



VILLAGE OF KEY BISCAYNE

Department of Building, Zoning and Planning

Village Council

Robert L. Vernon, *Mayor*
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Director

Jud Kurlancheek, AICP

Chief Building Official
Eugenio M. Santiago, P.E.

DT: July 23, 2007

TO: Honorable Mayor and Members of the Village Council

FR: Jud Kurlancheek, Interim Village Manager/BZP Director

RE: Harbor Drive Streetscape Project: Southwest side of the Presbyterian Church to the Southwest side of The Yacht Club

RECOMMENDATION

It is recommended that the attached resolution be approved which authorizes sidewalk and curbing improvements in the above described area. The Council has previously authorized funding for this work.

EXPLANATION

The Village Council has approved funding for improvements on the north and west sides of Harbor Drive from the Fernwood Road Circle to the north side of the Yacht Club. These improvements have been approved by the two churches and The Yacht Club. The area in from the churches is under construction.

In order to complete the street work during the summer in front of The Yacht Club, Staff is requesting that the attached resolution be approved. This work includes the 8 ft. wide sidewalk, curbing, and seating area in front of the Hacienda Canal. The balance of the work, including landscaping and lighting, will be bid out for the entire project from Fernwood Road Circle to the southwest side of The Yacht Club. The Landscape Committee is assisting the Staff in selecting the plantings for the entire project.

RESOLUTION NO. 2007- _____

A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING YACHT CLUB FRONTAGE, WEST OF WOODCREST DRIVE, PORTION OF HARBOR DRIVE IMPROVEMENT PROJECT; AUTHORIZING SIXTH CHANGE ORDER TO CONSTRUCTION CONTRACT BETWEEN THE VILLAGE AND M. VILA AND ASSOCIATES, INC., IN ORDER TO PROVIDE FOR CERTAIN WORK ON HARBOR DRIVE AS EXTENTION OF WORK TO BE DONE BY THE CONTRACTOR OF THE CRANDON BOULEVARD IMPROVEMENTS - PHASE II AND III PROJECTS; PROVIDING FOR APPROVAL OF CHANGE ORDER NO. 6 TO CONTRACT FOR CONSTRUCTION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR EFFECTIVE DATE.

WHEREAS, pursuant to public bidding process, the Village previously entered into a contract for construction of Crandon Boulevard Improvements - Phase II with M. Vila and Associates, Inc.; and

WHEREAS, subsequently, the Village solicited competitive bids for the construction of Crandon Boulevard Improvements - Phase III (the "Crandon Project"); and

WHEREAS, no responsive bid was received by the Village concerning the construction of Crandon Boulevard Improvements - Phase III; and

WHEREAS, accordingly, pursuant to Section 255.20(1)(c)(2), Florida Statutes, the Village Council found that the mandatory competitive bidding requirements of that statute were rendered non-applicable for Phase III of the Crandon Project since competitive bids were solicited but no responsive bid was received; and

WHEREAS, the Village Council further found, upon advice of the Village Attorney, that the Village Council may waive the competitive bidding required by the Village Code pursuant to Village Code Section 2-85, upon the Council finding, as it did find, that it was impractical to

again apply such competitive bidding procedures in light of the need to expeditiously commence and complete the Crandon Boulevard Improvements – Phase III, and that further efforts at competitive bidding were not otherwise mandated by state law, as described above; and

WHEREAS, the Village Project Engineer and Owner’s Representative successfully negotiated a proposed change order with M. Vila and Associates, Inc., the Crandon Boulevard Improvements – Phase II contractor (the “Contractor”), for the extension of the services of the Contractor for the Crandon Boulevard Improvements – Phase III, as described in Resolution No. 2006-43; and

WHEREAS, subsequently , pursuant to further Resolutions of the Village Council, additional work was assigned to the Contractor via Change Orders # 4 and # 5 , as described in those Resolutions, for a portion of the Harbor Drive project which is necessary to be completed during school recess, and for utility crossing work essential to be done to implement Phase III of the Crandon Project and avoid disruption with the Water, Sewer, Reuse Water project; and

WHEREAS, work is presently underway for Phase III of the Crandon Project; and the Contractor presently has work crews which are readily available; and

WHEREAS, the Village Council, upon advice from the Village Manager and the Project Engineer (“C3TS”) and the Village’s Owner’s Representative, now finds that it is necessary to expeditiously implement and construct a certain final segment (the “Yacht Club Frontage Project”) of the Harbor Drive improvement project (the “Harbor Drive Project”) which is an area situated west of Woodcrest Drive ; and

WHEREAS, the Yacht Club Frontage Project consists of heavy civil work , including sidewalks, curb, drainage, crosswalks, asphalt, and installation of street lighting conduit , and

once completed will leave only landscaping and irrigation work remaining for the Harbour Drive Project; and

WHEREAS, the isolation and completion of the Yacht Club Frontage Project heavy civil work, as provided herein, will enable the Village to subsequently solicit bids for all of the necessary landscaping and irrigation work for the Harbor Drive Project, thereby enhancing the pool of potential bidders for that specialized landscaping and irrigation work and avoiding the necessity to mix that work with incompatible heavy civil work; and

WHEREAS, upon advice from the Village Attorney, the Village Council finds that the Village Council may waive the competitive bidding required by the Village Code for the Yacht Club Frontage Project pursuant to Village Code Section 2-85, upon the Council finding, as is hereby found, that it is impractical to apply competitive bidding procedures in light of the need to expeditiously commence and complete the Yacht Club Frontage Project, and that competitive bidding is not mandated by State law for the Yacht Club Frontage Project since the cost of that project does not exceed the bidding threshold of Sec. 255.20 (1), Florida Statutes, as adjusted by Sec. 255.20(2), Florida Statutes; and

WHEREAS, the Village's Project Engineer and Owner's Representative have successfully negotiated a proposed change order (the "Change Order No. 6") with the Contractor for the extension of the Crandon Project services of the Contractor for the Yacht Club Frontage Project, as described herein; and

WHEREAS, the Village Council finds that it is in the best interest of the Village to proceed as indicated in this Resolution.

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

Section 1. Recitals Adopted. That each of the recitals stated above is hereby adopted and confirmed.

Section 2. Agreement Approved, Specification of Funds, Conditions.

A. Change Order Approved: That the Change Order No. 6 to the Contract for Construction (the "Agreement"), in substantially the form attached hereto, between the Contractor and the Village for construction of the Yacht Club Frontage Project is hereby approved, and the Village Manager is hereby authorized to execute the Agreement on behalf of the Village, once approved as to form and legal sufficiency by the Village Attorney, and subject to the provisions and conditions of this Resolution.

B. Funding Source:

(i.). That funding for the Yacht Club Frontage Project shall be provided through funding allocated to the Master Plan Initiatives, and in accordance with the Village Manager's Memorandum which accompanies this Resolution.

(ii). That the total cost of the work for the Yacht Club Frontage Project shall not exceed the dollar amount specified in Change Order No. 6 and shall, in any event, not exceed One Hundred Eighty Thousand (\$ 180,000.00) Dollars, in the absence of further Village Council authorization.

C. Conditions: That the Agreement shall be subject to the condition precedent that Village funds are available and budgeted for the accomplishment of the Work for this Yacht Club

Frontage Project. Further, the approval of the Agreement shall be subject to the following conditions, which shall be incorporated into the Agreement by reference, as follows:

- (i) Contractor agrees that in the event that a referendum or initiative measure is adopted at an election by the majority of the electors of the Village voting on such measure, which operates to prohibit the construction of the Yacht Club Frontage Project, the Village Council shall have the authority, within thirty (30) days after any such event, to terminate the Contract by providing written notice of termination to the Contractor. In the event of such termination, the Village shall not be liable to Contractor for payment of any supplemental compensation, penalties, damages, loss of profits, termination fee or demobilization fee as a result of such termination, and the Contractor shall only be paid by the Village in accordance with the Contract, for the portion of the Work for the Yacht Club Frontage Project which has been performed by Contractor up to the time of notice of termination of the Contract. The Contractor shall be entitled to recover from the Village payment for proven loss with respect to materials, equipment, tools, and construction equipment and machinery, including reasonable overhead, and profit earned on the Yacht Club Frontage Project prior to the date of termination.
- (ii) Pursuant to Village Charter Section 3.07(b), this Resolution shall serve as the capital project authorizing Resolution for the Yacht Club Frontage Project, and a further authorizing resolution or ordinance, as applicable, shall be required for the remaining portions of the Harbor Drive Project.

Section 3. Implementation. That the Village Manager is hereby authorized to take any action which is necessary to implement the purposes of this Resolution and the Agreement.

Section 4. Effective Date. That this Resolution shall be effective immediately upon adoption hereof.

PASSED AND ADOPTED this ____ day of July, 2007.

ROBERT VERNON, MAYOR

ATTEST:

CONCHITA H. ALVAREZ, CMC,
VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

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