


MEMORANDUM



V I L L A G E O F K E Y B I S C A Y N E

Village Council
Michael W. Davey, Mayor
Allison McCormick, Vice Mayor
Luis Lauredo
Edward London
Brett Moss
Katie Petros
Ignacio J. Segurola

DATE: April 2, 2019
TO: Honorable Mayor and Council Members
THROUGH: Andrea M. Agha, Village Manager
FROM:  Christopher Wallace, Interim Finance Director
RE: Bond Intent Resolution

RECOMMENDATION

We recommend that the Village Council approve the resolution indicating the Village's intent to issue bonds to finance the proposed undergrounding of utilities. The resolution preserves an option available to the Village but does not require the Village to issue any indebtedness. Should the Village ultimately issue debt for the undergrounding, and should the Village choose to be reimbursed for some expenditures related to undergrounding that were incurred prior to any bonds being issued, then the Village, by virtue of adopting this resolution, will have met the requirements of the Internal Revenue Code to issue debt to repay the Village for its initial outlays.

BACKGROUND

The Village has been spending funds to study the issues and costs involved in undergrounding the utilities in the Village. Much of this cost would ordinarily have been paid for with bond proceeds as part of the project costs. It is generally the case that local governments spend significant sums of money prior to the actual issuance of any debt related to projects like undergrounding. Many governments seek to recapture these initial outlays when the debt is issued.

If the resolution is not adopted, the Village will be barred under federal income tax rules and regulations from issuing tax-exempt debt for the purposes of reimbursing itself. It could still issue tax-exempt debt for costs incurred after the debt issue date, but could not be repaid for costs incurred before the debt issue date unless this resolution is adopted. We are not compelled to issue debt for any of the costs associated with the project, but it would unnecessarily be "burning a bridge" if we do not preserve this valuable option for our residents and businesses.

RESOLUTION NO. 2019-__

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAZYNE, FLORIDA, INDICATING THE VILLAGE'S OFFICIAL INTENT TO ISSUE TAX-EXEMPT BONDS, SUBJECT TO APPROVAL BY REFERENDUM IF REQUIRED BY THE VILLAGE CHARTER OR FLORIDA LAW, IN AN AMOUNT NOT TO EXCEED \$50,000,000 TO FINANCE THE COSTS OF RELOCATING EXISTING OVERHEAD UTILITY INFRASTRUCTURE (ELECTRIC, TELEPHONE, AND CABLE) TO AN UNDERGROUND LOCATION, INCLUDING ALL RELATED COSTS SUCH AS ROADWAY AND STORMWATER IMPROVEMENTS, WATER MAIN REPLACEMENTS, AND LANDSCAPING UPGRADES, AND TO USE A PORTION OF THE PROCEEDS OF SUCH BONDS TO REIMBURSE EXPENDITURES PAID OR INCURRED PRIOR TO THE DATE OF ISSUANCE THEREOF; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Key Biscayne, Florida (the "Village") has determined that it is in the best interest of the Village to relocate existing overhead utility infrastructure in the Village (i.e., electric, telephone, and cable) to an underground location; and

WHEREAS, the Village intends to issue tax-exempt bonds (the "Bonds"), subject to approval by referendum if required by the Village Charter or Florida law, for the purpose of financing the costs of relocating the existing overhead utility infrastructure (i.e., electric, telephone, and cable) to an underground location, including all related costs such as roadway and stormwater improvements, water main replacements, and landscaping upgrades (the "Project"); and

WHEREAS, a portion of the costs of the Project may be paid before the Bonds are issued in anticipation of the reimbursement of such expenditures from proceeds of the Bonds; and

WHEREAS, Section 1.150-2 of the Federal income tax regulations requires the Village to officially declare its intent to use proceeds of the Bonds to reimburse expenditures paid prior to issuance thereof as a prerequisite to the proceeds being treated as used for reimbursement purposes;

and

WHEREAS, the Village Council finds that the adoption of this Resolution is in the best interest and welfare of the residents of the Village.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA:

Section 1. Recitals. That each of the above-stated recitals are hereby adopted, confirmed, and incorporated herein.

Section 2. Expression of Intent. That the Village Council intends to issue tax-exempt Bonds in the amount necessary to finance the costs of the Project. The maximum principal amount of the Bonds expected to be issued for this Project is \$50,000,000. This Resolution does not commit the Village to issue the Bonds, but is adopted solely for the purposes of complying with the requirements of the Code of Federal Regulations, Title 26, §1.150-2. No bonds are being issued hereby. The issuance of the Bonds shall be subject to all requirements of the Village Charter and Florida law, including, as applicable, approval of the imposition of a special assessment for the Project by referendum, approval of the Bonds by referendum, and approval of the Bonds by subsequent ordinance of the Village Council.

Section 3. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED AND ADOPTED this ____ day of _____, 2019.

ATTEST:

MICHAEL W. DAVEY, MAYOR

JENNIFER MEDINA, CMC
VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY