RESOLUTION NO. 13-12-90

A RESOLUTION OF THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, PROVIDING FOR THE BORROWING OF THE PRINCIPAL AMOUNT OF NOT TO EXCEED $6,000,000 FROM STI INSTITUTIONAL & GOVERNMENT, INC.; TO FINANCE THE COST OF THE ACQUISITION AND CONSTRUCTION OF CAPITAL IMPROVEMENTS TO THE ROAD SYSTEM OF THE VILLAGE; PROVIDING FOR THE ISSUANCE OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, CAPITAL IMPROVEMENT REVENUE BOND, SERIES 2013 (ROAD PROJECT); PLEDGING THE PLEDGED REVENUES FOR THE PAYMENT OF SAID SERIES 2013 BOND; PROVIDING FOR THE PAYMENT OF THE SERIES 2013 BOND AND THE EXECUTION OF THE RELATED FINANCING DOCUMENTS IN CONNECTION THEREWITH; AUTHORIZING FURTHER OFFICIAL ACTION IN CONNECTION WITH THE DELIVERY OF THE SERIES 2013 BOND; AND PROVIDING AN EFFECTIVE DATE

BE IT RESOLVED BY THE VILLAGE COUNCIL OF ISLAMORADA, VILLAGE OF ISLANDS, FLORIDA, that:

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 numbers 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.


“Clerk” means the Clerk of the Village or, in the Clerk’s absence, any Deputy Clerk.

“Commitment” means the Commitment dated September 16, 2013, for purchase of the Bond and the provision of a term loan financing, submitted to the Village by the Lender and accepted by the Village with such changes as agreed to by the Village and the Lender.

“Council” means the Village Council of the Village, as the governing body of the Village.


“Finance Director” means the Director of Finance of the Village.
“Financial Advisor” means RBC Capital Markets, LLC.

“Gas Guaranteed Entitlement Revenues” means the portion of the guaranteed entitlement revenues, allocable to the tax on motor fuel, received by the Village pursuant to Chapter 218, Part II, Florida Statutes, and referred to as a portion of the “Guaranteed entitlement.” in Section 218.21(6)(b), Florida Statutes.

“Interlocal Agreement” means the interlocal agreement dated May 20, 2009 entered into by Monroe County and the municipalities within Monroe County that prescribes the distribution of the six cent local option gas tax revenue from Monroe County to the Village pursuant to Section 336.025(1)(a), Florida Statutes and Monroe County Ordinance No. 016-1989, as amended by Monroe County Ordinance No. 026-1989 and the three cent local option gas tax revenue from Monroe County to the Village pursuant to Section 336.025(1)(b), Florida Statutes and Monroe County Ordinance No. 016-2009.

“Lender” means STI Institutional & Government, Inc., a Delaware general business corporation and its successors and/or assigns.

“Loan” means the advance of moneys from the Lender to the Village pursuant to the Loan Agreement.

“Loan Agreement” means the agreement between the Lender and the Village setting forth the terms and details of the Loan, in substantially the form attached hereto as Exhibit A with such modifications or changes thereto as may be necessary or desirable, in the opinion of the Village Attorney and Bond Counsel, to conform the terms thereof to the terms of the Commitment or to secure for the Village any additional rights or privileges not inconsistent with the terms of the Commitment, such approval of the modifications or changes to be presumed by the execution and delivery thereof by the Village to the Lender.

“Local Government Half-Cent Sales Tax” means the sums deposited for the benefit of the Village into the Local Government Half-Cent Sales Tax Clearing Trust Fund created pursuant to Chapter 218, Part VI, Florida Statutes.

"Local Option Gas Tax" means collectively, (i) an annual amount equal to $294,500 received from the revenue produced by the six-cent per gallon local option gas tax levied pursuant to Section 336.025(1)(a), Florida Statutes and Monroe County Ordinance No. 016-1989, as amended by Monroe County Ordinance No. 026-1989, and distributed to the Village by the State of Florida pursuant to the Interlocal Agreement; (ii) the revenue produced by the additional three-cent per gallon local option gas tax levied pursuant to Section 336.025(1)(b), Florida Statutes and Monroe County Ordinance No. 016-2009 enacted on May 20, 2009 and distributed to the Village pursuant to the Interlocal Agreement; and (iii) an additional annual amount equal to $22,236 received from the revenue produced by the additional three-cent per gallon local option gas tax levied pursuant to Section 336.025(1)(b), Florida Statutes and Monroe County Ordinance No. 016-2009 enacted on May 20, 2009 and distributed to the Village pursuant to the Supplemental Interlocal Agreement.
“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.

“Parity Bonds” means the $6,324,625.70 Capital Improvement Refunding Revenue Bond, Series 2012 dated November 5, 2012.

“Pledged Revenues” means the Village’s Local Option Gas Tax, Local Government Half-Cent Sales Tax and Gas Guaranteed Entitlement Revenues.

“Project” means the construction of capital improvements to the roads 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.

“Resolution” means, collectively, this resolution and all resolutions amendatory hereof and supplemental hereto.

“Series 2013 Bond” means the Islamorada, Village of Islands, Florida, Capital Improvement Revenue Bonds, Series 2013 (Road Project), authorized herein, in substantially the form attached to the Loan Agreement as Exhibit A, with such modifications or changes thereto as may be necessary or desirable, in the opinion of the Village Attorney, and Bond Counsel, to conform the terms thereof to the terms of the Commitment or to secure for the Village any additional rights or privileges not inconsistent with the terms of the Commitment, such approval of the modifications or changes to be presumed by the execution and delivery thereof by the Village to the Lender.

“Supplemental Interlocal Agreement” means the interlocal agreement dated July 15, 2009 entered into by Monroe County and the Village that prescribes the distribution of the additional amount from the additional three-cent local option gas tax revenue from Monroe County to the Village pursuant to Section 336.025(1)(b), Florida Statutes and a Monroe County Ordinance No. 016-2009 enacted on May 20, 2009, and supplements the Interlocal Agreement.

“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 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. Issuance of the Series 2013 Bond to construct the Project satisfies a paramount public purpose.

(B) The Village is without currently available funds to pay 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) The Pledged Revenues are not currently pledged to any obligation of the Village, except to the Parity Bonds with respect to the Local Government Half-Cent Sales Tax.

(D) The Series 2013 Bond will be payable from Pledged Revenues and to the extent any deficiency exists in the payment of debt service on the Series 2013 Bond, from Non-Ad Valorem Revenues budgeted and appropriated for such purposes. The Pledged Revenues will be sufficient to pay the Series 2013 Bond and the Parity Bonds as the same become due.

(E) The Village Council determined that the Lender’s Commitment contained terms favorable to the Village.

(F) Because of the characteristics of the Series 2013 Bond, prevailing market conditions, and additional savings to be realized from an expeditious sale of the Series 2013 Bond, it is in the best interest of the Village to sell the Series 2013 Bond at a private negotiated sale to the Lender. The Village has received the Commitment from the Lender 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 2013 Bond, the Village shall receive from the Lender, a Lender’s Certificate, the form of which is attached hereto as Exhibit B and the Disclosure Letter containing the information required by Section 218.385, Florida Statutes, a form of which is attached hereto as Exhibit C.

(G) The obligation of the Village to repay the Series 2013 Bond in accordance with its terms and to make the payments required under the Loan Agreement is hereby declared to be and shall be a special, limited obligation of the Village, secured solely by the Pledged Revenues and to the extent any deficiency exist, from a covenant to budget and appropriate Non-Ad Valorem Revenues. The obligation of the Village to repay the Series 2013 Bond in accordance with its terms and to make any other payments, if any, required under the Series 2013 Bond or the Loan Agreement shall not be or constitute a general obligation or indebtedness of the Village and neither the Series 2013 Bond nor the Loan Agreement shall be or constitute a
“bond” of the Village within the meaning of Article VII, Section 12, Florida Constitution (1968). Neither the Lender nor any successor owner of the Series 2013 Bond shall be entitled to compel the payment of the principal of or interest on the Series 2013 Bond or the making of any payments required under the Series 2013 Bond or the Loan Agreement from any moneys of the Village other than the Pledged Revenues and the Non-Ad Valorem Revenues, as provided herein and in the Loan Agreement.

(H) 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 2013 Bond and the taking of all other action in connection with the consummation of the Loan.

(I) 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 2013 Bond and the Loan Agreement.

Section 4. Approval of Commitment. The Village accepts the Lender’s Commitment.

Section 5. Authorization of Series 2013 Bond and Project. Subject and pursuant to the provisions hereof and in accordance with the provisions of the Loan Agreement, the issuance by the Village of its Series 2013 Bond, in an aggregate principal amount of not to exceed Six Million Dollars ($6,000,000), 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 2013 Bond, the Loan Agreement and the Commitment, and to be secured as provided in the Loan Agreement is hereby authorized. The Project is hereby authorized.

Section 6. Approval of Form of Loan Agreement and Series 2013 Bond. The Loan Agreement and the Series 2013 Bond, in substantially the form attached hereto as Exhibit A, are approved, and the Mayor and Clerk are authorized to execute and deliver the Loan Agreement and the Series 2013 Bond to the Lender, and to take such other actions as shall be necessary to consummate the Loan.

Section 7. Authorization of Other Action. The Mayor, the Clerk, the Village Administrator, 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 2013 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 2013 Bond to the Lender, including, but not limited to, the making of modifications to the Loan Agreement and the Series 2013 Bond to conform the provisions thereof to the provisions of the Commitment.

Section 8. Application of Proceeds of Loan. The proceeds of the Loan shall be used to pay costs of the Project and pay related associated costs of issuance (including but not limited to legal and financial advisory fees and expenses).
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. 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 2013 Bond or Loan Agreement delivered hereunder.

Section 11. Amendment. This Resolution may not be amended or repealed except with the prior written consent of the Lender.

Section 12. Effective Date. This Resolution shall take effect immediately upon its adoption.

[Remainder of this page intentionally left blank]
PASSED AND ADOPTED, this 12th day of December, 2013.

Motion to adopt by Councilman Ken Philipson, second by Vice Mayor Deb Gillis.

FINAL VOTE AT ADOPTION
Mayor Ted Blackburn           YES
Vice Mayor Deb Gillis         YES
Councilmember Mike Forster    YES
Councilmember Ken Philipson    YES
Councilmember Dave Purdo      YES

TED BLACKBURN, MAYOR

ATTEST:

SYNTHIA LANKFORD, VILLAGE CLERK

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

ROGET BRYAN, VILLAGE ATTORNEY
EXHIBIT B

FORM OF LENDER’S CERTIFICATE

This is to certify that STI Institutional & Government, Inc., or its assignee (the "Lender") has not required Islamorada, Village of Islands, Florida (the "Village") to deliver any offering document and has conducted its own investigation, to the extent it deems satisfactory or sufficient, into matters relating to business affairs or conditions (either financial or otherwise) of the Village in connection with the issuance by the Village of its not to exceed $6,000,000 Capital Improvement Revenue Bond, Series 2013 (the "Series 2013 Bond "), and no inference should be drawn that the Lender, in the acceptance of said Series 2013 Bond, is relying on Bond Counsel or the Village Attorney as to any such matters other than the legal opinions rendered by Bond Counsel and by the Village Attorney. Any capitalized undefined terms used herein not otherwise defined shall have the meaning set forth in Resolution No. 13-12-90 adopted by the Village Council of the Village on December 12, 2013 (the "Resolution").

We are aware that investment in the Series 2013 Bond involves various risks, that the Series 2013 Bond is not a general obligation of the Village or payable from ad valorem tax revenues, and that the payment of the Series 2013 Bond is secured solely from the sources described in the Resolution (the "Pledged Revenues").

We have made such independent investigation of the Pledged Revenues as we, in the exercise of sound business judgment, consider to be appropriate under the circumstances. In making our investment decision, we have relied upon the accuracy of information which has been provided to us.

We have knowledge and experience in financial and business matters and are capable of evaluating the merits and risks of our investment in the Series 2013 Bond and can bear the economic risk of our investment in the Series 2013 Bond.

We acknowledge and understand that the Village has determined that the Resolution is not required to be qualified under the Trust Indenture Act of 1939, as amended (the "1939 Act"), and that the Series 2013 Bond is not required to be registered in reliance upon the exemption from registration under Section 3(a)(2) of the Securities Act of 1933, Section 517.051(1), Florida Statutes, and/or Section 517.061(7), Florida Statutes, and that neither the Village, Bond Counsel nor the Village Attorney shall have any obligation to effect any such registration or qualification.

The Series 2013 Bond has been purchased for the account of the Lender for investment purposes only and not with a present view to the distribution, transfer or resale thereof. The Lender intends to hold and book the Series 2013 Bond as a loan in its loan portfolio; the Lender acknowledges that the use of the word "bond" in the name of the debt instrument is not
intended to indicate that the instrument is or is not a security within the meaning of the Securities Act of 1933. The Lender currently intends to hold such Series 2013 Bond for its own account and for an indefinite period of time and does not currently intend to dispose of all or any portion of such Series 2013 Bond. The Lender hereby covenants that if the Lender subsequently decides to distribute or resell the Series 2013 Bond, it shall comply in all respects with all laws then applicable with respect to any such distribution or resale. We understand that the Series 2013 Bond may not be transferred in a denomination less than the par amount outstanding at the time of transfer.

We are a bank, trust company, savings institution, insurance company, dealer, investment company, pension or profit-sharing trust, or qualified institutional buyer as contemplated by Section 517.061(7), Florida Statutes. We are not purchasing the Series 2013 Bond for the direct or indirect promotion of any scheme or enterprise with the intent of violating or evading any provision of Chapter 517, Florida Statutes.

We are an "accredited investor" within the meaning of the Securities Act of 1933, as amended, and Regulation D thereunder.

DATED this ___ of _____________, 2013.

STI INSTITUTIONAL & GOVERNMENT, INC.

By: ________________________________
Name: ______________________________
Title: ______________________________
EXHIBIT C

FORM OF DISCLOSURE LETTER

The undersigned, as Lender, proposes to negotiate with Islamorada, Village of the Islands, Florida (the "Village") for the private purchase of its not to exceed $6,000,000 Capital Improvement Revenue Bond, Series 2013 ("Series 2013 Bond"). Prior to the award of the Series 2013 Bond, the following information is hereby furnished to the Village:

1. Set forth is an itemized list of the nature and estimated amounts of expenses to be incurred for services rendered to us (the "Lender") in connection with the issuance of the Series 2013 Bond (such fees and expenses to be paid by the Village):

   $___________
   Legal Fees

2. (a) No other fee, bonus or other compensation is estimated to be paid by the Lender in connection with the issuance of the Series 2013 Bond to any person not regularly employed or retained by the Lender (including any "finder" as defined in Section 218.386(1)(a), Florida Statutes), except as specifically enumerated as expenses to be incurred by the Lender, as set forth in paragraph (1) above.

   (b) No person has entered into an understanding with the Lender, or to the knowledge of the Lender, with the Village, for any paid or promised compensation or valuable consideration, directly or indirectly, expressly or implied, to act solely as an intermediary between the Village and the Lender or to exercise or attempt to exercise any influence to effect any transaction in the purchase of the Series 2013 Bond.

3. The amount of the underwriting spread expected to be realized by the Lender is $0.

4. The management fee to be charged by the Lender is $0.

5. Truth-in-Bonding Statement:
The Series 2013 Bond is being issued primarily to finance the cost of the Project and reimburse the Village for any Project Costs, as defined in the Resolution. Unless earlier redeemed, the Series 2013 Bond is expected to be repaid by _____ 20__. At a fixed interest rate of _____%, total interest paid over the life of the Series 2013 Bond is $ ____________ and issuance of the Series 2013 Bond will result in maximum of approximately $______ of annual revenues of the Village not being available to finance other services of the Village during the life of the Series 2013 Bond.

6. The name and address of the Lender is as follows:

   STI Institutional & Government, Inc.
   8699 NW 36th Street
   2nd Floor Commercial
   Doral, Florida 33166
   Attention: __________

IN WITNESS WHEREOF, the undersigned has executed this Disclosure Letter on behalf of the Lender this ___ day of _____________, 2013.

STI INSTITUTIONAL & GOVERNMENT, INC.

By: ____________________________
Name: ____________________________
Title: ____________________________