Village Manager**

RE: **Capital Project Authorizing Ordinance – Sanitary Sewer and Water Line Improvement Project**

RECOMMENDATION

It is recommended that the Village Council adopt the accompanying ordinance authorizing the Village's Sanitary Sewer and Water Line Improvement Project (the "Project").

BACKGROUND

Pursuant to Village Charter Section 3.07(b) and Section 4.03(9), as amended at the July 9, 2002 Charter amendment election, the adoption of an ordinance is required in order to authorize a capital project in excess of $500,000.00.

Village Charter Section 3.07(b) defines capital projects. Village Charter Section 4.03(9) requires authorization of the Project to be by ordinance. Additionally, Village Charter Section 4.03(9) provides for specific publication and postcard notification requirements prior to second reading of this ordinance.

The enclosed ordinance, as prepared by the Village Attorney, is designed to fully comply with the above cited Village Charter provisions.

The Project construction contract may subsequently be awarded by Resolution following completion of the competitive bidding process.

Please call me or the Village Attorney if there are any questions.

cc: Stephen J. Helfman, Village Attorney
David M. Wolpin, Village Attorney

103001\memos\mayor and council from menendez re capital project authorizing ordinance Sewer 5.3.06

ORDINANCE NO. 2006-

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE"), CONCERNING THE CONSTRUCTION OF THE SANITARY SEWER AND WATER LINE IMPROVEMENT PROJECT (THE "PROJECT") OF THE VILLAGE; AUTHORIZING AND PROVIDING FOR THE VILLAGE TO CONSTRUCT THE PROJECT AS DESCRIBED HEREIN; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR NOTICE OF ORDINANCE ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Key Biscayne (the "Village") desires to authorize and provide for the construction of the Sanitary Sewer and Water Line Improvement Project (the "Project"), as described herein.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:

Section 1. Recital Adopted. That the recital stated above is hereby adopted and confirmed.

Section 2. Capital Project Authorizing Ordinance.

A. That pursuant to Village Charter, Section 3.07 (b), this Ordinance shall constitute a Capital Project Authorizing Ordinance.

B. The Capital Project consists of the construction of the Project.

C. The Project improvements include providing public sanitary sewer systems, including sewer laterals, gravity sewers, sewer manholes, pump station construction or upgrades, and other public sanitary sewer system components for all portions of the Village which are not presently served by public sanitary sewers, and also includes replacement of the cement-asbestos water lines within the sanitary sewer improvement area of the Project. The Project also includes restoration of

pavement, landscaping and other areas affected by the work.

D. The cost of the Project is approximately Nineteen Million Four Hundred Thousand ($19,400,000.00) Dollars. Based upon the Village Project Engineer's cost estimate, the Project cost detail is, as follows:

Sanitary Sewer Component		
Zone 1 – Sanitary Sewer	$2,000,000.00	
Zone 1 – Pump Station Upgrade	$ 247,000.00	
Zone 1 – Total		$ 2,247,000.00
Zones 2/3 – Sanitary Sewer	$6,977,000.00	
Zones 2/3 – New Pump Station	$ 344,000.00	
Zones 2/3 – Total		$ 7,321,000.00
Zone 4 – Total Sanitary Sewer		$ 1,358,000.00
Total Sanitary Sewer		$10,926,000.00
Water Line Component		
Zone 1		$ 2,260,000.00
Zones 2/3		$ 5,320,000.00
Zone 4		$ 820,000.00
Total Water Line Replacement		$ 8,400,000.00

E. Each of the cost items stated above are projected costs as required by Village Charter Section 3.07(b). The actual costs will be determined by the Village Council based upon the contract for construction for the Project which is awarded as a result of the competitive bidding process. Project administration and financing costs shall also be applicable.

Section 3. Project Authorized; Funding Conditions.

A. That the Project, as described herein, is hereby authorized to be constructed by the Village.

B. That the Village Council shall, by resolution, enter into contract(s) for the construction of the Project in accordance with the plans prepared by Post Buckley Schuh and Jernigan (the "PBSJ"), the Village's Project Engineer.

C. That the Village Manager is authorized to take all action necessary to implement this Ordinance, and is authorized to expend Village funds for the construction of the Project pursuant to Village budget appropriations, and subject to any funding conditions which are established.

D. That the construction of the Project shall not proceed unless and until county and federal funding assistance for the applicable component or zone of the Project is committed to the Village, as follows:

a. Miami-Dade County general obligation bond proceeds of Five Million One Hundred Thousand ($5,100,000.00) Dollars for use on the Sanitary Sewer Component;

b. Federal EPA grant for One Million ($1,000,000.00) Dollars for use on the Sanitary Sewer Component.

c. Miami-Dade County WASA funding assistance of Six Million ($6,000,000.00) Dollars for use on the Water Line Replacement Component;

E. That the construction of the Project shall be subject to the adoption of a Village borrowing ordinance (and any necessary implementing borrowing resolutions) for the financing of the Project, and the Project is hereby authorized subject to the funding conditions which are referenced or described herein.

F. The Project may be constructed in phases, in accordance with the availability of funds for the Project, so that the improvements for Zone 1 and Zone 4, Sewer Component and Water Line Replacement Component, may be constructed prior to the Zone 2/3 Sewer Component and Water Line Replacement Component, depending upon the availability of funds to the Village for payment of construction costs.

Section 4. Notice of Ordinance Adoption. That pursuant to Village Charter Section 4.03(9), following the passage of this Ordinance on first reading, the Village Clerk shall provide notice of the date and time of the second reading (the "Second Reading Notice"). The Second Reading Notice shall include a brief description of the Project and its cost and shall be published in addition to and contemporaneously with notices regularly published for second readings of ordinances. The published notice shall be in substantially the form attached hereto as Exhibit "A". Further, the Village Clerk shall provide for each Village elector to be sent a Second Reading Notice by postcard. The postcard notice shall be in substantially the form attached hereto as Exhibit "B". Any action taken by the Council on this Ordinance shall not be voided by the failure of an individual Village elector to receive a Second Reading Notice postcard.

Section 5. Severability. That the provisions of this Ordinance are declared to be severable and if any section, sentence, clause or phrase of this Ordinance shall for any reason be held to be

invalid or unconstitutional, such decision shall not affect the validity of the remaining sections, sentences, clauses, and phrases of this Ordinance but they shall remain in effect, it being the legislative intent that this Ordinance shall stand notwithstanding the invalidity of any part.

Section 6. Effective Date. That this Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 13th day of June, 2006.

PASSED AND ADOPTED on second reading this 27th day of June, 2006.

_____
MAYOR ROBERT OLDAKOWSKI

ATTEST:

_____
CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

_____
VILLAGE ATTORNEY

EXHIBIT "A"

PUBLIC NOTICE

Pursuant to Village of Key Biscayne Charter Section 4.03(9), notice is hereby provided that on Tuesday, June 27, 2006, at 7:00 p.m., in the Village Council Chamber, at 560 Crandon Boulevard, Key Biscayne, Florida, a public hearing on the second and final reading of an Ordinance concerning the Sanitary Sewer and Water Line Improvement Project (the "Project") shall be heard by the Village Council, as follows:

ORDINANCE NO. 2006-

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE"), CONCERNING THE CONSTRUCTION OF THE SANITARY SEWER AND WATER LINE IMPROVEMENT PROJECT (THE "PROJECT") OF THE VILLAGE; AUTHORIZING AND PROVIDING FOR THE VILLAGE TO CONSTRUCT THE PROJECT AS DESCRIBED HEREIN; AUTHORIZING EXPENDITURE OF FUNDS; PROVIDING FOR NOTICE OF ORDINANCE ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Capital Project: The Project includes the provision of public Sanitary Sewer service systems to serve all of those portions of the Village of Key Biscayne which presently do not have Sanitary Sewer service available. The Project also includes replacement of the existing cement-asbestos water lines within the Sanitary Sewer Project area. The Sanitary Sewer improvements to be made include the provision of public Sanitary Sewer in Zones 1, 2/3, and 4 of the Village, Pump Station upgrade in Zone 1, and a new Pump Station in Zones 2/3. Sanitary Sewer Zones 1, 2/3 and 4 are described on a Sewer Project Zone Map which is on file in the Office of the Village Clerk.

Cost: The projected cost of the Project is approximately Nineteen Million Four Hundred Thousand ($19,400,000.00) Dollars. This cost includes the Sanitary Sewer Component as well as the Water Line Component (Sewer = $11,000,000.00; Water = $8,400,000.00). The Project shall not proceed unless certain County and federal funds are committed to the Village, and the Village obtains financing, and is to be authorized subject to such funding conditions.

This Notice is published in addition to and contemporaneously with notices regularly published for second readings of Ordinances. For any question on this item, please contact the Village Clerk at (305) 365-5506 or visit the Village website at www.keybiscayne.fl.gov.

IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT OF 1990, ALL PERSONS WHO ARE DISABLED AND WHO NEED SPECIAL ACCOMMODATIONS TO PARTICIPATE IN THIS PROCEEDING BECAUSE OF THAT DISABILITY SHOULD CONTACT THE OFFICE OF THE VILLAGE CLERK, 88 WEST McINTYRE STREET, KEY BISCAYNE, FLORIDA 33149, TELEPHONE NUMBER (305) 365-5506, NOT LATER THAN TWO (2) BUSINESS DAYS PRIOR TO SUCH PROCEEDINGS.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED (F.S. 286.0105).

EXHIBIT "B"

PUBLIC NOTICE

(POSTCARD TO ELECTORS)

Pursuant to Village of Key Biscayne Charter Section 4.03(9), notice is hereby provided that on Tuesday, June 27, 2006, at 7:00 p.m., in the Village Council Chamber, at 560 Crandon Boulevard, Key Biscayne, Florida, a public hearing on the second and final reading of a Capital Project Authorizing Ordinance for the Sanitary Sewer and Water Line Improvement Project (the "Project") shall be heard by the Village Council.

Capital Project: Provides public sanitary sewers for all portions of the Village not presently served by sanitary sewers, and provides for replacement of cement - asbestos water lines in the Sewer Project area.

Cost: The cost of the Project is approximately $19.4 Million Dollars. This cost includes the Sanitary Sewer Component as well as the Water Line Component. The Project shall not proceed unless certain County and federal funds are committed to the Village, and the Village obtains financing, and is to be authorized subject to such funding conditions.

For any question on this item, please contact the Village Clerk at (305) 365-5506 or visit the Village website at www.keybiscayne.fl.gov.

IF A PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE VILLAGE COUNCIL WITH RESPECT TO ANY MATTER CONSIDERED AT A MEETING OR HEARING, THAT PERSON WILL NEED A RECORD OF THE PROCEEDINGS AND, FOR SUCH PURPOSE, MAY NEED TO ENSURE THAT A VERBATIM RECORD OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED (F.S. 286.0105).

F:/Ordinances/Ordinance 2006 – Capital Project Authorizing Sanitary Sewer 5.3.06