

RESOLUTION NO. 09-05-37

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, PROVIDING FOR THE BORROWING OF NOT EXCEEDING \$1,300,000 FROM CENTENNIAL BANK, TO FINANCE THE COST OF THE ACQUISITION AND CONSTRUCTION OF CAPITAL IMPROVEMENTS TO THE UTILITY SYSTEM OF THE VILLAGE, INCLUDING REIMBURSEMENT TO THE VILLAGE FOR FUNDS ALREADY EXPENDED ON THE PROJECT; PROVIDING FOR THE ISSUANCE OF A CAPITAL IMPROVEMENT REVENUE BOND, SERIES 2009, TO EVIDENCE THE VILLAGE'S OBLIGATION TO REPAY SUCH LOAN; PROVIDING FOR THE PAYMENT OF THE SERIES 2009 BOND AND THE EXECUTION AND DELIVERY OF A LOAN AGREEMENT IN CONNECTION THEREWITH, CONTAINING TERMS AND CONDITIONS RELATING TO SUCH LOAN; PROVIDING FOR THE PAYMENT OF THE SERIES 2009 BOND FROM A CONVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2009 BOND AND THE LOAN AGREEMENT; DESIGNATING THE SERIES 2009 BOND AS A "QUALIFIED TAX EXEMPT OBLIGATION" UNDER 265(b)(3)(B) OF THE CODE; AND PROVIDING AN EFFECTIVE DATE

BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (the "Village"):

Section 1. Authority for this Resolution. This Resolution is adopted pursuant to the provisions of Chapter 166, Part II, Florida Statutes, as amended, and other applicable provisions of law (collectively, the "Act").

Section 2. Definitions. The following terms shall have the following meanings when used in this resolution unless the context clearly requires otherwise. Words importing singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations. Capitalized terms used herein and not otherwise defined shall have the meaning set forth in the Loan Agreement. In the event of a conflict between the terms of this Resolution and the Loan Agreement, the Loan Agreement shall govern.

"Bank" means Centennial Bank, Conway, Arkansas.

"Charter" means Chapter 97-348, Laws of Florida, Special Acts of 1997, as amended.

"Clerk" means the Clerk of the Village or, in the Clerk's absence, any Deputy Clerk.

"Commitment" means the Commitment for the making of the Loan submitted to the Village by the Bank, dated April 30, 2009.

"Council" means the Village Council of the Village, as the governing body of the Village.

"Funds and Accounts" means the funds and accounts created pursuant to the Loan Agreement as security for the repayment of the Series 2009 Bond.

"Investment Earnings" means the earnings from the investment of moneys on deposit in the Funds and Accounts.

"Loan" means the advance of moneys from the Bank to the Village pursuant to the Loan Agreement.

"Loan Agreement" means the Loan Agreement between the Bank and the Village setting forth the terms and details of the Loan, in substantially the form attached hereto as Exhibit A, with such modifications and changes thereto as shall be approved by the Village Manager, upon the advice of the Village Attorney, such approval to be evidenced by the execution of the Mayor thereof.

"Mayor" means the Mayor of the Village, or in the Mayor's absence, the Vice Mayor.

"Non-Ad Valorem Revenues" means all legally available non-ad valorem revenues of the Village, but shall not include any ad valorem taxes.

"Paying Agent" means the Finance Director of the Village.

"Project" means the acquisition and construction of capital improvements to the utility system of the Village, and all costs incidental thereto.

"Project Costs" means a portion of the cost of undertaking the Project including, but not limited to: engineering, legal, accounting, and financial expenses; expenses for estimates of costs and of revenues; expenses for plans, specifications and surveys; fees of fiscal agents, financial advisors or consultants; administrative expenses relating solely to the Project; reimbursement to the Village for any sums heretofore expended for the foregoing purposes; repayment of the advance made under bond anticipation notes; and such other costs and expenses as may be necessary or incidental to the financing or refinancing of the Project.

"Series 2009 Bond" means the Capital Improvement Revenue Bond, Series 2009, of the Village, which shall be in substantially the form attached to the Loan Agreement as Exhibit A.

"Village" means Islamorada, Village of Islands, Florida, a municipal corporation of the State of Florida.

"Village Manager" means the Village Manager of the Village, or his designee.

Section 3. Findings. It is hereby found, declared, and determined by the Council:

(A) The Village has heretofore determined that it is necessary and in the best interests of the health, safety and welfare of the Village and its inhabitants that the Village undertake the Project.

(B) The Village is without currently available funds to pay its portion of the cost of the Project, and it is necessary and desirable that the Village borrow the moneys necessary to provide for payment of the Project.

(C) Because of the characteristics of the Series 2009 Bond, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Series 2009 Bond, it is in the best interest of the Village to purchase the Series 2009 Bond at a private negotiated sale from the Bank. The Village has received the Commitment from the Bank for the Loan, and, based upon the advice of the Financial Advisor, it is in the best interests of the Village that the Commitment be accepted. Prior to the issuance of the Series 2009 Bond, the Village shall receive from the Bank, a Purchaser's Certificate, the form of which is attached hereto as Exhibit C and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit D.

(D) The Series 2009 Bond will be payable from Non-Ad Valorem Revenues. The Non-Ad Valorem Revenues will be sufficient to pay the Series 2009 Bond as the same becomes due.

(E) The Village does not expect to issue more than \$30,000,000 in tax-exempt obligations during the calendar year ending December 31, 2009.

(F) It is necessary and desirable to provide for the securing of the Loan and for the execution and delivery of the Loan Agreement, the issuance of the Series 2009 Bond and the taking of all other action in connection with the consummation of the Loan.

(G) It is necessary and desirable to approve the estimated costs of issuance to be paid by the Village in connection with the delivery of the Series 2009 Bond and the Loan Agreement.

Section 4. Authorization of Series 2009 Bond. Subject and pursuant to the provisions hereof and in accordance with the provisions of the Loan Agreement and the Commitment, the issuance by the Village of its Capital Improvement Revenue Bond, Series 2009, in an aggregate principal amount of One Million Three Hundred Thousand Dollars (\$1,300,000), to be dated, to bear interest, to be payable, to mature, to be subject to redemption and to have such other characteristics as provided in the Series 2009 Bond, the Loan Agreement and the Commitment, and to be secured as provided in the Loan Agreement.

Section 5. Approval of Form of Loan Agreement and Series 2009 Bond. The Loan Agreement and the Series 2009 Bond, in substantially the form attached hereto as Exhibit A, are hereby approved, and the Mayor and Clerk are hereby authorized to execute and deliver the Loan Agreement and the Series 2009 Bond to the Bank, and to take such other actions as shall be necessary to consummate the Loan.

Section 6. Authorization of Other Action. The Mayor, the Clerk, the Village Manager, the Finance Director and the Village Attorney are each designated agents of the Village in connection with the execution and delivery of the Loan Agreement and the Series 2009 Bond and are authorized and empowered, collectively or individually, to take all action and steps to execute and deliver any and all instruments, documents or contracts on behalf of the Village which are necessary or desirable in connection with the execution and delivery of the Loan Agreement and the Series 2009 Bond to the Bank, including, but not limited to, the making of modifications to the Loan Agreement and the Series 2009 Bond to conform the provisions thereof to the provisions of the Commitment.

Section 7. Application of Proceeds of Loan. The proceeds of the Loan shall be applied solely to payment of the Village's portion of the Project Costs.

Section 8. Designation Under Code Section 265(b)(3)(B). The Village designates the Series 2009 Bond as a "qualified tax-exempt obligation" within the meaning of Section 265(b)(3) of the Internal Revenue Code of 1986, as amended (the "Code"). The Village and any subordinate entities of the Village and any issuer of "tax-exempt" debt that issues "on behalf of" the Village do not reasonably expect during calendar year 2009 to issue more than \$30,000,000 of "tax-exempt" obligations, exclusive of any private activity bonds, as defined in Section 141(a) of the Code .

Section 9. Repeal of Inconsistent Provisions. All resolutions or parts thereof in conflict with this resolution are hereby repealed to the extent of such conflict.

Section 10. Approval of Issuance Expenses. The estimate of the expenses associated with the issuance of the Series 2009 Bond set forth in Exhibit B hereto is hereby approved and the Finance Director is authorized to pay such expenses at the time of issuance of the Series 2009 Bond upon submission of proper invoices therefor.

Section 11. Severability. If any one or more of the covenants, agreements, or provisions of this resolution should be held contrary to any express provision of law or contrary to the policy of express law, though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements, or provisions shall be null and void and shall be deemed separate from the remaining covenants, agreements or provisions, and in no way affect the validity of all other provisions of the Resolution or of the Series 2009 Bond or Loan Agreement delivered hereunder.

Section 12. Amendment. This resolution may not be amended or repealed except with the prior written consent of the Bank.

Section 13. Effective Date. This resolution shall take effect immediately upon its adoption.

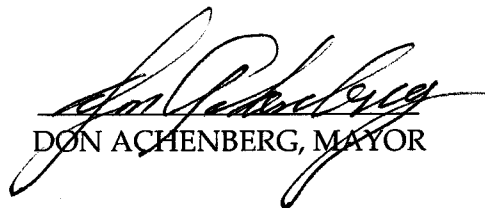
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PASSED AND ADOPTED, this 28th, day of May, 2009.

Motion to adopt by Councilwoman Hill, second by Councilwoman Zima Borski.

FINAL VOTE AT ADOPTION

| | |
|--------------------------------|-----|
| Mayor Don Achenberg | NO |
| Vice Mayor Michael Reckwerdt | NO |
| Councilmember Dave Boerner | YES |
| Councilmember Jill Zima-Borski | YES |
| Councilmember Cathi Hill | YES |




DON ACHENBERG, MAYOR

ATTEST:



Beverly Raddatz, VILLAGE CLERK

APPROVED AS TO FORM AND LEGALITY
FOR THE USE AND BENEFIT OF ISLAMORADA,
VILLAGE OF ISLANDS ONLY:



VILLAGE ATTORNEY
Weiss, Serota, Helfman, Pastoriza,
Cole & Boniske, P.L.

LOAN AGREEMENT

between

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

and

CENTENNIAL BANK

Dated June 2, 2009

Relating to

**Islamorada, Village of Islands, Florida
Not to Exceed \$1,300,000
Capital Improvement Revenue Bond, Series 2009**

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This **LOAN AGREEMENT** is made and entered into as of June 2, 2009, by and between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (the "Village"), and CENTENNIAL BANK, Conway, Arkansas (the "Bank").

WITNESSETH:

WHEREAS, the Village has previously determined that it is necessary, desirable and in the best interests of the Village and its inhabitants that the Village undertake the Project hereinafter described, and that the Project will serve essential public purposes of the Village; and

WHEREAS, the Village has determined that it is without adequate currently available funds to pay Project Costs and that it will be necessary that funds be made available to the Village in order to undertake the Project; and

WHEREAS, the Village requested proposals from various lending institutions to provide the Village with financing for the Project Costs; and

WHEREAS, pursuant to the Commitment, a copy of which is attached hereto as Exhibit B, the Bank has agreed to lend the Village an aggregate principal amount of not to exceed \$1,600,000 to finance Project Costs; and

WHEREAS, the Commitment was determined to be the proposal which can help the Village best meet its goals; and

WHEREAS, pursuant to the Resolution, the Village has determined that it is in the best interest of the health, safety, and welfare of the Village and the inhabitants thereof that the Village covenant to budget and appropriate in its annual budget sufficient amounts of Non-Ad Valorem Revenues to secure the obligation of the Village to repay the principal of and interest on the Series 2009 Bond when due; and

WHEREAS, the obligation of the Village to repay principal of and interest on the Series 2009 Bond will not constitute a general obligation or indebtedness of the Village as a "bond" within the meaning of any provision of the Constitution of the State, but shall be and is hereby declared to be a special, limited obligation of the Village, secured by a covenant to budget and appropriate the Non-Ad Valorem Revenues in the manner provided herein. The Village is not authorized and cannot be compelled to levy taxes on any property of or in the Village to pay the principal of or interest on the Series 2009 Bond or to make any other payments provided for herein. Furthermore, neither the Series 2009 Bond nor the interest thereon shall be or constitute a lien upon the Project or upon any other property of or in the Village;

NOW, THEREFORE, in consideration of the premises and the mutual covenants herein set forth and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

Section 1. Definitions. The following terms shall have the following meanings herein, unless the text otherwise expressly requires:

"Act" means Chapter 166, Part II, Florida Statutes; as amended, and other applicable provisions of law.

"Authorized Investments" means any obligations, deposit certificates, or other evidences of indebtedness legal for investment pursuant to law, to the extent not inconsistent with the terms of the investment policy of the Village and applicable law.

"Bank" means Centennial Bank, a banking corporation, with offices located at P.O. Box 966, Conway, Arkansas 72033.

"Bond Counsel" means Bryant Miller Olive PA Miami, Florida.

"Business Day" means any day of the year other than a day on which the Bank or the Village are lawfully closed for business.

"Clerk" means the Clerk of the Village, or, in the Clerk's absence, any Deputy Clerk duly authorized to execute documents or take other action, as the case may be, on the Clerk's behalf.

"Code" means the Internal Revenue Code of 1986, as amended.

"Commitment" means the Commitment for the making of the Loan submitted to the Village by the Bank, dated April 30, 2009, and attached hereto as Exhibit B.

"Council" means the Council of the Village, as the governing body of the Village.

"Default" means an Event of Default as defined and described in Section 14 hereof.

"Financial Advisor" means RBC Capital Markets Corporation, St. Petersburg, Florida.

"Fiscal Year" means the period from each October 1 to the succeeding September 30.

"Funds and Accounts" means the funds and accounts created pursuant hereto as security for the repayment of the Series 2009 Bond.

"Interest Payment Date" means each June 1 and December 1, commencing December 1, 2009, through and including June 1, 2029.

"Interest Rate" means the rate per annum set forth in the form of Series 2009 Bond attached hereto as Exhibit A.

"Investment Earnings" means the earnings from the investment of moneys on deposit in the Funds and Accounts.

"Loan" means the advance of moneys from the Bank to the Village pursuant to this Loan Agreement, for the purpose of financing Project Costs.

"Loan Agreement" means this agreement between the Bank and the Village setting forth the terms and details of the Loan.

"Maturity Date" means the last date on which all remaining, outstanding principal of the Series 2009 Bond is due as shown on Exhibit A hereto.

"Mayor" means the Mayor of the Village, or, in the Mayor's absence, the Vice-Mayor, or such other person as may be duly authorized to act on the Mayor's behalf.

"Non-Ad Valorem Revenues" means all legally available non-ad valorem revenues of the Village, but shall not include any ad valorem taxes.

"Paying Agent" means the Finance Director.

"Payment Date" means both the Interest Payment Dates and the Principal Payment Dates, as shown on Exhibit A, hereto.

"Person" or words importing persons, means firms, associations, partnerships (including without limitation, general and limited partnerships), joint ventures, societies, estates, trusts, corporations, public or governmental bodies, other legal entities, and natural persons.

"Principal Amount" means not to exceed One Million Three Hundred Thousand Dollars (\$1,300,000).

"Principal Payment Date" means each June 1, commencing June 1, 2010 and continuing through June 1, 2029.

"Project" means the acquisition and construction of capital improvements to the utility system of the Village, and all costs incidental thereto.

"Project Costs" means a portion of the cost of undertaking the Project including, but not limited to: engineering, legal, accounting, and financial expenses; expenses for estimates of costs and of revenues; expenses for plans, specifications and surveys; fees of fiscal agents, financial advisors or consultants; administrative expenses relating solely to the Project; reimbursement to the Village for any sums heretofore expended for the foregoing purposes; repayment of the advance made under bond anticipation notes; and such other costs and expenses as may be necessary or incidental to the financing or refinancing of the Project.

"Register" means the books maintained by the Registrar in which are recorded the name and address of the Registered Owner of the Series 2009 Bond.

"Registered Owner" means the person in whose name the ownership of the Series 2009 Bond is registered on the books maintained by the Registrar. The initial Registered Owner shall be the Bank.

"Registrar" means the Person maintaining the Register. The Registrar shall initially be the Finance Director.

"Regulations" means the Income Tax Regulations promulgated by the Internal Revenue Service under Sections 103 and 141 through 150 of the Code.