

ORDINANCE NO. 2007-

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE"), CONCERNING THE PURCHASE OF LAND AND IMPROVEMENTS LOCATED AT 200 HARBOR DRIVE IN THE VILLAGE (THE "PROPERTY"); AUTHORIZING THE VILLAGE TO PURCHASE THE PROPERTY AS DESCRIBED HEREIN; AUTHORIZING THE EXPENDITURE OF FUNDS; PROVIDING FOR FINANCING CONDITION; PROVIDING FOR NOTICE OF ORDINANCE ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council of the Village of Key Biscayne, Florida (the "Village") desires to authorize and provide for the purchase of the land and improvements thereon which are located at 200 Harbor Drive in the Village of Key Biscayne, as legally described in Exhibit "A", which is attached hereto and incorporated herein (the "Property"), as provided 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 (the "Project") consists of the purchase of the Property.
- C. The Property is to be acquired for Village purposes.
- D. The cost of the Project is approximately Five Million Eight Hundred Thousand (\$5,800,000.) Dollars. Financing costs shall also be applicable.

Section 3. Project Authorized; Funding Conditions.

A. That the Project, as described herein, is hereby authorized and the purchase of the Property is hereby authorized and approved, subject to the conditions and requirements provided herein.

B. That the Village Manager is hereby authorized, on behalf of the Village, to accept and execute the Assignment and Assumption of Contract (the "Assignment") in substantially the form which is attached hereto as Exhibit "B", once approved by the Village Attorney as to form and legal sufficiency, subject to the conditions of this ordinance.

C. That the Village Manager is hereby authorized to sign all closing papers and to consummate the purchase and acquisition of the Property, subject to the condition precedent of obtaining financing for the transaction, and subject to the approval of the Village Attorney as to form and legal sufficiency.

D. That the Village Manager is authorized to take all action necessary to implement this Ordinance, and is authorized to expend Village funds for the acceptance of the Assignment and for the purchase of the Property pursuant to Village budget appropriations, subject to the applicable financing conditions which are established.

E. That the purchase of the Property 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 and other conditions which are referenced or described herein or are required by applicable law.

F. That the use and development of the Property shall be subject to the applicable provisions of Section 30-102 of the Land Development Regulations.

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 “C”. 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 “D”. 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 4th day of September, 2007.

PASSED AND ADOPTED on second reading this 25th day of September, 2007.

MAYOR ROBERT L. VERNON

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

EXHIBIT "A"
LEGAL DESCRIPTION

Lot 27, Block 17, Fourth Addition to Tropical Isle Homes Subdivision,
according to the plat thereof, as recorded in Plat Book 53, Page 39, of the
Public Records of Miami-Dade County, Florida.

EXHIBIT "B"
ASSIGNMENT AND ASSUMPTION OF CONTRACT

ASSIGNMENT AND ASSUMPTION OF CONTRACT

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT OF CONTRACT (this "Assignment and Assumption"), dated as of the ___ day of _____ 2007, by and between Edward W. Easton, Trustee, ("Easton") and The Village of Key Biscayne, a Florida municipal corporation ("The Village").

WITNESSETH:

WHEREAS, Easton is the purchaser under that certain Contract for Purchase and Sale dated as of August 6, 2007 (the "Contract") by and between Easton, as "Buyer", and Grace Walther, as trustee and beneficiary "Seller" for the sale and purchase of the property located in Miami-Dade County, Florida with the Folio Number 24-4232-006-0210 and described in Exhibit "A" attached hereto and made of part hereof.

NOW, THEREFORE, for and in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in consideration of the mutual covenants and conditions herein contained, Easton and The Village hereby agree as follows:

1. The recitals set forth above are true and correct in all respects and are incorporated herein by this reference. Capitalized terms not otherwise defined herein shall have the respective meanings assigned to such terms in the Contract.

2. Easton hereby assigns, sells and transfers to The Village all of Easton's right, title and interest in, to and under the Contract, excluding, however, all of Easton's right, title and interest in and to all portions of the Deposit and any interest thereon to which Easton may be entitled, **TO HAVE AND TO HOLD** the same unto The Village, its successors and assigns, forever, from and after the date hereof, subject to the terms, covenants, conditions and provisions of the Contract.

3. The Village hereby accepts the foregoing assignment and unconditionally assumes and agrees to perform all of the obligations of Easton under the Contract. In the event The Village does not perform its obligations under the Contract and causes a default under the Contract, The Village shall indemnify Easton for any amounts advanced as a Deposit under the Contract. Upon The Village's reimbursement to Easton of any amounts advanced as a Deposit, the parties shall be relieved of any and all obligations to one another.

4. Each party represents and warrants to the other that it has full legal power and authority to execute and deliver this Assignment and Assumption and to consummate the transactions contemplated hereby.

5. This Assignment and Assumption is made without any covenant, warranty or representation by, or recourse against, Easton or Easton's affiliates of any kind whatsoever except as set forth herein or in the Agreement. This Assignment and Assumption shall survive the Closing upon which this

Assignment and Assumption has been executed.

6. This Assignment and Assumption may be executed in counterparts, each of which shall be deemed an original but all of which shall constitute one and the same instrument. A copy of this Assignment and Assumption bearing a facsimile signature shall be as effective as a copy bearing an original signature.

IN WITNESS WHEREOF, this Assignment and Assumption has been executed on the date and year first above written.

Edward W. Easton, Trustee:

By: _____

Name: Edward W. Easton

**The Village of Key Biscayne, a Florida
municipal corporation:**

By: _____

Name: Genaro Iglesias

Title: Village Manager

EXHIBIT "C"
PUBLIC NOTICE

Pursuant to Village of Key Biscayne Charter Section 4.03(9), notice is hereby provided that on Tuesday, September 25, 2007, 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 purchase of land and the improvements situated thereon which is located at 200 Harbor Drive in Key Biscayne, Florida (the "Property") shall be heard by the Village Council, as follows:

ORDINANCE NO. 2007-_____

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE"), CONCERNING THE PURCHASE OF LAND AND IMPROVEMENTS LOCATED AT 200 HARBOR DRIVE IN THE VILLAGE (THE "PROPERTY"); AUTHORIZING THE VILLAGE TO PURCHASE THE PROPERTY AS DESCRIBED HEREIN; AUTHORIZING THE EXPENDITURE OF FUNDS; PROVIDING FOR FINANCING CONDITION; PROVIDING FOR NOTICE OF ORDINANCE ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Capital Project: The Project consists of the purchase of the Property for Village purposes. The subsequent use and development of the Property by the Village will be subject to further proceedings pursuant to Village Code Section 30-102.

Cost: The projected cost of the Project is approximately Five Million Eight Hundred Thousand (\$5,800,000) Dollars. Financing costs shall also be applicable. The Project shall not be accomplished unless the Village obtains financing, and is to be authorized subject to such financing condition.

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 "D"

PUBLIC NOTICE

(POSTCARD TO ELECTORS)

Pursuant to Village of Key Biscayne Charter Section 4.03(9), notice is hereby provided that on Tuesday, September 25, 2007, 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 Purchase of Property at 200 Harbor Drive (the "Project") shall be heard by the Village Council.

Capital Project: The purchase of the land and improvements situated at 200 Harbor Drive in Key Biscayne, Florida, to be acquired for Village purposes, subject to further proceedings concerning use and development by the Village under Village Code Section 30-102.

Cost: The cost of the Project is approximately \$5.8 Million Dollars, plus financing costs. The Project shall not be accomplished unless the Village obtains financing, and is to be authorized subject to such financing condition.

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).