VILLAGE OF KEY BISCAYNE

Office of the Village Manager

Village Council
Robert L. Vernon, *Mayor*
Jorge E. Mendia, *Vice Mayor*
Michael Davey
Enrique Garcia
Steve Liedman
Thomas Thornton
Patricia Weinman

Village Manager
Genaro "Chip" Iglesias

December 2, 2008

MEMORANDUM

TO: Honorable Mayor and Members of the Village Council

FROM: Genaro "Chip" Iglesias, Village Manager

RE: State Revolving Fund Loan Declaration of Intent

RECOMMENDATION

It is recommended that the Village Council approve the attached Resolution authorizing the Declaration of Official Intent for the State Revolving Fund Loan.

BACKGROUND

The Village has submitted an application with the Florida Department of Environmental Protection to participate in the State Revolving Loan Fund for the sanitary sewer project. In order to comply with the United States Treasury Regulations for funding infrastructure projects with tax exempt bonds, the Florida Department of Environmental Protection requires the Village to submit a Declaration of Official Intent. Although the amount listed of $8,460,000 is the amount approved on the FDEP's priority list, the Village does not anticipate borrowing more than $6,000,000 for this project.

88 West McIntyre Street • Suite 210 • Key Biscayne, Florida 33149 • (305) 365-5500 • Fax (305) 365-8936
MISSION STATEMENT: "TO PROVIDE A SAFE, QUALITY COMMUNITY ENVIRONMENT FOR ALL ISLANDERS THROUGH RESPONSIBLE GOVERNMENT."
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RESOLUTION NO. 2008- _____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING A DECLARATION OF OFFICIAL INTENT UNDER U.S. TREASURY REGULATIONS WITH RESPECT TO REIMBURSEMENTS FROM NOTE AND BOND PROCEEDS OF TEMPORARY ADVANCES MADE FOR PAYMENTS PRIOR TO ISSUANCE; PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, United States Treasury Regulations §1.150-2 (the "Reimbursement Regulations") prescribe conditions under which proceeds of bonds, notes or other obligations ("Bonds") used to reimburse advances made for capital and certain other expenditures ("Original Expenditures") paid before the issuance of such Bonds will be deemed to be expended (or properly allocated to expenditures) for purposes of Sections 103 and 141-150 of the Internal Revenue Code of 1986, as amended (the "Code"), upon such reimbursement so that the proceeds so used will no longer be subject to requirements or restrictions under those sections of the Code; and

WHEREAS, certain provisions of the Reimbursement Regulations require that there be a Declaration of Official Intent not later than 60 days following payment of the Original Expenditures expected to be reimbursed from proceeds of Bonds, and that the reimbursement occur within certain prescribed time periods after an Original Expenditure is paid or after the property resulting from that Original Expenditure is placed in service; and

WHEREAS, the Village of Key Biscayne (the "Village") wishes to take steps to comply with the Reimbursement Regulations;

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

Section 1. **Definitions**. The following definitions apply to the terms used herein:

"Authorized Officer" means the Village Manager or any person designated for the purpose by the Village Manager.

"Declaration of Official Intent" means a declaration of intent, in the form, manner and time contemplated in the Reimbursement Regulations, that the advances for expenditures referred to therein are reasonably expected to be reimbursed from the proceeds of Bonds to be issued after those expenditures are paid.

"Reimbursement" or "reimburse" means the restoration to the Village of money temporarily advanced from its own funds and spent for Original Expenditures before the issuance of the Bonds, evidenced in writing by an allocation on the books and records of the Village that shows the use of the proceeds of the Bonds to restore the money advanced for the Original Expenditure. "Reimbursement" or "reimburse" generally does not include the refunding or retiring of Bonds previously issued and sold to, or borrowings from, unrelated entities.

Section 2. Authorization and Requirement of Declaration of Official Intent. The Authorized Officer is authorized to prepare and sign a Declaration of Official Intent in substantially the form attached hereto as Exhibit "A" with respect to Original Expenditures to which the Reimbursement Regulations apply, to be made from money temporarily advanced and that is reasonably expected to be reimbursed (in accordance with applicable authorizations, policies and practices) from the proceeds of Bonds, to make appropriate reimbursement and timely allocations from the proceeds of the Bonds to reimburse such prior expenditures, and to

take any other actions as may be appropriate, all at the times and in the manner required under the Reimbursement Regulations in order for the reimbursement to be treated as an expenditure of such proceeds for purposes of Sections 103 and 141 to 150 of the Code. No advance from any fund or account or order for payment may be made for Original Expenditures (other than expenditures excepted from such requirement under the Reimbursement Regulations) that are to be reimbursed subsequently from proceeds of Bonds unless a Declaration of Official Intent with respect thereto is made within the time required by the Reimbursement Regulations.

Section 3. **Effective Date.** This Resolution shall be effective immediately upon adoption hereof.

[remainder of this page intentionally left blank]

PASSED AND ADOPTED this 9th day of December, 2008.

_____
ROBERT VERNON, MAYOR

ATTEST:

CONCHITA H. ALVAREZ, CMC

_____
VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

_____
Village Attorney

Exhibit "A"

DECLARATION OF OFFICIAL INTENT

For Reimbursement of Expenditures from Bonds/Notes

This is a Declaration of Official Intent under U.S. Treasury Regulations for purposes of Sections 103 and 141 to 150 of the Internal Revenue Code of 1986, as amended (the "Code").

1. The undersigned, on behalf of the Village of Key Biscayne (the "Borrower") declares that the Borrower reasonably expects that the capital and other expenditures described in paragraph 2 (the "Project") will be reimbursed with the proceeds of "bonds" (as defined in Section 150 of the Code). The maximum principal amount of bonds expected to be issued for the Project is $8,460,000.

2. Description of capital and other expenditures to be reimbursed.

   Expenditures for (insert a general functional description of property, project, program or purpose):

   Water Pollution Control Improvements _____

   _____

The undersigned has been authorized by the Borrower to make and sign this Declaration on behalf of the Borrower.

Date of Declaration: VILLAGE OF KEY BISCAYNE

_____, 2008

By: _____
(Signature)

_____
(Type or print Name and Title)

Caution: This Declaration of Official Intent will not be effective unless the bonds providing moneys for the reimbursement are issued and reimbursement for Project described above is made (by an allocation on the books and records identifying the expenditures as in paragraph 2 above) within the applicable period prescribed in the Treasury Regulations - generally, 18 months after the later of the date of the expenditure or the date the Project is placed in service, but in no event later than three years after the date of the expenditure.