



## VILLAGE OF KEY BISCAYNE

### *Village Council*

Michael W. Davey, Mayor

Brett Moss, Vice Mayor

Luis Lauredo

Edward London

Allison McCormick

Franklin H Caplan

Ignacio J. Segurola

### REGULAR COUNCIL MEETING

TUESDAY, MAY 10, 2022

6:00 PM

#### **1. CALL TO ORDER/ROLL CALL OF MEMBERS**

#### **2. PLEDGE OF ALLEGIANCE**

#### **3. INVOCATION**

YOUTH PASTOR TONY GOUDIE  
KEY BISCAYNE COMMUNITY CHURCH

#### **4. BRIEF COMMENTS BY COUNCIL**

#### **5. PUBLIC COMMENTS:**

There is a (3) minute time limit for each speaker during public comments. Your cooperation is appreciated in observing the (3) minute rule. If you have a matter you would like to discuss during public comments, a request form is available at the entrance of the Council Chamber, please fill-it in and return it to the Village Clerk prior to the start of the meeting. When your name is called, please come forward to the podium. Or if you are joining the meeting remotely, please dial any of the following Zoom numbers, US: +1 (312) 626-6799 or +1 (929) 205-6099 or +1 (301) 715-8592 , and enter the Zoom Meeting ID: 231 627 8415, followed by #. There is no participant ID. Press # again. Please press \*9 to "raise your hand" which places you in a queue to speak. You will be called upon by the last three digits of your telephone number when it is your turn to speak. When called upon, please press \*6 to unmute yourself. PLEASE STATE YOUR NAME, ADDRESS, IF YOU ARE A

HIRED CONSULTANT OR VILLAGE EMPLOYEE AND/OR IF ENGAGED IN LOBBYING ACTIVITIES AND/OR REPRESENTING AN ORGANIZATION FOR THE RECORD.

**6. AGENDA:**

APPROVAL/DEFERRALS/ADDITIONS/DELETIONS/SUBSTITUTIONS/WITHDRAWALS

**7. SPECIAL PRESENTATIONS:**

7.A. RECOGNITION OF 2 KEY BISCAYNE RUGBY TEAMS AS STATE CHAMPIONS

7.B. A VIRTUAL PRESENTATION OF THE BIENNIAL RESIDENT SURVEY RESULTS GIVEN BY ETC INSTITUTE'S ASSISTANT DIRECTOR OF COMMUNITY OUTREACH RYAN MURRAY

**8. CONSENT AGENDA:**

(Consent agenda items are those which are routine, do not require discussion or explanation prior to Village Council action, or have already been discussed and/or explained and do not require further discussion or explanation. Items can be removed from the consent agenda by the request on an individual Councilmember for independent consideration provided such request is made during the approval/deferrals/additions/deletions/substitutions/withdrawals segment of the meeting, prior to the vote on the consent agenda.)

8.A. APRIL 12, 2022 MINUTES  
REGULAR COUNCIL MEETING  
[TAB 1](#)

**9. ORDINANCES: (NOT LATER THAN 7:30 P.M.)**

9.A. AN ORDINANCE  
OF THE VILLAGE OF KEY BISCAYNE, FLORIDA,  
AMENDING CHAPTER 29 "STORMWATER UTILITY SYSTEM," SECTIONS 29-2,  
ENTITLED "DEFINITIONS," 29-3, ENTITLED "FINDINGS AND DETERMINATIONS" AND  
29-4, ENTITLED "STORMWATER UTILITY FEE" OF THE VILLAGE CODE OF  
ORDINANCES RELATING TO THE VILLAGE'S STORMWATER UTILITY  
APPORTIONATE METHODOLOGY FOR ALLOCATING STORMWATER UTILITY FEES  
AND APPEALS OR ADJUSTMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR  
CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE  
DATE.  
(PUBLIC WORKS DIRECTOR JAKE OZYMAN AND CHIEF FINANCIAL OFFICER  
BENJAMIN NUSSBAUM)

(SECOND READING)

RECOMMENDATION: Approval

**TAB 2**

- 9.B. AN ORDINANCE  
OF THE VILLAGE OF KEY BISCAYNE, FLORIDA,  
AMENDING ORDINANCE NO. 2021-07 WHICH ADOPTED THE BUDGET FOR FISCAL  
YEAR 2021-2022 BY REVISING THE 2021-2022 FISCAL YEAR BUDGET (BUDGET  
AMENDMENT NO. 2); PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN  
EFFECTIVE DATE.  
(CHIEF FINANCIAL OFFICER BENJAMIN NUSSBAUM)
- (SECOND READING)

RECOMMENDATION- Approval

**TAB 3**

**10. RESOLUTIONS:**

- 10.A. A CAPITAL PROJECT AUTHORIZING RESOLUTION  
OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA,  
APPROVING AN LED LIGHTING AGREEMENT WITH THE FLORIDA POWER & LIGHT  
COMPANY FOR THE INSTALLATION OF THE EAST ENID DRIVE STREET LIGHTING  
PROJECT IN AN AMOUNT NOT TO EXCEED \$20,000.00 AND FOR MAINTENANCE,  
ENERGY, AND OTHER RELATED SERVICES FOR THE LIGHTING POLES IN AN  
AMOUNT NOT TO EXCEED \$685.00 PER MONTH; WAIVING COMPETITIVE BIDDING  
PROCEDURES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN  
EFFECTIVE DATE.  
(PUBLIC WORKS DIRECTOR JAKE OZYMAN)

RECOMMENDATION: Approval

**TAB 4**

- 10.B. A RESOLUTION  
OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA,  
AUTHORIZING THE VILLAGE MANAGER TO MAKE A NON-REFUNDABLE  
ENGINEERING DEPOSIT IN THE AMOUNT OF \$147,037 TO THE FLORIDA POWER &

LIGHT COMPANY TO REQUEST A BINDING ESTIMATE FOR THE VILLAGE-WIDE ELECTRIC FACILITIES CONVERSION PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.

(PUBLIC WORKS DIRECTOR JAKE OZYMAN)

RECOMMENDATION: Approval

[TAB 5](#)

## **11. PUBLIC COMMENTS:**

There is a (3) minute time limit for each speaker during public comments. Your cooperation is appreciated in observing the (3) minute rule. If you have a matter you would like to discuss during public comments, a request form is available at the entrance of the Council Chamber, please fill-it in and return it to the Village Clerk prior to the start of the meeting. When your name is called, please come forward to the podium. Or if you are joining the meeting remotely, please dial any of the following Zoom numbers, US: +1 (312) 626-6799 or +1 (929) 205-6099 or +1 (301) 715-8592 , and enter the Zoom Meeting ID: 231 627 8415, followed by #. There is no participant ID. Press # again. Please press \*9 to “raise your hand” which places you in a queue to speak. You will be called upon by the last three digits of your telephone number when it is your turn to speak. When called upon, please press \*6 to unmute yourself. PLEASE STATE YOUR NAME, ADDRESS, IF YOU ARE A HIRED CONSULTANT OR VILLAGE EMPLOYEE AND/OR IF ENGAGED IN LOBBYING ACTIVITIES AND/OR REPRESENTING AN ORGANIZATION FOR THE RECORD.

## **12. REPORTS AND RECOMENDATIONS:**

### **A. VILLAGE MANAGER (NOT LATER THAN 8:00 P.M.)**

Managers Report

[TAB 6](#)

### **1.) SAFE AND SECURE VILLAGE**

a. ELECTRIC SCOOTER AND MOTORIZED BICYCLE USAGE (CHIEF OF POLICE FRANK SOUSA)

b. HURRICANE PREPAREDNESS UPDATES (FIRE RESCUE CHIEF ERIC LANG)

### **2.) THRIVING AND VIBRANT LOCAL COMMUNITY AND MARKETPLACE**

a. BEACH PARK IMPROVEMENTS DESIGN (BUILDING, PLANNING AND ZONING DIRECTOR JEREMY CALLEROS GAUGER)

### **3.) ENGAGING AND ACTIVE PUBLIC SPACES AND PROGRAMS**



a. PARADISE PARK PROJECT UPDATES (PUBLIC WORKS DIRECTOR JAKE OZYMAN AND PARKS, RECREATION AND OPEN SPACES DIRECTOR TODD HOFFERBERTH)

b. BEACH OPERATIONS MAINTENANCE: SARGASSUM UPDATES (CHIEF RESILIENCE AND SUSTAINABILITY OFFICER ROLAND SAMIMY)

#### **4.) ACCESSIBLE, CONNECTED AND MOBILE VILLAGE-WIDE TRANSPORTATION**

a. CRANDON BOULEVARD TRAFFIC AND SAFETY PROJECT UPDATE (PUBLIC WORKS DIRECTOR JAKE OZYMAN)

#### **5.) RESILIENT AND SUSTAINABLE ENVIRONMENT AND INFRASTRUCTURE**

a. SEPTIC TO SEWER CONVERSION UPDATES (PUBLIC WORKS DIRECTOR JAKE OZYMAN)

#### **6.) EFFECTIVE AND EFFICIENT GOVERNMENT SERVICES**

a. PUBLIC RECORDS & ACCESS: LASERFICHE IMPLEMENTATION (CHIEF OF STAFF JOCELYNE MOUSSAVOU & IT ADMINISTRATOR MICHAEL FLEMING)

b. 3-5 YEAR INFORMATION TECHNOLOGY STRATEGIC PLAN (CHIEF OF STAFF JOCELYNE MOUSSAVOU)

c. IMPACTS OF INFLATIONARY PRESSURES (CHIEF FINANCIAL OFFICER BENJAMIN NUSSBAUM AND PUBLIC WORKS DIRECTOR JAKE OZYMAN)

d. CIP PROJECT UPDATES  
(CAPITAL IMPROVEMENT PROGRAM AND GRANTS MANAGER COLLEEN BLANK)

#### **B. MAYOR AND COUNCILMEMBERS**

1. APPOINTMENTS/REAPPOINTMENTS PARKS AND OPEN SPACE BOARD AND BOARD OF SPECIAL MAGISTRATES (MAYOR DAVEY)

2. KBCS/SCHOOL BOARD UPDATE (COUNCILMEMBER LAUREDO)

**C. VILLAGE ATTORNEY**

1. NONE

**D. VILLAGE CLERK**

1. NONE

**13. OTHER BUSINESS/GENERAL DISCUSSION**

A. NONE

**14. SCHEDULE OF FUTURE MEETINGS/EVENTS:**

**A. QUALIFYING PERIOD FOR THE OFFICE OF MAYOR**

FROM 12:00 P.M. NOON ON TUESDAY, JUNE 7, 2022, AND NO LATER THAN 12:00 P.M. NOON ON FRIDAY, JUNE 17, 2022, OFFICE OF THE VILLAGE CLERK

**B. REGULAR COUNCIL MEETING**

TUESDAY, JUNE 14, 2022, 6:00 P.M., COUNCIL CHAMBER

**C. BUDGET WORKSHOP**

TUESDAY, JUNE 28, 2022, 6:00 P.M., COUNCIL CHAMBER

**D. REGULAR COUNCIL MEETING**

TUESDAY, JULY 26, 2022, 6:00 P.M., COUNCIL CHAMBER

**15. ADJOURNMENT**

I. ANY PERSON WISHING TO ADDRESS THE VILLAGE COUNCIL ON AN ITEM ON THIS AGENDA IS ASKED TO REGISTER WITH THE VILLAGE CLERK PRIOR TO THAT ITEM BEING HEARD. PRIOR TO MAKING A STATEMENT, PLEASE STATE YOUR NAME AND ADDRESS FOR THE RECORD.

II. 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 BISCAZYNE, FLORIDA 33149, TELEPHONE NUMBER (305) 365-5506, NOT LATER THAN TWO BUSINESS DAYS PRIOR TO SUCH PROCEEDINGS.

III. 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).

IV. IN ACCORDANCE WITH VILLAGE CODE SECTION 2-161, ADOPTING SECTION 2-11.1(s) OF THE MIAMI-DADE COUNTY CODE, ANY PERSON ENGAGING IN LOBBYING ACTIVITIES, AS DEFINED THEREIN, MUST REGISTER AT THE VILLAGE CLERK'S OFFICE BEFORE ADDRESSING THE COUNCIL ON THE ABOVE MATTERS OR ENGAGING IN LOBBYING ACTIVITIES.

**THE ABOVE MEETINGS ARE HELD IN THE COUNCIL CHAMBER, 560 CRANDON BOULEVARD AND ARE SUBJECT TO CHANGE. ZONING MEETINGS AND SPECIAL COUNCIL MEETINGS WILL BE SCHEDULED ON AN AS NEEDED BASIS. PLEASE VISIT [www.keybiscayne.fl.gov](http://www.keybiscayne.fl.gov) TO VIEW THE MEETING SCHEDULE.**

MINUTES

REGULAR COUNCIL MEETING  
KEY BISCAIYNE, FLORIDA

TUESDAY, APRIL 12, 2022

COUNCIL CHAMBER  
560 CRANDON BOULEVARD

1. **CALL TO ORDER/ROLL CALL OF MEMBERS:** The meeting was called to order by the Mayor at 6:00 p.m. Present were Councilmembers Franklin H. Caplan, Luis Lauredo, Edward London, Allison McCormick, Ignacio Seguro, Vice Mayor Brett G. Moss and Mayor Michael W. Davey. Also present were Village Manager Steven C. Williamson, Village Clerk Jocelyn B. Koch and Village Attorney Chad Friedman.
2. **PLEDGE OF ALLEGIANCE:** Mayor Davey led the Pledge of Allegiance.
3. **INVOCATION:** Reverend Mandy Brady, St. Christopher's by-the-Sea was unable to attend the meeting.
4. **BRIEF COMMENTS BY COUNCIL:** Mayor Davey addressed the public recognizing the passing of Ron Erbel, sending condolences to the family and held a moment of silence in his honor; Councilmember Lauredo addressed the Council stating that it is good practice to have an invocation at the Council Meetings; Councilmember Caplan addressed the public recognizing the recently held Miami-Dade County League of Cities Board Meeting & Dinner hosted by the Village of Key Biscayne and announced the airing of a documentary about Bill Baggs on April 20<sup>th</sup>, 2022 at 7:30 p.m. on station WLRN.
5. **PUBLIC COMMENTS:** The following residents addressed the Council: Karl Stenstrom, 710 Harbor Drive; Julius Walecki, 251 Galen Drive and Luis Velazquez, 251 Galen Drive.

At this time Councilmember London addressed the public stating that there is a discussion item this evening regarding the noise ordinance.

6. **AGENDA:** Councilmember Lauredo requested a discussion item regarding Carlos de la Cruz, Jr. as a Parks and Open Spaces board appointment. Mayor Davey will add a discussion item

regarding Advisory Board appointments at the next Regular Council Meeting. Councilmember Laredo withdrew the agenda request.

Councilmember Caplan made a motion to approve the agenda. The motion was seconded by Vice Mayor Moss and approved by a 7-0 voice vote. The vote was as follows: Councilmembers Caplan, Laredo, London, McCormick, Seguro, Vice Mayor Moss and Mayor Davey voting Yes.

**7. SPECIAL PRESENTATION:** The Manager introduced the Miami-Dade County Director and CEO of the Department of Transportation and Public Works, Eulois Cleckley. MDC Department of Transportation and Public Works Highway Bridge Engineering Manager Ryan Fisher gave a presentation on the status of the Bear Cut bridge maintenance status and next steps.

There was discussion from Council and Mr. Fisher regarding the above presentation.

A presentation was given by Moises Ariza and Rachel Johnson with Marcum LLP regarding the Accountants Reference: Village of Key Biscayne FY21 Audit.

There was extensive discussion from Council, Mr. Ariza and Chief Financial Officer Benjamin Nussbaum regarding the above presentation including Building and Zoning Department rates, the Other Post-Employment Plan (OPEP), compensated absences and the Solid Waste accounts receivables.

Councilmember McCormick addressed the public presenting Certificates of Appreciation and Excellence in Service Coins to the 2022 Charter Revision Commission members: Jennifer Stearns Buttrick, Marco Gomez, Vice Chairman Jud Kurlancheek and former Mayor Joe Rasco in recognition of their work. Member Rasco addressed the Council recognizing Councilmember McCormick for her work as Commission Chairman and Member Buttrick thanked Attorney Chad Friedman and the Weiss Serota law firm.

The Attorney addressed the Council regarding the Commission's Final Report stating that at the May or June 2022 Regular Council Meeting an item will be presented that will call for a Special Election for the Charter Amendment ballot questions. The Commission adhered to the consensus of Council request that these questions be placed on the November 2022 ballot and the Clerk has emailed the Elections Department requesting their consent.

Councilmember London addressed the Attorney regarding the steps required for a Charter Amendment by petition.

There was discussion from Council, the Attorney and the Clerk regarding the deadlines for Charter Amendments and reviewed the dates for candidate qualifying.

**8. CONSENT AGENDA:** Mayor Davey made a motion to approve the following consent agenda. The motion was seconded by Vice Mayor Moss.

The minutes of the January 18<sup>th</sup>, 2022 Regular Council Meeting.

The minutes of the March 8<sup>th</sup>, 2022 Regular Council Meeting.

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, REQUESTING ASSISTANCE UNDER THE FLORIDA INLAND NAVIGATION DISTRICT (FIND) WATERWAYS ASSISTANCE PROGRAM FOR THE ACQUISITION OF A NEW MARINE PATROL VESSEL; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AND ACCEPTING A PUBLIC BEACH ACCESS EASEMENT AND DEDICATION AGREEMENT WITH THE ISLAND HOUSE APARTMENTS, INC. RELATING TO THE PROPERTY LOCATED AT 200 OCEAN LANE DRIVE; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING WITT O'BRIEN'S LLC FOR EMERGENCY DISASTER DEBRIS MONITORING SERVICES PURSUANT TO REQUEST FOR PROPOSAL NO. 2020-50; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH MIAMI-DADE COUNTY GOVERNING THE PROVISION OF ON-DEMAND TRANSIT SERVICES IN THE VILLAGE; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT BETWEEN MIAMI-DADE COUNTY AND PARTICIPATING CO-PERMITTEES NAMED IN THE NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) PERMIT NO. FLS000003 FOR POLLUTION IDENTIFICATION AND CONTROL SERVICES IN MUNICIPAL SEPARATE STORM SEWER SYSTEMS (MS4S) IN AN AMOUNT NOT TO EXCEED \$16,195.00; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING A TERM SHEET FOR THE FOURTH AMENDMENT TO THE AGREEMENT FOR USE OF ST. AGNES CATHOLIC CHURCH ATHLETIC FIELD WITH THE ARCHDIOCESE OF MIAMI; PROVIDING FOR AUTHORIZATION; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

The consent agenda was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes.

At this time Councilmember Caplan addressed the Clerk regarding a scrivener's error on the March 8<sup>th</sup> Regular Council Meeting Minutes amending the name of an event under Brief Comments by Council. The Clerk will amend the minutes accordingly.

9. **ORDINANCES:** The Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 29 "STORMWATER UTILITY SYSTEM," SECTIONS 29-2, ENTITLED "DEFINITIONS," 29-3, ENTITLED "FINDINGS AND DETERMINATIONS" AND 29-4, ENTITLED "STORMWATER UTILITY FEE" OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE VILLAGE'S STORMWATER UTILITY APPORTIONATE METHODOLOGY FOR ALLOCATING STORMWATER UTILITY FEES AND APPEALS OR ADJUSTMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Davey made a motion to approve the ordinance on first reading. The motion was seconded by Councilmember Lauredo.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

At this time Councilmember London addressed the Council and the Manager regarding Item 8H in the consent agenda. There was discussion from the Mayor, the Manager and Councilmember London regarding the terms for the lights and the grass and possibly bringing this item back at a future date if any amendments are necessary.

There was discussion from Council and Director of Public Works Jake Ozyman regarding the above ordinance.

The Manager addressed the Council regarding the above ordinance as a significant policy change which will be reviewed by the administration.

The ordinance was approved on first reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes.

The Clerk read the following ordinance on first reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING ORDINANCE NO. 2021-07 WHICH ADOPTED THE BUDGET FOR FISCAL YEAR 2021-2022 BY REVISING THE 2021-2022 FISCAL YEAR BUDGET (BUDGET AMENDMENT NO. 2); PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Davey made a motion to approve the ordinance on first reading. The motion was seconded

by Councilmember Caplan.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

The Manager addressed the Council regarding the above ordinance stating that there is approximately \$3,000,000 Million dollars in unspent funds due to Covid operations: \$1,000,000 Million dollars was placed in the emergency fund or reserves and the rest of the items are based on immediate requirements or additional construction costs based on the added costs of construction.

There was extensive discussion from Council, the Manager, the Attorney and Chief Resilience Officer Dr. Roland Samimy regarding the \$50,000 for seawall design and ordinance design and the commitment to shoreline protection projects.

There was additional discussion from Council, the Manager and Director Ozyman regarding using Florida, Power & Light for installing and maintaining LED streetlights and not solar for the East Enid Drive project. Director Ozyman reported that this will be presented to Council at a future date to be determined. Solar streetlights may be installed in the future at Hampton Park if recommended.

Councilmember McCormick addressed Director Ozyman regarding installing solar streetlights when possible throughout the Village.

Councilmember London addressed Director Ozyman regarding Hampton Park improvements. Director Ozyman reported that the design will not change but issues need to be resolved, for instance, regrading for drainage and upkeep.

The ordinance was approved on first reading by a 6-1 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, McCormick, Seguro, Vice Mayor Moss and Mayor Davey voting Yes. Councilmember London voting No.

The Clerk read the following ordinance on second reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING ORDINANCE NO. 2021-07 WHICH ADOPTED THE BUDGET FOR FISCAL YEAR 2021-2022 BY REVISING THE 2021-2022 FISCAL YEAR BUDGET; PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Moss made a motion to approve the ordinance on second reading. The motion was seconded by Councilmember Caplan.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

CFO Nussbaum addressed the Council regarding the above ordinance.



The ordinance was adopted on second reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes.

The Clerk read the following ordinance on second reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING ARTICLE II, CHAPTER 26, "GOLF CARTS," OF THE VILLAGE CODE OF ORDINANCES RELATING TO GOLF CART AND SLOW MOVING VEHICLE USE WITHIN THE VILLAGE; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Davey made a motion to approve the ordinance on second reading. The motion was seconded by Councilmember Caplan.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

There was discussion from Council, Chief of Police Frank Sousa and the Attorney regarding the above ordinance, the frequency of golf cart inspections, consequences for not paying the fines and the need for additional legislation for this ordinance in the future.

Councilmember Segurola made a motion to ban golf carts from dusk til dawn. The motion died for lack of a second.

The ordinance was adopted on second reading by a 6-1 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes. Councilmember London voting No.

The Clerk addressed the Council reporting that it was time for the Manager's report to be heard.

At this time the Mayor opened for public comments: Andres Herrera, 166 Harbor Drive and Michelle Estevez, 425 Grapetree Drive addressed the Council.

It was the consensus of Council to continue with the second readings of ordinances.

The Clerk read the following ordinance on second reading, by title:

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, CREATING SECTION 2-105, "CAMPAIGN FINANCE REPORTS," OF CHAPTER 2 OF THE VILLAGE CODE OF ORDINANCES TO ESTABLISH CAMPAIGN FINANCE REPORT FILING REQUIREMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

Vice Mayor Moss made a motion to approve the ordinance on second reading. The motion was seconded by Mayor Davey.

The Mayor opened the public hearing. There were no speakers present. The Mayor closed the public hearing.

There was discussion from Council and the Attorney regarding the above ordinance.

The ordinance was adopted on second reading by a 7-0 roll call vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes.

The Attorney stated that the Village's website will host the link of all the candidate's campaign treasurer's reports.

10. **RESOLUTIONS:** The Clerk read the following resolution by title:

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING BLACK & VEATCH CORPORATION TO PROVIDE PROFESSIONAL ENGINEERING, PROJECT MANAGEMENT, AND RELATED SERVICES FOR THE RESILIENT INFRASTRUCTURE PROGRAM STRATEGY & INTEGRATED IMPLEMENTATION PLAN AND SUPPORTING PROGRAM MANAGEMENT & EXECUTION SERVICES PROJECT; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Councilmember Caplan made a motion to approve the resolution. The motion was seconded by Councilmember Lauredo.

There was discussion from Council, the Manager and Dr. Samimy regarding the above resolution.

The Manager addressed the Council stating there are three components involved: a program strategy, an implementation and integration plan and a rate sheet for program management and construction management.

The resolution was approved by a 6-1 voice vote. The vote was as follows: Councilmembers Caplan, Lauredo, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes. Councilmember London voting No.

The Clerk read the following resolution by title:

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, SELECTING RAIN DROP PRODUCTS LLC FOR THE SPLASH PAD REPLACEMENT PROJECT IN AN AMOUNT NOT TO EXCEED \$195,000; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

Mayor Davey made a motion to approve the resolution. The motion was seconded by Councilmember Caplan.

Parks, Recreation and Open Spaces Director Todd Hofferberth addressed the Council regarding the above resolution.

There was discussion from Council and Director Hofferberth regarding the above resolution.

The resolution was approved by a 7-0 voice vote. The vote was as follows: Councilmembers Caplan, Lauredo, London, McCormick, Segurola, Vice Mayor Moss and Mayor Davey voting Yes.

At this time the Council took a five-minute break. The meeting reconvened at 8:40 p.m.

At this time the Manager's report was heard.

Village Manager. The Manager addressed the Council reporting on preparations for Hurricane season and debris management planning.

Fire Rescue Chief Eric Lang addressed the Council giving a presentation on the Administration's Hurricane Preparations. There was discussion from the Council regarding the presentation. Chief Lang thanked the Council for the moment of silence held earlier in the evening to honor longtime Village of Key Biscayne fireman and resident, Ron Erbel.

Building, Zoning and Planning Director Jeremy Calleros Gauger addressed the Council reporting on the Vision Board Charrette Workshops recently held at Village Hall. The Vision Board will present a final draft report at the June 15<sup>th</sup>, 2022 Regular Council Meeting.

Director Ozyman addressed the Council reporting on two public works projects: FPL is replacing the transmission lines that run under Crandon Boulevard from Crandon Marina to the Calusa substation and Miami-Dade County will be clearing trees and vegetation. One outbound lane will be closed from 7:30 p.m. to 5:30 a.m. Sunday thru Thursday.

Director Ozyman also addressed the Council reporting on the Sands Condominium Public Beach access project. The estimated costs for design plans are \$100,000 for conventional pavers, \$130,000 for pervious pavers, and approximately \$150,000 to \$160,000 for pervious pavers with decorative fencing. There was discussion from Council regarding the above items.

The Manager announced there will be a Community Meeting held regarding the Sands Condominium Public Beach Access project on April 21<sup>st</sup>, 2022 and a Community Meeting held regarding Crandon Boulevard Intersections on April 14<sup>th</sup>, 2022.

Director Ozyman addressed the Council continuing to report on the East Enid Drive Street Lighting Project which would install 17 new streetlights along East Enid Drive. The cost for the project is approximately \$16,000 for installation with a 10-year lighting agreement for \$39.11 per streetlight pole per month. A full inventory of all the streetlights in the Village has been completed:

196 streetlights are owned by the Village and 291 are owned by Miami-Dade County, FPL and, a special taxing district on the westside of the island.

There was discussion from Council regarding the above items, the Kelvin lighting level guidelines and installation timelines.

The Manager addressed Director Ozyman to give a future demonstration on what the lighting will look like for 2,500 Kelvins and 3,000 Kelvins in order to see the difference.

Director Ozyman and the Manager addressed the Council giving a presentation on the Operations, Maintenance & Repair Program with an overview of the guiding principles, requirements, assets categories and the implementation plan.

There was discussion from Council regarding Requests for Proposals for cleaning and maintenance contracts, addressing maintenance complaints, Village communications and litter control.

The Manager addressed the Council regarding improving the VKB App and the creation of the Beautification Task Force.

Capital Improvement Projects & Grants Manager Collen Blank addressed the Council giving a presentation on the CIP projects update regarding the Key Biscayne themed Splash Pad replacement, the Village Green interior sidewalk improvements project and the Beach access at the Sands.

Councilmember Laredo addressed the administration requesting to place the completed CIP projects on the Village Connect newsletter to better communicate and inform the residents of recently completed projects.

Director Hofferberth addressed the Council reporting on an update on the Paradise Park construction project and will report at a future date on the timeline.

11. **PUBLIC COMMENTS:** The item was heard earlier in the evening.

12. **REPORTS AND RECOMMENDATIONS:** The following items were discussed:

Mayor and Councilmembers. Councilmember Laredo addressed the Council regarding the status of the Council's policy decision regarding the Key Biscayne Community School and the PTA and Mast Academy. Mayor Davey gave a status update regarding supporting the local schools and reaching out to Miami-Dade County School Superintendent Dr. Jose L. Dotres. The Education Advisory Board will report on the next steps at a future meeting date to be determined.

Councilmember London addressed the Council regarding revisiting the ordinance on noise.

There was discussion from Council and the Attorney regarding noise decibel levels, making it easier for the police to enforce the ordinance, enforcement on the water and the noise from the paddle tennis courts at the Ritz Carlton hotel.

It was the consensus of the Council to have the Manager reach out to the Ritz Carlton hotel regarding the noise from the paddle tennis courts.

Councilmember London addressed the Council regarding the Plan Z Concept for Rickenbacker Causeway and possibly having a workshop or having a special presentation with Architect Bernard Zyscovich.

There was discussion from Council and the Attorney regarding the above item.

Councilmember Lauredo addressed the Council regarding that Plan Z Designs can set up their own community presentation so as not to burden the Village staff and incur costs for these arrangements.

Village Attorney. The Attorney did not submit a report.

Village Clerk. The Clerk did not submit a report.

13. **OTHER BUSINESS/GENERAL DISCUSSION:** There was no further business discussed.

14. **SCHEDULE OF FUTURE MEETINGS/EVENTS:** A schedule of future meetings and events was presented to the Council.

15. **ADJOURNMENT:** The meeting was adjourned at 9:44 p.m.

*Respectfully submitted:*

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*Jocelyn B. Koch*  
*Village Clerk*

*Approved this \_\_\_\_\_ day of \_\_\_\_\_ 2022:*

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*Michael W. Davey*  
*Mayor*

**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.**

**ORDINANCE NO. 2022-\_\_**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING CHAPTER 29 "STORMWATER UTILITY SYSTEM," SECTIONS 29-2, ENTITLED "DEFINITIONS," 29-3, ENTITLED "FINDINGS AND DETERMINATIONS" AND 29-4, ENTITLED "STORMWATER UTILITY FEE" OF THE VILLAGE CODE OF ORDINANCES RELATING TO THE VILLAGE'S STORMWATER UTILITY APPORTIONATE METHODOLOGY FOR ALLOCATING STORMWATER UTILITY FEES AND APPEALS OR ADJUSTMENTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING FOR CONFLICTS; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in Chapter 166 – Municipalities, Florida Statutes, the Florida State Legislature conferred upon local governments the authority to adopt regulations designed to promote the public health, safety, and general welfare of its citizenry; and

**WHEREAS**, pursuant to Section 403.0893, Florida Statutes, the Florida State Legislature also conferred upon local governments the authority to create stormwater utilities and adopt stormwater utility fees to plan, construct, operate and maintain stormwater management systems; and

**WHEREAS**, on June 22, 1993, the Village of Key Biscayne (the "Village") adopted Ordinance 93-11, establishing the Village's stormwater utility, which is codified in Chapter 29 of the Village's Code of Ordinances; and

**WHEREAS**, the Village's current methodology for allocation of stormwater utility fees from properties in the Village uses an Equivalent Residential Unit ("ERU") methodology; and

**WHEREAS**, the Village has retained Raftelis Financial Consultants, Inc. ("Rate Consultant") to perform a stormwater rate analysis to review the existing rate structure; and

**WHEREAS**, the Rate Consultant has provided it's 2022 Stormwater Fee Analysis dated March 8, 2022 (the "Stormwater Fee Report") to the Village; and

**WHEREAS**, the Rate Consultant has determined as provided in the Stormwater Fee Report that because of the wide variability for both single family and multi-family properties, using the actual impervious square feet area instead of a general conversion to an ERU will better capture the large differences in impervious areas for residential properties; and

**WHEREAS**, the Stormwater Fee Report determined that based on the analysis and the current collection of approximately \$1.9 million in Stormwater Utility Fees, an annual rate per square foot of impervious area of \$0.1237 would need to be imposed in order to collect the same amount from the developed properties in the Village having a total amount of impervious area of 15,516,179 square feet; and

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**WHEREAS**, the Village Council desires to update the current methodology as provided in the Stormwater Fee Report and provide procedures for adjustment to the Stormwater Utility Fee; and

**WHEREAS**, the Village Council finds that based upon the findings set forth in the Stormwater Fee Report, which is incorporated herein by reference, is in the best interest of the Village, that the Stormwater Utility Fee allocation methodology be amended to provide that all stormwater utility fees shall be allocated based upon impervious square feet.

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

**Section 1. Recitals.** The above-stated recitals are true and correct and are incorporated herein by this reference.

**Section 2. Amending Section 29-2 of the Village Code.** That Section 29-2, "Definitions" of the Code of Key Biscayne, Florida is hereby amended to read as follows:

**Sec. 29-2. Definitions.**

The following, when used in this chapter, shall have the meanings ascribed in this section, except where the context clearly indicates a different meaning:

Annual Assessment Resolution shall mean the resolution which determines the Stormwater Utility Fee in any Fiscal Year, provided that such Rate Per Impervious Area does not exceed the Maximum Rate established by an Initial Rate Resolution.

Developed Property shall mean any parcel of land that contains an impervious area.

Dwelling shall mean any building that is wholly or partly used or intended to be used for living, sleeping, cooking and eating.

Dwelling Unit shall mean any room or group of rooms located within a dwelling and forming a single habitable unit with facilities used or intended to be used for living, sleeping, cooking and eating.

ERU shall mean Equivalent Residential Unit.

Final Assessment Resolution shall mean the resolution which shall confirm, modify or repeal the Initial Assessment Resolution and which shall be the final proceedings for the imposition of the Stormwater Utility Fee and Maximum Rate under the Uniform Method of Collection Act.

Impervious Area shall mean the horizontal ground surface that is incapable of being penetrated ~~or retards the entry~~ by rainwater. This shall include, but not be limited to, all structures, roof extensions, slabs, patios, porches, driveways, private sidewalks, parking areas, ~~swimming pools~~, pool collars, athletic courts and decks.

Initial Assessment Resolution shall mean the resolution that shall be the initial proceedings for the imposition of the Stormwater Utility Fee, including a Maximum Rate under the Uniform Method of Collection Act.

Nonresidential Developed Property shall mean any parcel of land that contains an impervious area and that is ~~not classified as a Residential Developed Property by the Dade County Property Appraiser as land use types 10 through and including 99, as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.~~

Residential Developed Property shall mean any parcel of land that contains an impervious area and is classified as either a Single Family Residential Property, or a Multi-family Residential Property ~~by the Dade County Property~~

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~~Appraiser as land use types 00 through and including 09 as set forth in Florida Administrative Code Rule 12D-8.008(2)(c), as amended from time to time.~~

Maximum Rate shall mean the maximum Rate Per Impervious Area that may be imposed on Developed Properties to calculate each Developed Properties Stormwater Utility Fee that is set forth in the Initial Rate Resolution and adopted by the Final Rate Resolution after a public hearing.

Multi-family Residential Property shall mean any Residential Developed Property that contains one or more Dwellings that contains two or more residential Dwelling Units and other common amenities containing Impervious Areas that all the residents of the Dwelling Units have access to.

Rate Per Impervious Area shall mean the amount expressed in dollars and/or cents to be applied per square foot of Impervious Area for Developed Properties to calculate each Developed Properties Stormwater Utility Fee.

Single Family Residential Property shall mean Developed Property that contains a single Dwelling Unit.

Stormwater shall mean the water that results from rainfall.

Stormwater Infrastructure shall mean the structural, nonstructural or natural features of a parcel of land or Watershed which collect, convey, store, absorb, inhibit, treat, use, reuse, or otherwise affect the quantity or quality of stormwater.

Stormwater Management System (or the "System") shall have the meaning specified by F.S. § 403.031(16), as amended from time to time.

Stormwater Utility shall have the meaning specified by F.S. § 403.031(17), as amended from time to time.

Stormwater Utility Fee shall have the meaning specified by F.S. § 403.0893(3), as amended from time to time.

Stormwater Utility Trust Fund shall mean that separate bank account established by the Village for the deposit and use of all Stormwater Utility Fees collected.

Uniform Assessment Collection Act shall mean Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, any applicable regulations promulgated thereunder.

WASAD shall mean Miami Dade Water and Sewer Authority Department.

Watershed shall have the meaning specified by F.S. § 403.031(18), as amended from time to time.

**Section 3. Amending Section 29-3 of the Village Code.** That Section 29-3, "Findings and determinations" of the Code of Key Biscayne, Florida is hereby amended to read as follows:

### **Sec. 29-3. Findings and determinations.**

It is hereby determined and declared as follows:

- (1) The Village desires to create a Stormwater Management System to maintain and improve water quality, to control flooding that results from rainfall events, to deter unmanaged rainwater from eroding sandy soils, to deter the disruption of the habitat of aquatic plants and animals and to provide for the collection of Stormwater Utility Fees for those expenses connected with the planning, constructing, operating and maintaining of a Stormwater Management System.
- (2) The collection of and disposal of stormwater and regulation of groundwater are of benefit to all property within the Village including property not currently served by the System.

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- (3) The cost of operating and maintaining the System should, to the extent practicable, be allocated in relationship to benefits enjoyed and services received.
- (4) Using a Rate Per Impervious Area on a square foot of Impervious Area basis for each Developed Property captures the unique characteristics of each property and will equitably allocate the cost of the Stormwater Utility System to the Developed Properties with a greater Impervious Area which will benefit the most from the Stormwater Utility System.

**Section 4. Amending Section 29-4 of the Village Code.** That Section 29-4, “Stormwater Utility Fee” of the Code of Key Biscayne, Florida is hereby amended to read as follows:

**Sec. 29-4. Stormwater Utility Fee.**

- (a) A Stormwater Utility Fee is hereby assessed against each Developed Property within the Village for services and facilities provided by the Stormwater Management System. ~~The rate per Rate Per Impervious Area ERU to be used in calculating Stormwater Utility Fees for each Developed Property shall be calculated as the total amount of the cost to provide the services and facility for the Stormwater Management System, including any debt service related to debt incurred by the System divided by the total amount of all Impervious Area calculated for each Developed Property to obtain a Rate Per Impervious Area. Such Rate Per Impervious Area is to be multiplied by each Developed Property’s square feet of Impervious Area to determine the amount of the Stormwater Utility Fee for each Developed Property subject to such Stormwater Utility Fee. The Rate Per Impervious Area shall be set by an Initial Assessment Resolution an administrative order of the Village Manager after approval by of the Village Council and confirmed by a Final Assessment Resolution of the Village Council.~~

The Rate Per Impervious Area may be increased each year so long as the Rate Per Impervious Area does not exceed the Maximum Rate determined by the Initial Assessment Resolution and approved in the Final Assessment Resolution of the Village Council, if the Stormwater Utility Fee is collected using the Uniform Method of Collection authorized by section 29-5 of the Code.

The Village Manager or his/her designee is directed to prepare a list of lots and parcels within the Village and to assign a classification of Single-family Residential Property Dwelling Unit, Multi-family Residential Property Dwelling Unit, "place of worship" or Nonresidential Developed Property to each lot or parcel. In addition, if the Stormwater Utility Fee is collected using the Uniform Method of Collection authorized by section 29-5 of the Code and Section 197.3632, Florida Statutes, the Village Manager or his/her designee shall annually prepare a Stormwater Utility Fee non-ad valorem assessment roll which sets forth the Impervious Area in square feet for each Developed Property as determined by the Village and the Stormwater Utility Fee for each Developed Property as calculated in accordance with the section 29-4 hereof. Such non-ad valorem assessment roll shall be adopted pursuant to an Annual Assessment Resolution of the Village and certified by the Village Manager or his/her designee to the property appraiser prior to September 15.

If the Stormwater Utility Fee is collected using the Uniform Method of Collection Act, and one of the four criteria listed in Section 197.3632(4)(a)1-4, Florida Statutes applies, including but not limited to exceeding the Maximum Rate, as established by the Final Assessment Resolution, then the Village shall adopt a Final Assessment Resolution or Annual Assessment Resolution, as applicable, that approves a non-ad valorem assessment roll at a public hearing held between January 1 and September 15, after notice has been provided pursuant to Section 197.3632(4)(b), Florida Statutes. Such public hearing shall be held in accordance with Section 197.3632(4)(c), Florida Statutes.

- (b) Impervious Area square feet shall be calculated for all Developed Property within the Village as follows:
  - (1) For each Single Family Residential Property that contains a Dwelling Unit, the amount Impervious Area square feet contained in each parcel.

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(2) For each Multi-family Residential Property Dwelling Unit, first determine the total amount of Impervious Area square feet of the Multi-family Residential Property; then determine the amount of living area square feet, as identified by the Miami-Dade County Property Appraiser, for each Dwelling Unit within the Multi-family Residential Property; and finally apportion the Impervious Area square feet of the Multi-family Residential Property amongst each Dwelling Unit on a pro-rata basis to determine the Impervious Area square feet apportioned to each Dwelling Unit.

(3) For each Nonresidential Developed Property the amount of Impervious Area square feet contained in each parcel.

(4) Place of worship shall be exempt from the imposition of Stormwater Utility Fees.

ERUs shall be assigned as follows:

~~(1) Single family Dwelling Units: 1.5 ERU.~~

~~(2) Multi family Dwelling Units: 1.0 ERU per Dwelling Unit.~~

~~(3) Place of worship: 0 ERU.~~

~~(4) Nonresidential Developed Properties, excluding places of worship, shall be assigned ERUs on the basis of one ERU per 1083 square feet of Impervious Area.~~

(c) The following procedures and criteria are to be used to calculate Stormwater Utility Fees:

(1) Each Single-family Residential Property Dwelling Unit, Multi-family Residential Property Dwelling Unit and Nonresidential Developed Property shall be assessed a Stormwater Utility Fee calculated by multiplying the ~~rate~~ Rate Per Impervious Area, determined as provided in section 29-4(a) above, ~~for one ERU~~ by the ~~number of ERUs~~ Impervious Area square feet determined for each Developed Property as provided in section 29-4(b)(1), (2) and (3)(4), respectively.

(2) The Stormwater Utility Fees payable to the Village pursuant to this chapter shall be deposited in a separate Village Stormwater Utility Trust Fund account and shall be used exclusively by the Village, together with accrued interest thereon, to pay for the costs of planning, financing, constructing, operating and maintaining the Stormwater Management System required pursuant to F.S. § 403.0891(3).

(d) The following procedure and criteria are to be used in appealing Impervious Area calculation or Dwelling Units calculation:

(1) Any owner of Developed Property disagreeing with the calculation of the Stormwater Utility Fee, as provided in this section 29-4, may appeal such determination to the Village Manager. Any appeal must be filed in writing and shall include the name of the appealing property owner and address of the Developed Property subject to the appeal, a folio number, a survey prepared by a registered surveyor or registered engineer showing for (i) Residential Developed Property; Dwellings, Dwelling Units, total property area, and total Impervious Areas, and (ii) Nonresidential Developed Property; total property area and total Impervious Areas. The Village Manager may request additional information from the appealing party. Based upon the information provided by the Village and the appealing party, the Village Manager shall make a final calculation of the Stormwater Utility Fee and shall notify the Village and the appealing party in writing of the Village Manager's decision.

(3) The Village Council may provide for a fee payable by such appealing party associated with the cost of review of the appeal.

(e) The following procedure and criteria are to be used when an owner of a Developed Property has decreased the Impervious Area of the Developed Property:

(1) Any owner of Developed Property that has reduced the Impervious Area of the Developed Property during any Fiscal Year may apply in writing for an adjustment to the Village's calculation of Impervious Area with the Village Manager. Such application for adjustment to the Impervious Area shall include the

name of the applicant property owner and address of the Developed Property, a property identification number, a survey prepared by a registered surveyor or registered engineer showing for (i) Residential Developed Property; Dwellings, Dwelling Units, total property area, and total Impervious Areas prior to the decrease and total Impervious Areas after the decrease, and (ii) Nonresidential Developed Property; total property area and total Impervious Areas prior to the decrease and total Impervious Areas after the decrease. The Village Manager may request additional information from the applicant. Based upon the information provided by the applicant, the Village Manager shall make a final calculation of the Stormwater Utility Fee and shall notify the Village and the applicant in writing of the Village Manager's decision as to adjustment of Impervious Area for the Developed Property.

(2) The Village Council may provide for a fee payable by such applicant associated with the cost of review of the application.

(f) The following procedure and criteria are to be used in adjustments to Stormwater Utility Fees:

(1) After the Village has determined the Stormwater Utility Fee based upon Impervious Area, any Developed Property owner may be eligible for an adjustment to the Stormwater Utility Fee when certain criteria are met. It is the property owner's responsibility to provide proof that conditions exist that may qualify a Developed Property for a particular adjustment.

a. The Village may allow adjustment of the Stormwater Utility Fee for a Developed Property that contains a privately maintained retention and/or detention facility upon inspection and approval of such retention and/or detention facility by a certified engineer. French vertical drains are not an acceptable retention and/or detention facilities in determining Stormwater Utility Fee adjustment.

b. The rate of adjustment for a Developed Property that contains a privately maintained retention and/or detention facility is based upon the following determinations:

i. Where the privately maintained retention and/or detention facility is constructed and maintained, which collects and retains 100% of Stormwater on the Developed Property (measured on the basis of a 72-hour 25-year storm event), the Stormwater Utility Fee shall be reduced by fifteen percent.

ii. Where the privately maintained retention and/or detention facility is constructed and maintained, which collects and retains 100% of Stormwater on the Developed Property (measured on the basis of a 72-hour 50-year storm event), the Stormwater Utility Fee shall be reduced by twenty-five percent.

(2) The following conditions must be met in order for a property owner of a Developed Property is to receive the Stormwater Utility Fee adjustment:

a. The owner of the Developed Property containing a privately maintained retention and/or detention facility must apply for a Stormwater Utility Fee adjustment in writing to the Village Manager and provide proof of certification by an engineer of the privately maintained retention and/or detention facility and provide proof of 100% Stormwater retention on the Developed Property. The proof of such Stormwater retention shall be provided to the Village Manager and shall include Hydraulic/Hydrologic calculations, with topographic maps signed and sealed by a certified engineer demonstrating that the conditions are met in either Sub-section (e)(1)(b)(i) or (ii) above for the Developed Property.

b. The Village Manager must agree that based upon the submitted documents for such Developed Property, that the conditions are met in either Sub-section (f)(1)(b)(i) or (ii) above for the Developed Property and such Developed Property has a reduced impact to the Stormwater Utility System.



- c. The property owner of a Developed Property that has been granted an adjustment as provided above, must certify to the Village each year that such privately owned retention and/or detention facility has been maintained and the Developed Property continues to qualify for such adjustment. If it is determined by the Village that such privately owned retention and/or detention facility has not been maintained and no longer qualifies for such adjustment, the property owner of such Developed Property shall re-apply for such adjustment.
- (3) The Village Council may provide for a fee payable by such applicant associated with the cost of review of the application.

**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.** **Codification.** That it is the intention of the Village Council and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Village's Code of Ordinances, and that the sections of this Ordinance may be renumbered or relettered to accomplish such intentions, and that the word Ordinance shall be changed to Section or other appropriate word.

**Section 7.** **Conflicts.** That all ordinances or parts of ordinances, resolutions or parts of resolutions, in conflict herewith, are repealed to the extent of such conflict.

**Section 8.** **Effective Date.** That this Ordinance shall become effective immediately upon final adoption on second reading.

**PASSED** on first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**PASSED AND ADOPTED** on second reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
MICHAEL W. DAVEY  
MAYOR

ATTEST:

\_\_\_\_\_  
JOCELYN B. KOCH  
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.  
VILLAGE ATTORNEY



March 8, 2022

Mr. Jake Ozyman  
Director of Public Works  
Village of Key Biscayne  
88 W. McIntyre Street  
Key Biscayne, FL 33149

Subject: **2022 Stormwater Fee Analysis**

Dear Jake:

The Village of Key Biscayne (Village) hired Raftelis Financial Consultants, Inc. (Raftelis) to perform a stormwater rate analysis. The focus of the analysis was to review the existing fee structure, digitize residential (single-family and multi-family) properties throughout the Village to evaluate the impervious area characteristics, and identify alternative fee structures on a Fiscal Year 2022 revenue neutral basis. Raftelis worked closely with Village staff throughout the study to obtain the necessary data and to identify viable alternative fee structures. This letter report summarizes the project approach and process used by Raftelis, along with the findings and conclusions of the analysis.

### **Existing Fee Structure**

The Village currently charges the stormwater fee on the annual property tax bills as a special non-ad valorem assessment. Historically, the fee level is updated from time-to-time based on review by Village staff of the necessary revenue requirements to construct, operate, and maintain the stormwater system. The existing method of applying the fee structure was established in 1993 by Ordinance No. 93-11. The Village's method of apportioning the stormwater costs to individual properties is based on estimates of impervious area. This apportionment method is used by approximately 70% of Florida's stormwater utilities<sup>[1]</sup>. Using impervious area to link stormwater fees charged to the benefits received from stormwater service is considered to be a valid method, as the amount of a property's impervious area is highly correlated to stormwater runoff and thus the need for stormwater drainage facilities.

The basis of the Village's stormwater rates is a conversion to an equivalent residential unit (ERU) for all property types, with 1,083 square feet of impervious area representing one (1) ERU. The current billing method includes three rate classifications, i.e., single-family residential, multi-family residential and non-residential / commercial. Single-family and multi-family parcels are assessed the stormwater fee per dwelling unit. Under the current rate structure, a multi-family unit represents one (1) ERU or 1,083 square feet, while a single-family unit represents 1.5 ERUs or approximately 1,625 square feet. For billing purposes each multi-family unit, or condo unit, in the Village is assigned a parcel number and a non-ad valorem assessment amount for each property individually. The following table illustrates the current fee structure and monthly amount that is charged to each customer class:

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[1] As reported in the Florida Stormwater Association's 2020 Stormwater Utility Survey.

Description	ERU Determination	Fee Amount
Single-family Unit	1.5 ERUs per Unit	\$25.35
Multi-family Unit	1.0 ERU per Unit	\$16.90
Nonresidential properties	1.0 ERU per 1,083 square feet of impervious area	\$16.90 per ERU

As demonstrated in the table above, all single-family units and multi-family units are billed equally based on an assumed ERU value for each rate classification and non-residential / commercial properties fees vary based on measured impervious area specific to such properties. A major objective of the 2022 Stormwater Fee Analysis is to evaluate the validity of impervious area ERU factors and how they are currently being applied. As will be discussed in the following section based on the measurement of properties within the Village undertaken in this analysis these are significant differences from the current ERU relationships used in the stormwater billing and there is also a wide range of variation in the amount of impervious area for each of these residential property types. Therefore, the existing structure does not accurately capture these differences in contributions to managing the stormwater system. Likewise, the multi-family units are all treated the same regardless of the amount of impervious area associated with the amenities and unique layout of each multi-family property that contributes to stormwater runoff. These items will be addressed further in this letter report.

### Property Measurement Process and Findings

To measure the impervious area on residential properties in the Village, our team utilized Miami-Dade County parcels that fell within the Village boundary and Florida Department of Transportation (FDOT) 2021 aerial imagery to digitize the impervious area these properties. Impervious area is defined as features that prevent the infiltration of rainwater into the ground. These features include buildings, walkways, private sidewalks, driveways, patios, pool collars, parking lots, tennis courts, and basketball courts. They do not include public sidewalks, public roads (right-of-way), or pool surfaces. Figure 1 below provides a visual illustration of a single-family property, with a light yellow overlay representing the impervious area designations.

*Figure 1. Measured impervious area for a large single-family home.*



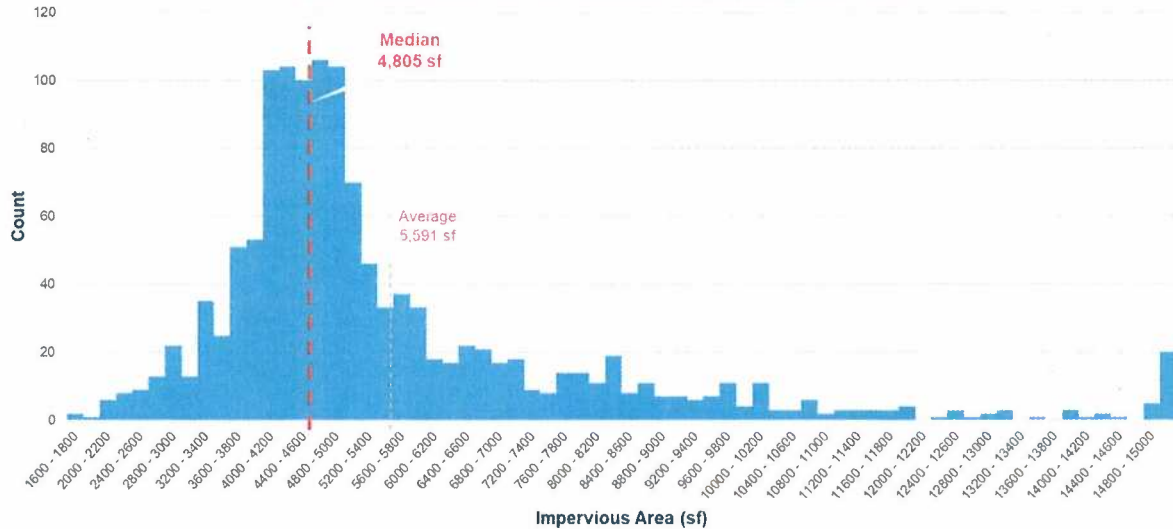
### Single-family Results

After the digitization of single-family properties, a distribution graph was prepared to analyze and understand the population of properties in the Village. The distribution of properties, by impervious area measurements is provided in Figure 2 below for the single-family properties. The median impervious area,



representing the middle property in the Village, is 4,805 square feet. The average impervious area is 5,591 square feet. The mean is skewed upwards from the median by the larger properties in the Village. As shown in the graph, most properties fall near the median value, but there is a significant number of large single-family residences that far exceed the median and average values. This wide distribution with many properties over 10,000 square feet, or more than double the median value, lends support for a fee structure adjustment that will better capture the large differences in impervious area. The recommended alternative fee structure to base the charge for each property on the number of square feet of impervious area, charge in per unit increments rather than a flat fee applied to all properties within this class.

Figure 2. Impervious area distribution on single-family properties



### Multi-family Results

A good deal of variability also exists within the multi-family class on a development level. This variability is shown in Figure 3 below with two different complexes containing very different amounts of impervious area, number of units, and amounts of common area.

Figure 3. Variability in multi-family residential developments.

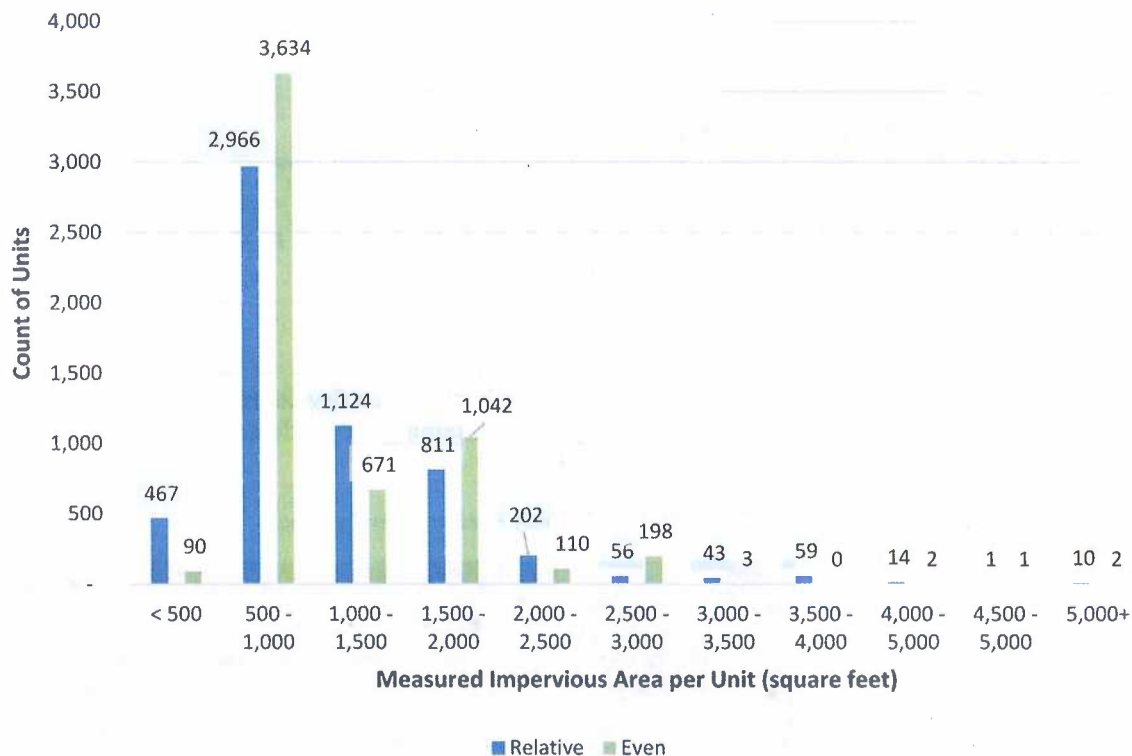




To determine the total multi-family impervious area on a development basis, multi-family parcels were grouped by adjacency and common ownership if more than one parcel existed for a single development. The impervious area from those parcels was then allocated amongst the units of that development using the existing municipal tax roll data.

Since the stormwater fee is on the non-ad valorem tax bill, most condo units in the Village receive an individual bill each year. With this approach, two alternate allocation methods were explored. Each of the allocations is based first on the impervious area square feet identified for each condo development and second is an allocation of those square feet to the condo units within the development. Two methods for allocating to units were explored. These were equal and relative allocations. Under an equal allocation, all units in a single development would be assigned the same amount of impervious area using the total impervious area divided by the total number of units. Under a relative allocation, units would be assigned individual impervious area amounts based on the living square footage size associated with the unit, as obtained from the municipal tax roll. Figure 4 below shows the distribution of impervious area on multi-family units in the Village under each method.

Figure 4. Impervious Area Distribution: Equal vs. Relative



Under the relative allocation method, there is a wider distribution of impervious area per unit allocations, which means there is more disparity in the fees charged across the population. For example, there are more units under the relative allocation at 500 square feet or less, but there are also more in the categories above 3,000 square feet. By using the even allocation method, the measured impervious area is evenly split among units in a single development, increasing the number of units that fall in smaller groups, as can be seen in the 500 – 1,000 square feet group above.

## **Alternative Fee Structures**

To identify and evaluate alternate stormwater fee structures there were several items considered in addition to the updated impervious area measurements including, but not limited to: i) identifying the appropriate fee basis (dwelling units, parcel size, impervious area, etc.); ii) the administrative feasibility of each alternative; and iii) customer classes to ensure fair and reasonable charges. Additionally, the Village should review other fee policy issues such as exemptions, affordability policies, and credits for onsite storage / retention, etc. in more detail as they are important for equitable cost recovery for stormwater systems and were largely outside the scope of this analysis.

Relying on the results of the property impervious area measurement / digitization process and the other issues mentioned above, the following subsections discuss the alternate structures considered for each class and the preferred option. The preferred option is based on the consideration of a number of factors including fee equity, support of the stormwater system's goals and objectives, administrative requirements and discussions with Village staff.

### Single-family

The existing single-family fee structure is simple and straightforward, based on a uniform 1.5 ERU factor for each parcel. As previously discussed, this structure does not capture all of the variations in properties that contribute to additional runoff. Based on the information developed for single-family impervious area measurements two primary alternatives were identified including creating tiers or charging each parcel based on actual impervious area measurements. Each option requires more data management for Village staff than the single ERU application approach that currently exists. However, the creation of a tier system maintains a level of simplicity for application of the fee and data management for staff related to implementation of the fees from year to year.

Through discussions with staff and review of the data, it was determined the tier approach was not the ideal solution for the Village. The primary factors were large increases in the number of ERUs applied to each tier when trying to keep the number of tiers minimal along with the desire to capture the impacts from the largest properties. Therefore, the preferred approach is to charge each parcel based on the amount of impervious area measured. This allows for the variances of each property to be reflected in the fees paid each year. Any changes to the impervious area of a property will be identified through the building permit process. Staff will be reviewing the appropriate protocols to make sure this information is available each year during the non-ad valorem rate setting and bill file development process.

### Multi-family

Similar to single-family, the existing multi-family fee structure is simple and applies a uniform 1.0 ERU to each unit. The multi-family properties in the Village have demonstrated variances in the amount of impervious area influenced by several factors including the density of units (height of buildings versus width) and additional amenities (pool decks, clubhouses, sidewalks, parking lots, etc.). These large variances are not captured by the exiting rate structure. Since each multi-family unit has a parcel number and can be assigned an annual fee amount individually, the two alternatives identified include allocating the impervious area of each multi-family property amongst the units in each property equally or allocating the impervious area to each unit based on the size of the unit.

The first option of allocating the impervious area equally over each unit within the development ensures that the unique characteristics of each property are represented in the fees paid. As an example, a unit with 1,000 square feet of living area on a property with minimal impervious area (on-site retention, small parking lot, not pool decks) could pay a lower fee than a similarly sized unit on a property with significantly more overall impervious area per unit in the development.

The second option of taking the allocation process a step further and reviewing the relative size of each unit as reflected in the tax roll by living square footage size within a complex also captures the unique characteristics of each property and demonstrates that larger units in the property contribute, in part, to the overall amount of impervious area.

#### Non-residential

Since the non-residential properties are already assessed stormwater fees based on ERUs that equate to impervious area measurements no adjustments or alternatives to this approach were considered.

#### **Recommended Fee Structure and Examples**

As discussed, the preferred alternative for each customer class is based on the unique impervious area measurements for each property. As such, the Village can transition the basis of the fees away from ERUs and use impervious area square feet instead. The existing stormwater fees generate annual revenues of approximately \$1.9 million. The alternative fee structure analysis is designed to also generate \$1.9 million annually, the Village should consider including a contingency to account for changes to impervious area measurements and other offsets that may be identified by the Village to encourage runoff reductions through various types of on-site changes. Based on the analysis the properties in the Village have a total of 15,516,179 square feet of impervious area that serve as the basis for the stormwater fee application. The table below shows the calculation of the fee per square foot of impervious area:

Description	Amount
Multi-family I.A. square feet	6,272,853
Single-family I.A. square feet	7,307,137
Non-residential I.A. square feet	1,936,189
Total I.A. square feet	15,516,179
Annual Revenue	\$1,918,266
Annual Fee per square foot I.A.	\$0.1237
Monthly Fee per square foot I.A.	\$0.0103

Using the rate per square foot of impervious area identified of \$0.0103 per month, the following examples are provided to illustrate how fees may change for a variety of properties throughout the Village:

Description	Existing Monthly Fee	Calculated Monthly Fee
Single-family Examples		
Small – 1,700 sf I.A.	\$25.35	\$17.51
Median – 4,800 sf I.A.	\$25.35	\$49.44
Larger – 22,800 sf I.A.	\$25.35	\$234.84
Multi-family Examples		
Small – 580 sf I.A.	\$16.90	\$5.97
Median – 964 sf I.A.	\$16.90	\$9.93
Larger – 2,770 sf I.A.	\$16.90	\$28.53
Non-residential per 1,000 sf I.A.	\$16.90	\$10.30

As shown in the table above, based on the characteristics of each property the fee calculations will vary. The average / median single-family homes will see increases, while the largest single-family homes will see the largest increases. Many multi-family units will see decreased fees, while some of the larger units will see increased fees. All non-residential properties will see decreases under this alternative approach since the actual impervious areas for residential properties will account for more of the total impervious areas of the Village.

Finally, an illustration of the overall revenue generation is provided in the table below and compares the existing revenues by class to the alternative revenues by class:

Class	Existing Revenue	Calculated Revenue
Multi-family	\$1,147,868.97	\$775,951.92
Single-family	407,830.80	903,892.85
Non-residential	362,566.14	239,506.58
Total	\$1,918,265.91	\$1,919,351.34

### Findings and Conclusions

As stated above, the most direct cost driver for stormwater costs is impervious area. To more equitably fund the stormwater program, the Village's existing structure should be updated to utilize impervious area measurements for all properties and charge accordingly. Many jurisdictions utilize an ERU because it is not feasible to measure and maintain the impervious area on all properties. Since the Village has obtained the measurements for all single-family and multi-family properties through this study, this data is largely developed, and the Village should be able to manage the stormwater roll and any impervious area changes from year-to-year without creating significant challenges for staff it is reasonable for the fees to be based on the per square foot of impervious area for each property. By designing fees based on a per square foot basis it also results in a more understandable charge basis compared to using ERU factors. The proposed billing method of charging per square foot of impervious area will also have the benefit of creating a simple way of providing an incentive for property owners to reduce their impervious area, which can help mitigate stormwater runoff and contributions to flood events from the property.

Further support for charging based on each properties number of square feet comes from the high variability in the impervious area for single-family housing in the Village. Impervious area measurements on single-family homes ranged from approximately 1,600 square feet to over 25,000 square feet. Applying a single charge to all single-family homes does not correlate well with the cost driver of impervious area and reduces the equitability in the fee system.

Multi-family properties also exhibit high variability but are different when compared to single-family properties because they contain shared common impervious area that must be allocated amongst the units. Both approaches of allocation discussed above, of equal and relative methods, have pros and cons associated with them. Through discussions with staff, and based on research they performed, many of the HOAs for the condos assign their monthly / quarterly dues based on the size of each unit, which is a similar approach to the relative allocation method presented. The relative allocation method may be slightly more challenging to maintain as any unit combinations or splits need to be tracked based on the square footage as opposed to just unit counts. The most prevalent "pro" for the equal allocation method is that all common areas are allocated equal to all units.

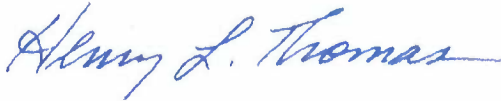
Therefore, it is concluded that the Village should update the stormwater application basis to transition from a per unit / ERU approach to a per square foot of impervious area approach for all properties. For single-family properties the annual charge will be based on the impervious area measurement. For multi-family units, the charge will be based on the relative allocation method, which would allocate the multi-family complexes on the square feet of living space in each individual unit. The non-residential properties will continue to be assessed using the per square foot of impervious area approach without the need to convert such square feet to ERUs.

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Based on the findings for alternative fee applications to all properties, the overall revenue collections by property type will shift, where single-family properties generally pay more and multi-family and non-residential properties generally pay less. In total, single-family properties contain the most impervious area, but currently pay less than the multi-family class. Non-residential properties and single-family residential properties currently contribute similar amounts of revenue to the program despite single-family properties containing far more impervious area on a total basis. Shifting to a square footage-based rate structure would more equitably reflect the characteristics of the Village, resulting in a more fairly funded program.

Sincerely,

**RAFTELIS FINANCIAL CONSULTANTS, INC.**



**Henry L. Thomas**  
*Vice President*



**Joe Williams**  
*Manager*

**ORDINANCE NO. 2022-\_\_\_\_\_**

**AN ORDINANCE OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AMENDING ORDINANCE NO. 2021-07 WHICH ADOPTED THE BUDGET FOR FISCAL YEAR 2021-2022 BY REVISING THE 2021-2022 FISCAL YEAR BUDGET (BUDGET AMENDMENT NO. 2); PROVIDING FOR IMPLEMENTATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, in accordance with Section 200.065, Florida Statutes, on September 22, 2021, the Village Council of the Village of Key Biscayne (the “Village”) adopted Ordinance No. 2021-07 approving the Fiscal Year 2021-2022 Budget; and

**WHEREAS**, upon the periodic review and analysis of current budgetary commitments and obligations, and based upon the projected needs and requirements of the Village and upon the recommendations of the Village Manager, it is deemed necessary to adjust, amend and implement the Fiscal Year 2021-2022 Budget in accordance with Exhibit “A,” attached hereto; and

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

**NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AS FOLLOWS:**<sup>1</sup>

**Section 1.**     **Recitals.** That the above-stated recitals are true and correct and are incorporated herein by this reference.

**Section 2.**     **Amending Ordinance No. 2021-07.** That the Village Council hereby authorizes the amendment of Ordinance No. 2021-07, which Ordinance adopted a budget for the 2021-2022 fiscal year, by revising the 2021-2022 Budget (Budget Amendment No. 2) in

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<sup>1</sup> Coding: ~~Strikethrough~~ words are deletions to the existing words. Underlined words are additions to the existing words. Changes between first and second reading are indicated with **highlighted** ~~double-strikethrough~~ and double underline.

accordance with Exhibit "A," which exhibit is deemed incorporated by reference as though set forth in full herein.

**Section 3.**    **Implementation.** That the Village Manager is hereby authorized to take any and all action necessary to implement the purpose of this Ordinance.

**Section 4.**    **Effective Date.** That this Ordinance shall become effective immediately upon final adoption on second reading.

**PASSED** on first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2022.

**PASSED AND ADOPTED** on second reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2022

\_\_\_\_\_  
MICHAEL W. DAVEY  
MAYOR

ATTEST:

\_\_\_\_\_  
JOCELYN B. KOCH  
VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.  
VILLAGE ATTORNEY





# VILLAGE OF KEY BISCAINE

## EXHIBIT "A"

*Village Council*

**Michael W. Davey, Mayor**

**Brett Moss, Vice Mayor**

**Frank Caplan**

**Luis Lauredo**

**Edward London**

**Allison McCormick**

**Ignacio J. Segurola**

*Village Manager*

**Steven C. Williamson**

### MEMORANDUM

DATE: April 12, 2022  
TO: Honorable Mayor Davey and Councilmembers  
FROM: Steven C. Williamson, Village Manager  
RE: Budget Amendment II Ordinance

#### RECOMMENDATION

I recommend that the Village Council approve the attached ordinance.

#### BACKGROUND

On September 26, 2021, the Village Council passed and adopted Ordinance No. 2021-07 approving the Fiscal Year 2021-2022 Budget. Upon periodic review and analysis of current budgetary commitments, obligations, and based upon the projected needs and requirements of the Village, it is deemed necessary to adjust, amend, and implement the Fiscal Year 2021-2022 Budget. The amended budget INVESTS the surplus of \$3,080,032 million dollars from FY 21, by appropriating \$471,000 for new projects in Amendment I, \$1,668,000 for operational expenditures and capital projects in Amendment II, while replenishing the emergency fund by \$246,589 to return it back to \$4 million. The remaining balance of \$694,443 will be moved to working capital assigned fund. Exhibits will be supplied at 2<sup>nd</sup> reading (of 2nd budget amendment) as they are contingent on the results of the 2<sup>nd</sup> reading of the 1<sup>st</sup> Budget Amendment A description of each amended line item is provided below:

#### **Exhibit A**

<b>Operational Expenditures</b>		
Department	Description	Amount
Police	Ventilation System	10,000
Public Works	USACE CRSM Match	500,000
Public Works	Seawall Design & Ordinance Prep.	50,000
Public Works	Maintenance & Repairs	75,000
Public Works	East Enid Streetlights	50,000
Community Center	Basketball Systems	28,000
Total Operations		713,000
<b>Capital Improvement Plan</b>		
Resilient & Sustainable Infrastructure Integration & Implementation Plan		575,000
Splash Pad		45,000
Sands Condominium Public Beach Access		40,000
Community Center Pool Deck		245,000
Hampton Park Improvements		50,000
Total CIP		955,000
Grand Total - Amendment II		1,668,000





# VILLAGE OF KEY BISCAINE

## **Operational Expenditures**

### **Police – Ventilation System in Evidence Room -\$10,000**

In two separate audits conducted by the Florida Department of Law Enforcement and another by the Commission for Florida Accreditation, it was discovered and brought to the Department's attention that fumes and odors emanating from the drug and firearm areas are extremely hazardous to employees working in those areas. Both entities independently recommended the installation of a ventilation system. Air quality in law enforcement property rooms (specifically drug storage areas) is a critical concern since decaying plant material (particularly when stored in plastic) provides the ideal environment for unhealthy growth of organisms (like mold).

### **Public Works – US Army Corps of Engineers (USACE) Coastal Storm Risk Management (CSRM) Back-Bay Study \$500,000**

The Village of Key Biscayne was included as part of the Miami-Dade County CSRM Recommended Plan on February 17, 2022. As part the decision to include the Village, USACE now requires that a back-bay study be performed to provide a full assessment of both our ocean and bayside shorelines to ensure we are protected from sea-level rise, storm-surge, and other environmental changes. While the project scope and cost of the back-bay modelling and assessment are still being developed, USACE has estimated that the study will cost between \$2M and \$3M. The project will be a 50/50 split between federal funding and local sponsor funding. The local sponsor, Miami-Dade County, has agreed to fund 50% of the local funding portion, leaving the Village required to fund 25% of the project. With the waiver request on the fast track to meet USACE's timeline to get the project into the Water Resources Development Act, they have asked for a commitment of funding. At this point, it is sufficient to commit \$500,000 to the project, as the Village's portion, to keep the project waiver process in motion.

### **Public Works – Seawall Design & Ordinance \$50,000**

Consulting services relative to the development of design criteria in support of the Key Biscayne Seawall Design Criteria. This effort will develop minimum criteria for new seawalls to be designed and constructed within the Village, as the Village addresses its bayside shoreline protection options. Improved and elevated seawalls and the incorporation of living shoreline techniques are part of the equation and will facilitate overall resiliency and coastal defense throughout the Village. The results of this Project are anticipated to provide a technical basis and justification for Village code revisions.

### **Public Works – Maintenance & Repairs \$75,000**

Funds maintenance and repair projects in the Public Works Department for curbs, pavers, traffic circles and power washing along the Village right-of-way. It also includes funding for litter control.

### **Public Works East Enid Streetlights - \$50,000**



## VILLAGE OF KEY BISCAINE

As a result of a security incident, the Village is partnering with Florida Power & Light for the installation 17 Holophane 58 W 3K LED streetlights along East Enid at a cost of approximately \$16,300. The additional funding includes a service agreement with FP&L for the continued service and maintenance of the lights.

### **Community Center – Basketball System \$28,000**

Installation of new equipment controller, backboards, rims, edge pads and electric height adjusters which will replace the original 2004 equipment which are no longer in production.

### **Capital Improvement Plan**

#### **Public Works – Resilient & Sustainable Infrastructure Integration & Implementation Plan \$575,000**

The Village is embarking on a comprehensive infrastructure improvement program to mitigate projected environmental changes and to make the Village a stronger, more resilient and sustainable community. This is a ten-to-fifteen-year program which through five lines of effort will protect our shorelines, upgrade stormwater systems, underground utilities, improve roadways, and modify laws, policies, regulations and standards. To guide the infrastructure improvement initiative, the Village envisions a three-step process, beginning with a program strategy to design and frame the effort. Concurrently, the program manager will assist in developing an integration and implementation plan which will guide the program for its entire life cycle. Once the implementation plan is completed, the program manager will oversee the design and construction of the infrastructure upgrades, working as an extension of the Village staff. The plan will also directly support and complement the USACE Coastal Storm Risk Management project(s) to protect the Village's oceanside and bay shorelines. We anticipate that this initiative will span the next ten to fifteen years and be funded through a mix of approved capital and bond funds, state and federal grants, and pilot program matching funds.

#### **Splash Pad \$45,000**

The splash pad is originally budgeted in the FY 22 CIP plan for \$150,000 to replace the existing splashpad located at the Village Green. The additional \$45,000 is due to increased project costs. The project includes demolishing the existing splash pad, excavation, furnishing in installing new lines, and the installation of a new 6' 35,000 PSI concrete pad and features.

#### **Sands Condominium Public Beach Access \$40,000**

The public beach access project is originally budgeted in the FY 22 CIP plan for \$70,000. The additional \$40,000 is due to the enhanced design by using decorative pavers and landscaping instead of asphaltic concrete. The scope of the project includes furnishing and installing approximately 580 linear feet of brick paver walkway and associated improvements for the purpose of providing beach access to the public.



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## VILLAGE OF KEY BISCAINE

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### **Community Center Pool Deck - \$245,000**

The pool deck resurfacing at the Community Center was originally budgeted for \$80,000 in the FY 21 operational budget. The resurfacing was not complete at year end and the increased cost is due to engineer's recommendation to remove and replace the entire pool deck. Resurfacing the existing deck will not address the shrinkage, distress, and settlement cracks that currently exist. The surface applied would succumb to the existing cracks. The cracks are significant enough that repairs would be costly and not address the underlying issue causing the damages to the surface. This project was initially delayed due to the prospect of expanding the community center. Each time this has been bid the project cost has increased substantially. This is to be expected if we do not proceed now.

### **Hampton Park Improvements - \$50,000**

The Hampton Park drainage improvements and beautification were originally budgeted in the FY 22 CIP plan for \$50,000 from a FRDAP grant. The additional \$50,000 will sod the grass, improve the trails and lighting, repair to the coral rock pergola, improve the bocce/petanque court and provide additional landscaping





# VILLAGE OF KEY BISCAINE

Village Council

Michael W. Davey, Mayor

Brett Moss, Vice Mayor

Frank Caplan

Luis Lauredo

Edward London

Allison McCormick

Ignacio J. Seguro

Village Manager

Steven C. Williamson

## MEMORANDUM

DATE: May 10, 2022

TO: Honorable Mayor and Councilmembers

FROM: Steven C. Williamson, Village Manager

RE: LED Lighting Agreement with FPL for East Enid Drive Streetlights

### RECOMMENDATION

I recommend that the Village Council authorize the Village Manager to enter into an agreement with Florida Power & Light (FPL) and pay Contribution in Aid of Construction (CIAC) in the amount not to exceed \$20,000 in project startup costs and an estimated monthly tariff of \$685 for fixtures and poles for the East Enid Drive Streetlighting Project. The funding will be allocated in the FY22 Amended Budget, Public Works.

### BACKGROUND

After several security concerns were brought to the attention of the Village, both the Council and the Administration have determined to install new lighting along East Enid Drive to improve the area's safety. The project scope includes the installation of eighteen (18) LED streetlights under FPL's LED Lighting program. Seventeen (17) lights will be installed along East Enid Drive on the south side of the street and one (1) light at the southeast corner of Grand Bay Drive and Crandon Boulevard. The proposed lights will provide 2.32-foot candle average at the south sidewalk, 0.19-foot candle average at the north sidewalk, and 0.61-foot candle average at the roadway.

The LED Lighting Agreement (Exhibit "A") shall be for a term of ten (10) years and can be extended for additional five (5) years. Project upfront cost will not to exceed \$20,000 and the monthly tariff for fixtures and poles is estimated at \$38/pole.

Tariff breakdown is as follows:

Installation Details (reference Exhibit B*)	Cost
Fixture	\$215.92
Maintenance	\$255.84
Energy	\$20.80
Pole	\$19.77
Additional lighting charge (ALC)	\$94.42
Totals	\$606.75 (monthly) or \$38 per pole/month

\*exhibit B will be updated to reflect a total of 18 poles rather than 16

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

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A CAPITAL PROJECT AUTHORIZING RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, APPROVING AN LED LIGHTING AGREEMENT WITH THE FLORIDA POWER & LIGHT COMPANY FOR THE INSTALLATION OF THE EAST ENID DRIVE STREET LIGHTING PROJECT IN AN AMOUNT NOT TO EXCEED \$20,000.00 AND FOR MAINTENANCE, ENERGY, AND OTHER RELATED SERVICES FOR THE LIGHTING POLES IN AN AMOUNT NOT TO EXCEED \$685.00 PER MONTH; WAIVING COMPETITIVE BIDDING PROCEDURES; PROVIDING FOR AUTHORIZATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (the “Village”) desires to implement the East Enid Drive Street Lighting Project, which includes the installation of 17 LED Lights along the south side of East Enid Drive and 1 LED light at the southeast corner of Grand Bay Drive and Crandon Boulevard (the “Project”); and

**WHEREAS**, the Florida Power & Light Company (“FPL”) has agreed to install the Project for the Village in an amount not to exceed \$20,000.00 (the “Services”) and to provide maintenance, energy, and other related services for the lighting poles in an amount not to exceed \$685 per month (the “Additional Services”); and

**WHEREAS**, the Village has determined that it is in its best interest to contract with FPL to receive the Services for the Project and the Additional Services for the lighting poles; and

**WHEREAS**, in accordance with Section 2-85 of the Village Code of Ordinances (“Code”), the Village Council has determined that it is impractical to apply competitive bidding procedures to contract for the Services and desires to waive such procedures; and

**WHEREAS**, the Village Council desires to enter into an LED lighting agreement with FPL in substantially the form attached hereto as Exhibit “A” (the “Agreement”) and authorize the

Village Manager to execute all documents necessary to receive the Services for the Project and the Additional Services; 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 VILLAGE 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.**     **Approval.** That the Village Council approves the Agreement with FPL in substantially the form attached hereto as Exhibit "A."

**Section 3.**     **Authorization.** That the Village Manager is hereby authorized to execute the Agreement attached hereto as Exhibit "A" with the FPL to receive the Services for the Project in an amount not to exceed \$20,000 and the Additional Services for the lighting poles in an amount not to exceed \$685 per month, subject to approval by the Village Attorney as to form, content, and legal sufficiency.

**Section 4.**     **Effective Date.** That this Resolution shall be effective immediately upon adoption.

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

ATTEST:

\_\_\_\_\_  
MICHAEL W. DAVEY, MAYOR

\_\_\_\_\_  
JOCELYN B. KOCH  
VILLAGE CLERK



APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

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WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.  
VILLAGE ATTORNEY



FPL Account Number: 263562480

FPL Work Request Number: \_\_\_\_\_

## LED LIGHTING AGREEMENT

In accordance with the following terms and conditions, Village of Key Biscayne (hereinafter called the Customer), requests on this 12th day of April, 2022, from FLORIDA POWER & LIGHT COMPANY (hereinafter called FPL), a corporation organized and existing under the laws of the State of Florida, the following installation or modification of lighting facilities at (general boundaries) V/O Enid Drive, located in Village of Key Biscayne, Florida.

- (a) Installation and/or removal of FPL-owned facilities described as follows:

Fixture Description <sup>(1)</sup>	Watts	Lumens	Color Temperature	# Installed	# Removed
Granville Black	58	7580	3000K	16	

(1) Catalog of available fixtures and the assigned billing tier for each can be viewed at [www.fpl.com/led](http://www.fpl.com/led)

Exhibit "A"

Pole Description	# Installed	# Removed
Washington (Black)	16	

- (b) Installation and/or removal of FPL-owned additional lighting facilities where a cost estimate for these facilities will be determined based on the job scope, and the Additional Lighting Charges factor applied to determine the monthly rate.
- (c) Modification to existing facilities other than described above or additional notes (explain fully): Install 16 x 58w Granville 3000K Black fixtures on 16 x 18.5ft Black Washington Poles. Customer is responsible for any restoration required.

That, for and in consideration of the covenants set forth herein, the parties hereto covenant and agree as follows:

**FPL AGREES:**

1. To install or modify the lighting facilities described and identified above (hereinafter called the Lighting System), furnish to the Customer the electric energy necessary for the operation of the Lighting System, and furnish such other services as are specified in this Agreement, all in accordance with the terms of FPL's currently effective lighting rate schedule on file at the Florida Public Service Commission (FPSC) or any successive lighting rate schedule approved by the FPSC.

**THE CUSTOMER AGREES:**

2. To pay a monthly fee for fixtures and poles in accordance to the Lighting tariff, and additional lighting charge in the amount of \$94.42. These charges may be adjusted subject to review and approval by the FPSC.
3. To pay Contribution in Aid of Construction (CIAC) in the amount of \$16,300.93 prior to FPL's initiating the requested installation or modification.
4. To pay the monthly maintenance and energy charges in accordance to the Lighting tariff. These charges may be adjusted subject to review and approval by the FPSC.
5. To purchase from FPL all the electric energy used for the operation of the Lighting System.
6. To be responsible for paying, when due, all bills rendered by FPL pursuant to FPL's currently effective lighting rate schedule on file at the FPSC or any successive lighting rate schedule approved by the FPSC, for facilities and service provided in accordance with this agreement.
7. To provide access, suitable construction drawings showing the location of existing and proposed structures, and appropriate plats necessary for planning the design and completing the construction of FPL facilities associated with the Lighting System.
8. To have sole responsibility to ensure lighting, poles, luminaires and fixtures are in compliance with any applicable municipal or county ordinances governing the size, wattage, lumens or general aesthetics.
9. For new FPL-owned lighting systems, to provide final grading to specifications, perform any clearing if needed, compacting, removal of stumps or other obstructions that conflict with construction, identification of all non-FPL underground facilities within or near pole or trench locations, drainage of rights-of-way or good and sufficient easements required by FPL to accommodate the lighting facilities.
10. For FPL-owned fixtures on customer-owned systems:
  - a. To perform repairs or correct code violations on their existing lighting infrastructure. Notification to FPL is required once site is ready.
  - b. To repair or replace their electrical infrastructure in order to provide service to the Lighting System for daily operations or in a catastrophic event.
  - c. In the event the light is not operating correctly, Customer agrees to check voltage at the service point feeding the lighting circuit prior to submitting the request for FPL to repair the fixture.

**IT IS MUTUALLY AGREED THAT:**

11. Modifications to the facilities provided by FPL under this agreement, other than for maintenance, may only be made through the execution of an additional lighting agreement delineating the modifications to be accomplished. Modification of FPL lighting facilities is defined as the following:
  - a. the addition of lighting facilities;
  - b. the removal of lighting facilities; and
  - c. the removal of lighting facilities and the replacement of such facilities with new facilities and/or additional facilities.

Modifications will be subject to the costs identified in FPL's currently effective lighting rate schedule on file at the FPSC, or any successive schedule approved by the FPSC.

12. FPL will, at the request of the Customer, relocate the lighting facilities covered by this agreement, if provided sufficient rights-of-way or easements to do so and locations requested are consistent with clear zone right-of-way setback requirements. The Customer shall be responsible for the payment of all costs associated with any such Customer-requested relocation of FPL lighting facilities. Payments shall be made by the Customer in advance of any relocation.  
Lighting facilities will only be installed in locations that meet all applicable clear zone right-of-way setback requirements.
13. FPL may, at any time, substitute for any fixture installed hereunder another equivalent fixture which shall be of similar illuminating capacity and efficiency.

14. This Agreement shall be for a term of ten (10) years from the date of initiation of service, and, except as provided below, shall extend thereafter for further successive periods of five (5) years from the expiration of the initial ten (10) year term or from the expiration of any extension thereof. The date of initiation of service shall be defined as the date the first lights are energized and billing begins, not the date of this Agreement. This Agreement shall be extended automatically beyond the initial ten (10) year term or any extension thereof, unless either party shall have given written notice to the other of its desire to terminate this Agreement. The written notice shall be by certified mail and shall be given not less than ninety (90) days before the expiration of the initial ten (10) year term, or any extension thereof.
15. In the event lighting facilities covered by this agreement are removed, either at the request of the Customer or through termination or breach of this Agreement, the Customer shall be responsible for paying to FPL an amount equal to the original installed cost of the facilities provided by FPL under this agreement less any salvage value and any depreciation (based on current depreciation rates approved by the FPSC) plus removal cost.
16. Should the Customer fail to pay any bills due and rendered pursuant to this agreement or otherwise fail to perform the obligations contained in this Agreement, said obligations being material and going to the essence of this Agreement, FPL may cease to supply electric energy or service until the Customer has paid the bills due and rendered or has fully cured such other breach of this Agreement. Any failure of FPL to exercise its rights hereunder shall not be a waiver of its rights. It is understood, however, that such discontinuance of the supplying of electric energy or service shall not constitute a breach of this Agreement by FPL, nor shall it relieve the Customer of the obligation to perform any of the terms and conditions of this Agreement.
17. The obligation to furnish or purchase service shall be excused at any time that either party is prevented from complying with this Agreement by strikes, lockouts, fires, riots, acts of God, the public enemy, or by cause or causes not under the control of the party thus prevented from compliance, and FPL shall not have the obligation to furnish service if it is prevented from complying with this Agreement by reason of any partial, temporary or entire shut-down of service which, in the sole opinion of FPL, is reasonably necessary for the purpose of repairing or making more efficient all or any part of its generating or other electrical equipment.
18. This Agreement supersedes all previous Agreements or representations, either written, oral, or otherwise between the Customer and FPL, with respect to the facilities referenced herein and constitutes the entire Agreement between the parties. This Agreement does not create any rights or provide any remedies to third parties or create any additional duty, obligation or undertakings by FPL to third parties.
19. In the event of the sale of the real property upon which the facilities are installed, upon the written consent of FPL, this Agreement may be assigned by the Customer to the Purchaser. No assignment shall relieve the Customer from its obligations hereunder until such obligations have been assumed by the assignee and agreed to by FPL.
20. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of the Customer and FPL.
21. The lighting facilities shall remain the property of FPL in perpetuity.
22. This Agreement is subject to FPL's Electric Tariff, including, but not limited to, the General Rules and Regulations for Electric Service and the Rules of the FPSC, as they are now written, or as they may be hereafter revised, amended or supplemented. In the event of any conflict between the terms of this Agreement and the provisions of the FPL Electric Tariff or the FPSC Rules, the provisions of the Electric Tariff and FPSC Rules shall control, as they are now written, or as they may be hereafter revised, amended or supplemented.

IN WITNESS WHEREOF, the parties hereby caused this Agreement to be executed in triplicate by their duly authorized representatives to be effective as of the day and year first written above.

Charges and Terms Accepted:

Village of Key Biscayne  
Customer (Print or type name of Organization)

By: \_\_\_\_\_  
Signature (Authorized Representative)

\_\_\_\_\_  
(Print or type name)

Title: \_\_\_\_\_

FLORIDA POWER & LIGHT COMPANY

By: \_\_\_\_\_  
(Signature)

Ariel O. Lazo  
(Print or type name)

Title: FPL LED Lighting Consultant



# LED Lighting Plan

Village of Key Biscayne Enid Drive

## Going Green

This plan reduces power consumption by: kWh / year  
and that eliminates: metric tons of CO<sub>2</sub> every year<sup>1</sup>  
or removing: cars from the road<sup>2</sup>

<b>TOTAL</b>		<b>16</b>	<b>\$</b>	<b>606.75</b>
<b>Installation Details</b>				
<b>1</b>		<b>Option 1</b>		
		select fixture:	<b>Granville 58 Watt 3000K Green / Green (Post Top)</b>	
		fixture / pole:	<b>1</b>	
		select pole:	<b>Decorative Concrete</b>	
		<b>Fixture*</b>	\$	215.92
Quantity:		<b>Pole</b>	\$	255.84
FPL Non-LED Conversion:		<b>Maintenance</b>	\$	20.80
Full/Hybrid:		<b>Energy**</b>	\$	19.77
FPL NW Area:		<b>Monthly Total</b>	\$	512.33
<b>SUB TOTAL</b>				
		<b>16</b>	<b>\$</b>	<b>512.33</b>
<b>Installation Details</b>				
<b>Additional Lighting Charge (ALC)</b>		<b>Proposed</b>		
		<b>ALC FEE</b>	94.42	
		<b>Total</b>	\$	<b>94.42</b>
<b>TOTAL</b>				
		<b>16</b>	<b>\$</b>	<b>606.75</b>

\*Includes fixture fee and monthly conversion fee where applicable.

\*\*Includes Non-Fuel Energy charge, Fuel, Conservation, Capacity, Environmental, and Storm Charges.

Based upon FPL bill rates as of 01.01.22





# VILLAGE OF KEY BISCAINE

*Village Council*

**Michael W. Davey, Mayor**

**Brett Moss, Vice Mayor**

**Frank Caplan**

**Luis Lauredo**

**Edward London**

**Allison McCormick**

**Ignacio J. Seguro**

*Village Manager*

**Steven C. Williamson**

## MEMORANDUM

DATE: May 10, 2022

TO: Honorable Mayor and Councilmembers

FROM: Steven C. Williamson, Village Manager

RE: Engineering Deposit for "Binding" Cost Estimate from Florida Power & Light for Village Wide Electric Facilities Conversion

### RECOMMENDATION

I recommend that the Village Council authorize the Village Manager to pay an engineering deposit in an amount of \$147,037.00 to request a binding cost estimate from Florida Power & Light (FPL) for Village Wide Electric Facilities Conversion, also known as the "Utility Undergrounding" project. The funding is allocated in the FY22 Adopted Budget, Capital Improvements, Utility Undergrounding, Phase 1.

### BACKGROUND

On April 12, 2016, the Village Council authorized a work order to the Wantman Group, Inc. (WGI) to conduct a feasibility study to assess the viability of relocating the overhead utilities (electrical and telecommunications) to underground. The feasibility study provided an opinion of probable cost estimate for \$29,691,750. Based on the recommendations of the feasibility study, the Village Council then authorized the Village Manager to issue a Request for Qualifications, and ultimately issue a work order to Kimley-Horn and Associates (KHA) on January 28, 2018, to provide engineering services to develop a Master Plan for the Village-wide Undergrounding of Utilities Program. The Master Plan provided an opinion of probable cost estimate for \$46,800,000 for the undergrounding of electrical and telecommunications utilities.

Subsequently, the Village Council passed a motion to pursue necessary action to engage FPL and obtain bids to conduct the required survey work.

Based on Council direction, the staff has requested a non-binding "ballpark" estimate from FPL. Ballpark estimates are provided strictly to assist in preliminary decision making and do not include street lighting and telecommunication infrastructure. FPL provided a ballpark estimate dated October 28, 2021 (*Exhibit "A"*), which presented an estimate of \$18,474,612, not including the 25% Governmental Adjustment Factor (GAF) waiver for local government sponsored projects.



## VILLAGE OF KEY BISCAYNE

On January 1, 2022, a new FPL tariff became effective. There is no longer a 25% GAF discount (*Exhibit "B"*). Instead, there is an Avoided Storm Restoration Cost (ASRC) credit, which is calculated at \$109,074 per mile. In addition, there is an Underground v. Overhead Operational Cost Differential credit, which is calculated at \$205,862 per mile. As per the new tariff, both credits combined equal an overall per mile credit of \$314,936. Thus, the estimated total credit for the Village would be:

Entire Village Electrical Overhead System: 23.21 miles x \$314,936 = \$7,309,665

Considering the latest information above, FPL has provided a ballpark estimate of **\$18,474,612**, which remains the same (*Exhibit "C"*). However, with the two new credits, the updated net estimated cost to underground the electrical utility lines is \$9,164,947.

*Table 1: Credit Comparison*

<b>Tariff</b>	<b>Ballpark Estimate</b>	<b>Credit</b>	<b>Net Estimated Cost</b>
Old	18,474,612	\$4,118,653	\$12,355,959
New	18,474,612	\$7,309,665	\$9,164,947

Once the Village receives the binding cost estimate to underground the electrical utility lines, it will immediately ask the telecommunications providers for their estimated cost to underground telecommunications utilities so that both electrical and telecommunications lines can be combined in a single project.

Utility undergrounding plays a vital role in our attempts to achieve village wide resiliency and must be coordinated closely with stormwater and roadway improvements projects. Timing of this project is critical, and any delay in the undergrounding project will result in further delays in anticipated stormwater and roadway projects.

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

**RESOLUTION NO. 2022-\_\_\_\_\_**

**A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF KEY BISCAYNE, FLORIDA, AUTHORIZING THE VILLAGE MANAGER TO MAKE A NON-REFUNDABLE ENGINEERING DEPOSIT IN THE AMOUNT OF \$147,037 TO THE FLORIDA POWER & LIGHT COMPANY TO REQUEST A BINDING ESTIMATE FOR THE VILLAGE-WIDE ELECTRIC FACILITIES CONVERSION PROJECT; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Village of Key Biscayne (“Village”) desires to implement the Village-wide Electric Facilities Conversion Project, also known as the Utility Undergrounding Project (the “Project”) in order to relocate overhead utilities throughout the Village underground; and

**WHEREAS**, on October 28, 2021, the Florida Power & Light Company (“FPL”) provided the Village with a non-binding “ballpark” estimate in the amount of \$18,474,612 for implementation of the Project; and

**WHEREAS**, pursuant to Section 25-6.115 of the Florida Administrative Code, FPL has indicated that it can provide the Village with a binding estimate for the Project upon payment of a non-refundable engineering deposit to FPL in the amount of \$147,037, which estimate would be valid for 180 days; and

**WHEREAS**, the Village Council desires to authorize the Village Manager to make a non-refundable engineering deposit in the amount of \$147,037 to FPL to request a binding estimate for the Project; 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 VILLAGE 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.**     **Authorization.** That the Village Council hereby authorizes the Village Manager to make a non-refundable engineering deposit in the amount of \$147,037 to FPL to request a binding estimate for the Project.

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

PASSED and ADOPTED this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
MICHAEL W. DAVEY, MAYOR

ATTEST:

\_\_\_\_\_  
JOCELYN B. KOCH  
VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

\_\_\_\_\_  
WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.  
VILLAGE ATTORNEY



October 28, 2021

Mr. Jake Ozyman, P.E.  
Director of Public Works  
Village of Key Biscayne  
88 West McIntyre Street  
Key Biscayne, FL 33149

**Re: Village of Key Biscayne  
Electric Facilities Conversion – Ballpark Estimate  
Village – Wide Project  
WR # 8731994**

Dear Mr. Ozyman, P.E.:

FPL welcomes the opportunity to assist you in examining the feasibility of converting from overhead electric distribution facilities to an underground system at the following location:

**Village-wide project in Key Biscayne, Florida.**

As per your request, the non-binding "ballpark" estimate to complete this conversion is \$18,474,612. This estimate is provided strictly to assist you in preliminary decision making and it does not include the conversion of the existing streetlight system. It is not an offer from FPL to perform the requested conversion and should not be construed or used as such for detailed planning purposes. This represents an "order of magnitude" figure based on previous FPL experience and reflects the CIAC payment that the City would ultimately need to make to FPL if the conversion were performed at this point in time. It is our experience that conversions in developed areas are the most complex and challenging types of construction. As such, this estimate likely will not precisely represent the City's ultimate actual cost to convert, but can assist the City in preliminary decision-making.

FPL estimates include only estimated charges to be paid by the City to FPL. The costs of the following items are not included with the estimate and are the responsibility of the City / residents. These potential costs should be included in future planning of the project:

- Site restoration (sod, landscaping, pavement, sidewalks, etc)
- Rearrangement of customer electric service entrances (requires electrician) from overhead to underground. Also, additional customer expense if local inspecting authorities require customer wiring to be brought to current codes.
- Replacement street and security lighting currently attached to be poles being removed
- Trenching/backfilling for service laterals.
- Removal and undergrounding of other utilities (e.g. telecom, CATV, etc.)
- Acquiring, describing, securing and recording of easements for underground facilities. In underground systems, major components formerly attached to poles must now occupy "at grade" appurtenances, e.g., ground level pad mounted transformers and switch cabinets.

a NextEra Company

Exhibit "A"

Facilities of an underground distribution system will not be placed in road right-of-way, with the exception of cables required for crossings. (See special note below)

Note: Obtaining easements is typically the most difficult aspect of the conversion process; the time required to secure the easements may even exceed the 180 day binding estimate timeframe. FPL strongly suggests that all easements required for the conversion be described and secured prior to requesting the detailed cost estimate.

In 2007, the Public Service Commission approved FPL's 25% Governmental Adjustment Factor (G.A.F.) waiver for local government sponsored projects. In order to be eligible for the G.A.F. waiver a project must meet a series of criteria (see Attachment). Based on the preliminary information you provided for the proposed conversion area, this request would qualify for the G.A.F. waiver.

After reviewing the "ballpark" estimate, if you decide to move forward with the conversion project, you may request a detailed and "binding" estimate. Due to the complexity and time required to estimate such a conversion, a non-refundable engineering deposit is required prior to beginning the estimating process, as set forth in the Florida Administrative Code 25-6.115. For this conversion project the amount of the required engineering deposit is \$147,037. If you decide to proceed with the work contained in the estimate, the amount of this deposit would be applied toward the estimated amount owed to FPL for the conversion. The work must commence within 180 days of the date the binding estimate is provided.

The request for the binding estimate must be in writing, and must describe in detail the facilities to be converted. Binding estimates are valid for 180 days, and would be subject to change in the event of a work scope change. Should actual FPL costs exceed the binding estimate amount, the customer may be responsible for those additional costs up to a maximum of 10% of the binding estimate amount. Payment of customer costs, easements (with opinion of title and recorded), agreements from other utilities/pole licensees, and execution of a Conversion Agreement would be required before commencement of construction.

If you have any questions or wish to consider a binding cost estimate, please call me at (954) 232-3389

Sincerely,



Terry Miller  
Project Manager  
CMC – Feeder Undergrounding Group  
Area Office Broward

cc: Hau Tran, OH to UG Conversions Program Manager  
Armando Fernandez, External Affairs Manager



**INSTALLATION OF UNDERGROUND ELECTRIC DISTRIBUTION FACILITIES  
FOR THE CONVERSION OF OVERHEAD ELECTRIC DISTRIBUTION FACILITIES**

**SECTION 12.1 DEFINITIONS**

APPLICANT - Any person, corporation, or entity capable of complying with the requirements of this tariff that has made a written request for underground electric distribution facilities in accordance with this tariff.

CONVERSION - Any installation of underground electric distribution facilities where the underground facilities will be substituted for existing overhead electric distribution facilities, including relocations.

CONTRIBUTION-IN-AID-OF-CONSTRUCTION (CIAC) - The CIAC to be paid by an Applicant under this tariff section shall be the result of the following formula:

CIAC =

- 1) The estimated cost to install the requested underground facilities;
- + 2) The estimated cost to remove the existing overhead facilities;<sup>a</sup>
- + 3) The net book value of the existing overhead facilities;<sup>a</sup>
- 4) The estimated cost that would be incurred to install new overhead facilities, in lieu of underground, to replace the existing overhead facilities (the "Hypothetical Overhead Facilities");
- 5) The estimated salvage value of the existing overhead facilities to be removed;<sup>a</sup>
- + 6) The 30-year net present value of the estimated non-storm underground v. overhead operational costs differential,
- 7) The 30-year net present value of the estimated average Avoided Storm Restoration Costs ("ASRC")<sup>b</sup>.

<sup>a</sup> In calculating the Applicant's CIAC, elements 2, 3, and 5 of the CIAC formula above are to be excluded from CIAC due from an applicant who submits an application providing a binding notification that said applicant intends to convert existing non-hardened overhead feeder facilities to underground feeder facilities.

<sup>b</sup> Lines 6 & 7 will be combined to calculate a per mile credit.

DISTRIBUTION SYSTEM - Electric service facilities consisting of primary and secondary conductors, service drops, service laterals, conduits, transformers and necessary accessories and appurtenances for the furnishing of electric power at utilization voltage.

SERVICE FACILITIES - The entire length of conductors between the distribution source, including any conduit and or risers at a pole or other structure or from transformers, from which only one point of service will result, and the first point of connection to the service entrance conductors at a weatherhead, in a terminal, or meter box outside the building wall; the terminal or meter box; and the meter.

(Continued on Sheet No. 6.301)

(Continued from Sheet No. 6.300)

**SECTION 12.2 GENERAL****12.2.1 Application**

This tariff section applies to all requests for underground electric distribution facilities where the facilities requested will be substituted for existing overhead electric distribution facilities. Any person, corporation, or entity capable of complying with the requirements of this tariff may submit a request as follows. Requests shall be in writing and must specify in detail the overhead electric distribution facilities to be converted or the area to be served by underground electric distribution facilities in lieu of presently existing overhead electric distribution facilities serving said area. Upon receipt of a written request, FPL will determine the feasibility of converting the existing facilities, any necessary revisions to this written request, and the non-refundable deposit amount necessary to secure a binding cost estimate and notify the applicant of said amount.

**12.2.2 Contribution-in-Aid-Of-Construction (CIAC)**

Upon the payment of a non-refundable deposit by an Applicant, FPL shall prepare a binding cost estimate specifying the contribution in aid of construction (CIAC) required for the installation of the requested underground distribution facilities, where the installation of such facilities is feasible, and provide said estimate to the Applicant upon completion of the estimate along with an Underground Facilities Conversion Agreement. The CIAC amount to be collected pursuant to a binding cost estimate from an Applicant shall not be increased by more than 10 percent of the binding cost estimate to account for actual costs incurred in excess of the binding cost estimate. However, the CIAC may be subject to increase or refund if the project scope is enlarged or reduced at the request of the Applicant, or the CIAC is found to have a material error prior to the commencement of construction. The binding cost estimate provided to an Applicant shall be considered expired if the Applicant does not enter into an Underground Facilities Conversion Agreement and pay the CIAC amount specified for the installation of the requested underground electric distribution facilities within 180 days of delivery of the binding cost estimate to the Applicant by FPL.

(Continued on Sheet No. 6.310)

(Continued from Sheet No. 6.301)

**12.2.3 Non-Refundable Deposits**

The non-refundable deposit for a binding cost estimate for conversion to a direct buried cable in conduit underground electric distribution system shall be determined by multiplying the number of pole line feet of existing overhead electric distribution facilities to be converted by \$1.20. The deposit must be paid to FPL to initiate the estimating process. The deposit will not be refundable, however, it will be applied in the calculation of the CIAC required for the installation of underground distribution facilities. The deposit and the preparation of a binding cost estimate are a prerequisite to the execution of an Underground Facilities Conversion Agreement. If the request for underground electric distribution facilities involves the conversion of less than 250 pole line feet of existing overhead facilities, then no deposit will be required for a binding cost estimate, provided, however, that all other requirements of this tariff shall still apply.

**12.2.4 Non-Binding Cost Estimates**

Any person, corporation, or entity may request a non-binding cost estimate free of charge. The non-binding cost estimate shall be an order of magnitude estimate to assist the requestor in determining whether to go forward with a binding cost estimate. An Underground Facilities Conversion Agreement may not be executed on the basis of a non-binding cost estimate.

**12.2.5 Underground Facilities Conversion Agreement**

Any Applicant seeking the installation of underground distribution facilities pursuant to a written request hereunder shall execute the Underground Facilities Conversion Agreement set forth in this tariff at Sheet No. 9.720. The applicable Agreement must be executed and the CIAC paid by the Applicant within 180 days of the delivery of the binding cost estimate to the Applicant. Failure to execute the applicable Agreement and pay the CIAC specified in the Agreement within the 180 day time limit, or termination of the Agreement, shall result in the expiration of the binding cost estimate. Any subsequent request for underground facilities will require the payment of a new deposit and the presentation of a new binding cost estimate. For good cause FPL may extend the 180 day time limit. Upon execution of the Underground Facilities Conversion Agreement, payment in full of the CIAC specified in the binding cost estimate, and compliance with the requirements of this tariff, FPL shall proceed to convert the facilities identified in a timely manner. However, new service extensions, maintenance and reliability projects, and service restorations shall take precedence over facilities conversions.

**12.2.6 Simultaneous Conversion of Other Pole Licensees**

Before the initiation of any project to provide underground electric distribution facilities pursuant to an Underground Facilities Conversion Agreement the Applicant shall have executed agreements with all affected pole licensees (e.g. telephone, cable TV, etc.) for the simultaneous conversion of those pole licensees' facilities and provide FPL with an executed copy of the Agreement(s). Such agreements shall specifically acknowledge that the affected pole licensees will coordinate their conversion with FPL and other licensees in a timely manner so as to not create unnecessary delays. Failure to present FPL with executed copies of any necessary agreements with affected pole licensees within 180 days after delivery of the binding cost estimate to the Applicant shall result in the expiration of the binding cost estimate, the return of any CIAC paid, and the termination of any Underground Facilities Conversion Agreement entered into between the Applicant and FPL.

**12.2.7 Easements**

Before the initiation of any project to provide underground electric distribution facilities pursuant to an Underground Facilities Conversion Agreement the Applicant shall provide FPL, at no cost to FPL, all easements, including legal descriptions of such easements and all survey work associated with producing legal descriptions of such easements, specified as necessary by FPL to accommodate the requested underground facilities along with an opinion of title that the easements are valid. Failure to provide the easements in the manner set forth above within 180 days after the delivery of the binding cost estimate to the Applicant shall result in the expiration of the binding cost estimate, the return of any CIAC paid, and the termination of any Underground Facilities Conversion Agreement entered into between the Applicant and FPL.

(Continued on Sheet No. 6.320)

Exhibit "B"

(Continued from Sheet No. 6.310)

**12.2.8 Affected Customer Services**

The Applicant shall be responsible for the costs associated with any modifications to the service facilities of customers affected by the conversion of FPL distribution facilities which are made necessary as a result of the conversion. The Applicant shall be responsible for arranging the conversion of affected residential overhead customer service facilities by providing, at no cost to FPL:

- a) any necessary rearranging of the customer's existing electric service entrance facilities to accommodate an underground service lateral through the use of a licensed electrical contractor, in accordance with all local ordinances, codes, and FPL specifications; and
- b) a suitable trench, install FPL provided conduit according to FPL specifications to a point designated by FPL, and perform the backfilling and any landscape, pavement or other similar repairs

FPL shall be responsible for the installation of the service lateral cable, the cost of which shall be included in the Applicant's binding cost estimate. In the event a customer does not allow the Applicant to convert the customer's affected overhead services, or the Applicant fails to comply with the above requirements in a timely manner consistent with FPL's conversion construction schedule, then the Applicant shall pay FPL, in addition to the CIAC specified in the binding cost estimate, the costs associated with maintaining service to said customer through an overhead service drop. The cost for maintaining an overhead service drop from an underground system shall be:

- a) the sum of \$789 for residential dwellings containing less than five individual units; or,
- b) the estimated cost to maintain service for residential dwellings containing five or more individual units.

For existing residential underground service laterals affected by a conversion the Applicant shall be responsible for the trenching, backfilling and any landscape, pavement or other similar repairs and installation of FPL provided conduit, according to FPL specifications, necessary to bring existing underground service laterals of affected customers to an FPL designated handhole or transformer. FPL will install the necessary cable, the cost of which shall be included in the binding cost estimate. However, in the event that a customer owned service lateral fails on connection to the underground distribution system the customer will be responsible for the replacement of their service lateral or compliance with section 10.5 of FPL's tariff.

The Applicant's responsibilities for modifications to the service facilities of non-residential customers affected by the conversion of FPL distribution facilities which are made necessary as a result of the conversion will be specified in an attachment to any Underground Facilities Conversion Agreement.

**12.2.9 Other Terms and Conditions**

Through the execution of the Underground Facilities Conversion Agreement set forth in this tariff at Sheet No. 9.720 set forth in this tariff at Sheet No. 9.725 the Applicant agrees to the following:

- a) The Applicant shall be responsible for all restoration of, repair of, or compensation for, property affected, damaged, or destroyed, to accommodate the installation of underground distribution facilities and the removal of FPL's overhead distribution facilities;
- b) subject to section 2.7 Indemnity to Company, or section 2.71 Indemnity to Company – Governmental, FPL's General Rules and Regulations, the Applicant shall indemnify FPL from any claim, suit, or other proceeding, which seeks the restoration of, or repair of, or compensation for, property affected, damaged, or destroyed, to remove existing facilities or to accommodate the installation of underground distribution facilities arising from or brought as a result of the installation of underground distribution facilities;
- c) the Applicant shall clear easements provided to FPL of trees, tree stumps and other obstructions that conflict with construction or installation of underground distribution facilities in a timely manner consistent with FPL's construction schedule.

(Continued on Sheet No. 6.330)

(Continued from Sheet No. 6.320)

**12.2.10 Type of System Provided**

An underground distribution system will be provided in accordance with FPL's current design and construction standards.

**12.2.11 Design and Ownership**

FPL will design, install, own, and maintain the electric distribution facilities up to the designated point of delivery except as otherwise noted. The Applicant may, subject to a contractual agreement with FPL, construct and install all or a portion of the underground distribution facilities provided that:

- a) such work meets FPL's construction standards;
- b) FPL will own and maintain the completed distribution facilities;
- c) the construction and installation of underground distribution facilities by the Applicant is not expected to cause the general body of ratepayers to incur greater costs;
- d) the Applicant agrees to pay FPL's current applicable hourly rate for engineering personnel for all time spent for (i) reviewing and inspecting the Applicant's work done, and (ii) developing any separate cost estimate(s) that are either requested by the Applicant to reflect only FPL's portion of the work or are required by FPL to reflect both the Applicant's and FPL's portions of the work pursuant to an Underground Facilities Conversion Agreement; and
- e) the Applicant agrees to rectify any deficiencies found by FPL prior to the connection of any Customers to the underground electric distribution system and the removal of the overhead electric distribution facilities.

**12.2.12 Relocation**

Where underground electric facilities are requested as part of, or for the purpose of, relocation, the requirements of this tariff shall apply. As applicable, the Underground Facilities Conversion Agreement shall be executed as an addendum to the relocation agreement between FPL and the Applicant. In the event of any conflict between the relocation agreement and this tariff, the tariff shall control. Furthermore, where the regulations of the Federal or State Department of Transportation (DOT) prevent pre-payment of deposits and other conversion costs, the Federal or State DOT may pay the CIAC after the work has been performed.



April 21, 2022.

Mr. Jake Ozyman, P.E.  
Director of Public Works  
Village of Key Biscayne  
88 West McIntyre Street  
Key Biscayne, FL 33149

**Re: Village of Key Biscayne  
Electric Facilities Conversion – Ballpark Estimate  
Village – Wide Project  
WR # 8731994**

Dear Mr. Ozyman:

FPL welcomes the opportunity to assist you in examining the feasibility of converting from overhead electric distribution facilities to an underground system at the following location:

**Village-wide project in Key Biscayne, Florida**

As per your request, the non-binding "ballpark" estimate to complete this conversion is \$18,474,612. This estimate is provided strictly to assist you in preliminary decision making and it does not include the conversion of the existing streetlight system. It is not an offer from FPL to perform the requested conversion and should not be construed or used as such for detailed planning purposes. This represents an "order of magnitude" figure based on previous FPL experience and reflects the CIAC payment that the City would ultimately need to make to FPL if the conversion were performed at this point in time. It is our experience that conversions in developed areas are the most complex and challenging types of construction. As such, this estimate likely will not precisely represent the City's ultimate actual cost to convert but can assist the City in preliminary decision-making.

FPL estimates include only estimated charges to be paid by the City to FPL. The costs of the following items are not included with the estimate and are the responsibility of the City / residents. These potential costs should be included in future planning of the project:

- Site restoration (sod, landscaping, pavement, sidewalks, etc)
- Rearrangement of customer electric service entrances (requires electrician) from overhead to underground. Also, additional customer expense if local inspecting authorities require customer wiring to be brought to current codes.
- Replacement street and security lighting currently attached to be poles being removed
- Trenching/backfilling for service laterals.
- Removal and undergrounding of other utilities (e.g. telecom, CATV, etc.)
- All work will be performed during the daylight hours, Monday through Friday, 8 A.M. to 5 P.M.. Any afterhours work, e.g. disconnect / reconnect service appointments, would be an additional expense for the City.

a NextEra Company

Exhibit "C"



- Acquiring, describing, securing and recording of easements for underground facilities. In underground systems, major components formerly attached to poles must now occupy "at grade" appurtenances, e.g., ground level pad mounted transformers and switch cabinets. Facilities of an underground distribution system will not be placed in road right-of-way, with the exception of cables required for crossings. (See special note below)

Note: Obtaining easements is typically the most difficult aspect of the conversion process; the time required to secure the easements may even exceed the 180 day binding estimate timeframe. FPL strongly suggests that all easements required for the conversion be described and secured prior to requesting the detailed cost estimate.

According to the FPL tariff, this project qualifies for an Avoided Storm Restoration Costs (ASRC) credit and an operational costs differential credit. Based on the overhead mileage of this project, the estimated credit is \$7,309,665. This is not reflected in the ballpark estimate mentioned above.

After reviewing the "ballpark" estimate, if you decide to move forward with the conversion project, the City along with FPL would discuss a plan to apportion the project into phases. Then, you may request a detailed and "binding" estimate for those phases. Due to the complexity and time required to estimate such a conversion, a non-refundable engineering deposit is required prior to beginning the estimating process for each phase, as set forth in the Florida Administrative Code 25-6.115. The engineering deposit will for the entire Village wide project is \$147,037. If you decide to proceed with the work contained in the estimate, the amount of this deposit would be applied toward the estimated amount owed to FPL for the conversion. The work must commence within 180 days of the date the binding estimate is provided.

The request for the binding estimate must be in writing, and must describe in detail the facilities to be converted. Binding estimates are valid for 180 days, and would be subject to change in the event of a work scope change. Should actual FPL costs exceed the binding estimate amount, the customer may be responsible for those additional costs up to a maximum of 10% of the binding estimate amount. Payment of customer costs, easements (with opinion of title and recorded), agreements from other utilities/pole licensees, and execution of a Conversion Agreement would be required before commencement of construction.

If you have any questions or wish to consider a binding cost estimate, please call me at (941-331-4002)

Sincerely,



Hau Tran  
Project Manager  
Overhead to Underground Conversions  
FPL



# VILLAGE OF KEY BISCAINE

Village Council  
**Michael W. Davey**, Mayor  
**Brett Moss**, Vice Mayor  
**Frank Caplan**  
**Luis Lauredo**  
**Allison McCormick**  
**Edward London**  
**Ignacio J. Seguro**

Village Manager  
**Steven C. Williamson**

## MEMORANDUM

DATE: May 10, 2022  
TO: Honorable Mayor and Councilmembers  
FROM: Steven C. Williamson, Village Manager  
RE: Manager's Report

### Section 1: Safe and Secure Village

#### *a) Electric Scooter and motorized bicycle usage (Police Chief Frank Sousa)*

The Key Biscayne Police Department has been diligently working with the Village Attorney to develop a scooter & electric bike program that effectively addresses the safety concerns of all persons travelling along Crandon Boulevard and the interior streets of the Village.

The Village Administration recognizes that these micro-mobility devices are convenient, have a positive impact in reducing vehicular traffic, and are in the end, fun to operate therefore the successful development of a scooter & electric bike program, the Administration's top priority is focused on the principle that safety comes first and ultimately drives everything.

In trying to create an ordinance and develop a Village wide program, the team discovered several legal issues and obstacles that require further research.

The following is the framework of the team's efforts thus far:

- Develop safety and educational information and training
- Implement an effective messaging and communication program
- Install supporting infrastructure – access paths, corrals on Village Green and schools
- Create an ordinance and enforcement procedures for police officers

#### *b) Hurricane Preparedness & Debris Management (Fire Chief Eric Lang)*

A presentation will be displayed

### Section 2: Thriving and Vibrant Local Community and Marketplace

#### *a) Beach Park Improvements design (Planning Director Jeremy Calleros Gauger)*

A presentation will be displayed



## VILLAGE OF KEY BISCAYNE

### Section 3: Engaging and Active Public Spaces and Programs

#### *a) Paradise Park project update (Parks, Recreation and Open Spaces Director Todd Hofferberth & Public Works Director Jake Ozyman)*

##### Environmental Remediation:

The remediation of the 530 Crandon Blvd site is nearing completion. The park is separated into two clean-up areas: 1) waste oil on the west and 2) petroleum cleanup on the east. Miami Dade County Department of Environmental Resources Management (DERM) has approved that no additional work is required on the west sections of the site. The monitoring wells located in that area were successfully abandoned on April 27, 2022.

A report detailing the results of the pre-excavation soil collection, testing, baseline air monitoring, and source removal findings was issued to DERM on April 25, 2022. The report concludes that Paradise Park should be considered for a No Further Action (NFA) without conditions. Once DERM grants an NFA, the remaining monitoring wells will be approved for abandonment and all required actions regarding the former Island Standard Station will be deemed complete.

##### Construction:

- The master building permit was issued with all previous comments addressed
- Critical Path Construction (contractor) submitted the electrical permit application for the construction of the FPL duct bank
- Tree mitigation activities are scheduled to begin in early May
- Village staff is actively working with the contractor to confirm any applicable cost modification (s)

#### *b) Beach Operations and maintenance: Sargassum updates (Chief Resilience and Sustainability Officer Roland Samimy)*

The new beach maintenance services contract with Beach Raker went into effect December 1, 2021. Since that time, residents have submitted positive feedback for beach grooming services. Through the months of December to March, sargassum accumulation has generally been manageable. The month of April saw some large weekly accumulation of seagrass and sargassum due to strong easterly and northeasterly winds. The week of April 18-22 generated 36 truckloads (702 cu. yds.) and April 25-29 generated 19 trucks (342 cu. yds.).

Efforts to secure a location on Virginia Key for the seaweed composting program have stalled as identification of program funding sources remain unconfirmed and confirmation of a dedicated composting site remain to be determined.

The Chief Resiliency Officer is in contact with a company from St. Lucia that has recently relocated their headquarters to Miami and utilizes seaweed as a raw material to produce a liquid agricultural nutritional supplement. A long-term goal would be for the Village to provide all its seaweed to this manufacturer.



## VILLAGE OF KEY BISCAINE

### Section 4: Accessible, Connected, and Mobile Village-Wide Transportation

#### a) Crandon Blvd traffic and Safety project update (Public Works Director Jake Ozyman)

A presentation will be displayed

### Section 5: Resilient & Sustainable Environment and Infrastructure

#### a) Septic to Sewer conversion (Public Works Director Jake Ozyman)

Since the last reporting period 2/8/2022 three (3) residences connected to sewer and (24) twenty-four (24) residences are in the process of connecting. Nine (9) residences remain non-compliant. Miami-Dade County is issuing the Uniform Civil Violation Notices (UCVNs aka tickets) to residences who have not connected their septic tanks to the public sanitary sewer system. The Village Building department continues to communicate with the County and is actively researching the feasibility of implementing and enforcing fines.

Below are the percentages of compliance for each sewer connection zone as well as the number of homes remaining on septic (reference exhibit 5.a):

Zone	2/8/22 Report		5/10/22 Report		Actions Taken	
	% Compliance	Number of Homes Remaining	% Compliance	Number of Homes Remaining	In Process	Enforcement
Zone 4	98%	1	98%	1	0	1
Zone 1	98%	2	98%	2	4	2
Zone 2 & 3	98%	8	99%	6	20	6
Outside of Project Area		0		0	0	0
Total		11		9	24	9

### Section 6: Effective and Efficient Government Services

#### a) Public records and Access: Laserfiche Implementation (Chief of Staff Jocelyne Moussavou & Information Technology Administrator Michael Fleming)

A presentation will be displayed

#### b) 3-5 Year IT Strategic Plan (Chief of Staff Jocelyne Moussavou)

##### IT Strategic Masterplan:

A review of the Village's IT department has identified areas for improvement. The creation of a 3–5-year implementable masterplan with the following elements will greatly help improve service to staff and residents.





## VILLAGE OF KEY BISCAYNE

### Deliverables:

- ✓ A clear **assessment** of our overall operation and provides,
- ✓ **Recommendations** on how to improve functionality thru a realistic,
- ✓ **Implementable** plan that defines cost and timelines for execution

### The four focus areas are:

1. Staffing levels and assignments
2. Develop policies and procedures
3. Create a network architectural diagram that assesses and identifies:
  - a. Inventory of software + hardware (to include a GAP analysis)
  - b. Software compatibility and integration opportunities
  - c. Areas of duplication and provides implementable solutions
  - d. Assess phone usage and its compatibility with our organizational needs (software and hardware)
4. Perform a security assessment and identify areas of vulnerability

Village staff expect to begin the development of the strategic plan in late May. The targeted completion date with tangible deliverables and a report is proposed to be completed by October 2022.

### *c) Impacts of Inflationary pressures (Chief Financial Officer Benjamin Nussbaum & Public Works Director Jake Ozyman)*

Over the last 12 months, the Village has experienced inflationary pressures stemming from the effects of the pandemic and monetary policy. National consumer price indexes show an 8.5% change from March 2021 to March 2022 and the South Florida region specific CPI is 9.8% over the same period. As we prepare for the Fiscal Year 2023 Budget season, we want to report on the inflationary pressures that have been impacting the Village.

### **Fiscal Year 2022:**

1. Village received \$3.2m (of \$6.4 total) from American Rescue Plan Act (ARPA) which the Village has committed, in its entirety, to funding Capital Projects.
2. Capital projects have increased approximately 20-30% more than originally estimated based on increases in fuel, raw materials and labor costs.
3. Solid Waste & Recycling vendor has requested a 19.5% increase due to rising costs of labor, fuel, and steel. We are investigating options while ensuring to maintain quality service.
4. Difficulty recruiting and retaining personnel based on classification and compensation structure. New employees have been hired at the mid or high-level of their respective pay grades.
5. 6-9-month delays for the delivery of automobiles after purchase due to supply-chain issues and the chip shortage.
6. An analysis of the potential increase in costs of Paradise Park should be completed by the



## VILLAGE OF KEY BISCAINE

end of the week.

### **Fiscal Year 2023:**

1. Village's Collective Bargaining Agreements are based on the US Bureau of Labor Statistics, Consumer Price Index 1-Year change from April to April with a ceiling of 4%. The 1-year increase is already at 9.8% with 2 months left to report which will trigger the maximum 4% increase effective Oct 1, 2022.
2. Increases to part time labor hourly rates in community center as state minimum wage law is increased to \$15 by 2025 and to stay competitive with the market. We plan to evaluate our existing community center and athletic field usage fees to support the cost increase.
3. Increases requested by janitorial services of 10% due to increased cost of labor and consumable goods. We will be issuing solicitations and re-evaluating the scope of work to ensure we are receiving competitive pricing and appropriate services.
4. Recent increases requested by landscape contractors that we are beginning to evaluate
5. Future multi-year capital projects will be estimated to include inflation.

Village staff will be working with existing contractors and continue to solicit future contracts through a competitive bidding process to ensure best value. On the other hand, we anticipate an increase in taxable property values with a goal of maintaining an appropriate millage rate to offset the costs of contractual and construction increases and to achieve our strategic goals.

### ***d) CIP project update (CIP & Grants Manager Collen Blank)***

A presentation will be displayed; reference exhibit 6.a



EXHIBIT 5.a



**Legend**

- Septic Tank Location
- Sewer Connection Zone4 Sept 10 2019
- Sewer Connection Zone1 December 29 2019
- Sewer Connection Zone3 June 30 2020
- Sewer Connection Zone2 June 30 2020

SANITARY SEWER ZONES  
 WATER-SEWER-REUSE PROJECT  
 July 2007-June 30, 2010  
 Village of Key Biscayne, FL



0 700 1,400 2,800 Feet

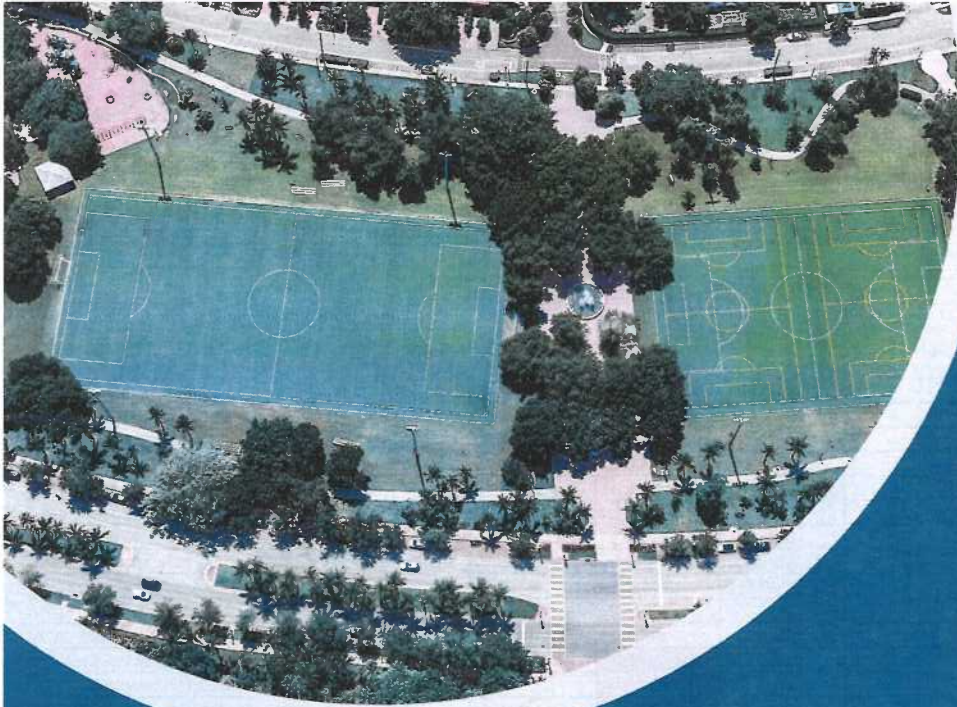
Revised Date: 5/2/2022





# Village of Key Biscayne Capital Improvement Program

*May 2022 Update*





# Execution Year CIP



CIP Projects	CIP FUND	Planning	Design	Procurement	Permitting	Construction	Completed	Not started
25	\$ 8,638,630	5	4	4	2	2	6	2

	PHASE		SCHEDULE		BUDGET	FUNDING	2021			2022												2023			
Project Name	Category	Project Phase	Phase Status	ACD	2022 Budget	Restrictive Funding Sources	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
DESIGN SW INFRASTR LCTURE IMPROVEMENTS - K-8	Resiliency	01_Planning	80%		\$ 1,408,130.00	ARPA, SW Fund																			
DESIGN UTILITY UNDERGROUNDING	Resiliency	01_Planning	80%		\$ 200,000.00	ARPA																			
REPLACE COMMUNITY CENTER ROOF	Facilities	01_Planning	15%		\$ 200,000.00	ARPA																			
REPLACE COMMUNITY CENTER POOL DECK	Parks	01_Planning	35%		\$ 245,000.00																				
IMPROVE HAMPTON PARK	Parks	01_Planning	15%		\$ 100,000.00	FRDAP Grant																			
DEVELOP CRANDON BLVD TRAFFIC FLOW AND SAFETY PLAN	Transportation	02_Design	20%		\$ 787,000.00	ARPA, CITT																			
IMPROVE BEACH PARK	Parks	02_Design	61%		\$ 650,000.00	ARPA																			
REPLACE ST. AGNES LIGHTING	Parks	02_Design	100%		\$ 301,000.00																				
INSTALL VILLAGE WIDE EV CHARGING STATIONS	Facilities	02_Design	73%		\$ 60,000.00	ARPA																			
FORMULATE PROGRAM STRATEGY / DEVELOP INTEGRATION	Resiliency	03_Procurement	50%		\$ 1,049,000.00	SW Fund																			
IMPROVE PUBLIC BEACH ACCESS AT SANDS	Parks	03_Procurement	62%		\$ 110,000.00	ARPA																			
PROCURE 6 FLEET VEHICLES	General	03_Procurement	45%		\$ 575,000.00																				
RETROFIT COMMUNITY CENTER FACILITIES LIGHTING	Resiliency	03_Procurement	5%		\$ 260,000.00	ARPA																			
REPLACE SPLASH PAD	Parks	04_Permitting	50%		\$ 195,000.00																				
IMPROVE VESSEL EXCLUSION ZONE	Public Safety	04_Permitting	95%		\$ 48,500.00																				
REMEDiate AND CONSTRUCT PARADISE PARK	Parks	05_Construction	90%		\$ 1,624,000.00	ARPA, FRDAP Grant																			
RESURFACE CALUSA PARK TENNIS COURT	Parks	05_Construction	15%		\$ 60,000.00	ARPA																			
REPLACE COMMUNITY CENTER RTU	General	06_Completed	100%	Mar-22	\$ 45,000.00	ARPA																			
DESIGN AND CONSTR JCT BEACH PARK SEWER EXTENSION	Parks	06_Completed	100%	Feb-22	\$ 42,000.00	ARPA																			
RENOVATE LAKE PARK	Parks	06_Completed	100%	Apr-22	\$ 77,000.00	ARPA, FRDAP Grant																			
REHAB VILLAGE GREEN INTERIOR SIDEWALK	Parks	06_Completed	100%	Mar-22	\$ 60,000.00	ARPA																			
REPLACE COMMUNITY CENTER SPIN BIKES	General	06_Completed	100%	Feb-22	\$ 60,000.00																				
MAST SOLAR PANELS	Parks	06_Completed	100%	Mar-22	\$ 40,000.00																				
SURVEY UNDERGROUND UTILITIES (LIDAR)	Resiliency	07_Not Started	0%		\$ 322,000.00																				
EQUIP FIRE ENGINE	General	07_Not Started	0%		\$ 70,000.00																				

# O+M Projects



O+M Projects	Project Value	Planning	Design	Procurement	Permitting	Construction	Completed	Not started
13	\$ 1,286,500.00	4	0	1	0	0	1	7

		Phase		SCHEDULE		BUDGET
Project Name	Dept. Budget	Category	Project Phase	Phase Status	ACD	2022 Budget
DEVELOP SEA WALL ORDINANCE	PW	Resiliency	01_Planning	70%		\$ 50,000.00
DEVELOP RICKENBACKER CAUSEWAY PLAN	PW	Transportation	01_Planning	15%		\$ 175,000.00
IT MASTER PLAN	ADMIN	General	01_Planning	50%		\$ 50,000.00
IMPROVE VILLAGE HALL LANDSCAPE AND HARDSCAPE	PW	Facilities	01_Planning	30%		\$ 50,000.00
EAST ENID STREET LIGHTS	PW	Facilities	03_Procurement	20%		\$ 50,000.00
PERFORM CSRM BACK BAY STUDY (LOCAL MATCH)	PW	Resiliency	07_Not Started	0%		\$ 500,000.00
UPDATE COMP PLAN - PERIL OF FLOOD, SLR	PW	Resiliency	07_Not Started	0%		\$ 52,500.00
INSTALL VENTILATION SYSTEM IN EVIDENCE ROOM	POLICE	Safety	07_Not Started	0%		\$ 10,000.00
BASKETBALL SYSTEMS	PROS	Parks	07_Not Started	0%		\$ 28,000.00
DESIGN SHORELINE PROTECTION: BEACH RENOVATION AND	PW	Resiliency	07_Not Started	0%		\$ 100,000.00
REPAIR AND REHAB FACILITIES	PW	Facilities	07_Not Started	0%		\$ 150,000.00
IMPROVE FIELD AT ST. AGNES	PROS	Parks	07_Not Started	0%		\$ 61,000.00
REPAIR CALUSA PARK PATHWAY	PROS	Parks	06_Completed	100%	Dec-21	\$ 10,000.00



# Execution Year CIP



CIP Projects	CIP FUND	Planning	Design	Procurement	Permitting	Construction	Completed	Not started
25	\$ 8,638,630	5	4	4	2	2	6	2

	PHASE		SCHEDULE		BUDGET	FUNDING	2021			2022												2023			
Project Name	Category	Project Phase	Phase Status	ACD	2022 Budget	Restrictive Funding Sources	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr
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DEVELOP CRANDON BLVD TRAFFIC FLOW AND SAFETY PLAN	Transportation	02_Design	20%		\$ 787,000.00	ARPA, CITT																			
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INSTALL VILLAGE WIDE EV CHARGING STATIONS	Facilities	02_Design	73%		\$ 60,000.00	ARPA																			
FORMULATE PROGRAM STRATEGY / DEVELOP INTEGRATION +	Resiliency	03_Procurement	50%		\$ 1,049,000.00	SW Fund																			
IMPROVE PUBLIC BEACH ACCESS AT SANDS	Parks	03_Procurement	62%		\$ 110,000.00	ARPA																			
PROCURE 6 FLEET VEHICLES	General	03_Procurement	45%		\$ 575,000.00																				
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RENOVATE LAKE PARK	Parks	06_Completed	100%	Apr-22	\$ 77,000.00	ARPA, FRDAP Grant																			
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MAST SOLAR PANELS	Parks	06_Completed	100%	Mar-22	\$ 40,000.00																				
SURVEY UNDERGROUND UTILITIES (UDAR)	Resiliency	07_Not Started	0%		\$ 322,000.00																				
EQUIP FIRE ENGINE	General	07_Not Started	0%		\$ 70,000.00																				

# Project Updates



- Lake Park Improvements
- Calusa Park Court Resurfacing
- Paradise Park



# Lake Park Improvements



## PROJECT SCOPE

- Improve Lake Park Gazebo.
- Repair Roof truss system.
- Install aluminum roof.
- Refinish concrete columns & pad.
- Replace railing.
- New outdoor furniture.
- Replace light fixtures in columns.

**Ribbon Cutting Ceremony – 5/27**



Contractor  
**Critical Path**



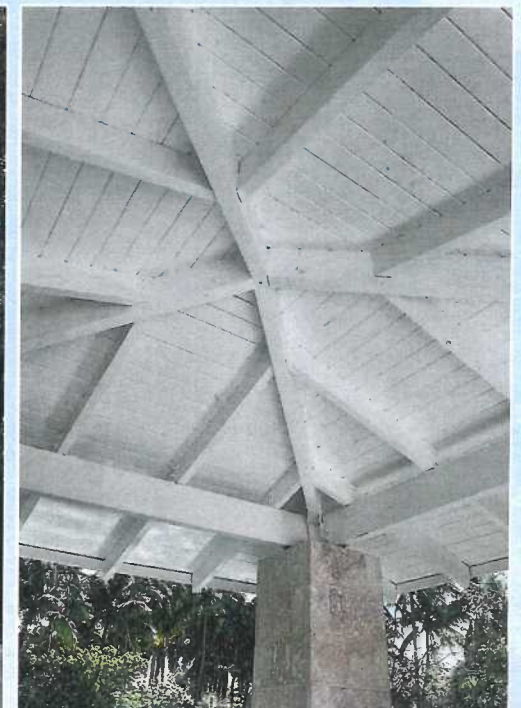
Staff Lead  
**Village of Key Biscayne**  
Jake Ozyman

Budgeted  
**\$77,000**

Spent (5/2022)  
**\$0**

Current Phase  
**Complete**

Next Phase:  
**Grand opening**



# Calusa Park Court Resurfacing



## PROJECT SCOPE

- Resurface 4 multi-use courts.
- Repair all cracks, pits, expansion joints.
- Line courts for each type of play.
- Reset net post sleeves.
- Replace damaged posts.
- Furnish and install new windscreens.

Budgeted  
**\$60,000**

Spent (5/2022)  
**\$0**

Current Phase  
**Complete**

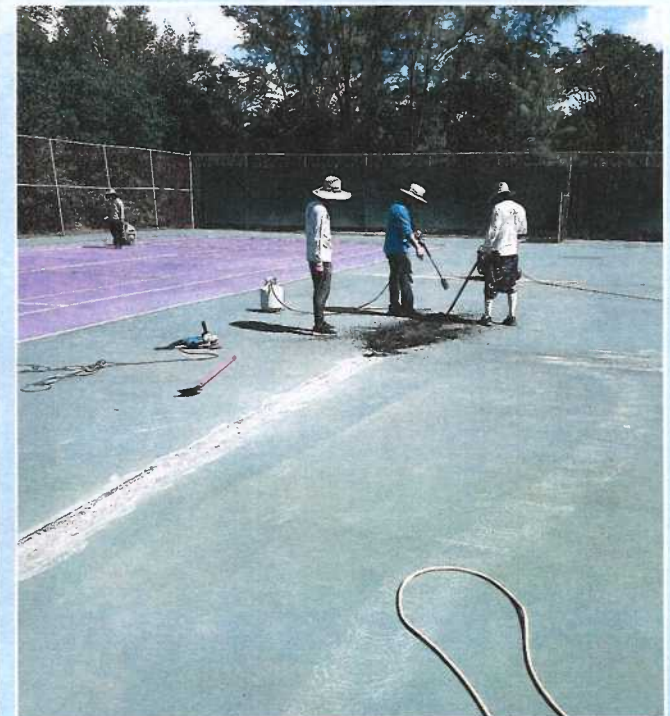
Next Phase:  
**Close Out**



Contractor  
**Advanced Athletic  
Surfaces (AAS)**



Staff Lead  
**Village of Key Biscayne**  
Todd Hofferberth





# Paradise Park



## PROJECT SCOPE

- Remediate land (530 Crandon).
- Build multi-use community park.
- New concrete paving, lighting, site furniture, water fountain.
- Install low oolite border wall.
- Bronze plaque reading "A Walk-Through History: Village of Key Biscayne".

## STATUS UPDATE

- First phase of well abandonment completed 4/27
- Phase 2 will be scheduled once DERM completes their review of the Source Removal Report submitted 4/25.
- Next - "No Further Action" (NFA).
- Then begin park construction.



Budgeted  
**\$1,624,000**

Spent (5/2022)  
**\$23,633**

Current Phase  
**Remediation**

Next Phase:  
**Permitting**



Contractor  
**Critical Path**



Landscape Architect  
**Calvin Giordano & Associates**  
Gianno Feoli



Staff Lead  
**Village of Key Biscayne**  
Jake Ozyman



Environmental Consultant  
**Agua Environmental Consulting**  
James Hirsch