

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.

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