



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

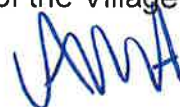
Office of the Village Manager

MEMORANDUM

Village Council
Mayra P. Lindsay, *Mayor*
Franklin H. Caplan, *Vice Mayor*

Luis F. de la Cruz
Gary R. Gross
Allison McCormick
Brett G. Moss
Katie Petros

Village Manager
Andrea Agha

DATE: October 9, 2018
TO: Honorable Mayor and Members of the Village Council
FROM: Andrea Agha, Village Manager 
RE: Resolution of the Village Council Authorizing the sale of Equipment.

RECOMMENDATION

It is recommended that the Village Council authorize the Village Manager to sell surplus firefighting equipment, 2003 Pierce Skyboom Fire Truck.

BACKGROUND

Village of Key Biscayne Ordinance No. 2003-4 (Exhibit A) provided the authorization for the purchase of a Pierce Skyboom Fire Truck in 2003. In 2018, the Pierce Skyboom was replaced by a new Fire Apparatus from Pierce Manufacturing. The purchase of the new apparatus was authorized by Ordinance No. 2017-02 (Exhibit B). The attached resolution authorizes the Village Manager to sell the 2003 Pierce Skyboom Fire Truck.

The Village Code does not define a process for the disposition of surplus assets. Notwithstanding, staff obtained competitive proposals for the sale. The Village anticipates the sale yield between \$40,000 and \$55,000 in unrestricted revenue. The proceeds of the sale will be allocated to the Villages fund balance reserve. The sale of this asset, currently valued at \$0.00 pursuant to GAAP, does not alter the FY19 budget.

Reviewed by Mr. Chad Friedman from Weiss, Serota, Helfman, Cole & Bierman as to form and legal sufficiency.

RESOLUTION NO. 2018-_____

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, DECLARING A FIRE TRUCK AS SURPLUS PROPERTY; AUTHORIZING THE SALE OR DISPOSITION OF SURPLUS PROPERTY; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on March 14, 2017, the Village of Key Biscayne (“Village”) adopted Ordinance No. 2017-2, approving the purchase of a fire apparatus and equipment from Pierce Manufacturing, Inc. to better serve the Village in emergency situations and to replace the existing apparatus and equipment; and

WHEREAS, the Village’s Fire Department recommends that the Village Council declare a 2003 Pierce Dash Jak-4, Vin No. 4P1CT02593A003326 (the “Vehicle”) as surplus property as the Vehicle is no longer needed in light of the purchase authorized by Ordinance No. 2017-2; and

WHEREAS, the Village Council may authorize the disposition of surplus property; and

WHEREAS, the Village Council desires to declare the Vehicle as surplus property and authorize the Village Manager to sell or otherwise dispose of the surplus Vehicle; and

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

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

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

Section 2. Declaration of Surplus Property. That the Vehicle has become obsolete, has outlived its usefulness, has become inadequate for the public purposes for which it was

intended, or is no longer needed for public purposes. Accordingly, the Village Council declares the Vehicle to be surplus personal property of the Village.

Section 3. Authorizing Sale or Disposition of Surplus Property. That the Village Manager is hereby authorized to sell or dispose of the surplus Vehicle by public auction or other procedure determined by the Village Manager to be in the best interests of the Village. Any surplus property items acquired by the Village pursuant to governmental grant programs shall only be disposed of in accordance with procedures and criteria applicable to such grant programs.

Section 4. Implementation. That the Village Manager is authorized to take any and all action necessary to implement this Resolution and the purposes hereof.

Section 5. Effective Date. That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this _____ day of _____, 2018.

MAYOR MAYRA PEÑA LINDSAY

ATTEST:

JENNIFER MEDINA, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY

Exhibit "A"

ORDINANCE NO. 2003-4

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE"), CONCERNING THE ACQUISITION OF FIRE TRUCKS FOR THE VILLAGE FIRE RESCUE DEPARTMENT; AUTHORIZING AND PROVIDING FOR THE VILLAGE TO PURCHASE FIRE FIGHTING EQUIPMENT, TO-WIT: ONE (1) NEW PIERCE SKYBOOM AND ONE (1) NEW PIERCE PUMPER; AUTHORIZING EXPENDITURE OF FUNDS; AUTHORIZING AND APPROVING MASTER LEASE AGREEMENT AND RELATED DOCUMENTS; PROVIDING FOR NOTICE OF ORDINANCE ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village Council, as the governing body of the Village of Key Biscayne (the "Village"), desires to obtain certain fire fighting equipment (the "Equipment") for the Village Fire Rescue Department as described in Equipment Schedule No. 01 to the Master Lease Agreement (collectively, the "Lease") with Leasing 2, Inc., the form of which Lease has been available for review by the Village Council prior to this meeting; and

WHEREAS, the Equipment is essential for the Village to perform its governmental functions; and

WHEREAS, the funds made available under the Lease will be deposited into an Escrow Account pursuant to the Lease and will be applied to the acquisition of the Equipment in accordance with the Lease; and

WHEREAS, based upon the calculations of the Finance Department, the Village Council finds that this transaction complies with the debt limit provisions of Section 4.10(b)(i) of the Village Charter; and

WHEREAS, the Village has taken the necessary steps, including those relating to any applicable legal bidding requirements, to arrange for the acquisition of the Equipment; and

WHEREAS, the Village proposes to enter into the Lease with Leasing 2, Inc., substantially in the form presented at this meeting; and

WHEREAS, the Village Council hereby finds and determines that the terms of the Lease and related instruments (collectively, the "Financing Documents") in substantially the form presented at this meeting and incorporated in this Resolution are in the best interests of the Village for the acquisition of the Equipment.

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

Section 1. Recitals Adopted. That the recitals stated above are hereby adopted and confirmed.

Section 2. Capital Project Authorizing Ordinance. That pursuant to Village Charter Sec. 3.07(b) and Sec. 4.03(9), this Ordinance shall constitute a Capital Project Authorizing Ordinance. The Capital Project is the purchase of fire fighting equipment, to-wit: one (1) New Pierce Skyboom and one (1) New Pierce Pumper (the

"Equipment") for the Village of Key Biscayne Fire Rescue Department, at a projected cost of Eight Hundred Sixty One Thousand, Seven Hundred Forty-Four (\$861,744.00) Dollars. However, the portion of the Equipment cost which shall be financed is Six Hundred Ninety-One Thousand, Seven Hundred Forty-Four (\$691,744.00) Dollars, plus fixed annual financing costs of a range of not less than 3% and not more than 5% for the six (6) year (73 1/2 month) term of the lease - purchase transaction, as payable in seven (7) annual installment payments.

Section 3. Equipment Purchase Authorized.

A. That the purchase of the Equipment is hereby authorized. The Equipment is further described in the Master Lease Agreement and Equipment Schedule No. 01 (collectively the "Lease") between the Village and Leasing 2, Inc., a copy of which is set forth in Exhibit "A," attached hereto and incorporated herein. The Equipment shall be utilized by the Village Fire Rescue Department to provide fire fighting and rescue services for the Village.

B. That the Village Council hereby approves the Lease, and authorizes the Village Manager to execute the Lease, once approved by the Village Attorney for legal sufficiency, for the acquisition of the Equipment for a cost which is consistent with this Ordinance and the Lease.

C. That the Village Manager is authorized to take all action necessary to implement this Ordinance and the Lease, and is authorized to expend Village funds for the purchase of the Equipment pursuant to the Lease and in accordance with Village budget appropriations.

D. That the Financing Documents and the acquisition and financing of the Equipment under the terms and conditions as described in the Financing Documents are hereby approved. The Village Manager and any other officer of the Village who shall have power to execute contracts on behalf of the Village be, and each of them hereby is authorized to execute, acknowledge and deliver the Financing Documents with any changes, insertions and omissions therein as may be approved by the Village Attorney such approval to be conclusively evidenced by such execution and delivery of the Financing Documents. The Village Clerk of the Village is authorized to affix the official seal of the Village to the Financing Documents and attest the same.

E. That the proper officers of the Village, be and each of them hereby is, authorized and directed to execute and deliver any and all papers, instruments, opinions, certificates, affidavits and other documents and to do or cause to be done any and all other acts and things necessary or proper for carrying out this Resolution and the Financing Documents.

F. That the closing of this transaction and the effective date of the Lease shall be as of October 1, 2003, provided that this may be revised to an earlier date, so long as the debt limit provisions of Village Charter Section 4.10(b)(i) are complied with as determined by the Village Manager after consultation with the Finance Director and Village Attorney.

G. That pursuant to Section 265(b) of the Internal Revenue Code of 1986, as amended (the "Code"), Village hereby specifically designates the Lease as a "qualified tax-exempt obligation" for purposes of Section 265(b)(3) of the Code.

Section 4. Notice of Ordinance Adoption. That pursuant to Village Charter Sec. 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 ("Second Reading Notice"). The Second Reading Notice shall include a brief description of the Equipment 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 "B." 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 "C." 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 22nd day of April, 2003.

PASSED AND ADOPTED on second reading this 13th day of May, 2003.

MAYOR ROBERT OLDAKOWSKI

ATTEST:

CONCHITA H. ALVAREZ, CMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

VILLAGE ATTORNEY
103001\ordinances\acquisition of firetrucks

EXHIBIT "A"

MASTER LEASE AND EQUIPMENT SCHEDULE NO. 01

EXHIBIT "B"

PUBLIC NOTICE

Pursuant to Village of Key Biscayne Charter Section 4.03(9), notice is hereby provided that on Tuesday, May 13, 2003 at 7:00 p.m., in the Village Council Chamber, at 560 Crandon Blvd., Key Biscayne, FL, a public hearing on the second and final reading of an ordinance concerning the Fire Truck equipment acquisition capital project shall be heard by the Village Council, as follows:

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA (THE "VILLAGE"), CONCERNING THE ACQUISITION OF FIRE TRUCKS FOR THE VILLAGE FIRE RESCUE DEPARTMENT; AUTHORIZING AND PROVIDING FOR THE VILLAGE TO PURCHASE FIRE FIGHTING EQUIPMENT, TO-WIT: ONE (1) NEW PIERCE SKYBOOM AND ONE (1) NEW PIERCE PUMPER; AUTHORIZING EXPENDITURE OF FUNDS; AUTHORIZING AND APPROVING MASTER LEASE AGREEMENT AND RELATED DOCUMENTS; PROVIDING FOR NOTICE OF ORDINANCE ADOPTION; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

Capital Project: Acquisition of One (1) New Pierce Skyboom;
Acquisition of One (1) New Pierce Pumper.

Cost: The projected cost of the Equipment is \$861,744. However, the portion of this Equipment cost which shall be financed is approximately \$691,744 plus annual financing costs (anticipated to be between 3% to 5%) for the seven (7) annual installment payments of the six (6) year (73 1/2 month) term of the lease - purchase transaction.

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.

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 W. McIntyre Street, Key Biscayne, FL 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 "C"

PUBLIC NOTICE

(Postcard to Electors)

Pursuant to Village of Key Biscayne Charter Section 4.03(9), notice is hereby provided that on Tuesday, May 13, 2003 at 7:00 p.m., in the Village Council Chamber, at 560 Crandon Blvd., Key Biscayne, FL, a public hearing on the second and final reading of a Capital Project Authorizing Ordinance for the Fire Truck equipment acquisition capital project shall be heard by the Village Council.

Capital Project: Acquisition of One (1) New Pierce Skyboom;
Acquisition of One (1) New Pierce Pumper.

Cost: The projected cost of the Equipment is \$861,744. However, the portion of this

Equipment cost which shall be financed is approximately \$691,744 plus annual financing costs (anticipated to be between 3% to 5%) for the seven (7) annual installment payments of the six (6) year (73 1/2 month) term of the lease – purchase transaction.

For any question on this item, please contact the Village Clerk at 305-365-5506.

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).

ORDINANCE NO. 2017-2

A CAPITAL PROJECT AUTHORIZING ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING THE PURCHASE OF A FIRE APPARATUS AND EQUIPMENT FROM PIERCE MANUFACTURING, INC.; PROVIDING FOR A WAIVER OF COMPETITIVE BIDDING; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Village of Key Biscayne ("Village") Fire Rescue Department requires a new fire apparatus and equipment in order to better serve the Village in emergency situations and as a replacement to its existing apparatus and equipment; and

WHEREAS, the Village Council desires to purchase the new equipment and apparatus (the "Equipment") from Pierce Manufacturing, Inc. (the "Pierce") consistent with the proposal attached hereto as Exhibit "A" (the "Proposal"); and

WHEREAS, the Village Council finds that it is impractical, pursuant to Section 2-85 of the Village Code of Ordinances, to apply the Village's competitive bidding procedures for the purchase of the Equipment as the type of purchase contemplated by the Village has already been competitively bid by the Florida Association of Sheriffs (the "State Bid"), which resulted in contract number FSA16-VEF12.0 (the "Contract"); and

WHEREAS, the Village Council authorizes the Village Manager to execute the Proposal, in substantially the form attached hereto as Exhibit "A," provided by Pierce consistent with the terms and conditions of the State Bid and the Contract; and

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

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

Section 1. Recitals. The preceding "Whereas" clauses are ratified and incorporated as the legislative intent of this Ordinance.

Section 2. Waiver of Competitive Bidding. The Village Council hereby waives the Village's competitive bidding procedures for the purchase of the Equipment pursuant to Section 2-85 of the Village Code.

Section 3. Pierce Purchase Approved. The Village Council hereby approves the purchase of the Equipment from Pierce consistent with the Proposal, in substantially the form attached hereto as Exhibit "A," in an amount not to exceed \$960,000.00.

Section 4. Village Manager Authorized. The Village Manager is hereby authorized to execute the Proposal, in substantially the form attached hereto as Exhibit "A," with Pierce for the Equipment in an amount not to exceed \$960,000.00, consistent with the terms and conditions of the State Bid and Contract and subject to the Village Attorney's approval as to form, content and legal sufficiency.

Section 5. Implementation. The Village Council hereby authorizes the Village Manager to take any and all action necessary to implement the intent and purpose of this Ordinance.

Section 6. Effective Date. This Ordinance shall become effective immediately upon adoption on second reading.

PASSED on first reading this 21st day of February, 2017.

PASSED AND ADOPTED on second reading this 14th day of March, 2017.

Mayra Lindsay
MAYOR MAYRA PEÑA LINDSAY

ATTEST:

Conchita H. Alvarez

CONCHITA H. ALVAREZ, MMC, VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Old Firm

VILLAGE ATTORNEY





PUBLIC NOTICE

Pursuant to Section 4.03(9) of the Village Charter notice is hereby given that on March 14, 2017, 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 a Fire Apparatus and Equipment for the Fire Rescue Department shall be heard by the Village Council.

Capital Project: Purchase of a Fire Apparatus and Equipment for the Fire Rescue Department.

Cost: The cost of the purchase of the Fire Apparatus and Equipment shall not exceed \$999,211.00. The funding for this purchase has been allocated in the FY2016-17 General Fund Budget.

For any questions 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).

PROPOSAL FOR FURNISHING FIRE APPARATUS

November 22, 2016

Key Biscayne

The undersigned is prepared to manufacture for you, upon an order being placed by you, for final acceptance by Pierce Manufacturing, Inc., at its home office in Appleton, Wisconsin, the apparatus and equipment herein named and for the following prices:

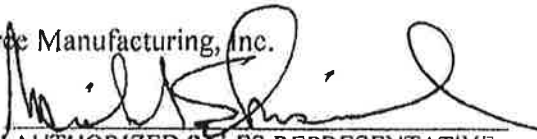
| | |
|--|---------------------|
| One (1) Pierce Enforcer 107' Ascendant based on FSA16-VEF12.0 Spec #9 | \$ 727,807.00 |
| Options per attached Proposal Option List #586 | 226,932.00 |
| 6.5% Discount on options | (14,450.00) |
| Travel for 2 trips to factory for 3 personnel, includes hotel, meals and airfare Inc | |
| Optional Department NFPA Equipment SVQ17881 = \$73,652.42 | 73,652.42 |
| Manufacturer discount for factory pre-engineering savings. | (14,730.00) |
| Optional Pre Payment | |
| \$954,493.00 Paid ten day from P.O. will include a 44,718.00 discount | |
| Pre Payment includes 100% Performance Bond | Total \$ 999,211.00 |

Said apparatus and equipment are to be built and shipped in accordance with the specifications hereto attached, delays due to strikes, war, or intentional conflict, failures to obtain chassis, materials, or other causes beyond our control not preventing, within about 14 months after receipt of this order and the acceptance thereof at our office at Appleton, Wisconsin, and to be delivered to you at Key Biscayne, FL.

The specifications herein contained shall form a part of the final contract, and are subject to changes desired by the purchaser, provided such alterations are interlined prior to the acceptance by the company of the order to purchase, and provided such alterations do not materially affect the cost of the construction of the apparatus.

The proposal for fire apparatus conforms with all Federal Department of Transportation (DOT) rules and regulations in effect at the time of bid, and with all National Fire Protection Association (NFPA) Guidelines for Automotive Fire Apparatus as published at the time of bid, except as modified by customer specifications. Any increased costs incurred by first party because of future changes in or additions to said DOT or NFPA standards will be passed along to the customers as an addition to the price set forth above.

Unless accepted within 30 days from date, the right is reserved to withdraw this proposition.

Pierce Manufacturing, Inc.
 By: 
 AUTHORIZED SALES REPRESENTATIVE
 Michael Schneider



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