

**ORDINANCE NO. 2009-8**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA CONCERNING THE VILLAGE'S WASTEWATER PROJECT; RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE CONSTRUCTION LOAN APPLICATION; AUTHORIZING THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCE; PROVIDING FOR CONFLICTS, SEVERABILITY AND EFFECTIVE DATE.**

**WHEREAS**, Florida Statutes provide for state loans to local governmental agencies to finance the construction of water pollution control facilities; and

**WHEREAS**, Florida Administrative Code Rules require authorization to apply for loans, to establish pledged revenues, to designate an authorized representative; to provide assurances of compliance with loan program requirements; and to enter into a loan agreement; and

**WHEREAS**, the State Revolving Fund loan priority list designates Project No. WW120850050 (the "Project") of the Village of Key Biscayne (the "Village") as eligible for available construction funding; and

**WHEREAS**, the Village intends to enter into a loan agreement (the "Loan Agreement") with the Department of Environmental Protection (the "DEP") under the State Revolving Fund for Project financing.

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

**Section 1.    Recitals.** That the foregoing findings are incorporated herein by

reference and made a part hereof.

**Section 2.**     **Authorization to Apply.**   That the Village is authorized to apply for a loan from the State Revolving Fund to finance construction of the above-referenced Project.

**Section 3.**     **Pledged Revenues.**   That the revenues pledged for the repayment of the loan described in the Loan Agreement shall consist of Communications Services Tax revenues received by the Village. No pledge of the Village's Communications Services Tax has been previously made for any other purpose.

**Section 4.**     **Village Manager Authorization.**   That the Village Manager is hereby designated as the authorized representative of the Village to execute the Loan Application and to provide the assurances and commitments required by such Loan Application; to represent and act for the Village in carrying out the Village's responsibilities under the Loan Agreement and to delegate responsibility to appropriate Village staff to carry out technical, financial, and administrative activities associated with the Loan Agreement.

**Section 5.**     **Authorization to Execute Loan Agreement.**   That the Village Manager is hereby designated as the authorized representative of the Village to execute the Loan Agreement in substantial conformity with the form of Loan Agreement attached hereto as Exhibit "A", on behalf of the Village of Key Biscayne, which Loan Agreement will become a binding obligation in accordance with its terms when signed by both parties.

**Section 6.**     **Legal Authority.**   That the legal authority for borrowing monies to construct this project is provided to the Village by Section 166.021, Florida Statutes, and Section 166.111, Florida Statutes.

**Section 7.** **Conflicts.** All resolutions or parts of resolutions and all ordinances or parts of ordinances in conflict with any of the provisions of this ordinance are hereby repealed to the extent of any conflicting provisions.

**Section 8.** **Severability.** 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 9.** **Effective Date.** This Ordinance shall be effective upon adoption on second reading.

PASSED AND ADOPTED on first reading this 9th day of June, 2009.

PASSED AND ADOPTED on second reading this 23rd day of June, 2009.

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MAYOR ROBERT L. VERNON

ATTEST:

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CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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VILLAGE ATTORNEY



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