



# VILLAGE OF KEY BISCAIYNE

Office of the Village Manager

*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

DATE: June 25, 2018  
TO: Honorable Mayor and Members of the Village Council  
FROM: John C. Gilbert, Village Manager  
RE: Underground Special Assessment Methodology Consultant

*Village Manager*  
John C. Gilbert

## RECOMMENDATION

It is recommended that the Village Council approve the attached Resolution authorizing the Village Manager to contract with Raftelis to perform a Utility Underground Special Assessment Methodology Study in an amount not to exceed \$97,561.00.

## BACKGROUND

As part of the preparation of the Underground Utility Master Plan, Kimley Horn recommended the use of a consultant to prepare the special assessment methodology. Village staff received two proposals for an Underground Special Assessment Methodology Consultant. The Underground Utility Task Force interviewed both firms. On May 31, 2018, the Task Force made a motion to recommend Raftelis as the Underground Special Assessment Methodology consultant.

The purpose of hiring a consultant is to prepare a methodology for a special non-ad valorem assessment program as the funding mechanism to pay for the underground improvements. The methodology developed will identify factors that provide a special benefit to properties that have their utilities undergrounded. The special benefits received by properties from these types of improvements are: improved safety, improved reliability and improved aesthetics.

Raftelis has worked with the Town of Palm Beach, Jupiter Inlet Colony and the Town of Gulf Stream in preparing the assessment methodology for their undergrounding projects.

Funding for this project will come from the Capital Improvement Plan- Burying of Powerlines line item.

Reviewed by Ms. Haydee Sera of Weiss Sercta Helfman Cole & Bierman, P.L. as to form and legal sufficiency.

**RESOLUTION NO. 2018- \_\_\_\_\_**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO CONTRACT WITH RAFTELIS TO PERFORM A UTILITY UNDERGROUNDING SPECIAL ASSESSMENT METHODOLOGY STUDY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (“Village”) desires to conduct a special assessment methodology study to determine the rate that should be assessed in connection with the Village’s utility undergrounding project (“Rate Study”); and

**WHEREAS**, the Village Council desires to engage Raftelis (“Consultant”) to perform the Rate Study; and

**WHEREAS**, Consultant has provided a proposal, attached hereto as Exhibit “A,” (the “Proposal”) to conduct the Rate Study; and

**WHEREAS**, the Village Council desires to authorize the Village Manager to enter into an agreement with the Consultant consistent with the Proposal; 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.** **Village Manager Authorized.** That the Village Manager is hereby authorized to negotiate and enter into an agreement with the Consultant that is consistent with the Proposal in an amount not to exceed \$97,567, subject to approval by the Village Attorney as to form, content, and legal sufficiency.

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

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



## PROJECT UNDERSTANDING

The Village of Key Biscayne (the "Village") desires to underground overhead utility facilities within the boundaries of the Village. As a means to fund this proposed Village-Wide utility undergrounding, the Village is considering the formation of a special non-ad valorem assessment program (Undergrounding Assessment) as the funding mechanism to pay for the improvements. The Undergrounding Assessment would be charged against properties that receive a special benefit from the proposed improvements and levied annually through the property tax bills. As such, the Village is seeking a qualified consulting team of experienced staff to assist with the development of a technically and legally defensible Undergrounding Assessment.

Leading this effort, Mr. Habib Isaac, will serve as Project Manager, and has established new non-ad valorem assessments for local agencies in Florida, including three separate Utility Undergroundings for Jupiter Inlet Colony, the Town of Gulf Stream, and the Town of Palm Beach. In addition, Mr. Isaac has led a total of twelve (12) utility undergrounding assessments, including a feasibility study on a proposed utility undergrounding for the Town of Jupiter.

The key to establishing a special assessment is the development of a sound, defensible special benefit methodology that clearly connects the proposed assessments to be charged against properties and the benefit received by such properties from the proposed improvements. In the case of undergrounding utilities, all properties already receive the utility services, which are considered a general benefit. However, the methods and means of distributing electricity and other utilities through the undergrounding of utilities is not considered a general benefit, but rather is a direct and special benefit to the properties that access the undergrounded utilities.

The means to measure the degree of special benefit is through the review of parcel data and onsite analysis of affected properties within the boundaries of the Village. Unlike other assessment programs that may be completed solely through the use of electronic data; Utility Undergrounding Assessments must incorporate findings that can only be realized through onsite fieldwork, which include unique characteristics of the neighborhoods, specific configuration and layout of the existing overhead facilities, and special circumstances of individual parcels, such as, a parcel that has already undergrounded their utilities or a home that receives its services through overhead facilities, but none of the facilities are adjacent to the property as a result of being on the end cap.

The special benefit methodology developed will identify benefit factors that provide a special benefit to properties that have their utilities undergrounded. The fundamental special benefits received by properties from these types of improvements are as follows:

**Improved safety** - The removal of overhead utility poles and lines reduces hazardous conditions or power outages from a tropical storm.

**Improved reliability** - New upgraded utility lines, cables, and facilities will be installed providing a higher level of reliability of the utility services, while reducing exposure to weather and unnecessary deterioration to the facilities.

**Improved aesthetics** - The removal of the overhead utilities will improve the overall neighborhood appearance and eliminate view impediments within the designated neighborhood.

***However, the means by which to determine the degree of special benefit received by each parcel or the specific formulas to use may vary and will incorporate the unique characteristics of the Village. Therefore, engaging an experienced team for this type of proceeding is critical to spread the cost in a fair and equitable manner in compliance with Florida Law.***

## SCOPE OF SERVICES

### **TASK 1: DATA COLLECTION**

Raftelis will send out a request for pertinent data necessary for developing a sound special assessment methodology to fund the proposed utility undergrounding. As part of this task, we will compile and evaluate parcel data for each neighborhood within the Village. Although a majority of Village parcels are residential, the special benefits received by the proposed utility undergrounding may vary from parcel-to-parcel based on the unique characteristics of each parcel; including but not limited, lot size, home square footage, street frontage, and number of developable lots. One important consideration that is a common occurrence within affluent coastal communities is when a home is built over two subdivided legal lots. It will be important to identify these parcels and make sure that the parcel isn't over-assessed for owning two lots. As such, compiling the parcel detail is one component to ensure that the assessment methodology is customized to reflect the local features of the area.

### **TASK 2: KICKOFF MEETING AND APPROACH**

After the parcel database is completed and data request submitted to the Village, a kickoff meeting will be scheduled to identify key personnel involved in the project, establish effective lines of communication, and identify an agreed upon project schedule. The Kick-off meeting will be also provide the entire team to discuss responsibilities, various project issues, policy and political considerations; budget information; availability of pertinent documentation, maps, and data, and legal concerns.

It will be equally important for the Village to obtain a clear understanding of the framework and approach that Raftelis will take in establishing the proposed utility undergrounding assessment. As this is the first of its kind for the Village, Raftelis will discuss approach, lessons learned with other utility undergroundings, and legal framework to work within for a successful and defensible special assessment methodology. Our goal is to not only provide the Village with a final product and the end of this project, but also consult the Village on the components that make up the methodology and how that may impact various parcels. In the end, the Village should feel comfortable with the methodology and understand how it was developed.

### **TASK 3: ONSITE NEIGHBORHOOD FIELDWORK**

Every neighborhood within the Village has a unique configuration and layout of its current facilities that need to be reviewed to determine the special benefits conferred on properties within each neighborhood. For utility undergroundings, accepted industry standards for determining the special benefits rendered on property include improved safety, improved reliability, and improved aesthetics. As such, unlike other special assessment programs for infrastructure or services, it is imperative to conduct onsite fieldwork of the Village to obtain a clear understanding of each property's configuration and how each property specially benefits from the three categories of benefit.

Mr. Isaac along with one of our senior analysts will walk the Village with parcel maps and parcel data to take notes regarding the special circumstances of each and every affected parcel. In addition, based on the parcel makeup and the existing overhead facility network, remarks and footnotes will be documented to account for variations in the degree of special benefit conferred on certain properties. As an example, a property may have a high concentration of overhead facilities spanning multiple side of their property when compared to other properties. In addition,

the fieldwork would also account for property owners that have already undergrounding a portion of overhead facilities adjacent to their property. These properties would not be exempt, but should receive a small credit for previously undergrounding facilities.

As these examples demonstrate, the benefit analysis cannot solely be completed offsite and must incorporate findings from onsite fieldwork. Doing so clearly tailors the assessment methodology to the specific neighborhoods of the Village and generates credibility with the respective property owners as the project moves forward with public outreach, workshops, and presentations. Based on the size of the Village, it is expected that the fieldwork will take a one (1) full week to complete. All of the data and notes compiled through the fieldwork will be uploaded into the parcel database and linked to our GIS software.

#### **TASK 4: SPECIAL BENEFIT METHODOLOGY**

Based on the previous tasks, Raftelis will develop a special benefit nexus between the proposed utility undergrounding improvements and the special benefit received by affected properties from the improvements. The special benefits conferred on properties from the undergrounding of overhead facilities include improved safety, improved reliability, and improved aesthetics. These categories of special benefit have become an accepted industry standard and has been contested and upheld as special benefits in California courts (*Bonander v. Town of Tiburon*, (2009) 46 Cal.4th 646). California has similar provisions of law regarding assessments, in which, assessments must be based on special benefits and, must be in proportion to the benefit received. In Tiburon, the court confirmed that improved safety, improved reliability, and improved aesthetics are indeed special benefits to property, but the assessment report failed to show that the assessments were proportional to the benefit received for each parcel.

The assessment methodology will take into consideration the land use designations of properties in the Village, and all of the parcel information compiled through the onsite fieldwork. The assessment methodology proposed will be designed to fairly assess affected properties within the Village. The means by which to determine the degree of special benefit received or the specific formula to use is ultimately the responsible of the Village and their consultants. Therefore, engaging an experienced team for this type of assessment program is critical to ensure all considerations have been addressed. The methodology will be discussed with the project team, and then finalized to determine the feasibility of moving forward with an utility undergrounding assessment program. The proposed assessment methodology will be discussed with staff to clearly show that a special benefit nexus was developed that fairly and proportionately apportion the project costs and that assessable parcels have been accurately classified based on the onsite fieldwork.

The assessment methodology must also identify and quantify any portion of costs that would be considered a general benefit to the public at large as these costs are not allowed to be funded through the proposed assessment. Raftelis will develop a special/general benefit analysis to ensure both benefit factors are separated and distinct, ensuring that only costs associated with special benefit is assessed. ***In both Jupiter Inlet Colony and the Town of Gulf Stream, and Town of Palm Beach, a small component of the overall utility undergrounding budget was considered a general benefit to properties outside the service area as a result of special circumstances.*** As such, our analysis will clearly identify any portion of the budget (if any) that is a general benefit, which would need to be funded by other revenue sources.



## TASK 5: PROPERTY OWNER WORKSHOPS AND COMMITTEE MEETINGS

Based on our staff's experience with other utility undergrounding assessments, property owner workshops will be necessary to properly convey the material to the affected owners or committee to obtain community buy-in on the assessment methodology. Therefore, our scope of services includes (3) workshops. Mr. Isaac and Mr. Joe Williams will be in attendance to present the assessment methodology at each workshop.

Raftelis will also be available for any additional services requested by the Village regarding the assessment. Additional services will be based on our hourly rate schedule.

Task	Task Descriptions	No of Meetings	HOURLY RATES				Total Fees & Expenses (Water/Wastewater)
			TR	PM	SC	Total	Subtotal
			\$285	\$260	\$205		
1	Data Collection		2	12	16	30	\$7,270
2	Kick-Off Meeting and Approach	1		12	8	20	\$4,961
3	On-Site Neighborhood Fieldwork			40	40	80	\$20,250
4	Special Benefit Methodology		4	32	60	96	\$22,720
5	Property Owner Workshops and Committee Meetings	3		36	24	60	\$17,340
<b>TOTAL ESTIMATED MEETINGS / HOURS</b>		<b>4</b>	<b>6</b>	<b>132</b>	<b>148</b>	<b>286</b>	
<b>EXPENSES</b>							<b>\$6,171</b>
<b>PROFESSIONAL FEES</b>			<b>\$1,710</b>	<b>\$34,320</b>	<b>\$30,340</b>	<b>\$66,370</b>	<b>\$72,541</b>

TR - Technical Reviewer (Tony Harrison)

PM - Project Manager (Habib Isaac)

SC - Senior Consultant (Joe Williams)

Tasks 6 and 7 is a separate task and with a separate budget once the Village decides whether to move forward with an Assessment Program, which would require an Utility Undergrounding Assessment Report

## TASK 6: UTILITY UNDERGROUNDING ASSESSMENT REPORT

Raftelis will establish assessment rates for each parcel based on the special benefit methodology developed in Task 1-5. As part of this task, Raftelis will prepare an Assessment Report detailing the assessment analysis and method of assessment. The Report shall include the following items:

1. A description of proposed funded public facilities;
2. Plans and specifications;
3. Cost estimate of the proposed facilities, including financing costs and incidental expenses;
4. The Method of Assessment;
5. Duration of the Assessment;
6. Boundary Map; and
7. An Assessment Roll identifying each parcel and corresponding assessment.

The Assessment Report should also be reviewed and approved by the Village Attorney prior to a presentation to the Village Council. As the report and assessment methodology is reviewed for legal sufficiency and compatibility with the tax bill method of collection, Raftelis will assign an assessment for each and every parcel within the boundaries of the Village. RFC will correspond with the County to ensure that the parcel data and corresponding assessments are in the proper format for inclusion on the County's property tax bills.



## TASK 7: PUBLIC HEARING

Raftelis will attend the public hearing to provide a brief presentation on the assessment methodology and field any questions that arise. Mr. Habib Isaac and Mr. Joe Williams will attend the Public Hearing.

Task	Task Descriptions	No of Meetings					Total Fees & Expenses (Water/ Wastewater)
			TR	PM	SC	Total	
HOURLY RATES			\$285	\$260	\$205		Subtotal
<b>TASK 6 and 7 Requires Separate Authorization from Village</b>							
6	Utility Undergrounding Assessment Report	1	4	32	40	76	\$19,240
7	Public Hearing	1		12	8	20	\$5,780
TOTAL ESTIMATED MEETINGS / HOURS		10	4	44	48	96	
PROFESSIONAL FEES			\$1,140	\$11,440	\$9,840	\$22,420	
						Total Fees	\$22,420
						Total Expenses	\$2,600
						<b>TOTAL FEES &amp; EXPENSES</b>	<b>\$25,020</b>

TR - Technical Reviewer (Tony Harrison)  
 PM - Project Manager (Habib Isaac)  
 SC - Senior Consultant (Joe Williams)