RESOLUTION NO. 13-04-19

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, RELATING TO THE ISLAMORADA, VILLAGE OF ISLANDS, CAPITAL IMPROVEMENT REFUNDING REVENUE BOND, SERIES 2012; APPROVING AN AMENDMENT TO THE LOAN AGREEMENT BETWEEN THE VILLAGE AND SUNTRUST EQUIPMENT FINANCE & LEASING CORP; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING FOR EXECUTION; PROVIDING AUTHORITY; PROVIDING FOR ISSUANCE FEES AND TRANSACTION COSTS; AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, pursuant to the provisions of Chapter 166, Part II, Florida Statutes, the Village is authorized to borrow money, contract loans and issue bonds to finance any capital or other project and may pledge the funds, credit, property and taxing power of the municipality for the payment of such debts and bonds; and

WHEREAS, pursuant to Resolution No. 12-10-96 the Village entered into a Loan Agreement with Suntrust Equipment Finance & Leasing Corp. (“Suntrust”) to refund its outstanding Series 2006, 2007 and 2009 bonds in a principal amount not to exceed $6,400,000; and

WHEREAS, on November 5, 2012, the Village closed on the loan and the Mayor executed the Loan Agreement in the principal amount of $6,324,625.70; and

WHEREAS, Section 10B of the Loan Agreement states that the Village must provide its audited financial statements to Suntrust no later than 150 days after the end of each fiscal year; and
WHEREAS, the Village and Suntrust agree to amend the Loan Agreement to extend the due date for provision of the Village’s audited financial statements to Suntrust to no later than 270 days after the end of each fiscal year; and

WHEREAS, the Village Council finds that extension of the due date of provision of its audited financial statements to Suntrust is in the best interest of the Village.

NOW THEREFORE, BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA AS FOLLOWS:

Section 1. Recitals. The above recitals are true and correct and are incorporated herein by reference.

Section 2. Approval to Amend Loan Agreement. The Amendment to the Loan Agreement (Exhibit 1) so that Section 10B is revised to reflect that the Village shall provide to Suntrust its audited year-end financial statements no later than 270 days after the end of each fiscal year is acceptable to the Village Manager and approved as to form and legality by the Village Attorney is authorized and approved.

Section 3. Authorization of Village Officials. The Village Manager is hereby designated as the authorized representative to provide the assurances and commitments required by the Loan Agreement and any Amendments to the Loan Agreement. The Village Manager and, if required by the Lender, the Mayor and other appropriate Village officials, are authorized and directed to execute and deliver the loan amendment. The Village Manager, the Mayor and the Village Attorney are each authorized and directed to execute any and all certifications and other agreements or any other documents required by Suntrust as a prerequisite or precondition to making the loan
in the Loan Documents and any such representation made therein shall be deemed to be made on behalf of the Village.

Section 4. Execution of Documents. The Mayor is hereby designated as the authorized representative to execute the Loan Documents, which will become a binding obligation in accordance with its terms when signed by both parties. The Village Manager is authorized to represent the Village in carrying out the Village’s responsibilities under the Loan Documents. The Village Manager is authorized to delegate responsibility to appropriate Village staff to carry out technical, financial, and administrative activities associated with the Loan Documents.

Section 5. Legal Authority for Borrowing Funds. The Village’s legal authority for borrowing moneys, issuing bonds, notes or other obligations to finance the cost of capital and other project construction is pursuant to the Florida Constitution; the Village’s Home Rule Authority; Chapter 166, Florida Statutes; the Village’s Charter; the Village Code, Ordinances and Resolutions, and the applicable laws of the State of Florida.

Section 6. Issuance Fees and Transaction Costs. The Village authorizes the payment of issuance fees and transaction costs from legally available sources in connection with the execution and delivery of the Amendment to the Loan Agreement.

Section 7. Effective Date. This Resolution shall become effective immediately upon its passage and adoption.
Motion to adopt by Councilman Dave Purdo, second by Councilwoman Deb Gillis.

FINAL VOTE AT ADOPTION

VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS

Mayor Ken Philipson   YES
Vice Mayor Ted Blackburn   YES
Councilman Mike Forster   YES
Councilwoman Deb Gillis   YES
Councilman Dave Purdo   YES

PASSED AND ADOPTED on this 25th day of April, 2013.

KEN PHILIPSON, MAYOR

ATTEST:

ARIANA S. LAWSON, VILLAGE CLERK

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

VILLAGE ATTORNEY

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AMENDMENT TO

LOAN AGREEMENT

By and Between

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

and

SUNTRUST EQUIPMENT FINANCE & LEASING CORP.

Relating to

$6,324,625.70

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

CAPITAL IMPROVEMENT REFUNDING REVENUE BOND, SERIES 2012
THIS AMENDMENT TO LOAN AGREEMENT (the "Amendment"), is made and entered into as of April ____, 2013 by and between ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA (the "Village") and SUNTRUST EQUIPMENT FINANCE & LEASING CORP., a corporation organized and existing under the laws of the Commonwealth of Virginia and authorized to do business in Florida (the "Purchaser").

WHEREAS, the Village and the Purchaser entered into a Loan Agreement dated as of November 5, 2012 (the “Agreement”) which provided for a loan of $6,324,625.70 from the Purchaser to the Village the proceeds of which were used to refinance certain obligations of the Village; and

WHEREAS, the Section 10.B. of the Agreement currently provides that audited year-end financial statements be provided to the Purchaser no later than 150 days after the end of each Fiscal year; and

WHEREAS, the Village and the Purchaser now desire to amend the Agreement to provide for the provision of audited year-end financial statements no later than 270 days.

NOW, THEREFORE, the parties agree as follows:

SECTION 1. Capitalized terms used in this Amendment and not otherwise defined shall have the meanings assigned thereto in the Agreement.

SECTION 2. Section 10.B. of the Agreement is hereby amended and restated as follows:

B. Financial Statements. The Village shall provide to the Purchaser its audited year-end financial statements no later than 270 days after the end of each Fiscal Year prepared in accordance with Generally Accepted Accounting Principles.

SECTION 3. In case any one or more of the provisions of this Amendment shall for any reason be held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Amendment, the Agreement, any other amendment or supplement thereto, or the Note.

SECTION 4. Except as modified or amended hereby, the terms and provisions of the Agreement remain in full force and effect.

SECTION 5. All the terms and obligations of the Agreement and any amendments or supplements thereto are hereby incorporated herein by reference as if all of the foregoing were fully set forth in this Amendment. All recitals appearing at the beginning of this Amendment are hereby incorporated by reference.
IN WITNESS WHEREOF, the parties hereto have caused this Amendment to be duly executed as of this the _____ day of ______, 2013.

(SEAL)

ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA

By: [Signature]
Mayor

ATTEST:

By: [Signature]
Village Clerk

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

By: [Signature]
Village Attorney
Weiss, Serota, Helfman, Pastoriza, Cole & Boniske, P.L.

SUNTRUST EQUIPMENT FINANCE & LEASING CORP.

By: ____________________________
Name: ____________________________
Title: ____________________________