



***This meeting will be live-streamed via the Town's website***

**Town of Longboat Key Town Commission**

**Town Hall, 501 Bay Isles Road**

**Longboat Key, FL 34228**

[WWW.LONGBOATKEY.ORG](http://WWW.LONGBOATKEY.ORG)

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## **- AGENDA - SPECIAL MEETING**

1:00 PM

July 5, 2016

### Pledge of Public Conduct

- We may disagree, but we will be respectful of one another.
- We will direct all comments to issues.
- We will avoid personal attacks.
- Audience members wishing to speak must be recognized by the Chair.
- Speaking without being recognized will be considered as "Out of Order".

### **Call to Order**

Notice is hereby given that the Mayor of Longboat Key has called a Special Meeting on Monday, July 5, 2016 at 1:00 PM in the Commission Chamber located at 501 Bay Isles Road, Longboat Key, Florida, for the purpose of discussing the following items:

### **Public to be Heard**

#### 1. Opportunity for Public to Address Town Commission

At each meeting the Town Commission sets aside a time for the public to address issues that are not on the agenda.

### **Resolutions - Public Hearings**

#### 2. Resolution 2016-07, Providing for a Final Assessment for Neighborhood Utility Undergrounding Project

Resolution 2016-07 approves an apportionment methodology for the Neighborhood Utility Undergrounding Project based on Equivalent Benefit Units (EBUs) and describes how the assessment roll will be maintained. It also includes an initial prepayment option for property owners who wish to prepay the assessments prior to issuance of bonds. This item was forwarded to the July 5, 2016 Special Meeting for public hearing, discussion, and formal action. Recommended Action: Pending public hearing and discussion, pass Resolution 2016-07.

#### 3. Resolution 2016-08, Neighborhood Utility Undergrounding Master Bond Resolution

On March 15, 2016, the Town's electors voted to authorize the Town's borrowing of up to \$23,850,000 for neighborhood utility undergrounding and street lighting. A Master Bond Resolution is required to move forward with the Neighborhood Undergrounding Project. Resolution 2016-08 was presented to complete the requirement for the Master Bond Resolution. This item was forwarded to the July 5, 2016 Special Meeting for public hearing, discussion, and formal action. Recommended Action: Pending public hearing and discussion pass Resolution 2016-08.

#### 4. Resolution 2016-17, Reallocation of Phase III Infrastructure Surtax (IST) Functional Categories

At the June 20, 2016 Special Workshop Meeting discussion the Town Commission was advised that the IST funds for public safety vehicles and equipment would be expended by the end of FY 2017. Staff was asked to bring back a recommendation and Resolution for reallocation of Phase III IST from Comprehensive Beach Management to Public Safety to the June 27, 2016 Special Workshop Meeting. This item was forwarded to the July 5, 2016 Special Meeting for public hearing, discussion, and formal action. Recommended Action: Pending public hearing and discussion, pass Resolution 2016-17.

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Jack Duncan, Mayor; Terry Gans, Vice-Mayor;  
Armando Linde, District 1; Jack Daly, District 4; Ed Zunz, District 5;  
Phill Younger, At-Large; Irwin Pastor, At-Large

<b>Ordinances - Second Reading and Public Hearing</b>
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**5. Ordinance 2016-15, Amending Chapter 100, Marine Turtle Protection**

Commission and public discussion was held at the March 23, 2016; April 18, 2016; and May 16, 2016 Regular Workshop Meetings, after which the Town Commission directed staff to move forward with proposed amendments to Chapter 100, Marine Turtle Protection. First reading was held at the June 6, 2016 Special Meeting and forwarded to the July 5, 2016 Special Meeting for second reading and public hearing. Recommended Action: Pending second reading, public hearing and discussion, adopt Ordinance 2016-15.

**6. Ordinance 2016-20, Amending Chapter 150.12, Buildings**

At the Town Commission's Regular Workshop on May 16, 2016 the Town Attorney discussed the need to revise the Town's procedures related to abatement of unsafe structures and equipment, as set forth in Town Code, Section 150.21. Ordinance 2016-20 provides for authority, notification procedures, due process and other related regulatory authority. First reading was held at the June 6, 2016 Special Meeting and forwarded to the July 5, 2016 Special Meeting for second reading and public hearing. Recommended Action: Pending second reading, public hearing and discussion, adopt Ordinance 2016-20.

**7. Ordinance 2016-21, Amending Chapter 39, Town Ethics Code**

In 1990 the Town adopted a Code of Ethics (Town Code Chapter 39) which was last amended in 1999. The Florida Code of Ethics for Public Officers and Employees is found in Chapter 112, Part III, Florida Statutes. Many provisions are identical, some unique to the Town or, in some cases, conflict with State law. At the September 28, 2015 Special Meeting the Town Attorney discussed her concerns regarding the variations and conflicts between the State Statute and Town Code. At the May 16, 2016 Regular Workshop Meeting the Town Commission directed the Town Attorney to prepare Ordinance 2016-21 to amend Chapter 39 to provide for the applicability of Florida's State Ethics Code to Town elected and appointed officials, and provide for enforcement of violations through the State of Florida's Commission on Ethics. First reading was held at the June 6, 2016 Special Meeting and forwarded to the July 5, 2016 Special Meeting for second reading and public hearing. Recommended Action: Pending second reading, public hearing and discussion, adopt Ordinance 2016-21.

<b>Town Commission Comments</b>
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<b>Town Attorney Comments</b>
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<b>Town Manager Comments</b>
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<b>Press to be Heard</b>
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<b>Adjournment</b>
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No verbatim record by a certified court reporter is made of these proceedings. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at these proceedings upon which any appeal is to be based (see Section 286.0105, Fla. Stat.).

In accordance with the Americans with Disabilities Act and Section 286.26, F.S., persons needing a special accommodation to participate in this proceeding should contact the Town Clerk's office at 941-316-1999 forty-eight (48) hours in advance of this proceeding. If you are hearing impaired, please call 941-373-7022.



**July 5, 2016**

**Agenda Item 1**

**No Material  
Provided For  
This Item**

## M E M O R A N D U M

Date: June 28, 2016

**TO:** Town Commission

**FROM:** Dave Bullock, Town Manager

**SUBJECT:** Resolution 2016-07, Providing for a Final Assessment Resolution for the Neighborhood Undergrounding Project

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On June 6, 2016, the Town Commission adopted Resolution 2016-06 (the "Initial Assessment Resolution") which initiated the process for funding the Neighborhood Undergrounding Project (the "Project") through special assessments.

The Initial Assessment Resolution described the special benefits conveyed by the undergrounding improvements, approved an apportionment methodology for allocating the special assessments among the real property specially benefitted by the Project, scheduled a special meeting and public hearing for July 5, 2016, to consider imposition of the assessments, and directed mailing and publication of notice of such hearing as required by Sections 2.05 and 2.06, respectively, of Town Ordinance 2015-30 (the "Assessment Procedure Ordinance").

The Town mailed Special Assessment Notices to all Property Owners on or before June 15, 2016, which contained: (1) a notice of their right to appear at the July 5, 2016 public hearing; (2) instruction to file written objections within twenty (20) days of the notice; (3) where to find the Initial Assessment Resolution and information related to the preliminary assessment roll; (4) the number of safety, reliability and aesthetic Equivalent Benefit Units (EBU's) assigned to their parcel; (5) the total assessment, if prepaid; and (6) the maximum annual payment over a 30 year financing arrangement.

Following the mailing, Town staff answered questions related to the notice via phone calls and emails from property owners. A draft of the "Willdan Assessment Methodology Report" dated May 2016 and a "Frequently Asked Questions" page were also provided on the Town's website.

The Town's consultants, Danny Brannon and Tara Hollis, will be available at the hearing to discuss the methodology and assessment program.. A final report has been issued and is attached.

As required by Section 2.07 of the Assessment Procedure Ordinance, the Town Commission is required to consider adoption of a Final Assessment Resolution at the conclusion of the public hearing which confirms, modifies or repeals the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Town Commission.

The Final Assessment Resolution will approve the maximum amount of the assessments, approve the assessment roll, and specify the method of collecting the assessments.

Resolution 2016-07 is presented at the July 5, 2016 Special Meeting and Public Hearing for discussion, hearing, and formal action.

Please don't hesitate to contact me if you have any questions.

**RESOLUTION 2016-07**

**A RESOLUTION OF THE TOWN COMMISSION OF LONGBOAT KEY, FLORIDA, RELATING TO THE ACQUISITION, CONSTRUCTION AND FUNDING OF CAPITAL IMPROVEMENTS ASSOCIATED WITH THE UNDERGROUNDING OF ELECTRICAL, COMMUNICATIONS, FIBER OPTICS AND OTHER UTILITIES IN AREAS OR NEIGHBORHOODS OF THE TOWN WHERE SUCH UTILITIES ARE CURRENTLY OVERHEAD AND/OR WHICH WILL NOT BE UNDERGROUNDED AS PART OF THE GULF OF MEXICO DRIVE PROJECT, INCLUDING THE PROVISION OF STREET LIGHTING IMPROVEMENTS THEREIN, AND THE INSTALLATION OF UNDERGROUND FIBER OPTICS FACILITIES IN AREAS AND NEIGHBORHOODS OF THE TOWN WHERE SUCH FACILITIES ARE NOT OTHERWISE AVAILABLE; RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE IMPROVEMENTS; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE IMPROVEMENTS AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; IMPOSING ASSESSMENTS UPON ALL TAX PARCELS DESCRIBED IN THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; DIRECTING RECORDED NOTICE OF THE ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This Resolution of the Town of Longboat Key, Florida (the "Town") is adopted pursuant to Town Ordinance 2015-30 (as may be amended from time to time, the "Assessment Ordinance"), Town Resolution 2016-06 (the "Initial Assessment Resolution"), Chapter 197, Florida Statutes, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** This Resolution is the Final Assessment Resolution for the Neighborhood Project. All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance and the Initial Assessment Resolution.

**SECTION 3. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The findings provided in Section 1.03 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.

(B) On June 6, 2016, the Town Commission adopted the Initial Assessment Resolution proposing the construction and funding of the Undergrounding Improvements and Onsite Improvements comprising the Neighborhood Project, describing the method of assessing the cost of such improvements against the real property that will be specifically benefited thereby, establishing a public hearing to consider imposition of the proposed assessments, and directing preparation of the preliminary Assessment Roll and provision of the notices required by the Assessment Ordinance.

(C) Pursuant to Section 2.07 of the Assessment Ordinance, the Town Commission is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the Town Commission deems appropriate, after hearing concerns and receiving comments or objections of interested parties.

(D) The Assessment Roll has heretofore been filed at the offices of the Town Clerk, 501 Bay Isles Drive, Longboat Key, Florida, and made available for public inspection.

(E) As required by the terms of the Initial Assessment Resolution, notice of a public hearing has been published and mailed to each property owner proposed to be assessed notifying such property owner of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively.

(F) A public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by law.

(G) The Town Commission has carefully considered the Assessment Report, a copy of which is on file in the offices of the Town Clerk and incorporated herein, which describes the special benefits conveyed by the Neighborhood Project to Assessed Property and sets forth the apportionment methodology used by the Town to create the Assessment Roll. The Assessment Report and the apportionment methodology described therein is ratified and confirmed as the method utilized by the Town for allocating the costs and benefits of the Neighborhood Project among specially benefitted property.

(H) The Assessments imposed pursuant to this Resolution will be imposed by the Town Commission, not the Property Appraiser or Tax Collector. Any activity of the Property Appraiser or Tax Collector under the provisions of this Resolution shall be construed solely as ministerial.

(I) The benefits derived from Neighborhood Project equal or exceed the amount of the Assessments levied and imposed hereunder. Each Tax Parcel included on the Assessment Roll is hereby determined to specially benefit from the Neighborhood Project in an amount equal to or in excess of the amount of the Assessment included for such parcel in the Assessment Roll. The Assessment for any Tax Parcel included on the Assessment Roll does not exceed the proportional benefits that such Tax Parcel will receive compared to any other Tax Parcel included on such roll.

(J) The Town Commission hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Neighborhood Project by fairly and reasonably allocating the costs and benefits thereof among specially benefited property.

**SECTION 4. RATIFICATION AND CONFIRMATION OF PRIOR ACTIONS AND INITIAL ASSESSMENT RESOLUTION.**

(A) Any and all prior actions of the Town Commission associated with the imposition of the Assessments to fund the Neighborhood Project are hereby approved, ratified and confirmed in their entirety.

(B) The Initial Assessment Resolution, as supplemented by this Final Assessment Resolution, is hereby ratified and confirmed.

**SECTION 5. APPROVAL OF ASSESSMENT ROLL.** The Assessment Roll, which is on file in the offices of the Town Clerk, is hereby approved. The Assessment Roll shall be retained by the Town Clerk and shall be available for public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal or internet access available to the public.

**SECTION 6. ASSESSMENTS.**

(A) The Neighborhood Project shall be funded by the Assessments imposed hereunder based upon an estimated Capital Cost of \$23,134,500 and an estimated Project Cost of \$23,850,000.

(B) The Tax Parcels described in the Assessment Roll are hereby found to be specially benefited by the Neighborhood Project based upon the following Assessment rates:

- (1) For Feeder Facilities Improvements: \$345.42 per EBU.
- (2) For Fiber Optics Improvements: \$449.82 per EBU.
- (3) For Neighborhood Undergrounding Improvements:
  - (a) \$2,305.12 per safety EBU,
  - (b) \$2,739.76 per reliability EBU, and
  - (c) \$2,305.12 per aesthetic EBU.
- (4) For Onsite Improvements:
  - (a) \$584.45 per underground service connection conversion, and
  - (b) \$1,817.94 per Tax Parcel requiring looping.

(C) Affected property owners shall have the option of prepaying the Capital Cost before Obligations are issued to finance the costs of the Neighborhood Project, and may thereby avoid a pro rata share of financing costs and annual collection and administrative costs.

(D) If the combined Capital Cost amount is not prepaid, an annual non-ad valorem assessment will be collected pursuant to the Uniform Assessment Collection Act for a period not to exceed thirty (30) years. The annual non-ad valorem assessment for each Tax Parcel shall be calculated based upon the Project Cost including applicable interest and financing costs, and annual Collection Costs. The estimated maximum annual rate of the Assessment is estimated not to exceed the total of the following:

- (1) \$25.43 per EBU for Feeder Facilities Improvements; plus
- (2) \$33.11 per EBU for Fiber Optics Improvements; plus
- (3) For Neighborhood Undergrounding Improvements:
  - (a) \$169.66 per safety EBU; plus
  - (b) \$201.65 per reliability EBU; plus
  - (c) \$169.66 per aesthetic EBU; plus
- (4) \$43.04 per onsite service connection conversion (if any); plus
- (5) \$133.87 per Tax Parcel requiring looping; plus
- (6) Annual Collection Costs which are estimated not to exceed 8% of the total of the amounts set forth in section 6(D)(1) through 6(D)(5) above.

(E) The methodology based upon Equivalent Benefit Units as described in the Assessment Report is hereby approved and adopted. A special assessment computed in the manner described therein is hereby levied and imposed on all Tax Parcels described in the Assessment Roll in order to fund the Neighborhood Project and unless prepaid, shall be collected through annual installments over a period not to exceed thirty (30) years. It is anticipated that collection of the Assessments pursuant to the Uniform Assessment Collection Act shall commence with the ad valorem tax bill to be mailed in November, 2017.

(F) Each Tax Parcel included on the Assessment Roll is specially benefitted by the Neighborhood Project in an amount equal to or in excess of the Assessment appearing on the Assessment Roll for such parcel as of the date of adoption of this Final Assessment Resolution.

(G) It is the express intent of the Town Commission that the Assessments shall fund all or substantially all of the costs and expenses attributable to the Neighborhood Project. In the event that the Capital Cost or Project Cost are less than the amounts approved hereunder, either as a result of construction or financing cost savings or any other factor, and/or Tax Parcels are subsequently developed or re-developed resulting in additional Equivalent Benefit Units and Assessment revenues, then such cost savings and additional revenue shall be used for:

(1) Reducing the amount the Town would have otherwise been required to contribute toward the Neighborhood Project, if any, from its legally available funds other than proceeds of the Assessments; or

(2) Reimbursing the Town for any prior expenditures made in furtherance of the Neighborhood Project; or

(3) Repaying Obligations issued to finance the Neighborhood Project or otherwise retiring the Project Cost; or

(4) Paying costs and expenses properly attributable to the Neighborhood Project; or

(5) Any other lawful purpose.

(H) The Assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, Town or municipal taxes, and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon validation of the Obligations and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(I) Following adoption of this Final Assessment Resolution but prior to the date on which the Assessment Roll is certified for collection, the Town Manager and Town Attorney are directed and authorized to promptly institute proceedings pursuant to Chapter 75, Florida Statutes, for validation of any Obligations secured by the Assessments. Unless determined otherwise by supplemental resolution, the collection of Assessments as provided herein is contingent upon a favorable outcome for the Town in the validation proceeding. Any Obligations issued by the Town shall contain a covenant by the Town to adopt an Annual Assessment Resolution imposing Assessments for each Fiscal Year until the Obligations have been paid in full.

**SECTION 7. COLLECTION OF ASSESSMENTS.** The Assessments shall be collected pursuant to the provisions of the Initial Assessment Resolution and Uniform Assessment Collection Act. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the Town Manager shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

**SECTION 8. EFFECT OF FINAL ASSESSMENT RESOLUTION.** The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution (including, but not limited to, the special benefits conveyed by the Neighborhood Project, the method by which the Assessments are computed, the Assessment Roll, the maximum annual Assessment, the levy and lien of the Assessments and the terms for prepayment of the Assessments), unless proper steps are initiated in a court of competent jurisdiction to

secure relief within twenty (20) days from the date of Town Commission's adoption of this Final Assessment Resolution.

**SECTION 9. ASSESSMENT NOTICE.** Upon validation of the Obligations and prior to certification of the Assessment Roll to the Tax Collector, the Town Manager is hereby directed to record a general notice of the Assessments in the Official Records of Sarasota County and Manatee County, respectively. The recorded notice shall be in substantially the form attached hereto as Appendix C, with such changes as may be approved by the Town Attorney.

**SECTION 10. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED** this 5th day of July, 2016.

**TOWN COMMISSION OF  
LONGBOAT KEY, FLORIDA**

\_\_\_\_\_  
Jack G. Duncan, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk

**APPENDIX A**  
**PROOF OF PUBLICATION**

# BRADENTON HERALD

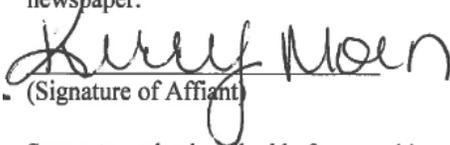
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Bradenton Herald  
Published Daily  
Bradenton, Manatee County, Florida

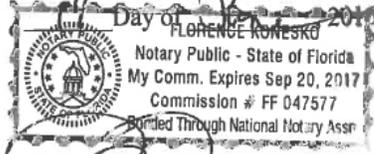
STATE OF FLORIDA  
COUNTY OF MANATEE

Before the undersigned authority personally appeared Kerry Moen, who, on oath, says that she is a Legal Advertising Representative of The Bradenton Herald, a daily newspaper published at Bradenton in Manatee County, Florida; that the attached copy of the advertisement, being a Legal Advertisement in the matter of **Notice of Public Hearing to Impose and Provide for Collection of Non-ad Valorem Assessments to Fund the Undergrounding of utilities and Installation of Fiber optics and Street Lighting Improvements Relating to Neighborhoods, Town of Longboat Key** was published in said newspaper in the issue(s) of **06/14/16**.

Affidavit further says that the said publication is a newspaper published at Bradenton, in said Manatee County, Florida, and that the said newspaper has heretofore been continuously published in said Manatee County, Florida, each day and has been entered as second-class mail matter at the post office in Bradenton, in said Manatee County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

  
(Signature of Affiant)

Sworn to and subscribed before me this



SEAL & Notary Public

Personally Known \_\_\_\_\_ OR Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**NOTICE OF PUBLIC HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF NON-AD VALOREM ASSESSMENTS TO FUND THE UNDERGROUNDING OF UTILITIES AND INSTALLATION OF FIBER OPTICS AND STREET LIGHTING IMPROVEMENTS RELATING TO NEIGHBORHOODS**



Notice is hereby given that the Town Commission of the Town of Longboat Key (the "Town") will conduct a public hearing to consider the imposition and collection of special assessments within Town limits, as shown above, to fund the acquisition and construction of capital improvements associated with the undergrounding of electrical, communications, fiber optics and other utilities in areas or neighborhoods of the Town where such utilities are currently overhead and/or which will not be undergrounded as part of the Gulf of Mexico Drive project, including the provision of street lighting improvements therein, and the installation of underground fiber optics facilities in areas and neighborhoods of the Town where such facilities are not otherwise available. The public hearing will be held at 1:00 p.m. EST, July 5, 2016, at the Town Commission Chambers at Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida 34228, for the purpose of receiving public comment on the proposed special assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within twenty (20) days of this notice. If a person decides to appeal any decision made by the Town Commission with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Clerk at Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida, (941) 315-1999, at least forty-eight (48) hours prior to the date of the hearing.

The assessment for each parcel of property will be based upon the total number of "equivalent benefit units" attributable to each tax parcel subject to the assessment. A more specific description of the improvements and the method of computing the assessment for each parcel of property are set forth in Resolution No. 2016-06 (the "Initial Assessment Resolution") adopted by the Town Commission on June 8, 2016. Copies of the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the Town Clerk.

The assessments are anticipated to be collected on the ad valorem tax bill by the Sarasota County Tax Collector and Manatee County Tax Collector, respectively, commencing in November, 2017, as authorized by Section 197.3632, Florida Statutes. Florida law provides that failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The Town Commission intends to collect the assessments in not more than thirty (30) annual installments.

TOWN COMMISSION OF  
LONGBOAT KEY, FLORIDA  
Published: 06-14-2016

167007



**NOTICE OF PUBLIC HEARING TO IMPOSE AND  
PROVIDE FOR COLLECTION OF NON-AD VALOREM ASSESSMENTS  
TO FUND THE UNDERGROUNDING OF UTILITIES AND  
INSTALLATION OF FIBER OPTICS AND STREET LIGHTING IMPROVEMENTS  
RELATING TO NEIGHBORHOODS**



Notice is hereby given that the Town Commission of the Town of Longboat Key (the "Town") will conduct a public hearing to consider the imposition and collection of special assessments within Town limits, as shown above, to fund the acquisition and construction of capital improvements associated with the undergrounding of electrical, communications, fiber optics and other utilities in areas or neighborhoods of the Town where such utilities are currently overhead and/or which will not be undergrounded as part of the Gulf of Mexico Drive project, including the provision of street lighting improvements therein, and the installation of underground fiber optics facilities in areas and neighborhoods of the Town where such facilities are not otherwise available. The public hearing will be held at 1:00 p.m. EST, July 5, 2016, at the Town Commission Chambers at Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida 34228, for the purpose of receiving public comment on the proposed special assessments. All affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within twenty (20) days of this notice. If a person decides to appeal any decision made by the Town Commission with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Clerk at Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida, (941) 316-1999, at least forty-eight (48) hours prior to the date of the hearing.

The assessment for each parcel of property will be based upon the total number of "equivalent benefit units" attributable to each tax parcel subject to the assessment. A more specific description of the improvements and the method of computing the assessment for each parcel of property are set forth in Resolution No. 2016-06 (the "Initial Assessment Resolution") adopted by the Town Commission on June 8, 2016. Copies of the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the Town Clerk.

The assessments are anticipated to be collected on the ad valorem tax bill by the Sarasota County Tax Collector and Manatee County Tax Collector, respectively, commencing in November, 2017, as authorized by Section 197.3632, Florida Statutes. Florida law provides that failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. The Town Commission intends to collect the assessments in not more than thirty (30) annual installments.

**TOWN COMMISSION OF  
LONGBOAT KEY, FLORIDA**  
Published: 06-15-2016

**APPENDIX B**

**AFFIDAVIT OF MAILING**

**AFFIDAVIT**

**BEFORE ME**, personally appeared the undersigned affiant, who after being duly sworn, depose and say:

(1) Patricia Valdes is Production Manager of Globe Marketing Systems ("Globe").

(2) On or before June 15, 2016, Globe provided mailed notices on behalf of the Town of Longboat Key, Florida (the "Town"), in accordance with Section 2.06 of Town Ordinance 2015-30 (the "Assessment Ordinance") to each owner of real property located within the Town subject to the special assessments contemplated by Town Resolution No. 2016-06, as reflected on, and at the addresses shown on, the real property assessment tax roll databases maintained by the Manatee County Property Appraiser and Sarasota County Property Appraiser, respectively, for the purpose of the levy and collection of ad valorem taxes.

(3) An exemplary form of such mailed notice is attached hereto.

**FURTHER AFFIANT SAYETH NAUGHT.**

Patricia Valdes  
Patricia Valdes, affiant

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 17 day of June, 2016, by Patricia Valdes. She is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.

(SEAL)

Joy R. Sulzer  
Printed/Typed Name: Joy R. Sulzer  
Notary Public-State of Florida  
Commission Expires: July 13, 2019





Town of  
**Longboat Key**  
Incorporated November 14, 1955

Town Hall  
501 Bay Isles Road  
Longboat Key, FL 34228-3196  
(941) 316-1999  
FAX (941) 316-1656

June 15, 2016



Mason Martin LLC      \*\*S-1/T-1  
6008 Marina Drive Unit 104 XXXX  
Holmes Beach, FL 34217-1537

Re: Parcel Number **7788608158**  
Property Address **578 BROADWAY**  
Special Assessments to Fund Neighborhood Utility Undergrounding, Fiber Optics and Street Lighting Improvements

Dear Property Owner:

The Town Commission of the Town of Longboat Key (the "Town") is providing for the town-wide undergrounding of electric, communications, fiber optics and other utilities. The undergrounding is taking place in two phases, with each phase distinct from the other in terms of construction and financing. The first phase will consist of undergrounding the utility lines along Gulf of Mexico Drive (the "GMD Project"). The second phase will consist of undergrounding utilities in areas or neighborhoods of the Town where such utilities are currently overhead and/or which will not be undergrounded as part of the GMD Project, including the provision of street lighting improvements therein, and the installation of underground fiber optics facilities in areas and neighborhoods of the Town where such facilities are not otherwise available (the "Neighborhood Project"). Each phase will be funded through special assessments imposed against real property within the Town which is specially benefitted by the improvements. The proposed assessment for your parcel for the Neighborhood Project is shown on page 2.

The Town Commission will conduct a public hearing to consider the imposition and collection of a special assessment within Town limits to fund the Neighborhood Project. The public hearing will be held at 1:00 p.m. EST, July 5, 2016, at the Town Commission Chambers at Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida 34228, for the purpose of receiving public comment on the proposed special assessment. All affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within twenty (20) days of this notice. If a person decides to appeal any decision made by the Town Commission with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the Town Clerk at Longboat Key Town Hall, 501 Bay Isles Road, Longboat Key, Florida 34228, at least forty-eight (48) hours prior to the date of the hearing.

The assessment for each parcel of property will be based upon the total number of "equivalent benefit units" (EBUs) attributable to each tax parcel subject to the assessment, and the onsite improvements, if any, which are necessary to connect the parcel with the undergrounded facilities. A more specific description of the improvements comprising the Neighborhood Project and the method of computing the assessment for each parcel of property are set forth in Resolution 2016-06 (the "Initial Assessment Resolution") adopted by the Town Commission on June 6, 2016. Copies of the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the Town Clerk. The total revenue to be collected by the Town through the special assessment for the Neighborhood Project is estimated to be \$23,850,000, together with interest on the bonds issued to finance such amount and other

costs associated with collecting and administering the assessment each year. Such amount was approved by referendum of the qualified electors of the Town conducted on March 15, 2016.

The assessments will be collected in annual installments on the ad valorem tax bill by the Sarasota County Tax Collector and Manatee County Tax Collector, respectively, as authorized by Section 197.3632, Florida Statutes. Collection is expected to begin commencing with the tax bills issued in November, 2017. Florida law provides that failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

The Town intends to issue bonds or notes to finance the Neighborhood Project. This will permit the cost attributable to your property to be collected over a period not to exceed thirty (30) years. However, you may choose to prepay the special assessment and avoid the additional financing cost. If the assessments are imposed, you will receive a separate notice of the date and place for payment.

Information concerning the proposed assessment for the parcel identified above is included below.

TOWN COMMISSION OF  
LONGBOAT KEY, FLORIDA

**\*\*\* SEND NO MONEY NOW – THIS IS NOT A BILL\*\*\***

~~Mason Martin LLC~~  
Parcel Number ~~778608156~~  
Property Address ~~576 BROADWAY~~

Total number of EBUs attributed to property for undergrounding of feeder poles and lines on Gulf of Mexico Drive:	<del>1.50</del>
Rate of Assessment per feeder EBU:	\$345.42
Total number of EBUs attributed to property for installation of underground fiber optics facilities:	<del>0.80</del>
Rate of Assessment per fiber optics EBU:	\$449.82
Total number of safety EBUs attributed to property:	<del>1.00</del>
Rate of Assessment per safety EBU:	\$2,305.12
Total number of reliability EBUs attributed to property:	<del>0.50</del>
Rate of Assessment per reliability EBU:	\$2,739.76
Total number of aesthetic EBUs attributed to property:	<del>1.00</del>
Rate of Assessment per aesthetic EBU:	\$2,305.12
Onsite Improvements:	
Radial	<del>\$0.00</del>
Service Connection	<del>\$0.00</del>
Amount to make full payment before obligations are issued:	<del>\$6,355.28</del>
Prepayment amount after bonds are issued:**	<del>\$6,488.25</del>
Maximum number of annual payments:	30
Maximum annual payment:**	<del>\$478.53</del>

\* This amount will be reduced after each annual payment.

\*\* Annual Payment includes principal and interest at an assumed annual rate of 6.0%. The actual rate of interest will be determined upon issuance of the bonds secured by the assessments. The maximum annual payment amount set forth above does not include annual collection and administration costs which will not exceed 8% of the annual assessment payment.

**APPENDIX C**

**FORM OF ASSESSMENT NOTICE**

**NOTICE OF SPECIAL ASSESSMENTS IMPOSED IN THE TOWN OF LONGBOAT  
KEY, FLORIDA TO FUND UTILITY UNDERGROUNDING IMPROVEMENTS,  
INSTALLATION OF FIBER OPTIC AND STREET LIGHTING IMPROVEMENTS**

**RELATING TO GULF OF MEXICO DRIVE IN CERTAIN NEIGHBORHOODS**

NOTICE IS HEREBY GIVEN THAT on July 5, 2016, the Town Commission of Longboat Key, Florida, (the "Town") adopted Resolution 2016-07 (the "Final Assessment Resolution") which levied and imposed special assessments, sometimes referred to as non-ad valorem assessments, against real property located within the Town of Longboat Key to fund the undergrounding of electrical, communications, fiber optics and other utilities in areas or neighborhoods of the town where such utilities are currently overhead and/or which will not be undergrounded as part of the Gulf of Mexico Drive project (which approved by Town Resolution 2016-03), including the provision of street lighting improvements therein, and the installation of underground fiber optics facilities in areas and neighborhoods of the town where such facilities are not otherwise available (the "Neighborhood Project"). The assessment for each parcel of property is based upon the total number of "equivalent benefit units" ("EBUs") attributable to each tax parcel subject to the assessment, and the onsite improvements, if any, which are necessary to connect the parcel with the undergrounded facilities. A more specific description of the Neighborhood Project and the method of computing the assessment for each parcel of property are set forth in the Final Assessment Resolution and Resolution 2016-06 (the "Initial Assessment Resolution") adopted by the Town Commission on June 6, 2016. Copies of the Final Assessment Resolution, the Initial Assessment Resolution and the Assessment Roll describing each tax parcel subject to the special assessment, the number of EBUs and the amount of the assessment imposed against each parcel, are available for inspection at the office of the Town Clerk, 501 Bay Isle Road, Longboat Key, Florida 34228. This notice was filed after validation of the bonds or other debt obligations secured by the special assessments by the Circuit Court in and for \_\_\_\_\_ County, Case No. \_\_\_\_\_, pursuant to Chapter 75, Florida Statutes. Collection of the annual installments of the special assessments is expected to commence with the ad valorem tax bill mailed in November 2017 and will continue each year for a maximum of thirty (30) years. The balance of the special assessment is not accelerated or due in full upon sale or transfer of the property. Instead, purchasers acquiring real property subject to the assessments during that period will continue making annual payments for the duration of the term.

This notice is recorded at the direction of the Town Commission of Longboat Key, Florida pursuant to the Final Assessment Resolution in order to provide constructive notice of the levy and imposition of non-ad valorem assessments upon real property located within the Town to fund the Neighborhood Project.

The assessments constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, city or municipal taxes and other non-ad

valorem assessments. This notice does not and shall not be construed to require that individual liens or releases be filed in the Official Records.

Dated this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_\_\_

By: \_\_\_\_\_  
David R. Bullock, Town Manager

STATE OF FLORIDA  
COUNTY OF \_\_\_\_\_

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of 20\_\_\_\_, by David R. Bullock, as Town Manager for the Town of Longboat Key, Florida.

\_\_\_\_\_

Signature of Notary Public

Personally known:  OR Produced Identification

Stamp/Seal Name of Notary

Type of Identification Produced:

\_\_\_\_\_

*Town of*  
**LONGBOAT KEY | FLORIDA**



**Underground Utility Assessment  
Methodology  
Neighborhood Project**

July 2016

**Final Report**



Financial & Economic Consulting Services

T 407.872.2467 | F 888.326.6864 | 200 South Orange Avenue, Suite 1550, Orlando, FL 32801 | [www.willdan.com](http://www.willdan.com)

# Town of Longboat Key, Florida

## Utility Undergrounding Assessment Methodology Neighborhood Project

FINAL REPORT



200 South Orange Avenue, Suite 1550 | Orlando, Florida 32801  
Tel: (407) 872-2467 | Fax: (888) 326-6864 | [www.willdan.com](http://www.willdan.com)



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## 1.0 Executive Summary

Willdan Financial Services (WFS) has partnered with Brannon & Gillespie LLC (B&G) to develop a special assessment apportionment methodology for the Town of Longboat Key (the “Town”) that reflects the special benefit received by properties within the Town from the undergrounding of electrical, communications, fiber optics and other utilities and installation of street lighting. The Town is undertaking the improvements in two phases, the first of which relates to Gulf of Mexico Drive (the "GMD Project"). The second phase involves all remaining streets or neighborhoods in the Town wherein such utilities have not been placed underground and/or where fiber optics are not currently available, and the removal of remnant feeder lines on Gulf of Mexico Drive which can only be removed in conjunction with or upon completion of certain aspects of the GMD Project (the "Neighborhood Project"). The Town has completed the actions necessary to impose special assessments to fund the GMD Project and to issue bonds secured by such assessments, including validation of the Town's authority to issue such bonds pursuant to Chapter 75, Florida Statutes. WFS and B&G previously submitted a report describing the apportionment methodology for the GMD Project, and now submit this report in support of the Neighborhood Project. The benefits conveyed to assessed property by utility undergrounding and the methodology for apportioning benefits and costs as described herein is substantially the same for both phases.

Geographically, the Town is a narrow barrier island approximately 11 miles in length that is located within portions of Manatee and Sarasota Counties. <sup>1</sup> Gulf of Mexico Drive (also known as Florida State Road 789 or “GMD”) is the main road that connects the Town’s barrier island to the cities of Sarasota to the south and Bradenton Beach to the north. Gulf of Mexico Drive provides vehicular access to all residential and commercial properties located within the Town’s limits, and is therefore the primary route for ingress and egress to the Town. Additionally, the main feeder overhead utility lines serving all sections of the Town are installed along GMD.

The largest component of the Neighborhood Project addresses the undergrounding of currently overhead electric power facilities owned by Florida Power and Light Company (“FPL”) which generally consist of wires, transformers, service lines, and utility poles. Recognizing that underground electric utility facilities offer reliability advantages, FPL and the Florida Public Service Commission established an incentive program providing municipalities an incentive to place overhead facilities underground after the hurricanes of 2004 and 2005. This incentive provided for a reduction in the cost to a municipality of up to 25% of the otherwise payable fee for such conversions. In addition, the overhead line strength standards were increased resulting in higher costs for overhead lines. This was also a cost reduction opportunity for undergrounding projects as the fee FPL charges for undergrounding is mainly the difference between the cost for a new underground system less the cost for an equivalent new overhead system. Recently, FPL has been pushed to complete the implementation of extreme wind load engineering designs standards and field implementations. These field implementations result in

---

<sup>1</sup> The Town’s jurisdictional boundaries also include two (2) islands, located within Sarasota Bay, known as Jewfish Key and Sister Key. There are several residential homes located on Jewfish Key.



more expensive overhead line construction costs, as well as stronger and more aesthetically unsightly poles with shorter spans between the poles. These two FPL actions provide current opportunities to both receive a 25% reduction in the fee, but to also obtain a lower calculated fee due to the equivalent overhead line costs having increased. Municipalities such as Miami Beach, Pompano Beach, Ft. Lauderdale, Hollywood, Plantation, Sunny Isles, Gulf Stream, Palm Beach, Holly Hill, Daytona Beach, Collier County, Bonita Springs, Charlotte County, and Ft. Myers are currently pursuing undergrounding projects to obtain the associated benefits for their communities and take advantage of the current reduced costs.

The second type of facilities involved are overhead communications facilities which are currently attached to the FPL utility poles and owned by Comcast, Frontier (formerly Verizon), and BrightHouse Networks. The communications facilities typically consist of fiber optic cables, coaxial cables, fiber nodes, terminal boxes and amplifiers. Undergrounding these facilities in conjunction with the electric utilities provides a great reduction in costs as the incremental cost to install conduits for communications in addition to the electric conduits is much less than having a project only involving the installation of communications facilities. Additionally, adding conduits for the installation of Town-owned fiber optic facilities offers great opportunities for enhanced telecommunications and high speed broadband internet connectivity, town communications cost reductions for links between offices, lift stations, pump stations, security cameras, monitoring stations and county emergency management facilities. These communication improvements will benefit the Town as it moves forward with the growing opportunities being provided by the rapid advances in communication technology we are currently experiencing.

The third type of facilities being improved in the Neighborhood Project are street light facilities. The Town has previously provided street lighting using FPL to install their standard type lights on the existing utility poles. Issues involving sea turtle nesting resulted in the installation of makeshift light shields to prohibit the spillover of light onto the beach turtle nesting areas. These shields often drastically impacted the street lighting pattern, and the placement of electric utility poles was not optimum for producing a uniform illumination for the Town's primary roadway. The cost for FPL to install a new street lighting system after the utility poles are removed is extremely expensive and the monthly facility maintenance charges for the poles and wire typically double the previous monthly FPL cost per light. Available LED lighting now offers drastic reductions in energy costs and well as much longer lamp life, typically around 50,000 hours. This aspect of the Neighborhood Project benefits affected property owners by providing a lighting system on Gulf of Mexico Drive and within the neighborhoods that is lower in operating and maintenance costs, turtle friendly, enhances safety thru improved illumination, and aesthetically pleasing.

During the course of preparing this Report, WFS and B&G conducted fieldwork which included surveying the affected area of the Town to accurately incorporate the characteristics of the Town, the particular characteristics of affected properties and the overhead utilities proposed to be undergrounded. This fieldwork is necessary to identify each property's special benefit.



This information also allows the methodology to account for unique circumstances particular to certain properties. For example, some properties in the Town may already have one of their utility services undergrounded and, therefore, do not benefit to the same degree as properties whose utilities are currently transmitted through overhead facilities. In addition to the fieldwork conducted, WFS also created a parcel database identifying all benefitting properties within the project area described herein and categorized those properties based on their land use and other characteristics used in allocating the costs and benefits of the Neighborhood Project.

All properties within the Town were classified into the following use or customer classes based on their current usage designations as summarized from the Property Appraiser databases obtained from Manatee and Sarasota County.

- Single Family – Includes residential parcels with one dwelling unit per parcel.
- Condominium – Includes residential parcels with individual parcel ids within the same building or group of buildings. In the Property Appraiser Records, multiple individually owned residential tax parcels are located within one GIS Property ID, which represents the property on which the condominium parcels are physically located.
- Multi-Family – Includes residential parcels with multiple dwelling units on the same parcel with one parcel id for all the units on the parcel (i.e. a duplex).
- Non-Residential – includes commercial, industrial, financial institutions, and any other parcels that have not been identified separately that have a non-residential use.
- Boat Slip – includes parcels used for docking and/or storing boats.
- Exempt – include government owned properties, rights-of-way, public easements, etc.



## 2.0 Proposed Public Facilities

Utilities, as used in this report, include Florida Power and Light (FPL) overhead electric power facilities, BrightHouse Networks communications facilities, Comcast communications facilities, Frontier Communications facilities, street light facilities and other facilities attached to the utility poles to be removed as part of the undergrounding project. The total cost of the Neighborhood Project includes, but is not limited to, the expenses associated with all financing, legal, engineering, administrative, and construction activities required to obtain approvals and complete the required construction. Construction activities include trenching; horizontal directional drilling; installing new utility vaults; conduits and transformers; laying conduit lines into trenches; switching services to underground systems; replacement street light installation; installation of backbone municipal fiber optic cable facility and removing all existing overhead utility poles and wires.

The Town is undertaking the town-wide undergrounding of utilities in two phases described as the GMD Project and the Neighborhood Project, respectively. The GMD Project phase is designed to underground all backbone main overhead utility trunk lines, to the extent practical. The GMD Project will underground all overhead utility facilities within the right-of-way of Gulf of Mexico Drive and the main FPL overhead feeder lines running parallel to Binnacle Point Drive and Broadway Street. The lines on Binnacle Drive and Broadway Street are components of the backbone feeder system and part of the FPL Hardening Project as they connect major underwater feeder lines crossing Sarasota Bay to the backbone feeders running along Gulf of Mexico Drive. The Neighborhood Project phase is designed to underground the remaining portions of the Town system (the “Project Area”) with overhead facilities including the side streets in neighborhoods that are currently overhead as well as the remaining feeder lines along Gulf of Mexico Drive that would not otherwise be undergrounded as part of the GMD Project. Unless the Neighborhood Project is undertaken, 84 feeder lines will remain overhead even after completion of the GMD Project phase. As each parcel in the Town depends on Gulf of Mexico Drive for ingress and egress to and from the key, all parcels located within the Town limits will benefit from the Neighborhood Project and removal of the 84 remaining feeder lines.

The benefit methodology presented in this Report focuses on the entire project cost for the undergrounding of overhead facilities throughout the Project Area, including costs of connecting each property’s utility services to the undergrounded facilities. Costs related to project design and engineering, project management, associated financing and legal costs, as well as those related to development and adoption of the assessment program have been included in the assessment calculations. The annual costs of administering and collecting the assessments have not, at this time, been included in the assessment calculations contained in this Report. Such costs include fees and expenses imposed by the county tax collectors and property appraisers, and an allowance for the statutory early payment discount which applies when special assessments are collected on the annual property tax bill.



### 3.0 Budget

Budgeted costs for the neighborhood project have been developed and include design, construction costs, anticipated financing costs, legal costs, inflation, and contingencies. The estimated project budget for the Neighborhood Project is shown below, as rounded:

#### Neighborhood Project Budgeted Costs (Rounded)

Project Component	Estimated Cost
Undergrounding Remaining GMD Feeder Lines	\$ 5,060,120
Undergrounding in Neighborhoods	9,939,880
Street Lighting Replacement Neighborhoods	2,000,000
Fiber Optic Line Installation Neighborhoods	1,200,000
Additional Fiber in Underground Areas	<u>3,350,000</u>
Subtotal	<b>\$ 21,550,000</b>
Financing and Legal Costs	760,000
Financing, Legal, Inflation Contingency (20%)	300,000
Multi Year Project Inflation Cost (3 years)	1,000,000
Other Miscellaneous Costs and Costs Incurred to Date	<u>240,000</u>
<b>Total Non Ad Valorem Project Cost Neighborhood Project</b>	<b>\$ 23,850,000</b>

Source: Brannon & Gillespie, LLC; Willdan Financial Services, Town of Longboat Key.



## 4.0 Assessment Methodology

Under Florida law, special assessments, sometimes referred to as non-ad valorem assessments must satisfy a two-prong test: 1) the property burdened by the assessment must derive a special benefit from the services or improvements provided by the assessment; and 2) the assessment must be fairly and reasonably apportioned among the affected properties to be assessed. “Special Benefit” requires that there be a logical relationship between the services or improvements provided and **the benefit to real property**. The assessment methodology evaluates benefits provided to each property, and does not consider current property value differences or any benefits that may or may not be provided to the residents and/or occupants. Florida law does not specify the methodology or formula that must be used in calculating assessments; however, the assessment apportionment methodology must be reasonable and not arbitrary. The legislative determinations by the Town Commission regarding the existence of special benefits and reasonableness of the cost apportionment should not be disturbed by a court unless the determinations are arbitrary. This Report discusses the special benefits to properties within the Project Area from the Neighborhood Project and presents the methodology used to apportion the project costs among the benefited properties.

The methodology is based in part upon the characteristics of each individual parcel of real property benefitted by the Neighborhood Project. Such characteristics include, among other things, proximity to currently overhead utility lines as further described in **Section 5** below. It is important to note that parcel characteristics can change with the passage of time, which changes may occur because of voluntary improvements undertaken by property owners. Generally, a given apportionment methodology for capital improvement assessments is premised upon parcel characteristics which exist as of a time and date certain, typically during the process of assessment implementation and creation of the assessment roll. The methodology is applied to all assessed parcels during that process based on their existing characteristics, resulting in the dollar amount to be imposed against each as specified on the assessment roll. This snapshot of the parcel configuration or point-in-time survey is necessary in light of practical and equitable considerations associated with subsequent reallocation of the assessment burden among the remaining parcels. Reallocation may be practically, legally or logistically impossible due to legal prerequisites associated with increasing an assessment above the previously noticed amounts, re-assessing those parcels for which the assessment has been voluntarily prepaid, equity and fairness considerations with respect to the remaining parcels, and other factors. Without the ability to identify parcel characteristics as of a time certain and create the assessment roll accordingly, a project could be placed on hold indefinitely waiting for completion of landowner improvements (which may never occur). Some limited degree of assessment reallocation or consideration for changed parcel characteristics after initial application of the methodology may be tolerable, but wide-scale changes resulting in substantial cost reallocation arguably present an inequity for the balance of the assessment-paying community and the potential for protracted delays, cost increases and inefficiencies for the Town.



It is necessary to identify the special benefits provided to affected properties within the Project Area as a result of undergrounding overhead utilities. The distribution of electricity and other utility services are currently generally available to all properties within the Project Area; however, placing overhead electrical lines and other utilities underground will provide special benefit to properties in the Project Area. Such special benefit permits funding the undergrounding project through a non-ad valorem assessment.

Several benefits are conveyed by capital projects of this nature, including heightened use, enjoyment and marketability of the specially-benefitted real property. It is also reasonable to assume that such property will experience an increase in market value as a direct result of the improvements, though the costs associated with quantifying such increase are prohibitive with respect to the amount to be assessed against each property, and Florida law does not require quantification of the special benefit in this fashion. The primary special benefits that will be provided to affected properties as a result of the utility undergrounding include the following: improved safety, improved reliability and improved aesthetics. Each of these benefits is discussed further in the context of benefit and cost allocation in **Section 5** and summarized below.

### Improved Safety

The removal of utility poles and overhead lines provides an improved safety benefit by reducing the potential of hazardous conditions in the event of natural disasters. Severe tropical storms, hurricanes, and other natural disasters can cause poles and/or overhead lines to fall and impact property, and possibly cause live electric lines to be exposed. Downed electric lines pose a potential threat of fire and potential injury due to electric shock and can restrict ingress and egress to and from all residential and commercial properties located within the Town's corporate limits by impairing residents and emergency responders access within the Project Area. Some properties will receive a higher benefit where such overhead lines are on or in close proximity to a specific property. Other properties with overhead facilities not on or in close proximity will receive a lesser benefit from improvements through providing safer access. All properties have been evaluated relative to the benefits provided to each property.

### Improved Reliability

The undergrounding of the overhead facilities will also improve the reliability of utility services received by assessed properties. Based on a report entitled *Out of Sight Out of Mind: An Updated Study on the Undergrounding of Overhead Power Lines*, Edison Electric Institute (2012), the undergrounding of overhead utilities substantially reduces the frequency of outages, when compared to the frequency of outages occurring with overhead networks. Parcels will also specially benefit from new upgraded utility lines, cables, and appurtenant facilities installed through the proposed utility undergrounding to their service connections. This provides a higher level of reliability of utility services and reduces exposure to the elements that could cause potential damage and speed deterioration to facilities resulting in service interruptions. Within the Town of Longboat Key, some properties already have undergrounded facilities for one or more of the three main utility services (electric, cable, phone) as provided



by FPL, Comcast, BrightHouse, and Frontier. Therefore, the costs related to the special benefit of reliability have been apportioned to affected properties based on the number of connections to be undergrounded for each property. The main purpose of the Neighborhood Project is to place the remaining overhead lines within the Town underground. Therefore, all properties within a certain proximity to the overhead lines will receive a reliability benefit from the Neighborhood Project. In addition, the onsite cost of the service laterals was separated and individually assessed to the applicable properties. Certain properties will also have to have the existing FPL primary voltage underground radial lines looped on the property for reliability as required by FPL underground system standards. Looping is required to supply an alternate source which can be used to provide service to the property simply by switching the cable connections without having to replace the failed cable. The loop configuration provides the ability for FPL to restore service with a significantly reduced outage time if a cable should fail without having to replace the cable. To ensure such benefits are provided, FPL engineering standards require that all radial cable installations be converted to a loop configuration when part of a total underground distribution system. The properties requiring radial looping have also been identified along with the associated costs. All properties have been evaluated relative to the benefits provided to each property.

### Improved Aesthetics

In addition to the safety and reliability benefits provided by undergrounding utilities, removing the overhead facilities and utility poles that run along the Project Area will eliminate a heavy concentration of electric lines and communication facilities. Removal of the 84 feeder lines remaining after completion of the GMD Project will complete the transformation of GMD into an inviting, visually pleasing and scenic gateway for ingress and egress to all parcels within the Town. Undergrounding will eliminate the radical line trimming of trees which frequently results in an unsightly and unnatural appearance and allow trees down neighborhood side streets to naturally grow and in some instances canopy. This will improve the overall aesthetics for all properties within the Town. Enhancing visual appeal by removal of the feeder poles and overhead lines will benefit the aesthetics of the Town including the remaining neighborhoods to be undergrounded and will enhance the use, enjoyment, and marketability of the benefited properties throughout the Town. Some properties will receive a higher and distinct special benefit related to aesthetics where such overhead lines are on or in close proximity to a specific property. Other properties with overhead facilities not on or in close proximity will receive a lesser benefit from improvements through providing aesthetic improvements to the Town's main thoroughfare used to access all properties. All properties have been evaluated relative to the specific and general benefits provided to each property.



## 5.0 Benefit Analysis

An assessment apportionment methodology is the analysis of capital improvements or services - in this case the proposed undergrounding of the existing overhead utilities, installation of fiber optic lines and street lighting improvements - to determine the proportional special benefits received by a property. The method of assessment, or allocation of project costs and benefits, is determined by an analysis of the special benefit a property receives from the proposed undergrounding of existing overhead utilities in comparison to the special benefit received by other properties benefited by the proposed improvements. The overall methodology discussed herein has been utilized by other communities in the State including the Town of Palm Beach, Florida, the Town of Gulf Stream, Florida and the Town of Jupiter Inlet Colony, Florida, for utility undergrounding projects undertaken by those municipalities. The authority of the Towns of Gulf Stream and Jupiter Inlet Colony to issue revenue bonds secured by special assessments apportioned according to such methodology was validated by the Circuit Court of the Fifteenth Judicial Circuit in and for Palm Beach County, in Case Nos. 2011-CA-010894 and 2011-CA-001259, respectively. Additionally, this is substantially the same benefit analysis methodology that was used and validated for the GMD Project in Case No. 2016-CA-222 by the Circuit Court of the Twelfth Judicial Circuit in and for Sarasota County.

### Special Benefit

The distribution of electricity and other utilities is available to all properties within the Assessment area. While properties within the Town already receive or have access to utility services through existing overhead facilities, changing the method by which these services are distributed through the undergrounding of utilities is a special benefit to affected properties within the Town. In reviewing the Project Area, cost estimates, and affected properties, it has been determined that all of the improvements for the undergrounding of utilities provide special benefit to the assessed parcels within the Town.

The Neighborhood Project has been broken down into the following components, which will be discussed in more detail in the following subsections:

- Remaining GMD Feeder Lines (84 poles)
- Fiber Optic in Underground Areas
- Undergrounding in Neighborhoods/Side streets (includes street light improvements)
  - Neighborhood Wide Special Benefits for Side Street Undergrounding
  - Conversion of Overhead Lines to Underground
  - Conversion of Overhead Service Connections
  - Onsite Costs – If Required



# Neighborhood Project

## Remaining GMD Feeders

- All Taxable Parcels within Town Limits

## Fiber Optic Lines in UG Areas

- All Taxable Parcels within Town Limits that are in Existing Underground Areas that will receive Fiber Optic Lines

## Utility UG in OH Neighborhoods and Side Streets

- All Taxable Parcels within Town Limits that have OH Lines on or within 55 Feet of Property Boundary that will be Converted to UG

There are three (3) primary categories of special benefit from the undergrounding of overhead utilities used to allocate the project costs to assessed properties within the Project Area. These three categories of benefit are: 1) improved safety, 2) improved reliability, and 3) improved aesthetics, as discussed previously. To establish an equitable benefit nexus, it is necessary to relate each property's proportional special benefits to the special benefits of all other affected properties within the Project Area. This Report incorporates a weighted method of apportionment known as an Equivalent Benefit Unit (EBU) methodology that uses a single-family residence comprised of one acre or less with overhead utilities within 55 feet of the property line as the basic unit of benefit per category. As used in this Report, properties or parcels within 55 feet of currently overhead utilities are referred to as "Overhead to Underground." Other property types are proportionately weighted and assigned EBUs based on a benefit formula that equates each property's specific characteristics and special benefits to that of the baseline single-family residential property. This proportional weighting may be based on several considerations that may include, but are not limited to, the following: the type of development (land use), size of the property (acreage or units), or other property related factors.

Collectively, the three (3) categories of special benefit listed above reflect the overall proportional special benefits that affected properties within the Project Area will receive from the undergrounding of the overhead utilities. Affected properties are assigned Safety EBUs, Reliability EBUs, and Aesthetic EBUs to distinguish the degree of special benefits received by different properties for each of the three categories, respectively. The overall cost of the Neighborhood Project less costs associated with property specific onsite improvements, such as



service laterals and looping of radials, has been evenly allocated to these three categories of special benefit.

Each parcel’s "Base Assessment" is calculated as the total of the proportional special benefit, and associated cost allocation, as determined for each of these three benefit categories. In addition to each parcel’s Base Assessment, there may also be property specific improvements such as radial looping and service lateral replacements that may be needed. These additional property specific improvement needs and costs have been identified for each individual parcel based on preliminary site inspections by Brannon & Gillespie, LLC. As detailed surveying and engineering proceed on the Neighborhood Project, adjustments to the property specific improvement will be made during the assessment implementation process as necessary to reflect any changes that may have occurred after the field survey was completed. The information below presents the initial allocation of Project Costs to the primary project components and three benefit categories based on the estimated total cost of property specific improvement costs.

Category of Special Benefit	Percentage of Budget	Benefit Allocation
GMD Feeder Lines		\$ 5,060,126.58
Fiber Optic in UG Areas		<u>3,350,000.00</u>
Subtotal Feeder Lines and Fiber Optic in UG Areas		<u>\$ 8,410,126.58</u>
Undergrounding in Neighborhoods/Side Streets		
Improved Safety	33.33333%	\$ 4,953,791.92
Improved Reliability	33.33333%	4,953,791.92
Improved Aesthetics	<u>33.33333%</u>	<u>4,953,791.92</u>
Subtotal Undergrounding in Neighborhoods	100.00000%	<u>\$ 14,861,375.76</u>
Subtotal		\$ 23,271,502.34
Property Specific Improvements (Onsite Costs)	-	<u>578,497.66</u>
<b>TOTAL</b>		<b>\$ 23,850,000.00</b>

For each Project Component and related Category of Benefit, the following discussion identifies parcels that benefit, the assignment of EBUs, and related equations to determine a parcel’s EBUs.

The infrastructure associated with the street lighting improvements is integrally related to the utility undergrounding component of the Neighborhood Project and the street lighting costs and benefits will be allocated in conjunction with the utility undergrounding. Commonly recognized benefits conveyed by street lighting improvements include beautification, better property identification and recognition, increased safety and accessibility, and preserved and/or enhanced value and marketability.



## Assessment for Remaining GMD Feeder

As part of this Project, the remaining overhead feeder facilities (84 poles) along Gulf of Mexico Drive that served to connect the side street lines with the main feeder lines along Gulf of Mexico Drive will be placed underground. The removal of the remaining GMD feeder utility poles and overhead lines provides an improved safety benefit by reducing the potential of hazardous conditions along GMD in the event of natural disasters. The main GMD feeders are also subject to the reliability of the overhead line at the side street. Additionally, the removal of these feeder poles will complete the elimination of the heavy concentration of electric lines and communication facilities along Gulf of Mexico Drive, thereby completing the inviting, visually pleasing and scenic gateway for ingress and egress to all parcels within the Town which will enhance the use, enjoyment, and marketability of the benefited properties throughout the Town.

These facilities provide a special community-wide benefit to all affected properties within the Assessment Area. As each parcel in the Town depends on Gulf of Mexico Drive for ingress and egress to and from the Island, all parcels located within the Town limits will benefit from placing the remaining GMD feeders underground as part of this Project. Therefore, parcels within the Assessment Area are assigned EBUs for the Remaining GMD Feeder as shown in **Table 1** by class of land use which is made up of 0.5 EBUs each for Safety, Reliability, and Aesthetics.

**Table 1: Remaining GMD Feeder Line EBU Calculation**

Land Use	EBU Assignment
Single Family	1.5 EBU
Condominium	1.5 EBU
Multi-Family	1.5 EBU x units
Non-Residential	1.5 EBU
Boat Slip	1.5 EBU
Vacant	1.5 EBU

## Assessment for Installing Fiber Optic Lines in Underground Areas

As part of the Neighborhood Project, fiber optic lines are being installed in conjunction with placing the electric utility lines underground. Additionally, this project will include installation of fiber optic lines in existing underground areas where Town fiber optics do not exist and where they **will not** receive Town fiber optic access from any other effort within the undergrounding projects. The installation of fiber optics facilities enhances the value, marketability and enjoyment of real property through the availability of and potential for



enhanced telecommunication systems, cost-efficient service delivery, increased reliability and minimized potential for service disruption afforded by state of the art communication links between offices, lift stations, pump stations, security cameras, monitoring stations and county emergency management facilities. Therefore, all properties that do not receive any other fiber optic benefit from either the GMD Project or the Neighborhood Project (Undergrounding in Neighborhoods Component) will be assigned EBUs for the portion of the costs allocated to the parcel for the property specific benefits. These parcels within the Assessment Area are assigned EBUs for the Installation of Fiber Optic Lines in Underground Areas as shown in **Table 2** by Customer Class.

**Table 2: Fiber Optic Lines in Underground Areas EBU Calculation**

Land Use	EBU Assignment
Single Family	1.5 EBU
Condominium	1.5 EBU
Multi-Family	1.5 EBU x units
Non-Residential	1.5 EBU
Boat Slip	1.5 EBU
Vacant	1.5 EBU

## Assessment for Undergrounding in Neighborhoods

All properties with an overhead line on or within 55 feet of the property, or properties requiring radial looping or other onsite utility work will be categorized as receiving special benefits in the Assessments for Undergrounding in Neighborhoods Project Component. The 55-foot standard was chosen as the typical height of utility poles and span of wire between the poles within the community is approximately 55-feet or less. In addition to the undergrounding of utility lines, street lights will also be upgraded on the side streets as part of the utility line conversion process. In order to further explain how the special benefits for Safety, Reliability, and Aesthetics are assigned to each affected property, the analysis has been further broken down into the following project components:

- Neighborhood Wide Special Benefits for Side Street Undergrounding
- Conversion of Overhead Lines to Underground
- Conversion of Overhead Service Connections
- Onsite Costs – If Required

The Condominium land use classification is assigned to properties that are zoned medium/high density residential developments (similar to multi-family residential properties), but the



residential units are individually owned rather than a single owner with multiple units (similar to single-family residential properties). Typically, each condominium unit is assigned its own parcel number by the respective County Property Appraiser's Office, however, the underlying land is assigned a GIS Parcel/Property ID on which multiple condominium units reside. This underlying land is a common area for all parcels located within that GIS Parcel/Property ID which is in the aggregate form the condominium complex. Shared common areas can include club houses, tennis courts, parking lots, pools, other shared community amenities, etc. While the underlying land parcel may include multiple acres and buildings, all parcels located within the land parcel share in the benefits of the common areas. Additionally, we examined how condominium units share the joint expenses for improvements to the condominium complex. In almost all cases, the cost of improvements to common area properties are shared by all parcels in the condominium. Furthermore, per section 718.120, Florida Statutes (regarding condominiums) and section 193.0235, Florida Statutes (regarding residential subdivisions), common areas or common elements cannot be assessed separately when they are used exclusively for the benefit of owners within the subdivision or condominium. Rather, the assessment otherwise attributable to the common area or common element is prorated and included in the assessment of units within a condominium complex or all lots (parcels) within a residential subdivision. Therefore, all condominium parcels located on a GIS parcel that have lines on or within 55 feet of the GIS parcel boundary receive special benefits associated with the undergrounding of those lines as part of this Project.

Based on field inspections and review of data from both Sarasota and Manatee County Property Appraisers, approximately **[2,691]** taxable parcels within the neighborhoods have been identified as receiving special benefits.

### Neighborhood Wide Special Benefits

This subsection addresses the portion of the costs allocated to the parcel for neighborhood wide special benefits received by those overhead or radial underground parcels requiring the undergrounding of the remaining side street overhead lines or the looping of remaining radial underground FPL cables supplying power to existing underground transformers.

### *Improved Safety*

Properties within the neighborhood specially benefited from the improved safety of undergrounding overhead utilities in the neighborhood related to the elimination of the potential for poles or overhead lines to be downed on the streets within the neighborhood, which could potentially restrict or curtail citizen evacuation and rescue personnel access during storm or emergency events. A single-family residential lot has been assigned a base unit of benefit for improved Safety related to the Neighborhood Wide Special Benefits equal to 0.5 Safety EBU for the improved access to and from the property. The access to and from the property is independent of the property's lot size. **Table 3** shows the assignment of the Improved Safety EBUs related to the Neighborhood Wide Special Benefits by Customer Class.



**Table 3: Safety EBU Calculation for Neighborhood Wide Specific Benefits for Side Street Undergrounding**

Land Use	EBU Assignment
Single Family	0.5 EBU
Condominium	0.5 EBU
Multi-Family	0.5 EBU x units
Non-Residential	0.5 EBU
Boat Slip	0.5 EBU
Vacant	0.5 EBU

**Improved Reliability**

The improved reliability benefits that properties receive from the proposed Project is directly related to the undergrounding of the primary utility network and the distribution of electricity through the undergrounding of service laterals that connect each property’s utility services. Each property has been assigned 0.50 EBUs to reflect the improved reliability resulting from the undergrounding of the primary network within the neighborhood. For condominiums, 0.50 EBU were assigned to each parcel to reflect the improved reliability resulting from the undergrounding of the primary network within the neighborhood. Multi-Family properties were assigned 0.50 EBUs per unit to reflect the improved reliability resulting from the undergrounding of the primary network within the neighborhood. **Table 4** outlines the reliability EBU calculations related to the Neighborhood Wide Special Benefits by Customer Class.



**Table 4: Reliability EBU Calculation for Neighborhood Wide Specific Benefits for Side Street Undergrounding**

Land Use	EBU Assignment
Single Family	0.5 EBU
Condominium	0.5 EBU
Multi-Family	0.5 EBU x units
Non-Residential	0.5 EBU
Boat Slip	0.5 EBU
Vacant	0.5 EBU

**Improved Aesthetics**

Removing the overhead utilities within the neighborhoods will improve the overall community aesthetics for all properties within the neighborhoods defined in the Project Area by eliminating a heavy concentration of electric lines and communication facilities, thereby creating an inviting, visually pleasing and scenic vehicular viewshed for ingress and egress to all parcels within the neighborhood. In addition, unsightly tree trimming by the utility companies will be eliminated allowing some trees (currently trimmed) to canopy. In the same way that a beautiful entrance to a development enhances the properties within, the removal of the unsightly overhead lines and the elimination of the unsightly appearance of trees that have been severely pruned to clear a path for the wires will enhance all the properties within the neighborhoods. Enhancing visual appeal by removal of overhead lines will benefit the aesthetics of all parcels within the neighborhoods and enhance the use, enjoyment and marketability of the benefitted properties. Therefore, a single family residence located within 55 feet of or adjacent to overhead utilities has been assigned 0.50 EBUs for improved aesthetics of the property’s community.

The assignment of Aesthetic EBUs for property types is similar to the assignment of Safety EBUs. **Table 5** outlines the aesthetics EBU calculations for the Neighborhood Wide Specific Benefits.



**Table 5: Aesthetic EBU Calculation for Neighborhood Wide Specific Benefits for Side Street Undergrounding**

Land Use	EBU Assignment
Single Family	0.5 EBU
Condominium	0.5 EBU
Multi-Family	0.5 EBU x units
Non-Residential	0.5 EBU
Boat Slip	0.5 EBU
Vacant	0.5 EBU

**Conversion of Overhead Lines to Underground**

This subsection addresses the portion of costs allocated to the parcel for property specific benefits received by those parcels requiring the undergrounding of the remaining side street overhead lines or the looping of remaining radial underground FPL cables supplying power to existing underground transformers.

***Improved Safety***

Properties within the Neighborhoods to be placed underground specially benefit from the improved safety of undergrounding overhead utilities through the elimination of the potential for poles or overhead lines adjacent to a property that could fall and damage property or expose “live” electrical lines. Such potential downings also pose a risk to first responders accessing neighborhood areas. A single-family residential lot has been assigned a base unit of benefit for improved Safety for conversion of OH to UG lines equal to 0.50 Safety EBU for the improved safety to the property.

In reviewing the characteristics of affected properties within the Project Area, there are multiple properties that encompass an area greater than one acre. Condominium complexes, multi-family residences, non-residential properties, as well as certain single family residential properties span a greater area of potential use. Therefore, an equivalency has been developed to proportionately assign EBUs to these properties, when compared to a baseline, one-acre single family residential lot that has been assigned 0.5 Safety EBU. Based on this equivalency, some properties, including certain single-family residences, have been assigned additional Safety EBUs in recognition of the additional special benefit those larger parcels receive from the proposed utility undergrounding.

Each condominium complex was assigned Safety EBUs on a complex by complex basis and the total Safety EBU assignment to the condominium complex was then apportioned evenly to each condo unit within the complex. For example, for a condominium parcel that is 3 acres of land



and has 30 units, the EBUs for each parcel would be 0.05 EBUs, which is calculated as:  $((3 \text{ acres} \times 0.5 \text{ EBUs}) / 30 \text{ units})$  For single-family residences, multi-family properties, and non-residential properties, the EBUs calculated were assigned to the applicable parcel number. Boat slips were treated similarly to condominiums, whereas the Safety EBUs were apportioned evenly to all boat slips within the marina. **Table 6** outlines the safety EBU calculations for the Conversion of Overhead Lines to Underground.

**Table 6: Safety EBU Calculation for Conversion of Overhead Lines to Underground**

Land Use	EBU Assignment
Single Family	[0.5 EBU per acre rounded down to nearest whole number (minimum of 0.5 EBU)]
Condominium	[0.5 EBU per acre of complex rounded down to nearest whole number (min of 0.5)] / condo parcels in Complex
Multi-Family	[0.5 EBU per acre rounded down to nearest whole number (min of 0.5)]
Non-Residential	[0.5 EBU per acre rounded down to nearest whole number (minimum of 0.5 EBU)]
Boat Slip	[0.5 EBU per acre of marina rounded down to nearest whole number (min of 0.5)] / boat slips in marina
Vacant	[0.5 EBU per acre rounded down to nearest whole number (minimum of 0.5 EBU)]

**Improved Aesthetics**

Removing the overhead utilities within the neighborhoods will improve the overall aesthetics of individual parcels within the neighborhood. Enhancing visual appeal and viewsheds by removal of overhead lines will enhance the use, enjoyment and marketability of the benefitted properties. Therefore, a single family residence located within 55 feet of adjacent to overhead utilities has been assigned 0.50 EBUs for improved aesthetics of the property.

The assignment of Aesthetic EBUs for property types is similar to the assignment of Safety EBUs. **Table 7** outlines the aesthetics EBU calculations for the Conversion of Overhead Lines to Underground.



**Table 7: Aesthetics EBU Calculation for Conversion of Overhead Lines to Underground**

Land Use	EBU Assignment
Single Family	[0.5 EBU per acre rounded down to nearest whole number (minimum of 0.5 EBU)]
Condominium	[0.5 EBU per acre of complex rounded down to nearest whole number (min of 0.5)] / condo parcels in Complex
Multi-Family	[0.5 EBU per acre rounded down to nearest whole number (min of 0.5)]
Non-Residential	[0.5 EBU per acre rounded down to nearest whole number (minimum of 0.5 EBU)]
Boat Slip	[0.5 EBU per acre of marina rounded down to nearest whole number (min of 0.5)] / boat slips in marina
Vacant	[0.5 EBU per acre rounded down to nearest whole number (minimum of 0.5 EBU)]

**Conversion of Overhead Service Connection**

This subsection addresses the portion of the costs allocated to the parcel for the property specific benefits received from the installation of a new underground service line from the front of the property which replaces an existing overhead service line or an existing underground service line which does not originate from the front of the property.

**Improved Reliability**

The improved reliability benefits that properties receive from the proposed Project is directly related to distribution of electricity through the undergrounding of service laterals that connect each property’s utility services. In addition, the number of service laterals required from property to property varies since certain properties have already undergrounded all or part of this infrastructure. Therefore, the number of utility services requiring service provides a sound basis to determine the degree of special benefit each property receives from the conversion of overhead service connections. Each property has been assigned 0.50 EBU per utility service connection for which service lateral(s) are required. For condominiums, the number of utility service connections required was evenly apportioned to each condominium parcel within the complex. Boat slips were treated in a similar manner as condominiums. Multi-Family properties were assigned 0.50 EBU per utility connection requiring undergrounding. **Table 8** outlines the reliability EBU calculations for the Conversion of Overhead Service Connections.



**Table 8: Reliability EBU Calculation for Conversion of Overhead Service Connection**

Land Use	EBU Assignment
Single-Family	0.5 EBU per utility connection requiring undergrounding
Condominium	(0.5 EBU per utility connection requiring undergrounding/condo parcels in Complex)
Multi-Family	0.5 EBU per utility connection requiring undergrounding
Non-Residential	0.5 EBU per utility connection requiring undergrounding
Boat Slip	(0.5 EBU per utility connection requiring undergrounding/boat slips in marina)
Vacant	0.0 EBU

### Onsite Costs - Property Specific Improvements

Specific detail was provided by B&G on the costs associated with the proposed undergrounded improvements, including costs associated with connecting each property to the utility services. For purposes of calculating each parcel’s assessment, costs associated with meter conversions and service laterals were separated and assessed against those properties that required the specific improvement. Utilizing the FPL tariff, the cost for each underground service connection conversion is estimated at \$584.45. The assessment roll provides detail for each parcel’s onsite service needs and related costs. Additionally, certain properties will require looping of onsite radial primary voltage lines as required by FPL underground system standards. The costs for looping are again taken from FPL’s tariff and are allocated at \$1,817.94 per parcel requiring looping. Parcels requiring property specific improvements have been identified by B&G based on review of system maps and visual inspection during field work.

For multi-unit properties with shared service connections, the total cost of the service connection(s) and/or looping of the radial primary voltage lines is divided equally among the units comprising the property. For example, two townhomes sharing a single service connection would each be assessed \$292.23 ( $\$584.45 \div 2$ ) for service connections. Each unit in a three-unit complex requiring two service connection would be assessed \$389.63 ( $(\$584.45 \times 2) \div 3$ ). For an eleven-unit condominium requiring looping, each unit would be assessed \$165.27 ( $\$1,817.94 \div 11$ ).

## Special Cases

### Exempt Properties

Within the Town Boundaries, there are various properties which are classified as tax-exempt parcels. This land use identifies properties that are not assessed and are assigned 0.00 EBUs for safety, reliability, and aesthetics. This land use classification may include but is not limited to:

- Lots or parcels identified as public streets and other roadways (typically not assigned an



APN by the County);

- Dedicated public easements including open space areas, utility rights-of-way, greenbelts, parkways, parks or other publicly owned properties;
- Private properties that cannot be developed independently from an adjacent property, such as common areas, sliver parcels or bifurcated lots or properties with very restrictive development use;
- Government properties;
- Parcels with 100 percent (100%) ad valorem property tax exemptions; etc.

These types of parcels are considered to receive little or no benefit from the improvements, are exempt or immune under state or federal law from the payment of ad valorem taxes and/or non-ad valorem assessments, provide services and facilities of a public nature which the Town may otherwise be required to provide, the exemption thereof serves a public purpose and provides a public benefit, or are inappropriate or infeasible to assess and are therefore not included on the assessment roll described in **Section 7** below.

### Golf Courses

While parcels throughout the Project Area benefit from the undergrounding of nearby utilities, golf course properties were analyzed as special cases due to the utilization of the property in relation to its parcel size. A majority of the golf course acreage is used for the golf course itself. Therefore, these parcels receive a diminishing return of benefit as the parcel's total acreage increases. In order to account for the difference in total special benefit, the acreage for these larger parcels has been adjusted. To calculate these parcels' adjusted acreage, the parcel's frontage is multiplied by 100 feet to account for the typical depth of a property.

### Condominium Boat Storage Facility, 408 Gulf of Mexico Drive

There is a Boat House with dry dock storage within the Town. The individual boat storage spaces in this facility have been sold to individual owners in a condominium form of ownership. The boat storage spaces are carried on the tax roll as individual parcels and the facility is classified as condominium. In reviewing the characteristics of this property, it was analyzed for specialized treatment under the existing assessment methodology. The building that houses the boat slips does receive power; however, each individual boat slip does not. Therefore, the building as a whole experiences a reliability benefit for the electric service provided to the building. Additionally, the building also receives the safety and aesthetics benefits similar to other parcels within the Town. Such benefits as improved property values and access for fire-rescue vehicles will benefit the property. In light of the unique circumstances associated with the condominium form of ownership for boat storage units, we have concluded that it is fair and reasonable to treat the entire boat storage facility as a single Non-Residential property and then divide the assessment for such property equally among the parcels comprising boat storage units.



### Jewfish Key

Tax Parcels on Jewfish Key are benefitted by the removal of the remaining overhead feeder facilities along Gulf of Mexico Drive because such parcels and/or the occupants thereof (1) may be serviced by emergency personnel and vehicles utilizing Gulf of Mexico Drive; (2) could face power and other utility service outages if overhead facilities on Gulf of Mexico Drive were disrupted in a storm event; and (3) enjoy increased use, enjoyment, marketability and value by virtue of aesthetic improvements to Gulf of Mexico Drive which is a mode of ingress and egress continually available to the owners of property (and occupants) on Jewfish Key. Such parcels have been assigned EBUs accordingly. However, such parcels are not within 55 feet of an overhead line that will be placed underground, nor will they be benefitted by the fiber optics aspect of the Project and, therefore have not been assigned EBUs in those benefit categories.

### Subdivision of Parcels

When subdivision of an assessed parcel occurs, the new parcels resulting from the subdivision may be assigned EBUs in accordance with the apportionment methodology described herein if those new parcels likewise receive special benefit from the Neighborhood Project. In such cases, the total amount of the bonded indebtedness usually isn't reallocated among all properties throughout the Assessment area because the reallocation may be cost prohibitive or inefficient, or there may be financing considerations which limit the ability to re-amortize the principal balance outstanding each time a subdivision occurs. Instead, the newly assessed properties are added to the assessment roll under the same annual terms as apply to all other properties on the roll, resulting in additional annual revenue. The additional revenue collected from the new parcels is used to repay the bonds, but because there is now more revenue materializing each year, the term is shortened for all assessed property owners and/or the amount of the final payment is reduced. In this fashion, all of the originally assessed parcels enjoy the benefit of having new parcels share in the cost of the improvement project, with the benefit realized through a shortened repayment term.

## Clarifications

Within the Town of Longboat Key, there are approximately 440 GIS Parcel/Property IDs that are classified as condominiums. Throughout this process, specific property owners associated with the following six condominiums have requested clarification of the assessment as it relates to their specific property. Those properties have included:

- Spanish Main
- Club Longboat
- Longbeach Condominium
- Lands' End
- Bayport
- Conrad Beach



This subsection will summarize the action taken by the Town to provide detailed information to these associations and an analysis of each of these Condominium properties to provide clarification on the calculation of the related assessments to those parcels located within those given properties.

- **Spanish Main**

Spanish Main contains 212 units within the complex. A meeting was held with the representatives of the Spanish Main Homeowners' Association in Town Hall prior to the referendum for the GMD Project. Another meeting was scheduled for February 17, 2016 to discuss the Neighborhood Project and assessments which was cancelled as they elected to attend several of the general public meetings that were held at Town Hall. After completion of the GMD Project phase, overhead lines will still exist for distance of approximately 2,440 feet along the south property boundary of the complex and the conversion of 48 Overhead to Underground service connections will be required. Therefore, Spanish Main is categorized as an Overhead to Underground property for the Neighborhood Project. That category carries a general neighborhood wide benefit assessment of \$3,675.00 to all taxable parcels within the condominium. The Overhead to Underground specific benefits total \$581.99 for each unit. This results in a total assessment per unit of: remaining GMD feeder (\$518.13) + general neighborhood wide benefit (\$3,675.00) + specific benefit (\$581.99) + onsite costs (\$132.33) = total Neighborhood Project assessment (\$4,907.45), or an annual payment over 30 years of \$361.39, at an annual interest rate of 6%.

- **Club Longboat**

Club Longboat is a condominium with 85 units. It has one overhead line extending approximately 450 feet along the southern boundary of its property and an overhead service from the end of the overhead line to its club house. The condo units are served by underground, looped service. When a property has existing looped underground facilities, these facilities do not enter into the categorization of the property or the allocation of benefits as the project is focused on converting overhead facilities and placing assessments based on benefits received as a result of the undergrounding. Club Longboat is categorized as an Overhead to Underground property due to the presence of the overhead line and the overhead service on the property. That category carries a general neighborhood wide benefit assessment of \$3,675.00 to all taxable parcels within the condominium. The Overhead to Underground specific benefits total \$233.07 for each unit. This results in a total assessment per unit of: remaining GMD feeder (\$518.13) + general neighborhood wide benefit (\$3,675.00) + specific benefit (\$233.07) + onsite costs (\$6.88) = total Neighborhood Project assessment (\$4,433.08), or an annual payment over 30 years of \$326.45, at an annual interest rate of 6%.

- **Longbeach Condominium**

Longbeach Condominium is a condominium development with 87 units in 12 multi-unit buildings located on approximately 13 acres of land. The northern portion of this



association property is in close proximity to overhead power lines due to the existence of an overhead line running within Joy Street which runs along the northeasterly property boundary for a distance of approximately 250 feet. Ten of the condominium buildings are served by underground, looped service. Two are served with radial underground lines that will require looping. When a property has existing looped or radial underground facilities and the property is categorized as an overhead property due to overhead lines in proximity, these existing underground facilities do not enter into the categorization of the property or the allocation of benefits as the project is focused on converting overhead facilities and placing assessments based on benefits received as a result of the undergrounding. The Town met with the homeowners on February 26, 2016 to provide detailed information on the project and the assessments. The total assessment for each of the 87 units on this property is: remaining GMD feeder (\$518.13) + general neighborhood wide benefit (\$3,675.00) + specific benefit (\$344.44) = total Neighborhood Project assessment (\$4,537.57), or an annual payment over 30 years of \$334.15, at an annual interest rate of 6%.

- **Lands' End**

Lands' End is a land condominium of detached single family homes. The land is held in common and has an overhead wire along Longboat Drive North within 55 feet of the property. The presence of the overhead line causes the condominium to fall into the Overhead to Underground category. A meeting was held in the community Center for The Arts on October 15, 2015 to provide assessment methodology information to the area residents. The development also requires some looping of radial lines inside the development, for which there is no additional assessment as the assessment associated with the benefits from the conversion of the overhead facilities is all inclusive. Each of the 12 parcels have been assessed as follows: remaining GMD feeder (\$518.13) + general neighborhood wide benefit (\$3,675.00) + specific benefit (\$768.37) = total Neighborhood Project assessment (\$4,961.50), or an annual payment over 30 years of \$365.37, at an annual interest rate of 6%.

- **Bayport**

Bayport is a condominium development with several condominium associations and an overhead line within 55 feet of two of their associations. The overhead line runs parallel to the northerly property boundary extending from GMD to the east end of Kingfisher Lane, a distance of approximately 1200 feet. The condominium property belonging to two associations called "A" and "B" are in close proximity to the overhead lines. The condominiums are served by underground lines and looped internally, but the presence of the overhead line in close proximity to their property places them into the Overhead to Underground category. When a property has existing looped underground facilities, these facilities do not enter into the categorization of the property or the allocation of benefits as the project is focused on converting overhead facilities and placing assessments based on benefits received as a result of the undergrounding. Each of the parcels in Building "A" have been assessed as follows: remaining GMD feeder (\$518.13)



+ general neighborhood wide benefit (\$3,675.00) + specific benefit (\$922.05) = total Neighborhood Project assessment (\$5,115.18), or an annual payment over 30 years of \$376.68, at an annual interest rate of 6%. Each of the parcels in Building “B” have been assessed as follows: remaining GMD feeder (\$518.13) + general neighborhood wide benefit (\$3,675.00) + specific benefit (\$512.25) = total Neighborhood Project assessment (\$4,705.38), or an annual payment over 30 years of \$346.51, at an annual interest rate of 6%.

- **Conrad Beach**

Conrad Beach is a single family development on Firehouse Road with an overhead line in the front yards or within 55 feet of several of the properties thus qualifying them for the Overhead to Underground category. Several other properties in this group were served from underground radial lines requiring looping. Based on the County tax roll, we understand these properties to be fee simple single family properties and have treated them as such. Comments from the owners were requesting that they be treated as fee simple single family properties. Upon providing detailed assessment information, the owners were satisfied with the category in which they were placed.

### Calculated Cost per EBU

Based on our benefit analysis and the assignment of EBUs to each parcel for both the community and specific benefits, the cost per EBU for safety, reliability, and aesthetics are shown below in **Table 9**. It should be noted that these values are based on the current anticipated project costs and may change if there are any changes in the assessment roll or project costs before the Neighborhood Project is finalized. **Table 10** details the breakdown of project costs for the Undergrounding in Neighborhoods by category of special benefit.

**Table 9: Cost per EBU by Component and Benefit Type**

Category of Special Benefit	Total EBUs	Cost per EBU
Remaining GMD Feeder Lines	14,649.000	\$ 345.42
Fiber Optic Lines in Underground Neighborhoods	7,447.500	\$ 449.82
Undergrounding in Neighborhoods		
Safety	2,149.039	\$ 2,305.12
Reliability	1,808.111	\$ 2,739.76
Aesthetics	2,149.039	\$ 2,305.12



**Table 10: General vs. Specific Benefit Summary – Undergrounding in Neighborhood**

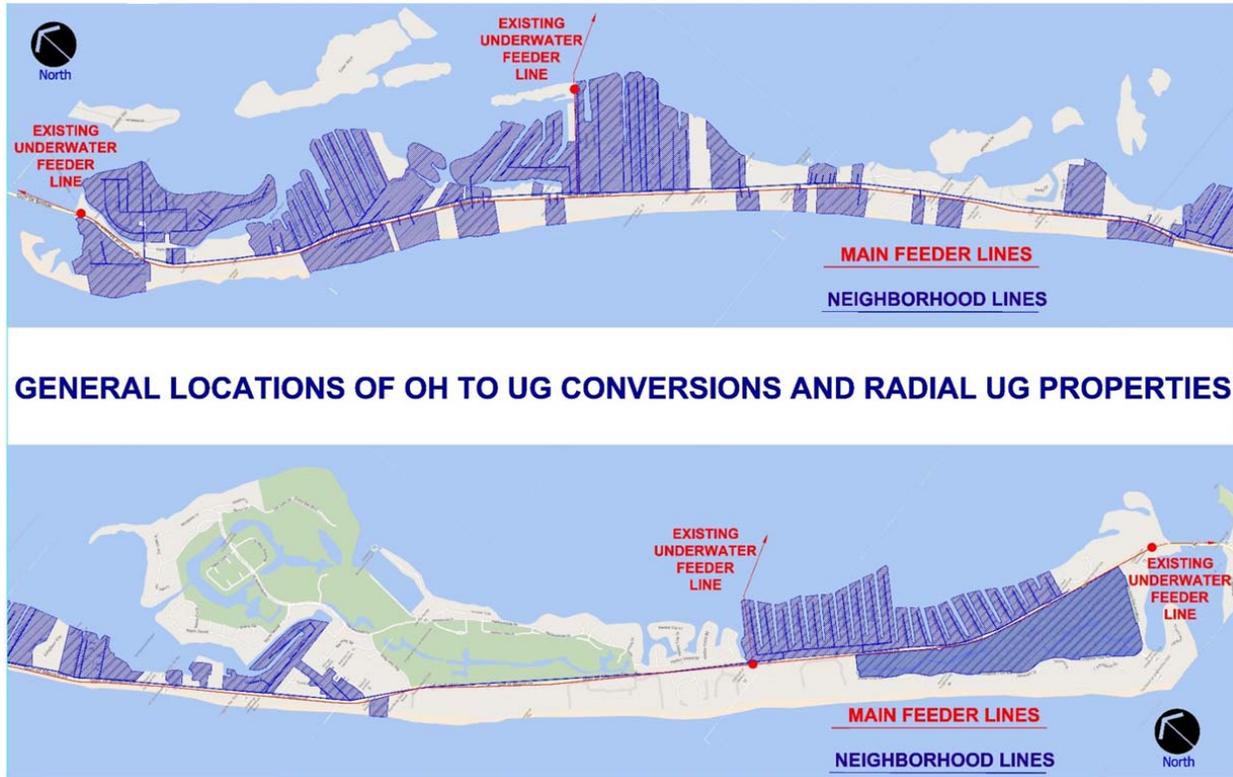
Category of Special Benefit	Project Costs			Percent	
	General	Specific	Total	General	Specific
Safety	\$ 3,204,116.80	\$ 1,749,675.98	\$ 4,953,792.78	64.68%	35.32%
Reliability	\$ 3,808,266.40	\$ 1,145,523.79	\$ 4,953,790.19	76.88%	23.12%
Aesthetics	\$ 3,204,116.80	\$ 1,749,675.98	\$ 4,953,792.78	64.68%	35.32%

Note: Minor differences in totals due to rounding.



## 6.0 Diagram

A Diagram showing the affected properties within the Town (as they existed at the time of the creation of this Report), and parcels adjacent to overhead utilities are shown below.





## 7.0 Assessment Roll

An assessment roll identifying each parcel's assessment and the equivalent benefit unit assignment for each of the three categories of special benefit as well as property specific improvements related to laterals and meter upgrades is provided herein. The assessment roll was separated into two components: 1) Base Assessment and 2) Base Assessment plus onsite costs. It should be noted that these schedules contain information gathered from data currently available in government databases and from field surveys. These classifications and property totals are subject to change based on changes in property characteristics, use, etc.

Town Ordinance 2015-30 established the procedure by which the Town adopts the assessment roll and then administers and maintains the roll over time. Section 2.08 of the ordinance requires that the Town Commission adopt an "Annual Assessment Resolution" each year which confirms or amends the assessment roll to reflect the then-applicable amount of the assessment imposed against each parcel (i.e. the principal balance of the assessment for each parcel is reduced after each annual payment). The Town is therefore required to undertake periodic review, administration and updating of the assessment roll as necessary for adoption of the Annual Assessment Resolution and certification of the roll to the Sarasota and Manatee County Tax Collectors for inclusion of the annual installment of the assessment on the ad valorem property tax bill mailed each November. Roll maintenance can occur at any time, though it is typically completed for each annual installment cycle by September 15, the statutory deadline for certification of the roll to the tax collectors.

The assessment roll may also be amended over time to reflect the removal of certain tax parcels, for example those parcels for which the owner has elected to prepay the outstanding balance in full. Additional parcels may be added to the roll, and additional EBUs may be attributed to parcels previously included in the roll, under various circumstances which may include, but are not limited to, the following:

- Tax parcels develop to a greater intensity, justifying the assignment of additional EBUs (see the subheading "Subdivision of Parcels" on page 21 hereof).
- Tax parcels which were previously determined to be exempt or immune from payment of the assessments undergo changes in use and/or ownership which would allow or require the imposition of assessments thereafter (see the subheading "Exempt Properties" on pages 20-21 hereof).
- Changes in state or federal law or determination by a court of competent jurisdiction that would allow or require the imposition of assessments against parcels previously determined to be exempt or immune.
- Subsequent policy determinations of the Town Commission.
- Inadvertent exclusion or omission of parcels from the assessment roll.

In any such case, if an assessment is imposed against a tax parcel not previously subject thereto or the assessment for a given tax parcel is increased over the previously-noticed amount, the Town must give mailed notice and a public hearing opportunity for the owners of such parcels



prior to adoption of the Annual Assessment Resolution. Proceeds resulting from the additional assessment revenues must be applied toward project costs which may include payment of any bonds or other debt obligations issued to finance the project.



# NEIGHBORHOOD UNDERGROUND PROJECT REVIEW AND UPDATE

Town Commission  
Special Meeting  
July 5, 2016



## TOWN COMMISSION MEETINGS UNDERGROUNDING DISCUSSIONS

1. May 19, 2014 Town Commission Regular Workshop  
FPL Hardening Project and Undergrounding Opportunity
2. July 7, 2014 Town Commission Regular Meeting  
Undergrounding Project Research Presentation
3. September 8, 2014 Town Commission Regular Meeting  
Resolution "Undergrounding Consultant"
4. October 20, 2014 Town Commission Regular Workshop  
Feasibility Analysis Presented, GMD Ad and Neighborhood Sections \$5m Referendum
5. November 12, 2014 Town Commission Regular Workshop  
Second Reading Referendums, Options Evaluation Requested
6. February 17, 2015 Town Commission Regular Workshop  
Four Options Presented, Non Ad Valorem Benefit Analysis Requested
7. June 1, 2015 Town Commission Regular Meeting  
Five Options Presented with Non Ad Valorem Estimated Assessments
8. June 15, 2015 Town Commission Special Meeting  
Second Reading GMD Referendum
9. June 29, 2015 Town Commission Special Meeting  
Second Reading GMD Referendum
10. September 9, 2015 Town Commission Regular Meeting  
Neighborhood Framework Project Undecided Consensus
11. September 21, 2015 Town Commission Regular Workshop  
Neighborhood Project Framework Undecided Workshop
12. September 28, 2015 Town Commission Special Meeting  
Neighborhood Project Framework Undecided Motion and Vote



## TOWN COMMISSION MEETINGS UNDERGROUNDING DISCUSSIONS (CONT.)

13. November 9, 2015 Regular Workshop  
Undergrounding Update: Consensus To Forward Ordinance 2015-30 To Special Meeting
14. November 9, 2015 Special Meeting  
Ordinance 2015-30: Funding of Capital Improvements and Essential Services
15. December 7, 2015 Regular Meeting  
Adoption of Ordinance 2015-30, Resolution 2015-30 and 2015-31 Passed
16. December 14, 2015 Regular Workshop  
Ordinance 2016-01 – Establishing GMD Undergrounding Fund and Budget
17. December 14, 2015 Special Meeting  
Ordinance 2016-01, 2015-02, 2016-05 Passed
18. January 4, 2016 Regular Meeting  
Final Assessment and GMD Utility Undergrounding Bond Resolution
19. January 19, 2016 Regular Workshop  
Discussion on Utility Undergrounding in Neighborhoods and Side Streets and Presentation of Fiber Optic
20. January 19, 2016 Special Meeting  
No Discussion Necessary
21. February 1, 2016 Regular Meeting  
Update on Utility Undergrounding for Neighborhoods and Side Streets
22. February 16, 2016 Special Meeting  
Discussion Regarding Utility Undergrounding for Neighborhood and Side Streets and Options for Dark Fiber Build Out



## TOWN COMMISSION MEETINGS UNDERGROUNDING DISCUSSIONS (CONT.)

23. February 22, 2016 Special Meeting  
Discussion of Self-Undergrounding Options
24. April 4, 2016 Regular Meeting  
Ordinance 2016-06, Requiring undergrounding of all overhead lines if undergrounding service becomes available
25. June 3, 2016 Special Workshop  
Review of Neighborhood Program and Initial Assessment Resolution
26. June 6, 2016 Special Meeting  
Resolution 2016-06, Neighborhood Initial Assessment Resolution
27. July 5, 2016 Special Meeting  
Resolution 2016-07, Final Assessment Resolution for Neighborhood Undergrounding  
Resolution 2016-08, Master Bond Resolution for Neighborhood Undergrounding



# **BENEFITS OF NEIGHBORHOOD UNDERGROUNDING PROJECT**

- **Underground Electric**
  - **Increased safety**
  - **Increased reliability**
  - **Aesthetically pleasing**
- **Cost Savings for Fiber Optic Installation when combined with Utility Undergrounding**
- **Street and Pedestrian Lighting Improvement Opportunities**



# NEIGHBORHOOD UNDERGROUND PROJECT COMPONENTS

- **Underground the remaining GMD Backbone Feeder overhead facilities.**
- **Underground all Neighborhood Overhead Utilities not part of the GMD Feeder lines.**
- **Street Lighting Replacement or Enhancement**
- **Town Wide Fiber Optic Line Installation**
- **Project Boundary – Entire Town**



# ESTIMATED NEIGHBORHOOD UNDERGROUNDING PROJECT COSTS

Project Component	Estimated Cost
Undergrounding Remaining GMD Feeder Lines	\$ 5,060,120
Undergrounding Neighborhoods	9,939,880
Street Lighting Replacement Neighborhoods	2,000,000
Fiber Optic Line Installation Neighborhoods	1,200,000
Additional Fiber In UG Areas	<u>3,350,000</u>
Subtotal	\$ 21,550,000
Financing and Legal Costs	760,000
Financing, Legal, Inflation Contingency (20%)	300,000
Multi Year Project Inflation Cost (3 years)	1,000,000
Other Miscellaneous Costs and Costs Incurred to Date	<u>240,000</u>
Total Non Ad Valorem Project Cost Neighborhood Project	\$ 23,850,000



## PROJECT OVERVIEW

- **The Town will issue debt to fund the planning, design, and construction.**
- **Debt has been approved via referendum of registered voters.**
- **Debt will be repaid via non-ad valorem assessments over not more than 30 years.**



**GMD PROJECT WILL ADDRESS OVERHEAD FEEDER LINES (RED)**



**GENERAL LOCATIONS OF EXISTING OVERHEAD UTILITY LINES.**





## NEIGHBORHOOD PROJECT WILL ADDRESS UNDERGROUNDING AREAS IN BLUE



### GENERAL LOCATIONS OF OH TO UG CONVERSIONS AND RADIAL UG PROPERTIES





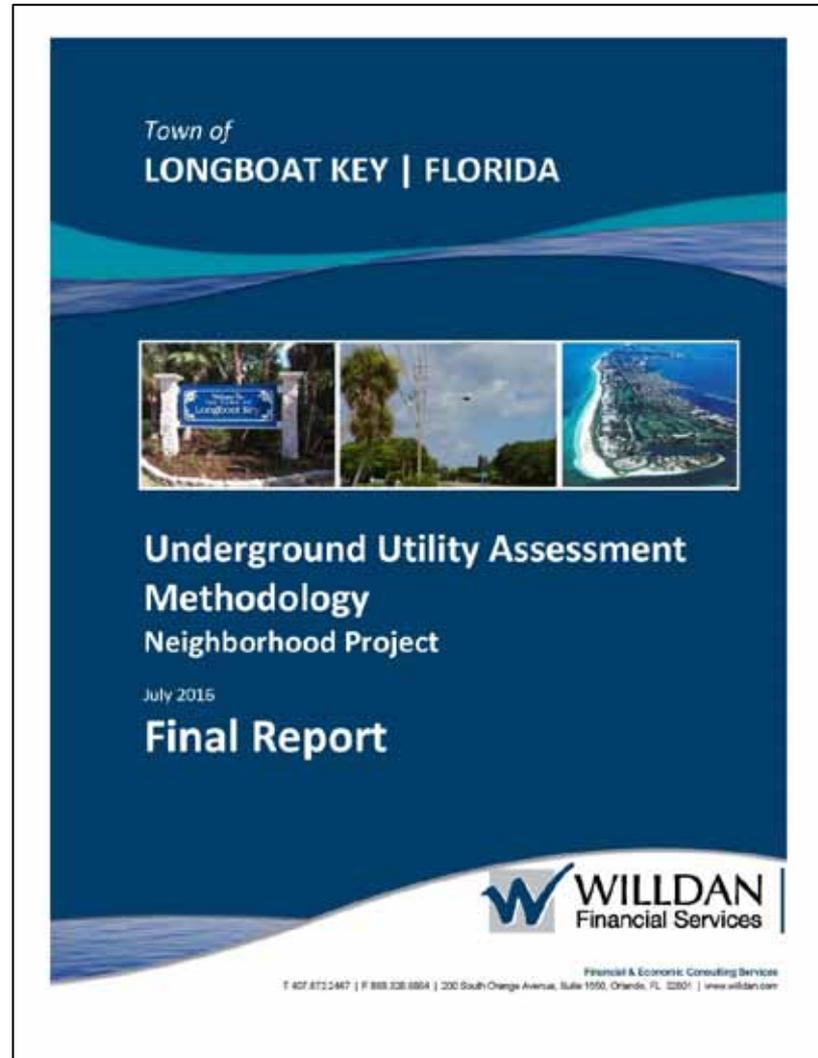
# FUNDING MECHANISM

## Non Ad Valorem Assessment

- Consistent with Method used in GMD Project
- Property specific amount based on benefits received (general and specific)
- Collected through tax bill as an annual assessment or prepayment of total amount
- Special assessments are not generally Federal income tax deductible



# NON-AD VALOREM ASSESSMENT METHODOLOGY





# ASSESSMENT METHODOLOGY DEVELOPMENT PROCESS

- **Develop an objective assessment of the benefits provided to each individual property relative to Safety, Reliability, & Aesthetics, with equal weight on each**
- **Benefit Values will be assigned within this methodology for each benefit received by each property**
- **Project costs will be allocated to each property in proportion to that property's share of the total benefits provided**
- **Consideration will be provided for existing underground facilities**



# NON AD VALOREM PROPERTY ASSESSMENT FACTORS

- **Overhead vs Underground Service Connection Credits**
- **Overhead vs Underground Property Classification Credits**
- **Underground Radial to Loop Conversion Requirement Costs**
- **Change in Property Classifications based on GMD being undergrounded**
- **Treatment of remaining GMD trunk line facilities to be consistent with GMD Project**
- **Expansion of Fiber Optics into existing Underground Areas**



# NON AD VALOREM PROPERTY ASSESSMENT GOALS

- Equitable treatment of areas of Gulf of Mexico Drive with backbone facilities remaining overhead due to connections to lateral side street lines.
- Equitable treatment of areas of the Town with overhead lines or radial underground facilities where conversion work is required.
- Equitable treatment of areas of the Town with existing underground facilities with no existing overhead facilities and no specific requirement for conversion work, to make fiber optics available.



# NON AD VALOREM PARCEL CLASSIFICATIONS

Property Classification	Number of Properties
Single Family	1,947
Condominium	7,312
Multi-Family	59
Marina Slip	464
Non-Residential	66
Exempt	217
<b>Total Tax Roll Properties</b>	<b>10,065</b>

**Note: Information gathered from data currently available in government databases and from field surveys. These classifications and property totals are subject to change based on changes in property characteristics, use, etc. As of 6/15/2016.**



# ASSESSMENT METHODOLOGY

## SPECIAL BENEFITS

- Improved Safety – reduced potential of hazardous conditions from fallen communications and electric lines due to tropical storms with high winds, hurricanes, vehicle accidents, and other incidents
- Improved Reliability – new technologically upgraded communications lines, utility lines and facilities; reduces frequency of communications and power outages/failures; faster disaster recovery
- Improved Aesthetics – eliminate heavy concentration of overhead communications and electric lines and poles; discontinue radical disfiguring tree trimming



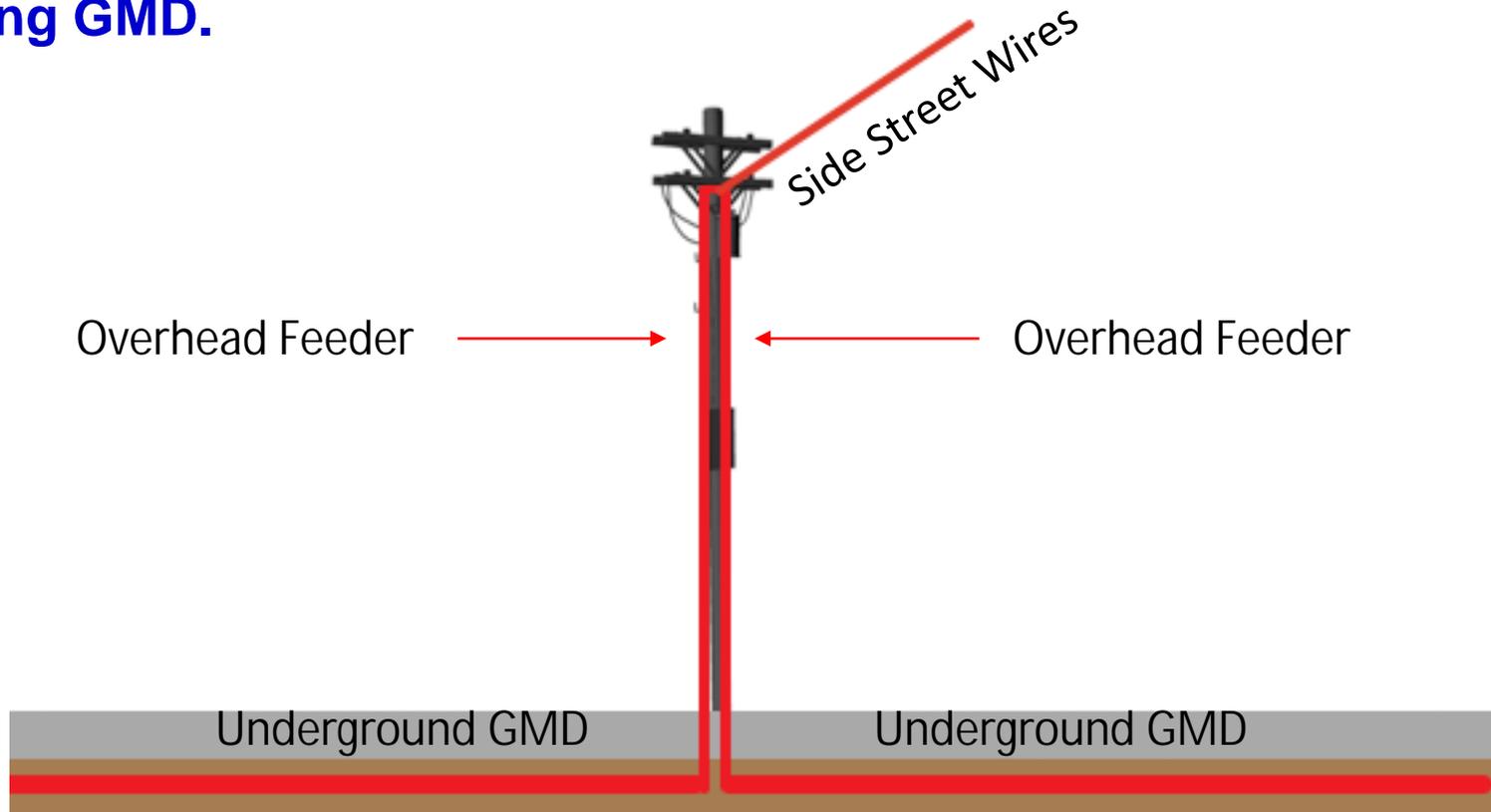
# NON AD VALOREM PROPERTY BENEFITS

- **Measured in Equivalent Benefit Units (EBUs)**
- **Safety and Aesthetics**
  - Each Property Assessed 0.5 EBUs
  - Large Properties Assessed Additional EBUs Based on Property Size
  - Unit Adjustments made for Condo & Multi-Family Properties
- **Reliability**
  - Each Property Assessed 0.5 EBUs
  - Overhead Properties Assessed Additional EBUs Based on Number of Utility Connections Requiring Undergrounding
  - Unit Adjustment made for Condo & Multi-Family Properties



# REMAINING GMD FEEDER FACILITIES

At each street intersecting GMD, the main FPL feeder line comes up the side street pole, connects to the side street wire and goes back down the pole, then goes underground, and then continues along GMD.





# TOWN WIDE BENEFITS PROVIDED FROM UNDERGROUNDING REMAINING FEEDER POLES

- **At every side street there is an overhead section of the GMD feeder [84 connections]**
  - Therefore, the main GMD feeders are subject to reliability of overhead lines at the side streets.
- **Undergrounding these connections increases the safety, reliability, and aesthetics for all Town residents.**
  - Therefore, apportioning those costs and benefits to all parcels in the Town is reasonable.



# FIBER OPTIC OPTIONS

- **Fiber optic build-out anticipates a system that will be capable of:**
  - Connecting all Town wastewater lift stations
  - Reading Town water meters
  - Connecting all Town buildings with a Town intranet
  - Enhancing emergency communications and security
  - High speed broadband internet connectivity
- **Fiber optic build-out plan may include:**
  - Allowing private providers to lease bandwidth for services to residents and pay the Town a fee
- **Town-wide availability will enable Town-wide adoption of new technologies**



# NON-AD VALOREM BENEFIT DRIVEN COST ALLOCATION

**Project costs are divided equally between each of the three benefit classifications.**

$$\frac{\text{Property Safety Benefits}}{\text{Total Safety Benefits}} \times \frac{\text{Project Cost}}{3} = \text{Property Safety Cost}$$

$$\frac{\text{Property Reliability Benefits}}{\text{Total Reliability Benefits}} \times \frac{\text{Project Cost}}{3} = \text{Property Reliability Cost}$$

$$\frac{\text{Property Aesthetics Benefits}}{\text{Total Aesthetics Benefits}} \times \frac{\text{Project Cost}}{3} = \text{Property Aesthetics Cost}$$



# PROJECTED PROPERTY ASSESSMENTS

- **Property General Benefits provided by the undergrounding of the remaining GMD Feeders will provide an assessment of approximately \$518.13 to all 9,848 assessed parcels, funding approximately 21.2% of the project cost.**
- **Property Specific Benefits provided by the expansion of the fiber Optics Component to Underground Areas will provide an assessment of approximately \$674.72 to 4,964 assessed parcels, funding approximately 14.0% of the Project.**
- **Property Specific Benefits provided by the Undergrounding and Street Lighting Components will provide assessments funding approximately 64.8% of the project cost.**



# NEIGHBORHOOD PROJECT FINAL ASSESSMENT RESOLUTION

## RESOLUTION 2016-07

A RESOLUTION OF THE TOWN COMMISSION OF LONGBOAT KEY, FLORIDA, RELATING TO THE ACQUISITION, CONSTRUCTION AND FUNDING OF CAPITAL IMPROVEMENTS ASSOCIATED WITH THE UNDERGROUNDING OF ELECTRICAL, COMMUNICATIONS, FIBER OPTICS AND OTHER UTILITIES IN AREAS OR NEIGHBORHOODS OF THE TOWN WHERE SUCH UTILITIES ARE CURRENTLY OVERHEAD AND/OR WHICH WILL NOT BE UNDERGROUNDED AS PART OF THE GULF OF MEXICO DRIVE PROJECT, INCLUDING THE PROVISION OF STREET LIGHTING IMPROVEMENTS THEREIN, AND THE INSTALLATION OF UNDERGROUND FIBER OPTICS FACILITIES IN AREAS AND NEIGHBORHOODS OF THE TOWN WHERE SUCH FACILITIES ARE NOT OTHERWISE AVAILABLE; RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE IMPROVEMENTS; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE IMPROVEMENTS AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; IMPOSING ASSESSMENTS UPON ALL TAX PARCELS DESCRIBED IN THE ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; DIRECTING RECORDED NOTICE OF THE ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE.



# PARCEL COUNTS FOR ASSESSMENT WITHIN RANGES

Assessment Amount	Total Parcels
\$0 - \$100	411
\$100 - \$600	1,989
\$600 - \$2300	4,967
\$2300 - \$2600	4
\$2600 - \$5000	1,101
\$5000 - \$7500	941
\$7500 - \$10000	599
Greater than \$10000	53
<b>Total</b>	<b>10,065</b>



**ASSESSMENTS  
AND  
PARCEL COUNTS  
FOR  
ASSESSMENTS  
ABOVE  
\$10,000**

Assessment Amount	Total Parcels
\$ 10,204.20	1
\$ 10,406.91	1
\$ 10,691.38	5
\$ 11,108.49	3
\$ 12,361.24	1
\$ 12,645.71	23
\$ 14,600.04	5
\$ 15,367.94	1
\$ 15,718.73	1
\$ 16,838.84	1
\$ 18,590.46	1
\$ 18,793.17	1
\$ 21,031.97	2
\$ 25,225.10	1
\$ 25,291.42	1
\$ 29,418.23	1
\$ 36,514.78	1
\$ 78,379.76	1
\$ 82,567.21	1
\$ 97,693.32	1
Total	53



# TYPICAL EXAMPLES OF ASSESSMENT FACTORS

CUSTOMER CLASS	PROPERTY CLASS	CONNECTION NEEDED	RADIAL TO LOOP	TOTAL ASSESSMENT	30 YEAR - 4.5% MARKET RATE	30 YEAR - 6.0% MARKET RATE	DESCRIPTION
SINGLE FAMILY	UG	N	N	\$ 518.13	\$ 32.12	\$ 38.13	OH PARCEL CONVERTED TO UG ON GMD PROJECT
SINGLE FAMILY	UG	N	N	\$ 1,192.85	\$ 73.95	\$ 87.78	UG AREA PARCEL GETTING FIBER OPTICS
SINGLE FAMILY	UG	N	Y	\$ 6,011.07	\$ 372.67	\$ 442.36	UG PARCEL REQUIRING CONVERSION TO LOOP
SINGLE FAMILY	OH	N	N	\$ 6,498.25	\$ 402.87	\$ 478.21	OH PARCEL CONVERTED WITH RESUABLE UG SVC
SINGLE FAMILY	OH	Y	N	\$ 8,452.58	\$ 524.04	\$ 622.04	OH PARCEL CONVERTED REQUIRING NEW UG SVC
CONDOMINIUM	UG	N	N	\$ 1,192.85	\$ 73.95	\$ 87.78	UG AREA PARCEL GETTING FIBER OPTICS



## SINGLE FAMILY ASSESSMENT EXAMPLES

SITE ADDRESS	ASSESSMENT FOR REMAINING GMD FEEDER	ASSESSMENT FOR FIBER OPTICS IN UNDERGROUND AREAS	ASSESSMENT FOR NEIGHBORHOOD PROJECT GENERAL BENEFITS	ASSESSMENT FOR NEIGHBORHOOD CONVERSION OF OH LINES TO UG	ASSESSMENT FOR NEIGHBORHOOD CONVERSION OF OH SERVICE CONNECTION	ONSITE COST FOR NEIGHBORHOOD RADIAL TO LOOP CONVERSION	ONSITE COST FOR NEIGHBORHOOD SERVICE CONVERSION	TOTAL ASSESMENT	30 YEAR - 4.5% MARKET RATE	30 YEAR - 6.0% MARKET RATE
561 RANGER LN	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$ 8,452.58	\$ 524.04	\$ 622.04
601 BIRDIE LN	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$ 6,498.25	\$ 402.87	\$ 478.21
825 LONGBOAT CLUB RD	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
3360 BAYOU GATE	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
545 ROUNTREE DR	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$ 8,452.58	\$ 524.04	\$ 622.04
605 KINGFISHER LN	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$ 6,498.25	\$ 402.87	\$ 478.21
5060 GULF OF MEXICO DR	\$ 518.13	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 518.13	\$ 32.12	\$ 38.13
5362 SANDHAMN PL	\$ 518.13	\$ -	\$ 3,675.00	\$ -	\$ -	\$ 1,817.94	\$ -	\$ 6,011.07	\$ 372.67	\$ 442.36
755 ST JUDES DR N	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$ 8,452.58	\$ 524.04	\$ 622.04
530 COMPANION WAY	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$ 8,452.58	\$ 524.04	\$ 622.04
5821 GULF OF MEXICO DR	\$ 518.13	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 518.13	\$ 32.12	\$ 38.13
5940 EMERALD HARBOR DR	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$ 6,498.25	\$ 402.87	\$ 478.21
538 NORTON ST	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$ 8,452.58	\$ 524.04	\$ 622.04
630 BROADWAY	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$ 8,452.58	\$ 524.04	\$ 622.04
751 RUSSELL ST	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$ 6,498.25	\$ 402.87	\$ 478.21
690 HIBISCUS WAY	\$ 518.13	\$ -	\$ 3,675.00	\$ -	\$ -	\$ 1,817.94	\$ -	\$ 6,011.07	\$ 372.67	\$ 442.36
6888 POINSETTIA AVE	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$ 6,498.25	\$ 402.87	\$ 478.21
7050 FIREHOUSE RD	\$ 518.13	\$ -	\$ 3,675.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$ 6,498.25	\$ 402.87	\$ 478.21



# CONDOMINIUM ASSESSMENT EXAMPLES

SITE ADDRESS	ASSESSMENT FOR REMAINING GMD FEEDER	ASSESSMENT FOR FIBER OPTICS IN UNDERGROUND AREAS	ASSESSMENT FOR NEIGHBORHOOD PROJECT GENERAL BENEFITS	ASSESSMENT FOR NEIGHBORHOOD CONVERSION OF OH LINES TO UG	ASSESSMENT FOR NEIGHBORHOOD CONVERSION OF OH SERVICE CONNECTION	ONSITE COST FOR NEIGHBORHOOD RADIAL TO LOOP CONVERSION	ONSITE COST FOR NEIGHBORHOOD SERVICE CONNECTION	TOTAL ASSESMENT	30 YEAR - 4.5% MARKET RATE	30 YEAR - 6.0% MARKET RATE
435 L AMBIANCE DR L207	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
1145 GULF OF MEXICO DR 204 BLD 1	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
1900 HARBOURSIDE DR 104 BLD 1	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
3040 GRAND BAY BLVD 214 BLD 2	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
2301 GULF OF MEXICO DR APT 73N	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
40 TWIN SHORES BLVD	\$ 518.13	\$ -	\$ 3,675.00	\$ 122.61	\$ 422.62	\$ -	\$ 180.31	\$ 4,918.68	\$ 304.94	\$ 361.97
6701 GULF OF MEXICO DR UNIT 327	\$ 518.13	\$ 674.72	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,192.85	\$ 73.95	\$ 87.78
805 SPANISH DR N	\$ 518.13	\$ -	\$ 3,675.00	\$ 271.83	\$ 310.16	\$ -	\$ 132.33	\$ 4,907.45	\$ 304.25	\$ 361.15
7065 GULF OF MEXICO DR UNIT 14	\$ 518.13	\$ -	\$ 3,675.00	\$ 344.44	\$ -	\$ -	\$ -	\$ 4,537.57	\$ 281.32	\$ 333.93



# MULTI-FAMILY ASSESSMENT EXAMPLES

SITE ADDRESS	ASSESSMENT FOR REMAINING GMD FEEDER	ASSESSMENT FOR FIBER OPTICS IN UNDERGROUND AREAS	ASSESSMENT FOR NEIGHBORHOOD PROJECT GENERAL BENEFITS	ASSESSMENT FOR NEIGHBORHOOD CONVERSION OF OH LINES TO UG	ASSESSMENT FOR NEIGHBORHOOD CONVERSION OF OH SERVICE CONNECTION	ONSITE COST FOR NEIGHBORHOOD RADIAL TO LOOP CONVERSION	ONSITE COST FOR NEIGHBORHOOD SERVICE CONVERSION	TOTAL ASSESMENT	30 YEAR - 4.5% MARKET RATE	30 YEAR - 6.0% MARKET RATE
569 CHANNEL LN	\$ 1,036.26	\$ -	\$ 7,350.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$12,645.71	\$ 784.00	\$ 930.61
6051 GULF OF MEXICO DR	\$ 2,072.52	\$ -	\$ 14,700.00	\$ 4,610.24	\$ 2,739.76	\$ -	\$ 1,168.90	\$25,291.42	\$1,568.00	\$1,861.23
651 FOX ST	\$ 1,036.26	\$ -	\$ 7,350.00	\$ 2,305.12	\$ 1,369.88	\$ -	\$ 584.45	\$12,645.71	\$ 784.00	\$ 930.61
6501 BAYOU HAMMOCK RD	\$ 1,036.26	\$ -	\$ 7,350.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$10,691.38	\$ 662.84	\$ 786.79
5145 GULF OF MEXICO DR	\$ 1,036.26	\$ -	\$ 7,350.00	\$ 2,305.12	\$ -	\$ -	\$ -	\$10,691.38	\$ 662.84	\$ 786.79
3037 GULF OF MEXICO DR	\$ 1,036.26	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,036.26	\$ 64.25	\$ 76.26
4031 GULF OF MEXICO DR	\$ 1,036.26	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,036.26	\$ 64.25	\$ 76.26



**End of Agenda Item**

## MEMORANDUM

Date: July 5, 2016

**TO:** Town Commission  
**FROM:** Dave Bullock, Town Manager  
**SUBJECT:** Resolution 2016-08, Special Assessment Revenue Bonds  
(Remaining Neighborhoods Undergrounding Project)

---

On March 15, 2016, the Town's electors voted to authorize the Town's borrowing of up to \$23,850,000 for neighborhood utility undergrounding and street lighting. (the "Project").

Attached is a copy of the Master Bond Resolution for the Project as prepared by our Bond Counsel and reviewed by the Finance Director, Financial Advisors, Town Attorney and Town Clerk.

A representative of our Bond Counsel will be present at the July 5 2016 Special Meeting to explain the Resolution and answer questions you may have.

This Master Bond Resolution process mirrors the process utilized in the GMD Utility Undergrounding project.

Resolution 2016-08 was forwarded from the June 3, 2016 Special Workshop Meeting following Commission consideration. It is placed on the July 5, 2016 Special Meeting for discussion, public hearing, and formal action.

Please don't hesitate to contact me if you have any questions.



# MASTER BOND RESOLUTION

RESOLUTION 2016-08

TOWN OF LONGBOAT KEY, FLORIDA

SPECIAL ASSESSMENT REVENUE BONDS  
(REMAINING NEIGHBORHOODS UNDERGROUNDING PROJECT)  
RESOLUTION

JULY 5, 2016 REGULAR MEETING



# MASTER BOND RESOLUTION

- Authorizes NTE \$23,850,000 of revenue bonds in one or more series to finance the costs of the Remaining Neighborhoods Undergrounding Project
- Secured by Neighborhoods Assessments and a Backup Covenant to budget and appropriate legally available non ad valorem revenues
- Establishes certain redemption features, various funds and accounts, a flow of funds, tax covenants, and a legal defeasance provision
- Authorizes and directs Town Attorney and Bond Counsel to commence a bond validation under Chapter 75, Florida Statutes
- Will be considered for adoption following adoption of the Final Assessment Resolution



## RESOLUTION 2016-08

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$23,850,000 IN AGGREGATE PRINCIPAL AMOUNT OF TOWN OF LONGBOAT KEY, FLORIDA SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2016 (REMAINING NEIGHBORHOODS UNDERGROUNDING PROJECT) FOR THE PURPOSE OF FINANCING THE COSTS OF REMAINING UNDERGROUNDING OF ELECTRICAL UTILITIES IN CERTAIN NEIGHBORHOODS INCLUDING STREET LIGHTING INSTALLATION, AND COMMUNICATIONS/FIBER OPTICS UTILITIES IN CERTAIN NEIGHBORHOODS; PROVIDING THAT SUCH BONDS SHALL BE LIMITED OBLIGATIONS OF THE TOWN PAYABLE SOLELY FROM NON-AD VALOREM SPECIAL ASSESSMENTS IMPOSED AGAINST REAL PROPERTY THROUGHOUT THE TOWN AND A BACKUP COVENANT TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES OF THE TOWN; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF SUCH BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AUTHORIZING A BOND VALIDATION; AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF THE TOWN TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE SALE, ISSUANCE AND DELIVERY OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE.

**RESOLUTION 2016-08**  
**TOWN OF LONGBOAT KEY, FLORIDA**  
**SPECIAL ASSESSMENT REVENUE BONDS**  
**(REMAINING NEIGHBORHOODS UNDERGROUNDING PROJECT)**  
**RESOLUTION**  
**ADOPTED JULY 5, 2016**

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## RESOLUTION 2016-08

A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$23,850,000 IN AGGREGATE PRINCIPAL AMOUNT OF TOWN OF LONGBOAT KEY, FLORIDA SPECIAL ASSESSMENT REVENUE BONDS, SERIES 2016 (REMAINING NEIGHBORHOODS UNDERGROUNDING PROJECT) FOR THE PURPOSE OF FINANCING THE COSTS OF REMAINING UNDERGROUNDING OF ELECTRICAL UTILITIES IN CERTAIN NEIGHBORHOODS INCLUDING STREET LIGHTING INSTALLATION, AND COMMUNICATIONS/FIBER OPTICS UTILITIES IN CERTAIN NEIGHBORHOODS; PROVIDING THAT SUCH BONDS SHALL BE LIMITED OBLIGATIONS OF THE TOWN PAYABLE SOLELY FROM NON-AD VALOREM SPECIAL ASSESSMENTS IMPOSED AGAINST REAL PROPERTY THROUGHOUT THE TOWN AND A BACKUP COVENANT TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES OF THE TOWN; PROVIDING FOR THE RIGHTS, SECURITIES AND REMEDIES FOR THE OWNER OF SUCH BONDS; MAKING CERTAIN COVENANTS AND AGREEMENTS IN CONNECTION THEREWITH; AUTHORIZING A BOND VALIDATION; AUTHORIZING CERTAIN OFFICIALS AND EMPLOYEES OF THE TOWN TO TAKE ALL ACTIONS REQUIRED IN CONNECTION WITH THE SALE, ISSUANCE AND DELIVERY OF SUCH BONDS; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

### ARTICLE I GENERAL

#### SECTION 1.01 Definitions.

When used in this Resolution, the following terms shall have the following meanings, unless the context clearly otherwise requires:

**"Act"** shall mean the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Town of Longboat Key Charter, the Referendum Ordinance, the Assessment Ordinance, and other applicable provisions of law.

**"Additional Bonds"** shall mean the obligations issued at any time under the provisions of Section 5.02 hereof on a parity with the Series 2016 Bonds.

**"Amortization Installment"** shall mean an amount designated as such by Supplemental Resolution of the Issuer and established with respect to any Term Bonds.

**"Annual Debt Service"** shall mean, with respect to any Bond Year, the aggregate amount of (1) all interest required to be paid on the Outstanding Bonds during such Bond Year, except to the extent that such interest is to be paid from deposits in the Interest Account made from Bond proceeds, (2) all principal of Outstanding Serial Bonds maturing in such Bond Year, and (3) all Amortization Installments herein designated with respect to such Bond Year. Annual Debt Service on (i) debt that constitutes Balloon Indebtedness

bearing interest at a fixed interest rate or (ii) Variable Rate Bonds that constitutes Balloon Indebtedness, shall be determined assuming it is amortized over 20 years on an approximately level annual debt service basis.

**"Assessed Property"** shall have the meaning ascribed thereto in the Assessment Resolution.

**"Assessments"** shall mean the special assessments (sometimes characterized as non-ad valorem assessments) imposed by the Issuer against Assessed Property to fund all or a portion of the costs associated with the Project and related expenses, computed in the manner described in the Assessment Resolution.

**"Assessment Ordinance"** shall mean Town Ordinance 2015-30, as codified in Chapter 37 of the Town Code of Ordinances in sections 37.20-37.53, as may be amended from time to time, or its successor in function.

**"Assessment Resolution"** shall mean, collectively, Resolution 2016-06 adopted by the Town Commission of the Issuer on June 6, 2016, and Resolution 2016-07 adopted by the Town Commission of the Issuer on July 5, 2016.

**"Balloon Indebtedness"** shall mean debt 25% or more of the original principal amount of which matures during any one Fiscal Year.

**"Bond Amortization Account"** shall mean the separate account in the Debt Service Fund established pursuant to Section 4.04 hereof.

**"Bond Counsel"** shall mean Bryant Miller Olive P.A. or any other attorney at law or firm of attorneys, of nationally recognized standing in matters pertaining to the exclusion from gross income for federal income tax purposes of interest on obligations issued by states and political subdivisions, and duly admitted to practice law before the highest court of any state of the United States of America.

**"Bond Year"** shall mean the period commencing on August 2 and ending twelve months later on August 1, or such other dates as may be determined by the Issuer by Supplemental Resolution of the Issuer adopted prior to the issuance of the Series 2016 Bonds.

**"Bondholder"** or **"Holder"** or **"holder"** or any similar term, when used with reference to a Bond or Bonds, shall mean any person who shall be the registered owner of any Outstanding Bond or Bonds as provided in the registration books of the Issuer.

**"Bonds"** shall mean the Series 2016 Bonds, together with any Additional Bonds issued pursuant to this Resolution.

**"Capital Project Fund"** shall mean the "Capital Project Fund" of the Issuer which relates to the Remaining Neighborhoods Undergrounding Project.

**"Clerk"** shall mean the Town Clerk or assistant or deputy Town Clerk of the Issuer, or such other person as may be duly authorized by the Town Commission of the Issuer to act on his or her behalf.

**"Code"** shall mean the Internal Revenue Code of 1986, as amended, and the regulations and rules thereunder in effect or proposed.

**"Collection Costs"** shall have the meaning ascribed thereto in the Assessment Resolution.

**"Construction Account"** shall mean the separate account in the Capital Project Fund established pursuant to Section 4.04 hereof.

**"Cost"** when used in connection with the Project, shall mean (1) the Issuer's cost of design, demolition, physical construction, and/or other pre-construction costs including without limitation geotechnical testing, value engineering, surveying and permitting; (2) costs of acquisition by or for the Issuer of such Project; (3) costs of land and interests therein and the cost of the Issuer incidental to such acquisition; (4) the cost of any indemnity and surety bonds and premiums for insurance during construction; (5) all interest due to be paid on the Bonds and other obligations relating to the Project during, and if deemed advisable by the Issuer for up to one year after the end of, the construction period of such Project and for a reasonable period thereafter, if permitted by the Code; (6) architectural, design, engineering, legal and other consultant fees and expenses; (7) costs and expenses incidental to the issuance of the Bonds for up to one year, including the fees and expenses of any attorneys, financial advisors, auditors, engineers, Paying Agent, Registrar or depository; (8) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any indebtedness of the Issuer (other than the Bonds) incurred for such Project; (9) costs of machinery or equipment required by the Issuer for the commencement of operation of such Project; or (10) any other capitalizable costs properly attributable to such activities including without limitation professional fees and expenses, as determined by generally accepted accounting principles and shall include reimbursement to the Issuer for any such items of Cost heretofore paid by the Issuer. Any Supplemental Resolution may provide for additional items to be included in the aforesaid Costs.

**"Debt Service Fund"** shall mean the Town of Longboat Key, Florida, Special Assessment Revenue Bonds (Remaining Neighborhoods Undergrounding Project) Debt Service Fund established pursuant to Section 4.04 hereof.

**"Federal Securities"** shall mean (1) cash, and/or (2) non-callable direct obligations of the United States of America.

**"Financial Advisor"** shall mean the Issuer's financial advisor.

**"Finance Director"** shall mean the Finance Director of the Issuer or any assistant or deputy thereof.

**"Fiscal Year"** shall mean the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law.

**"Insurance Policy"** or **"Insurance Policies"** shall mean any policy of bond insurance, letter of credit, guarantee, or other similar form of credit enhancement issued by an Insurer and insuring or guaranteeing the payment when due of all or any portion of the principal of and interest on any Series of Bonds. All references in this Resolution to the Insurance Policy or Insurance Policies shall be of no force and effect (i) if there is a default in the performance of any obligations thereunder by the applicable Insurer, or (ii) at such time as there are no Bonds Outstanding with respect to which an Insurer has issued an Insurance Policy or Insurance Policies.

**"Insurer"** shall mean any issuer or issuers of any Insurance Policy or any successor corporation that assumes the obligations of the issuer of such Insurance Policy. All references in this Resolution to the Insurer and/or an Insurance Policy shall be of no

force and effect to a particular Series of Bonds if such Bonds are not insured, and/or at such time as there are no Bonds Outstanding with respect to which an Insurer has issued an Insurance Policy.

**"Interest Account"** shall mean the separate account in the Debt Service Fund established pursuant to Section 4.04 hereof.

**"Interest Date"** shall be February 1 and August 1 of each year, or such other dates as may be determined by the Issuer by Supplemental Resolution of the Issuer adopted prior to the issuance of the Series 2016 Bonds.

**"Issuer"** shall mean the Town of Longboat Key, Florida, a municipal corporation of the State of Florida.

**"Maximum Annual Debt Service"** shall mean the largest amount of Annual Debt Service for any Bond Year in which Bonds shall be Outstanding, excluding all Bond Years which shall have ended prior to the Bond Year in which Maximum Annual Debt Service shall be computed.

**"Maximum Interest Rate"** shall mean, with respect to any particular Variable Rate Bonds, the maximum rate of interest such Bonds may at any time bear in the future in accordance with the terms of the Supplemental Resolution of the Issuer delineating the details of such Bonds.

**"Mayor"** shall mean the Mayor of the Issuer, or his or her designee.

**"Non-Ad Valorem Revenues"** shall mean all revenues of the Issuer other than ad valorem taxes, which are lawfully available to be used to pay debt service on the Series 2016 Bonds.

**"Outstanding"** when used with reference to Bonds and as of any particular date, shall describe all Bonds theretofore and thereupon being authenticated, if applicable, and delivered except, (1) any Bond in lieu of which another Bond or other Bonds have been issued under an agreement to replace lost, mutilated or destroyed Bonds, (2) any Bond surrendered by the Holder thereof in exchange for another Bond or other Bonds under Sections 2.06 and 2.08 hereof, and (3) Bonds canceled after purchase in the open market or because of payment at or redemption prior to maturity.

**"Paying Agent"** shall mean any paying agent for Bonds appointed by or pursuant to a Supplemental Resolution and its successors or assigns, and any other Person which may at any time be substituted in its place pursuant to this Resolution.

**"Permitted Investments"** shall mean any investments authorized pursuant to the laws of the State and the Issuer's written investment policy, if any.

**"Person(s)"** shall mean an individual, a corporation, a partnership, an association, a joint stock company, a trust, any unincorporated organization or governmental entity.

**"Pledged Funds"** shall mean the Pledged Revenues and until applied in accordance with the provisions of this Resolution, all moneys, including investments thereof, in the funds and accounts established hereunder; provided, however, amounts on deposit in the Capital Project Fund, other than amounts on deposit in the Construction Account, are expressly excluded from this definition.

**"Pledged Revenues"** shall mean the Assessments and any Non-Ad Valorem Revenues budgeted, appropriated and deposited as provided herein.

**"Prepayments"** shall mean any Assessments, or portions thereof, which shall be paid to the Issuer prior to the time such amounts become due. Prepayments shall not include any interest paid on such Assessments.

**"Prepayments Account"** shall mean the separate account in the Debt Service Fund established pursuant to Section 4.04 hereof.

**"Principal Account"** shall mean the separate account in the Debt Service Fund established pursuant to Section 4.04 hereof.

**"Project"** shall mean remaining undergrounding of electrical utilities in certain neighborhoods including street lighting installation, and communications/fiber optics utilities in certain neighborhoods.

**"Redemption Price"** shall mean, with respect to any Bond or portion thereof, the principal amount or portion thereof, plus the applicable premium, if any, payable upon redemption thereof pursuant to such Bond or this Resolution.

**"Referendum Ordinance"** shall mean Ordinance 2016-05 enacted by the Town Commission of the Issuer on January 4, 2016.

**"Registrar"** shall mean any registrar for the Bonds appointed by or pursuant to a Supplemental Resolution and its successors and assigns, and any other Person which may at any time be substituted in its place pursuant to Supplemental Resolution.

**"Reserve Account"** shall mean the separate account in the Debt Service Fund established pursuant to Section 4.04 hereof.

**"Reserve Account Requirement"** shall mean (a) with respect to the Reserve Account (but not any subaccount therein) the lesser of (i) the Maximum Annual Debt Service for all Outstanding Bonds secured by the Reserve Account, (ii) 125% of the average annual debt service with respect to Outstanding Bonds secured by the Reserve Account, or (iii) the largest amount as shall not adversely affect the exclusion of interest on the Outstanding Bonds (other than Taxable Bonds) from gross income for Federal income tax purposes, with respect to Bonds secured by the Reserve Account, and (b) with respect to any subaccount created in the Reserve Account, the amount that the Town Manager or Finance Director shall establish in writing, for each subaccount of the Reserve Account which secures a Series of Bonds pursuant to Section 4.05(A)4. of this Resolution, the determination of such amount to be in the best economic interests of the Issuer.

**"Residual Account"** shall mean the separate account in the Debt Service Fund established pursuant to Section 4.04 hereof.

**"Resolution"** shall mean this Resolution, as the same may from time to time be amended, modified or supplemented by Supplemental Resolution.

**"Revenue Fund"** shall mean the Town of Longboat Key, Florida Special Assessment Revenue Bonds (Remaining Neighborhoods Undergrounding Project) Revenue Fund established pursuant to Section 4.04 hereof.

**"Serial Bonds"** shall mean all of the Bonds other than Term Bonds and Variable Rate Bonds.

**"Series"** shall mean all the Bonds delivered on original issuance in a simultaneous transaction and identified pursuant to Sections 2.01 and 2.02 hereof or a Supplemental Resolution authorizing the issuance by the Issuer of such Bonds as a separate Series,

regardless of variations in maturity, interest rate, Amortization Installments or other provisions.

**"Series 2016 Bonds"** shall mean the Issuer's Special Assessment Revenue Bonds, Series 2016 (Remaining Neighborhoods Undergrounding Project) authorized pursuant to Section 2.02 hereof, or such other name or names as shall be designated pursuant to the authorization in Section 2.02 hereof; provided, that the authorized aggregate principal amount of \$23,850,000 herein is not exceeded. The Series 2016 Bonds may be issued as bonds or notes and may be issued in more than one Series, as may be determined by Supplemental Resolution.

**"State"** shall mean the State of Florida.

**"Subordinated Indebtedness"** shall mean that indebtedness of the Issuer, subordinate and junior to the Bonds, issued in accordance with the provisions of Section 5.01 hereof.

**"Supplemental Resolution"** shall mean any resolution of the Issuer amending or supplementing this Resolution adopted and becoming effective in accordance with the terms of Sections 7.01, 7.02 and 7.03 hereof.

**"Taxable Bond"** shall mean any Bond which states, in the body thereof, that the interest income thereon is includable in the gross income of the Holder thereof for federal income tax purposes or that such interest is subject to federal income taxation.

**"Term Bonds"** shall mean those Bonds which shall be designated as Term Bonds hereby or by Supplemental Resolution of the Issuer and which are subject to mandatory redemption by Amortization Installments.

**"Town"** shall mean the Town of Longboat Key, Florida.

**"Town Attorney"** shall mean the Town Attorney or his or her designee.

**"Town Manager"** shall mean the Town Manager of the Issuer or any assistant or deputy thereof.

**"Variable Rate Bonds"** shall mean Bonds issued with a variable, adjustable, convertible or other similar rate which is not fixed in percentage for the entire term thereof at the date of issue.

The terms "herein," "hereunder," "hereby," "hereto," "hereof" and any similar terms, shall refer to this Resolution; the term heretofore shall mean before the date of adoption of this Resolution; and the term "hereafter" shall mean after the date of adoption of this Resolution.

Words importing the masculine gender include every other gender.

Words importing the singular number include the plural number, and vice versa.

#### **SECTION 1.02 Authority for Resolution.**

This Resolution is adopted pursuant to the Act and the Bond Referendum.

**SECTION 1.03 Resolution to Constitute Contract.**

In consideration of the purchase and acceptance of any or all of the Bonds by those who shall hold the same from time to time, the provisions of this Resolution shall be a part of the contract of the Issuer with the Holders of the Bonds and shall be deemed to be and shall constitute a contract between the Issuer and the Holders from time to time of the Bonds. The pledge made in this Resolution and the provisions, covenants and agreements herein set forth to be performed by or on behalf of the Issuer shall be for the equal benefit, protection and security of the Holders of any and all of said Bonds and the Insurers. All of the Bonds, regardless of the time or times of their issuance or maturity, shall be of equal rank without preference, priority or distinction of any of the Bonds over any other thereof except as expressly provided in or pursuant to this Resolution.

**SECTION 1.04 Findings.** It is hereby ascertained, determined and declared as follows:

(A) Article I, Section 5(b) of the Town of Longboat Key Charter of the Issuer provides that no revenue bonds and/or notes shall be issued by the Town or any public entity controlled by the Town without approval at a referendum held in the manner prescribed by law.

(B) In accordance with the Referendum Ordinance, the Town called a referendum to determine if the electors of the Issuer approved of the issuance of not exceeding \$23,850,000 of the Series 2016 Bonds for the purpose of financing the Cost of the Project to be payable solely from non-ad valorem special assessments imposed against real property throughout the Town and a backup covenant to budget and appropriate Non-ad Valorem Revenues. The Bond Referendum was duly held on March 15, 2016, and conducted in all respects according to law, and the executed canvassing certificate for the Manatee County portion of the election dated March 15, 2016, the executed certificate of election results for the Sarasota County portion of the election dated March 15, 2016, and the certified results of the election by the Town Commission of the Issuer evidenced in the minutes of the statutory meeting on March 21, 2016 (collectively, the "Election Certification") show that a majority of electors casting a ballot voted in favor of the issuance of the Series 2016 Bonds to be secured in such manner and for such purpose. The referendum election and the Election Certification are herein referred to as the "Bond Referendum".

(C) The Issuer deems it necessary, desirable and in the best interests of the Issuer and its citizens, visitors, property owners and workers, and to serve a public purpose, that the Project be financed and completed.

(D) The Issuer is authorized, pursuant to the provisions of the Act and the Bond Referendum, to issue the Series 2016 Bonds to finance the Costs of the Project to be to be secured in such manner.

(E) The Assessments are estimated to be sufficient to pay the Annual Debt Service on the Bonds and to make all other payments required by the provisions of this Resolution.

(F) The Issuer shall never be required to levy ad valorem taxes to pay debt service on the Series 2016 Bonds or to make any other payments to be made hereunder

or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any other Non-Ad Valorem Revenues. The Bonds shall not constitute a lien on any property owned by or situated within the limits of the Issuer. It is estimated that the Assessments and, if required, any Non-Ad Valorem Revenues, will be available after satisfying funding requirements for obligations having an express lien on or pledge thereof and after satisfying funding requirements for essential governmental services of the Issuer, in amounts sufficient to provide for the payment of the principal of and interest on the Bonds and all other payment obligations hereunder.

**SECTION 1.05 Authorization of the Project.** The Issuer does hereby authorize the completion of the Project.

## **ARTICLE II AUTHORIZATION, TERMS, EXECUTION AND REGISTRATION OF BONDS**

### **SECTION 2.01 Authorization of Bonds.**

This Resolution creates an issue of Bonds of the Issuer to be designated as "Town of Longboat Key, Florida, Special Assessment Revenue Bonds (Remaining Neighborhoods Undergrounding Project)" which may be issued in one or more Series as hereinafter provided. The aggregate principal amount of the Bonds which may be executed and delivered under this Resolution is not limited except as is or may hereafter be provided in this Resolution or as limited by the Act, the Bond Referendum or by law.

The Bonds may, if and when authorized by the Issuer pursuant to this Resolution, be issued in one or more Series, with such further appropriate particular designations added to or incorporated in such title for the Bonds of any particular Series as the Issuer may determine and as may be necessary to distinguish such Bonds from the Bonds of any other Series. Each Bond shall bear upon its face the designation so determined for the Series to which it belongs.

The Bonds shall be issued for such purpose or purposes; shall bear interest at such rate or rates not exceeding the maximum rate permitted by law; and shall be payable in lawful money of the United States of America on such dates; all as determined by Supplemental Resolution of the Issuer.

Unless otherwise determined by Supplemental Resolution, the Bonds shall be issued in denominations of \$5,000 or integral multiples thereof, in such form, whether coupon or registered; shall be dated such date; shall bear such numbers; shall be payable at such place or places; shall contain such redemption provisions; shall have such Paying Agents and Registrars; shall mature in such years and amounts; shall provide that the proceeds thereof be used in such manner; may be Serial Bonds, Term Bonds or Variable Rate Bonds (provided, however, that the issuance of Variable Rate Bonds which are Additional Bonds is subject to the provisions of Section 5.02(D) hereof); all as determined by Supplemental Resolution of the Issuer.

### **SECTION 2.02 Authorization and Description of Bonds.**

A Series of Bonds entitled to the benefit, protection and security of this Resolution is hereby authorized in an aggregate principal amount of not to exceed \$23,850,000 for the

principal purposes of financing all or a portion of the Costs of the Project, funding as subaccount to be created in the Reserve Account, if required, and paying certain costs of issuance incurred with respect to such Series. Such Series shall be designated as, and shall be distinguished from the Bonds of all other Series by the title "Town of Longboat Key, Florida, Special Assessment Revenue Bonds, Series 2016 (Remaining Neighborhoods Undergrounding Project)," provided the Issuer may change such designation in the event that the total authorized amount of Series 2016 Bonds are not issued as a single Series and/or are not issued in calendar year 2016.

The Series 2016 Bonds shall be dated as of the date of delivery of the Series 2016 Bonds to the purchaser or purchasers thereof or such other date as may be set forth by Supplemental Resolution of the Issuer; shall be issued as fully registered Series 2016 Bonds; shall be numbered consecutively from one upward in order of maturity preceded by the letter "R"; shall be in such denominations and shall bear interest at a rate or rates not exceeding the maximum rate permitted by law, payable in such manner and on such dates; shall consist of such amounts of Serial Bonds and/or Term Bonds; maturing in such amounts or Amortization Installments and in such years not exceeding thirty (30) years from their date; shall be payable in such place or places; shall have such Paying Agent and Registrar; and shall contain such redemption provisions; all as the Issuer shall provide hereafter by Supplemental Resolution.

The principal of or Redemption Price, if applicable, on the Series 2016 Bonds are payable upon presentation and surrender of the Series 2016 Bonds at the designated office of the Paying Agent. Interest payable on any Series 2016 Bond on any Interest Date will be paid by check or draft of the Paying Agent to the Holder in whose name such Series 2016 Bond shall be registered at the close of business on the date which shall be the fifteenth day (whether or not a business day) of the calendar month next preceding such Interest Date, or, unless otherwise provided by Supplemental Resolution, at the option of the Paying Agent, and at the request and expense of such Holder, by bank wire transfer for the account of such Holder. In the event the interest payable on any Series 2016 Bond is not punctually paid or duly provided for by the Issuer on such Interest Date, such defaulted interest will be paid to the Holder in whose name such Series 2016 Bond shall be registered at the close of business on a special record date for the payment of such defaulted interest as established by notice to such Holder, not less than ten days preceding such special record date. All payments of principal of or Redemption Price, if applicable, and interest on the Series 2016 Bonds shall be payable in any coin or currency of the United States of America which at the time of payment is legal tender for the payment of public and private debts.

### **SECTION 2.03 Application of Series 2016 Bond Proceeds.**

Application of Series 2016 Bond proceeds shall be determined in a Supplemental Resolution adopted prior to the issuance of the Series 2016 Bonds.

### **SECTION 2.04 Execution of Bonds.**

The Bonds shall be executed in the name of the Issuer with the manual or facsimile signature of the Mayor and the official seal of the Issuer shall be imprinted thereon, attested and countersigned with the manual or facsimile signature of the Clerk and approved as to form and legal correctness by the Town Attorney. In case any one or more of the officers who shall have signed or sealed any of the Bonds, or whose facsimile signature shall appear thereon shall cease to be such officer of the Issuer before the

Bonds so signed and sealed have been actually sold and delivered, such Bonds may nevertheless be sold and delivered as herein provided and may be issued as if the person who signed or sealed such Bonds had not ceased to hold such office. Any Bond may be signed and sealed on behalf of the Issuer by such person who at the actual time of the execution of such Bond shall hold the proper office of the Issuer, although, at the date of such Bond, such person may not have held such office or may not have been so authorized. The Issuer may adopt and use for such purposes the facsimile signatures of any such persons who shall have held such offices at any time after the date of the adoption of this Resolution, notwithstanding that either or both shall have ceased to hold such office at the time the Bonds shall be actually sold and delivered.

**SECTION 2.05 Authentication.**

Unless otherwise determined by Supplemental Resolution, no Bond of any Series shall be secured hereunder or be entitled to the benefit hereof or shall be valid or obligatory for any purpose unless there shall be manually endorsed on such Bond a certificate of authentication by the Registrar or such other entity as may be approved by the Issuer for such purpose. If applicable, such certificate on any Bond shall be conclusive evidence that such Bond has been duly authenticated and delivered under this Resolution. If applicable, the form of such certificate shall be substantially in the form provided in Section 2.10 hereof.

**SECTION 2.06 Temporary Bonds.**

Until the definitive Bonds of any Series are prepared, the Issuer may execute, in the same manner as is provided in Section 2.04 hereof, and deliver, upon authentication by the Registrar pursuant to Section 2.05 hereof, if applicable, in lieu of definitive Bonds, but subject to the same provisions, limitations and conditions as the definitive Bonds, except as to the denominations thereof, one or more temporary Bonds substantially of the tenor of the definitive Bonds in lieu of which such temporary Bond or Bonds are issued, in denominations authorized by the Issuer by Supplemental Resolution, and with such omissions, insertions and variations as may be appropriate to temporary Bonds. The Issuer, at its own expense, shall prepare and execute definitive Bonds, which, if applicable, shall be authenticated by the Registrar. Upon the surrender of such temporary Bonds for exchange, the Registrar, without charge to the Holder thereof, shall deliver in exchange therefor definitive Bonds, of the same aggregate principal amount and Series and maturity as the temporary Bonds surrendered. Until so exchanged, the temporary Bonds shall in all respects be entitled to the same benefits and security as definitive Bonds issued pursuant to this Resolution. All temporary Bonds surrendered in exchange for another temporary Bond or Bonds or for a definitive Bond or Bonds shall be forthwith canceled by the Registrar.

**SECTION 2.07 Bonds Mutilated, Destroyed, Stolen or Lost.**

In case any Bond shall become mutilated, or be destroyed, stolen or lost, the Issuer may, in its discretion, issue and deliver, and, if applicable, the Registrar shall authenticate, a new Bond of like tenor as the Bond so mutilated, destroyed, stolen or lost (e.g., Serial Bonds will be exchanged for Serial Bonds), in exchange and substitution for such mutilated Bond upon surrender and cancellation of such mutilated Bond or in lieu of and substitution for the Bond destroyed, stolen or lost, and upon the Holder furnishing the Issuer and the Registrar proof of such Holder's ownership thereof and satisfactory indemnity and complying with such other reasonable regulations and conditions as the Issuer or the

Registrar may prescribe and paying such expenses as the Issuer and the Registrar may incur. All Bonds so surrendered or otherwise substituted shall be canceled by the Registrar. If any of the Bonds shall have matured or be about to mature, instead of issuing a substitute Bond, the Issuer may pay the same or cause the Bond to be paid, upon being indemnified as aforesaid, and if such Bonds be lost, stolen or destroyed, without surrender thereof.

Any such duplicate Bonds issued pursuant to this Section 2.07 shall constitute original, additional contractual obligations on the part of the Issuer whether or not the lost, stolen or destroyed Bond be at any time found by anyone, and such duplicate Bond shall be entitled to equal and proportionate benefits and rights as to lien on the Pledged Funds to the same extent as all other Bonds issued hereunder.

#### **SECTION 2.08 Transfer.**

Bonds, upon surrender thereof at the office of the Registrar with a written instrument of transfer satisfactory to the Registrar, duly executed by the Holder thereof or such Holder's attorney duly authorized in writing, may, at the option of the Holder thereof, be exchanged for an equal aggregate principal amount of registered Bonds of the same Series, maturity of any other authorized denominations and type (e.g., Serial Bonds will be exchanged for Serial Bonds).

The Bonds issued under this Resolution shall be and have all the qualities and incidents of negotiable instruments under the law merchant and the Uniform Commercial Code of the State, subject to the provisions for registration and transfer contained in this Resolution and in the Bonds. So long as any of the Bonds shall remain Outstanding, the Issuer shall maintain and keep, at the office of the Registrar, books for the registration and transfer of the Bonds.

Each Bond shall be transferable only upon the books of the Issuer, at the office of the Registrar, under such reasonable regulations as the Issuer may prescribe, by the Holder thereof in person or by such Holder's attorney duly authorized in writing upon surrender thereof together with a written instrument of transfer satisfactory to the Registrar duly executed and guaranteed by the Holder or such Holder's duly authorized attorney. Upon the transfer of any such Bond, the Issuer shall issue, and, if applicable, cause to be authenticated, in the name of the transferee a new Bond or Bonds of the same aggregate principal amount and Series and maturity as the surrendered Bond. The Issuer, the Registrar and any Paying Agent or fiduciary of the Issuer may deem and treat the Person in whose name any Outstanding Bond shall be registered upon the books of the Issuer as the absolute owner of such Bond, whether such Bond shall be overdue or not, for the purpose of receiving payment of, or on account of, the principal or Redemption Price, if applicable, and interest on such Bond and for all other purposes, and all such payments so made to any such Holder or upon such Holder's order shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid and neither the Issuer nor the Registrar nor any Paying Agent or other fiduciary of the Issuer shall be affected by any notice to the contrary.

The Registrar, in any case where it is not also the Paying Agent in respect to any Series of Bonds, forthwith (A) following the fifteenth day prior to an Interest Date for such Series; (B) following the fifteenth day next preceding the date of first mailing of notice of redemption of any Bonds of such Series; and (C) at any other time as reasonably requested by the Paying Agent of such Series, shall certify and furnish to such Paying

Agent the names, addresses and holdings of Bondholders and any other relevant information reflected in the registration books. Any Paying Agent of any fully registered Bond shall effect payment of interest on such Bonds by mailing a check or draft to the Holder entitled thereto or may, in lieu thereof, upon the request and at the expense of such Holder, transmit such payment by bank wire transfer for the account of such Holder.

In all cases in which the privilege of exchanging Bonds or transferring Bonds is exercised, the Issuer shall execute and, if applicable, the Registrar shall authenticate and deliver such Bonds in accordance with the provisions of this Resolution. Execution of Bonds pursuant to Section 2.04 hereof for purposes of exchanging, replacing or transferring Bonds may occur at the time of the original delivery of the Series of which such Bonds are a part. All Bonds surrendered in any such exchanges or transfers shall be held by the Registrar in safekeeping until directed by the Issuer to be canceled by the Registrar. For every such exchange or transfer of Bonds, the Issuer or the Registrar may make a charge sufficient to reimburse it for any tax, fee, expense or other governmental charge required to be paid with respect to such exchange or transfer. The Issuer and the Registrar shall not be obligated to make any such exchange or transfer of Bonds of any Series during the fifteen days next preceding an Interest Date on the Bonds of such Series (other than Variable Rate Bonds), or, in the case of any proposed redemption of Bonds of such Series, then during the fifteen days next preceding the date of the first mailing of notice of such redemption and continuing until such redemption date.

**SECTION 2.09 Coupon Bonds; Variable Rate Bonds.**

The Issuer, at its discretion, may by Supplemental Resolution authorize the issuance of coupon Bonds, registrable as to principal only or as to both principal and interest or Variable Rate Bonds. Such Supplemental Resolution shall provide for the negotiability, transfer, interchangeability, denominations and form of such Bonds and, if applicable, coupons appertaining thereto. Coupon Bonds (other than Taxable Bonds) shall only be issued if an opinion of Bond Counsel is received to the effect that issuance of such coupon Bonds will not adversely affect the exclusion from gross income of interest earned on such Bonds for federal income tax purposes.

**SECTION 2.10 Form of Bonds.**

The text of the Bonds, except as otherwise provided herein (the form of which shall be provided by Supplemental Resolution of the Issuer) shall be in substantially the following form with such non-material omissions, insertions and variations as may be necessary and/or desirable and approved by the Mayor prior to the issuance thereof (which necessity and/or desirability and approval shall be presumed by the Issuer's delivery of the Bonds to the purchaser or purchasers thereof):

[Remainder of page intentionally left blank]

No. R-\_\_\_\_\_

\$\_\_\_\_\_

TOWN OF LONGBOAT KEY, FLORIDA  
SPECIAL ASSESSMENT REVENUE BOND, SERIES \_\_\_\_\_  
(REMAINING NEIGHBORHOODS UNDERGROUNDING PROJECT)

<u>Interest Rate</u>	<u>Maturity Date</u>	<u>Date of Original Issue</u>	<u>CUSIP</u>
%	August 1, _____	_____, _____	_____
Registered Holder: _____			
Principal Amount: _____			

KNOW ALL MEN BY THESE PRESENTS, that the Town of Longboat Key, Florida, a municipality created and existing under and by virtue of the laws of the State of Florida (the "Issuer"), for value received, hereby promises to pay, solely from the Pledged Funds hereinafter described, to the Registered Holder identified above, or registered assigns as hereinafter provided, on the Maturity Date identified above, the Principal Amount identified above and interest on such Principal Amount from the Date of Original Issue identified above or from the most recent interest payment date to which interest has been paid at the Interest Rate per annum identified above on February 1 and August 1 of each year commencing \_\_\_\_\_ 1, \_\_\_\_\_, until such Principal Amount shall have been paid, except as the provisions hereinafter set forth with respect to redemption prior to maturity may be or become applicable hereto. Interest on this bond shall be computed on the basis of a 360-day year consisting of twelve 30-day months.

Such Principal Amount and interest and the redemption premium, if any, on this bond are payable in any coin or currency of the United States of America which, on the respective dates of payment thereof, shall be legal tender for the payment of public and private debts. Such Principal Amount and the redemption premium, if any, on this bond, are payable, upon presentation and surrender hereof, at the designated corporate trust office of \_\_\_\_\_, \_\_\_\_\_, as Paying Agent. Payment of each installment of interest shall be made to the person in whose name this bond shall be registered on the registration books of the Issuer maintained by \_\_\_\_\_, \_\_\_\_\_, as Registrar, at the close of business on the date which shall be the fifteenth day (whether or not a business day) of the calendar month next preceding each interest payment date and shall be paid by a check or draft of such Paying Agent mailed to such Registered Holder at the address appearing on such registration books or, at the option of such Paying Agent, and at the request and expense of such Registered Holder, by bank wire transfer for the account of such Holder. In the event interest payable on this bond is not punctually paid or duly provided for by the Issuer on such interest payment date, payment of each installment of such defaulted interest shall be made to the person in whose name this bond shall be registered at the close of business on a special record date for the payment of such defaulted interest as established by notice to such Registered Holder, not less than ten days preceding such special record date.

This bond is one of an authorized issue of bonds in the aggregate principal amount of \$\_\_\_\_\_ (the "Bonds") of like date, tenor and effect, except as to maturity date, interest rate, denomination and number, issued to finance, refinance and/or reimburse the Cost of \_\_\_\_\_, under the authority of and in full compliance with the Constitution of the State of Florida, Chapter 166, Florida Statutes, the Town of Longboat Key Charter, Ordinance 2016-05 enacted by the Town Commission of the Issuer on January 4, 2016, as may be amended from time to time, and other applicable provisions of law (collectively, the "Act"), and Resolution 2016-08 adopted by the Town Commission of the Issuer on July 5, 2016, as may be amended and supplemented from time to time, and as particularly supplemented by Resolution 20\_\_ - \_\_ adopted by the Town Commission of the Issuer on \_\_\_\_\_, 20\_\_ (collectively, the "Resolution"), and is subject to the terms and conditions of the Resolution. Capitalized undefined terms used herein shall have the meaning ascribed thereto in the Resolution.

The Bonds and the interest thereon are payable solely from and secured by a lien upon and a pledge of Pledged Revenues, and until applied in accordance with the provisions of the Resolution, all moneys, including investments thereof, in certain of the funds and accounts established by the Resolution, all in the manner and to the extent described in the Resolution (collectively, the "Pledged Funds"). In addition, the Bonds are secured by a backup covenant to budget and appropriate Non-Ad Valorem Revenues in the manner and to the extent described in the Resolution.

IT IS EXPRESSLY AGREED BY THE REGISTERED HOLDER OF THIS BOND THAT THE FULL FAITH AND CREDIT OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION THEREOF, ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THIS BOND AND THAT SUCH HOLDER SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF ANY TAXING POWER OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION THEREOF, TO THE PAYMENT OF SUCH PRINCIPAL, REDEMPTION PREMIUM, IF ANY, OR INTEREST. THIS BOND AND THE OBLIGATION EVIDENCED HEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER OTHER THAN THE PLEDGED FUNDS, AND SHALL CONSTITUTE A LIEN ONLY ON, AND SHALL BE PAYABLE SOLELY FROM THE PLEDGED FUNDS AND A BACKUP COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES IN THE MANNER AND TO THE EXTENT DESCRIBED IN THE RESOLUTION, ALL IN THE MANNER AND TO THE EXTENT DESCRIBED IN THE RESOLUTION. THE BONDS SHALL NOT BE OR CONSTITUTE GENERAL OBLIGATIONS OR INDEBTEDNESS OF THE ISSUER AS "BONDS" WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION.

Neither the members of the Town Commission of the Issuer nor any person executing this bond shall be liable personally hereon or be subject to any personal liability or accountability by reason of the issuance hereof.

REFERENCE IS HEREBY MADE TO THE FURTHER PROVISIONS OF THIS BOND SET FORTH ON THE REVERSE SIDE HEREOF AND SUCH FURTHER PROVISIONS SHALL FOR ALL PURPOSES HAVE THE SAME EFFECT AS IF SET FORTH IN THIS PLACE.

[This bond shall not be valid or become obligatory for any purpose until the Certificate of Authentication hereon shall have been signed by the Registrar.]

IN WITNESS WHEREOF, the Town of Longboat Key, Florida has issued this bond and has caused the same to be executed by the manual signature of the Mayor, attested and countersigned by the manual signature of its Town Clerk, approved as to form and legal correctness by the manual signature of the Town Attorney, and its official seal or a facsimile thereof to be affixed or reproduced hereon, all as of the \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**TOWN OF LONGBOAT KEY, FLORIDA**

(SEAL)

\_\_\_\_\_  
Mayor

ATTESTED AND COUNTERSIGNED:

\_\_\_\_\_  
Town Clerk

APPROVED AS TO FORM AND  
LEGAL CORRECTNESS

\_\_\_\_\_  
Town Attorney, or his or her designee

**CERTIFICATE OF AUTHENTICATION**

This bond is one of the Bonds of the issue described in the within-mentioned Resolution.

DATE OF AUTHENTICATION:

\_\_\_\_\_

\_\_\_\_\_  
Registrar

By: \_\_\_\_\_

Authorized Officer

[Provisions on Reverse Side of Bond]

This Bond is transferable in accordance with the terms of the Resolution only upon the books of the Issuer kept for that purpose at the designated corporate trust office of the Registrar by the Registered Holder hereof in person or by such Holder's attorney duly authorized in writing, upon the surrender of this bond together with a written instrument of transfer satisfactory to the Registrar duly executed by the Registered Holder or such Holder's attorney duly authorized in writing, and thereupon a new bond in the same aggregate principal amount shall be issued to the transferee in exchange therefor, and upon the payment of the charges, if any, therein prescribed. The Bonds are issuable in the form of fully registered bonds in the denominations of [\$5,000 and integral multiples thereof], not exceeding the aggregate principal amount of the Bonds maturing on the same date. The Issuer, the Registrar and any Paying Agent may treat the Registered Holder of this bond as the absolute owner hereof for all purposes, whether or not this bond shall be overdue, and shall not be affected by any notice to the contrary. The Issuer and the Registrar shall not be obligated to make any exchange or transfer of the Bonds during the fifteen days next preceding an interest payment date, or in the case of any proposed redemption of the Bonds, then, during the fifteen days next preceding the date of the first mailing of notice of such redemption.

[INSERT REDEMPTION PROVISIONS]

Notice of redemption, unless waived, is to be given by the Registrar by mailing an official redemption notice by registered or certified mail at least 30 days and not more than 60 days prior to the date fixed for redemption to the Registered Holders of the Bonds to be redeemed at such Holders' addresses shown on the registration books maintained by the Registrar or at such other addresses as shall be furnished in writing by such Registered Holders to the Registrar. Provided, however, that no defect in any such notice to any Registered Holder of Bonds to be redeemed nor failure to give such notice to any such Registered Holder nor failure of any such Registered Holder to receive such notice shall in any manner defeat the effectiveness of a call for redemption as to all other Registered Holders of Bonds to be redeemed. Notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the Issuer shall default in the payment of the redemption price), such Bonds or portions of Bonds shall cease to bear interest.

It is hereby certified and recited that all acts, conditions and things required to exist, to happen and to be performed precedent to and in the issuance of this bond, exist, have happened and have been performed, in regular and due form and time as required by the laws and Constitution of the State of Florida applicable thereto, and that the issuance of the Bonds does not violate any constitutional or statutory limitations or provisions.

**VALIDATION CERTIFICATE**

This bond is one of a Series of Bonds validated and confirmed by judgment of the Circuit Court of the Twelfth Judicial Circuit, in and for Sarasota County, Florida, rendered on \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
Mayor

**ASSIGNMENT**

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

\_\_\_\_\_.  
[Insert Name, Address, Social Security or Other Identifying Number of Assignee]

the within bond and does hereby irrevocably constitute and appoint \_\_\_\_\_ as attorneys to register the transfer of the said bond on the books kept for registration thereof with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signature Guaranteed: \_\_\_\_\_

NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or trust company.

NOTICE: The signature to this assignment must correspond with the name of the Registered Holder as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever and the Social Security or other identifying number of such assignee must be supplied.

The following abbreviations, when used in the inscription on the face of the within bond, shall be construed as though they were written out in full according to applicable laws or regulations:

TEN COM -- as tenants in common

TEN ENT -- as tenants by the entireties

JT TEN -- as joint tenants with right of survivorship and not as tenants in common

UNIF TRANS MIN ACT -- \_\_\_\_\_

(Cust.)

Custodian for \_\_\_\_\_

under Uniform Transfer to Minors Act of \_\_\_\_\_

(State)

Additional abbreviations may also be used though not in the list above.

#### STATEMENT OF INSURANCE

[IF APPLICABLE, INSERT INSURER LANGUAGE]

**ARTICLE III  
REDEMPTION OF BONDS**

**SECTION 3.01 Privilege of Redemption.**

The terms of this Article III shall apply to redemption of Bonds other than Variable Rate Bonds. The terms and provisions relating to redemption of Variable Rate Bonds shall be provided by Supplemental Resolution.

**SECTION 3.02 Selection of Bonds to be Redeemed.**

Unless otherwise set forth in a Supplemental Resolution, the Bonds shall be redeemed only in the principal amount of \$5,000 each and integral multiples thereof. The Issuer shall, at least thirty days prior to the redemption date (unless a shorter time period shall be satisfactory to the Registrar) notify the Registrar of such redemption date and of the principal amount of Bonds to be redeemed. For purposes of any redemption of less than all of the Outstanding Bonds of a single maturity, the particular Bonds or portions of Bonds to be redeemed shall be selected not more than thirty days prior to the redemption date by the Registrar from the Outstanding Bonds of the maturity or maturities designated by the Issuer by such method as the Registrar shall deem fair and appropriate and which may provide for the selection for redemption of Bonds or portions of Bonds in principal amounts of \$5,000 and integral multiples thereof.

If less than all of the Outstanding Bonds of a single maturity are to be redeemed, the Registrar shall promptly notify the Issuer and Paying Agent (if the Registrar is not the Paying Agent for such Bonds) in writing of the Bonds or portions of Bonds selected for redemption and, in the case of any Bond selected for partial redemption, the principal amount thereof to be redeemed.

**SECTION 3.03 Notice of Redemption.**

Unless waived by any Holder of Bonds to be redeemed, notice of any redemption made pursuant to this section shall be given by the Registrar on behalf of the Issuer by mailing a copy of an official redemption notice by registered or certified mail at least thirty days and not more than sixty days prior to the date fixed for redemption to each Holder of Bonds to be redeemed at the address of such Holder shown on the registration books maintained by the Registrar or at such other address as shall be furnished in writing by such Holder to the Registrar; provided, however, that no defect in any notice given pursuant to this Section to any Holder of Bonds to be redeemed nor failure to give such notice shall in any manner defeat the effectiveness of a call for redemption as to all other Holders of Bonds to be redeemed.

Every official notice of redemption shall be dated and shall state:

1. the redemption date,
2. the Redemption Price,
3. if less than all Outstanding Bonds are to be redeemed, the number (and, in the case of a partial redemption of any Bond, the principal amount) of each Bond to be redeemed,
4. that, on the redemption date, the Redemption Price will become due and payable upon each such Bond or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and

5. that such Bonds to be redeemed, whether as a whole or in part, are to be surrendered for payment of the Redemption Price at the designated office of the Registrar.

Prior to any redemption date, the Issuer shall deposit with the Registrar an amount of money sufficient to pay the Redemption Price of all the Bonds or portions of Bonds which are to be redeemed on that date.

Official notice of redemption having been given as aforesaid, the Bonds or portions of Bonds to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar at the Redemption Price. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any Bond, there shall be prepared for the Holder a new Bond or Bonds of the same maturity in the amount of the unpaid principal of such partially redeemed Bond. All Bonds which have been redeemed shall be canceled and destroyed by the Registrar and shall not be reissued.

Notwithstanding the foregoing or any other provision hereof, notice of optional redemption pursuant to this Section 3.03 may be conditioned upon the occurrence or non-occurrence of such event or events as shall be specified in such notice of optional redemption and may also be subject to rescission by the Issuer if expressly set forth in such notice.

#### **SECTION 3.04 Redemption of Portions of Bonds.**

Any Bond which is to be redeemed only in part shall be surrendered at any place of payment specified in the notice of redemption (with due endorsement by, or written instrument of transfer in form satisfactory to, the Registrar duly executed by, the Holder thereof or such Holder's attorney duly authorized in writing) and the Issuer shall execute and, if applicable, the Registrar shall authenticate and deliver to the Holder of such Bond, without service charge, a new Bond or Bonds, of the same interest rate and maturity, and of any authorized denomination as requested by such Holder, in an aggregate principal amount equal to and in exchange for the unredeemed portion of the principal of the Bonds so surrendered.

#### **SECTION 3.05 Payment of Redeemed Bonds.**

Notice of redemption having been given substantially as aforesaid, the Bonds or portions of Bonds so to be redeemed shall, on the redemption date, become due and payable at the Redemption Price therein specified, and from and after such date (unless the Issuer shall default in the payment of the Redemption Price) such Bonds or portions of Bonds shall cease to bear interest. Upon surrender of such Bonds for redemption in accordance with said notice, such Bonds shall be paid by the Registrar and/or Paying Agent at the appropriate Redemption Price, plus accrued interest. All Bonds which have been redeemed shall be canceled by the Registrar and shall not be reissued.

**ARTICLE IV  
SECURITY, SPECIAL FUNDS AND APPLICATION THEREOF**

**SECTION 4.01 Bonds not to be Indebtedness of Issuer.**

THE FULL FAITH AND CREDIT OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION THEREOF, ARE NOT PLEDGED TO THE PAYMENT OF THE PRINCIPAL, REDEMPTION PREMIUM, IF ANY, AND INTEREST ON THE BONDS AND THAT HOLDERS SHALL NEVER HAVE THE RIGHT TO REQUIRE OR COMPEL THE EXERCISE OF ANY TAXING POWER OF THE ISSUER, THE STATE OF FLORIDA, OR ANY POLITICAL SUBDIVISION THEREOF, TO THE PAYMENT OF SUCH PRINCIPAL, REDEMPTION PREMIUM, IF ANY, OR INTEREST. THE BONDS AND THE OBLIGATIONS EVIDENCED THEREBY SHALL NOT CONSTITUTE A LIEN UPON ANY PROPERTY OF THE ISSUER OTHER THAN THE PLEDGED FUNDS, AND SHALL CONSTITUTE A LIEN ONLY ON, AND SHALL BE PAYABLE SOLELY FROM THE PLEDGED FUNDS AND A BACKUP COVENANT TO BUDGET AND APPROPRIATE NON-AD VALOREM REVENUES, ALL IN THE MANNER AND TO THE EXTENT DESCRIBED IN THE RESOLUTION. THE BONDS SHALL NOT BE OR CONSTITUTE GENERAL OBLIGATIONS OR INDEBTEDNESS OF THE ISSUER AS "BONDS" WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION.

The Pledged Funds shall immediately be subject to the lien of this pledge without any physical delivery thereof or further act, and the lien of this pledge shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the Issuer.

**SECTION 4.02 Security for Bonds; Backup Covenant to Budget and Appropriate.**

(A) The payment of the principal of, Redemption Price, if applicable, and interest on the Bonds shall be secured forthwith equally and ratably by a pledge of and lien upon the Pledged Funds. The Issuer does hereby irrevocably pledge the Pledged Funds to the payment of the principal of or Redemption Price, if applicable, and interest on the Bonds in accordance with the provisions hereof.

(B) Subject to the next paragraph, as additional security for the Bonds, and only to the extent Assessments are insufficient to make payments required pursuant to this Resolution, the Issuer covenants and agrees and has a positive and affirmative duty to appropriate in its annual budget, by amendment, if necessary, from Non-Ad Valorem Revenues, amounts sufficient to pay principal of and interest on the Bonds and all other payments due under this Resolution not being paid from Assessments or other amounts as the same shall become due. Such covenant and agreement on the part of the Issuer to budget and appropriate such amounts of Non-Ad Valorem Revenues shall be cumulative to the extent not paid, and shall continue until such Non-Ad Valorem Revenues or other legally available funds in amounts sufficient to make all such required payments shall have been budgeted, appropriated and actually paid. No lien upon or pledge of such budgeted Non-Ad Valorem Revenues shall be in effect until such monies are budgeted and appropriated as provided herein. The Issuer further acknowledges and agrees that the obligations of the Issuer to include the amount of such amendments in each of its annual budgets and to pay such amounts from Non-Ad Valorem Revenues may be enforced in a court of competent jurisdiction in accordance with the remedies set forth in this Resolution.

Until such monies are budgeted and appropriated as provided herein, such covenant to budget and appropriate does not create any lien upon or pledge of such Non-Ad Valorem Revenues, nor does it preclude the Issuer from pledging in the future its Non-Ad Valorem Revenues, nor does it require the Issuer to levy and collect any particular Non-Ad Valorem Revenues, nor does it give the Holder of the Bonds a prior claim on the Non-Ad Valorem Revenues as opposed to claims of general creditors of the Issuer. Such covenant to budget and appropriate Non-Ad Valorem Revenues is subject in all respects to the prior payment of obligations secured by a pledge of such Non-Ad Valorem Revenues heretofore or hereafter entered into (including the payment of debt service on bonds and other debt instruments). Anything in this Resolution to the contrary notwithstanding, it is understood and agreed that all obligations of the Issuer hereunder shall be payable from the portion of Non-Ad Valorem Revenues budgeted and appropriated as provided for herein and nothing herein shall be deemed to pledge ad valorem tax power or ad valorem taxes or to permit or constitute a mortgage or lien upon any assets owned by the Issuer and no Holder of the Bonds nor any other person, may compel the levy of ad valorem taxes on real or personal property within the boundaries of the Issuer or the use or application of ad valorem tax revenues in order to satisfy any payment obligations hereunder or to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees, or any other Non-Ad Valorem Revenues. The obligation of the Issuer to budget, appropriate and make payments hereunder from its Non-Ad Valorem Revenues is subject to the availability of Non-Ad Valorem Revenues after the satisfaction of the funding requirements for obligations having an express lien on or pledge of such revenues. Notwithstanding any provisions of this Resolution or the Bonds to the contrary, the Issuer shall never be obligated to maintain or continue any of the activities of the Issuer which generate user service charges, regulatory fees or any Non-Ad Valorem Revenues. Until such monies are budgeted and appropriated as provided herein, neither this Resolution nor the obligations of the Issuer hereunder shall be construed as a pledge of or a lien on all or any Non-Ad Valorem Revenues of the Issuer other than Pledged Revenues, but shall be payable solely as provided herein and is further subject to the payment of services and programs which are for essential public purposes affecting the health, welfare and safety of the inhabitants of the Issuer and is further subject to the provisions of Section 166.241, Florida Statutes, insofar as there are not sufficient Non-Ad Valorem Revenues to comply with such covenant after satisfaction of the funding requirements for obligations having an express lien or pledge of such revenues and the funding requirements for essential governmental services of the Issuer.

#### **SECTION 4.03 Construction Account.**

The Construction Account created pursuant to Section 4.04 hereof shall be used only for payment of the Cost of the Project. Moneys in the Construction Account, until applied in payment of any item of the Cost of the Project, in the manner hereinafter provided, shall be held in trust by the Issuer and shall be subject to a lien and charge in favor of the Holders of the Bonds and for the further security of such Holders. Notwithstanding anything herein to the contrary, amounts on deposit in the Capital Project Fund, other than amounts on deposit in the Construction Account, are not pledged hereunder and shall not be subject to a lien and charge in favor of the Holders.

Capitalized interest, if any, deposited in the Construction Account and any income therefrom shall be transferred to the extent necessary, to the Interest Account to pay interest on the related Series of Bonds. Any moneys on deposit in the Construction

Account to pay capitalized interest not needed to pay interest pursuant to the preceding sentence or deposited to pay costs of issuance and not necessary for such purpose may be used in the same manner as other funds on deposit in the Construction Account.

Any funds on deposit in the Construction Account that, in the opinion of the Issuer, are not immediately necessary for expenditure, as herein provided, may be invested and reinvested in Permitted Investments which shall mature or be redeemable at face value not later than the dates on which such funds are needed. All income derived from investment of funds in the Construction Account shall be used to pay Costs of the Project.

Any payments for any damages of whatever kind received by the Issuer as a result of the negligence or breach of contract or warranty by any contractor, subcontractor, supplier or design professional working on or supplying goods or services for the Project, and all insurance proceeds received with respect to damages to such Project during construction, shall be deposited into the Construction Account to ensure proper completion of such Project in accordance with the design.

The Issuer covenants to commence the acquisition and construction of the Project promptly upon delivery of the Series of Bonds related thereto and to thereafter work with due diligence to complete the Project. Upon completion of the Project, any amounts then remaining in the Construction Account and not reserved by the Issuer for the payment of any remaining part of the cost of the construction and acquisition thereof, shall be used to purchase or redeem Bonds in the manner that Bonds are to be redeemed under the terms of this Resolution, or to pay principal or interest on the Bonds.

Upon the occurrence of a default hereunder, to the extent there are no other funds available under this Resolution, the moneys in an account in the Construction Account related to a Series of Bonds shall be applied to the payment of such related Series of Bonds.

#### **SECTION 4.04 Funds and Accounts.**

The Issuer covenants and agrees to establish a separate fund to be known as the "Town of Longboat Key, Florida Special Assessment Revenue Bonds (Remaining Neighborhoods Undergrounding Project) Revenue Fund" (the "Revenue Fund"). The Issuer also covenants and agrees to establish the "Town of Longboat Key, Florida Special Assessment Revenue Bonds (Remaining Neighborhoods Undergrounding Project) Debt Service Fund" (the "Debt Service Fund"). The Issuer shall maintain in the Debt Service Fund six accounts: the "Reserve-Interest Account" (herein referred to as the "Interest Account"), the "Reserve-Principal Account" (herein referred to as the "Principal Account"), the "Reserve-Bond Amortization Account" (herein referred to as the "Bond Amortization Account"), the "Reserve-Debt Service Reserve Account" (herein referred to as the "Reserve Account"), the "Reserve-Residual Account" (herein referred to as the "Residual Account"), and the "Reserve-Prepayments Account" (herein referred to as the "Prepayments Account"). The Issuer shall maintain in the Capital Project Fund one account: the "Reserve-Construction Account" (herein referred to as the "Construction Account"). Moneys in the aforementioned funds and accounts until applied in accordance with the provisions hereof, shall be subject to a lien and charge in favor of the Holders and for the further security of the Holders. Notwithstanding anything herein to the contrary, amounts on deposit in the Capital Project Fund, other than amounts on deposit in the Construction Account, are not pledged hereunder and shall not be subject to a lien and charge in favor of the Holders. The Revenue Fund, the Construction Account and the

Debt Service Fund shall constitute trust funds for state law purposes to secure the Bondholders, and shall at all times be kept separate and distinct from all other funds and accounts of the Issuer and used only as herein provided. Notwithstanding anything herein to the contrary, amounts on deposit in the Capital Project Fund, other than amounts on deposit in the Construction Account, shall not constitute trust funds hereunder.

The Issuer shall at any time and from time to time appoint one or more qualified depositories to hold, for the benefit of the Bondholders, any one or more of the funds and accounts established hereby. Such depository or depositories shall perform at the direction of the Issuer the duties of the Issuer in depositing, transferring and disbursing moneys to and from each of such funds and accounts as herein set forth, and all records of such depository in performing such duties shall be open at all reasonable times to inspection by the Issuer and its agents and employees.

#### **SECTION 4.05 Flow of Funds.**

(A) Beginning on the date the Series 2016 Bonds are issued, the Issuer shall deposit all Assessments (other than Prepayments) as soon they are received to the Revenue Fund, and shall deposit all Prepayments as soon as they are received into the Prepayments Account and shall be used in accordance with Section 4.06 hereof. The moneys in the Revenue Fund shall be deposited or credited on or before the 21st day of each month, commencing with the month in which delivery of the Series 2016 Bonds shall be made to the purchaser or purchasers thereof, or such later date as hereinafter provided, in the following manner and in the following order of priority:

1. First, by payment or reimbursement of the Paying Agent's fees and expenses and the payment of Collection Costs and other reasonable expenses relating to the Bonds or the Assessments.

2. Next, the Issuer shall deposit into or credit to the Interest Account the sum which, together with the balance in said Account, shall equal the interest coming due on all Bonds on the next two Interest Dates on all Bonds. Moneys in the Interest Account shall be used to pay interest on the Bonds as and when the same become due, whether by redemption or otherwise, and for no other purpose.

3. Next, the Issuer shall deposit into or credit to the Principal Account the sum which, together with the balance in said Account, shall equal the principal coming due on all Bonds on the next annual payment date. Moneys in the Principal Account shall be used to pay the principal of the Bonds as and when the same shall mature, and for no other purpose.

4. Next, commencing in the month which is one year prior to any Amortization Installment due date, the Issuer shall deposit into or credit to the Bond Amortization Account the sum which, together with the balance in said Account, shall equal the Amortization Installments coming due on all Bonds on the next annual payment date and all expenses in connection with the purchase or redemption of Term Bonds. Moneys in the Bond Amortization Account shall be used to purchase or redeem Term Bonds in the manner herein provided, and for no other purpose. Payments to the Bond Amortization Account shall be on a parity with payments to the Principal Account.

Amounts accumulated in the Bond Amortization Account with respect to any Amortization Installment (together with amounts accumulated in the Interest

Account with respect to interest, if any, on the Term Bonds for which such Amortization Installment was established) may be applied by the Issuer, on or prior to the sixtieth day preceding the due date of such Amortization Installment (a) to the purchase of Term Bonds of the Series and maturity for which such Amortization Installment was established, at a price not greater than the Redemption Price at which such Term Bonds may be redeemed on the first date thereafter on which such Term Bonds shall be subject to redemption, or (b) to the redemption at the applicable Redemption Price of such Term Bonds, if then redeemable by their terms. The applicable Redemption Price (or principal amount of maturing Term Bonds) of any Term Bonds so purchased or redeemed shall be deemed to constitute part of the Bond Amortization Account until such Amortization Installment date, for the purposes of calculating the amount of such Account. As soon as practicable after the sixtieth day preceding the due date of any such Amortization Installment, the Issuer shall proceed to call for redemption on such due date, by causing notice to be given as provided in Section 3.03 hereof, Term Bonds of the Series and maturity for which such Amortization Installment was established (except in the case of Term Bonds maturing on an Amortization Installment date) in such amount as shall be necessary to complete the retirement of the unsatisfied balance of such Amortization Installment. The Issuer shall pay out of the Bond Amortization Account and the Interest Account to the appropriate Paying Agents, on or before the day preceding such redemption date (or maturity date), the amount required for the redemption (or for the payment of such Term Bonds then maturing), and such amount shall be applied by such Paying Agents to such redemption (or payment). All expenses in connection with the purchase or redemption of Term Bonds shall be paid by the Issuer from the Revenue Fund.

5. Next, the Issuer shall deposit into or credit to the Reserve Account and/or any subaccount hereafter created therein a sum sufficient to maintain therein an amount equal to the applicable Reserve Account Requirement. Moneys in the Reserve Account (or any subaccount therein) shall be used only for the purpose of the payment of maturing principal, interest or Amortization Installments on the Bonds which are secured thereby when the other moneys in the Debt Service Fund are insufficient therefor, and for no other purpose. However, whenever the moneys on deposit in the Reserve Account (or any subaccount therein) exceed the applicable Reserve Account Requirement, such excess shall be withdrawn and deposited into the Interest Account.

Upon the issuance of any Additional Bonds under the terms, limitations and conditions as herein provided, the Issuer may, on the date of delivery of such Additional Bonds, create and establish a separate subaccount in the Reserve Account to secure such Series of Bonds, and may also establish an applicable Reserve Account Requirement. Such required sum may be paid in full or in part from the proceeds of such Additional Bonds.

Notwithstanding the foregoing provisions, in lieu of the required cash deposits into the Reserve Account (or any subaccounts therein), the Issuer may, at any time, cause to be deposited into the Reserve Account (or any subaccounts therein) a surety bond, irrevocable letter of credit, guaranty or an insurance policy for the benefit of the applicable Bondholders in an amount equal to the difference between the applicable Reserve Account Requirement and the sums then on

deposit in the Reserve Account and/or subaccount therein. Such surety bond, irrevocable letter of credit, guaranty or insurance policy shall be payable to the Paying Agent (upon the giving of notice as required thereunder) on any Interest Date on which a deficiency exists which cannot be cured by funds in any other fund or account held pursuant to this Resolution and available for such purpose. Repayment of draws made from a surety bond, irrevocable letter of credit, guaranty or an insurance policy provided pursuant to this paragraph, shall be made in accordance with a Supplemental Resolution.

Whenever the amount in the Reserve Account or any subaccount therein, together with the other amounts in the Debt Service Fund, are sufficient to fully pay all applicable Outstanding Bonds in accordance with their terms (including principal or applicable Redemption Price and interest thereon), the funds on deposit in the Reserve Account (or any subaccounts therein) may be transferred to the other accounts of the Debt Service Fund for the payment of such Bonds.

6. Last, the balance of any moneys after the deposits required by Sections 4.05(A)(1) through 4.05(A)(5) hereof shall be transferred to the Residual Account to be used to pay Costs of the Project or to purchase or redeem Bonds in the manner that Bonds are to be redeemed under the terms of this Resolution, or to pay principal or interest on the Bonds.

(B) The Issuer, in its discretion, may use moneys in the Principal Account and the Interest Account to purchase or redeem Bonds coming due on the next principal payment date, provided such purchase or redemption does not adversely affect the Issuer's ability to pay the principal or interest coming due on such principal payment date on the Bonds not so purchased or redeemed.

(C) At least one business day prior to the date established for payment of any principal or Redemption Price, if applicable, or interest on the Bonds, the Issuer shall withdraw from the appropriate account of the Debt Service Fund sufficient moneys to pay such principal or Redemption Price, if applicable, or interest and deposit such moneys with the Paying Agent for the Bonds to be paid.

**SECTION 4.06 Extraordinary Mandatory Redemption of Bonds from Prepayments.**

The Bonds shall be subject to extraordinary mandatory redemption at the redemption price of par, plus accrued interest to the date of redemption, and without premium, but only from Prepayments on deposit in the Prepayments Account, and shall be applied to the retirement of Bonds as follows:

(1) The Issuer shall call for extraordinary mandatory redemption, such amount of Bonds in multiples of authorized denominations thereof that will as nearly as practicable exhaust the remainder of such moneys. The Bonds to be so redeemed shall be selected in the Issuer's sole discretion.

(2) The Issuer shall pay from the Interest Account the interest accrued on such redeemed Bonds to the date of redemption thereof.

(3) The foregoing procedures for retirement of Bonds shall apply, notwithstanding any other provisions of this Resolution to the contrary when the amount on deposit in the Prepayments Account equals or exceeds \$100,000.

(4) Any redemption of Bonds from amounts in the Prepayments Account shall be without premium notwithstanding anything to the contrary herein. Pending application thereof to any redemption contemplated hereby, amounts in the Prepayments Account shall be invested in Permitted Investments that mature prior to the date such amounts are needed to pay the redemption price of Bonds, as the case may be.

**SECTION 4.07 Investments.**

The Revenue Fund, the Construction Account and the Debt Service Fund shall be continuously secured in the manner by which the deposit of public funds is authorized to be secured by the laws of the State and the investment policy of the Issuer. Moneys on deposit in the Revenue Fund, the Construction Account and the Debt Service Fund may be invested and reinvested in Permitted Investments maturing no later than the date on which the moneys therein will be needed. Any and all income received by the Issuer from the investment of moneys in the Revenue Fund, the Construction Account, the Prepayments Account, the Interest Account, the Principal Account, the Bond Amortization Account, the Reserve Account or any subaccounts therein (but only to the extent that the amount therein is less than the applicable Reserve Account Requirement) and the Residual Account shall be retained in such respective Fund or Account unless otherwise required by applicable law. To the extent that the amount in the Reserve Account or any subaccounts therein is equal to or greater than the applicable Reserve Account Requirement, any and all income received by the Issuer from the investment of moneys therein shall be transferred, upon receipt, and deposited into the Interest Account.

Nothing contained in this Resolution shall prevent any Permitted Investments acquired as investments of or security for funds held under this Resolution from being issued or held in book-entry form on the books of the Department of the Treasury of the United States.

**SECTION 4.08 Separate Accounts.**

The moneys required to be accounted for in each of the foregoing funds and accounts established herein may be deposited in a single bank account, and funds allocated to the various funds and accounts established herein may be invested in a common investment pool, provided that adequate accounting records are maintained to reflect and control the restricted allocation of the moneys on deposit therein and such investments for the various purposes of such funds and accounts as herein provided.

The designation and establishment of the various funds and accounts in and by this Resolution shall not be construed to require the establishment of any completely independent, self-balancing funds as such term is commonly defined and used in governmental accounting, but rather is intended solely to constitute an earmarking of certain revenues for certain purposes and to establish certain priorities for application of such revenues as herein provided.

**ARTICLE V  
SUBORDINATED INDEBTEDNESS,  
ADDITIONAL BONDS, AND COVENANTS OF ISSUER**

**SECTION 5.01 Subordinated Indebtedness.**

The Issuer will not issue any other obligations, except under the conditions and in the manner provided herein, payable from the Pledged Funds or voluntarily create or

cause to be created any debt, lien, pledge, assignment, encumbrance or other charge having priority to or being on a parity with the lien thereon in favor of the Bonds and the interest thereon. The Issuer may at any time or from time to time issue evidences of indebtedness payable in whole or in part out of the Pledged Funds and which may be secured by a pledge of the Pledged Funds; provided, however, that such pledge shall be, and shall be expressed to be, subordinated in all respects to the pledge of the Pledged Funds created by this Resolution. The Issuer shall have the right to covenant with the holders from time to time of any Subordinated Indebtedness to add to the conditions, limitations and restrictions under which any Additional Bonds may be issued pursuant to Section 5.02 hereof. The Issuer agrees to pay promptly any Subordinated Indebtedness as the same shall become due.

#### **SECTION 5.02 Issuance of Additional Bonds.**

This Section 5.02 does not apply to the issuance of the Series 2016 Bonds in any aggregate principal amount of \$23,850,000 to be issued in one or more Series, notwithstanding anything herein to the contrary.

No Additional Bonds, payable on a parity with the Bonds then Outstanding pursuant to this Resolution, shall be issued except upon the conditions and in the manner herein provided. The Issuer may issue one or more Series of Additional Bonds to refund Bonds only if the issuance of such Additional Bonds shall not result in an increase in the aggregate amount of Annual Debt Service on the Outstanding Bonds becoming due in the current Bond Year or in any subsequent Bond Years.

Additional Bonds shall be deemed to have been issued pursuant to this Resolution the same as the Outstanding Bonds, and all of the other covenants and other provisions of this Resolution (except as to details of such Additional Bonds inconsistent therewith) shall be for the equal benefit, protection and security of the Holders of all Bonds issued pursuant to this Resolution. All Bonds, regardless of the time or times of their issuance, shall rank equally with respect to their lien on the Pledged Funds and their sources and security for payment therefrom without preference of any Bond over any other.

#### **SECTION 5.03 Bond Anticipation Notes.**

Subject to Sections 5.01 or 5.02 hereof, the Issuer may issue notes in anticipation of the issuance of Bonds which shall have such terms and details and be secured in such manner, not inconsistent with this Resolution, as shall be provided by Resolution of the Issuer.

#### **SECTION 5.04 Books and Records.**

The Issuer will keep books and records of the receipt of the Assessments in accordance with generally accepted accounting principles, and any Holder or Holders of Bonds shall have the right at all reasonable times to inspect the records, accounts and data of the Issuer relating thereto.

#### **SECTION 5.05 Annual Audit.**

The Issuer shall, within a reasonable amount of time after the close of each Fiscal Year, cause the financial statements of the Issuer to be properly audited by a recognized independent certified public accountant or recognized independent firm of certified public accountants, and shall require such accountants to complete their report on the annual financial statements in accordance with applicable law. Such annual financial statements

shall contain, but not be limited to, a balance sheet, a statement of revenues, expenditures and changes in fund balance, and any other statements as required by law or accounting convention. The annual financial statements shall be prepared in conformity with generally accepted accounting principles. A copy of the audited financial statements for each Fiscal Year shall be furnished to any Holder of a Bond who shall have furnished such Holder's address to the Clerk and requested in writing that the same be furnished to such Holder. The Issuer shall be permitted to make a reasonable charge for furnishing such audited financial statements.

**SECTION 5.06 No Impairment.**

As long as there is Bonds Outstanding hereunder, the pledging of the Pledged Funds in the manner provided herein shall not be subject to repeal, modification or impairment by any subsequent ordinance, resolution or other proceedings of the Town Commission of the Issuer.

**SECTION 5.07 Collection of Assessments; Enforcement of Collections; Reassessments.**

The Issuer covenants to do all things necessary on its part to continue the receipt of the Assessments in compliance with the Act and any successor provision of law governing the same, and the Bond Referendum. The Issuer will proceed diligently to perform legally and effectively all steps required on its part to receive the Assessments and shall exercise all legally available remedies to enforce such collections now or hereafter available under State law.

The Issuer will diligently enforce its right to impose the Assessments and to receive the Assessments. The Issuer will not take any action which will materially impair or materially adversely affect the Assessments, as herein pledged, or materially impair or materially adversely affect in any manner the pledge of the Pledged Funds made herein or the rights of the Bondholders hereunder. The Issuer shall be unconditionally and irrevocably obligated, so long as any of the Bonds are Outstanding and unpaid, to take all lawful action necessary or required to continue to entitle the Issuer to receive the Assessments in sufficient, together with any Non-Ad Valorem Revenues budgeted, appropriated and deposited as herein provided, to pay the principal of and interest on the Bonds and to make the other payments provided for herein. The Assessments will be levied by the Issuer to the full extent permitted by law and the Act and the Bond Referendum.

If any Assessments shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Issuer shall be satisfied that any such Assessments is so irregular or defective that the same cannot be enforced or collected, or if the Issuer shall have omitted to make such Assessments when it might have done so, the Issuer shall take all necessary steps to cause a new non-ad valorem special assessment to be made against any property against which may lawfully be imposed such Assessments.

As required by the Assessment Resolution, the Issuer covenants and agrees to adopt an Annual Assessment Resolution (as such term is defined in the Assessment Ordinance) imposing the Assessment for each Fiscal Year until no Bonds remain Outstanding hereunder.

## **SECTION 5.08 Federal Income Tax Covenants; Taxable Bonds.**

(A) The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that it shall not use the proceeds of such Series of Bonds in any manner which would cause the interest on such Series of Bonds to be or become includable in the gross income of the Holder thereof for federal income tax purposes.

(B) The Issuer covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that neither the Issuer nor any Person under its control or direction will make any use of the proceeds of such Series of Bonds (or amounts deemed to be proceeds under the Code) in any manner which would cause such Series of Bonds to be "arbitrage bonds" within the meaning of Section 148 of the Code and neither the Issuer nor any other Person shall do any act or fail to do any act which would cause the interest on such Series of Bonds to become includable in the gross income of the Holder thereof for federal income tax purposes.

(C) The Issuer hereby covenants with the Holders of each Series of Bonds (other than Taxable Bonds) that it will comply with all provisions of the Code necessary to maintain the exclusion of interest on the such Bonds from the gross income of the Holder thereof for federal income tax purposes, including, in particular, the payment of any amount required to be rebated to the U.S. Treasury pursuant to the Code.

(D) The Issuer may, if it so elects, issue one or more Series of Taxable Bonds the interest on which is (or may be) includable in the gross income of the Holder thereof for federal income tax purposes, so long as each Bond of such Series states in the body thereof that interest payable thereon is (or may be) subject to federal income taxation and provided that the issuance thereof will not cause the interest on any other Bonds theretofore issued hereunder to be or become includable in the gross income of the Holder thereof for federal income tax purposes. The covenants set forth in paragraphs (A), (B) and (C) above shall not apply to any Taxable Bonds.

## **ARTICLE VI DEFAULTS AND REMEDIES**

### **SECTION 6.01 Events of Default.**

The following events shall each constitute an "Event of Default:"

(A) The Issuer shall fail to make a payment of the principal of, Amortization Installment, redemption premium or interest on any Bond when such payment becomes due.

(B) There shall occur the dissolution or liquidation of the Issuer, or the filing by the Issuer of a voluntary petition in bankruptcy, or the commission by the Issuer of any act of bankruptcy, or adjudication of the Issuer as a bankrupt, or assignment by the Issuer for the benefit of its creditors, or appointment of a receiver for the Issuer, or the entry by the Issuer into an agreement of composition with its creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Issuer in any proceeding for its reorganization instituted under the provisions of the Federal Bankruptcy Act, as amended, or under any similar act in any jurisdiction which may now be in effect or hereafter enacted.

(C) The Issuer shall default in the due and punctual performance of any other of the covenants, conditions, agreements and provisions contained in the Bonds or in this

Resolution on the part of the Issuer to be performed, and such default shall continue for a period of thirty days after written notice of such default shall have been received from the Holders of not less than twenty-five percent (25%) of the aggregate principal amount of Bonds Outstanding or the Insurer of such amount of Bonds. Notwithstanding the foregoing, the Issuer shall not be deemed in default hereunder if such default can be cured within a reasonable period of time and if the Issuer in good faith institutes curative action and diligently pursues such action until the default has been corrected.

**SECTION 6.02 Remedies.** Any Holder of Bonds issued under the provisions of this Resolution or any trustee or receiver acting for such Bondholders may either at law or in equity, by suit, action, mandamus or other proceedings in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State, or granted and contained in this Resolution, and may enforce and compel the performance of all duties required by this Resolution or by any applicable statutes to be performed by the Issuer or by any officer thereof.

The Holder or Holders of Bonds in an aggregate principal amount of not less than twenty-five percent (25%) of the Bonds then Outstanding may by a duly executed certificate in writing appoint a trustee for Holders of Bonds issued pursuant to this Resolution with authority to represent such Bondholders in any legal proceedings for the enforcement and protection of the rights of such Bondholders and such certificate shall be executed by such Bondholders or their duly authorized attorneys or representatives, and shall be filed in the office of the Clerk. Notice of such appointment, together with evidence of the requisite signatures of the Holders of not less than twenty-five percent (25%) in aggregate principal amount of Bonds Outstanding and the trust instrument under which the trustee shall have agreed to serve shall be filed with the Issuer and the trustee and notice of appointment shall be given to all Holders of Bonds in the same manner as notices of redemption are given hereunder. After the appointment of the first trust hereunder, no further trustees may be appointed; however, the Holders of a majority in aggregate principal amount of all the Bonds then Outstanding may remove the trustee initially appointed and appoint a successor and subsequent successors at any time.

Acceleration is not a remedy in the Event of Default.

**SECTION 6.03 Directions to Trustee as to Remedial Proceedings.**

The Holders of a majority in principal amount of the Bonds then Outstanding (or any Insurer insuring any then Outstanding Bonds who is not in default in the performance of any of its obligations under its Insurance Policy) have the right, by an instrument or concurrent instruments in writing executed and delivered to the trustee, to direct the method and place of conducting all remedial proceedings to be taken by the trustee hereunder, provided that such direction shall not be otherwise than in accordance with law or the provisions hereof, and that the trustee shall have the right to decline to follow any such direction which in the opinion of the trustee would be unjustly prejudicial to Holders of Bonds not parties to such direction.

**SECTION 6.04 Remedies Cumulative.**

No remedy herein conferred upon or reserved to the Bondholders is intended to be exclusive of any other remedy or remedies, and each and every such remedy shall be cumulative, and shall be in addition to every other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

**SECTION 6.05 Waiver of Default.**No delay or omission of any Bondholder to exercise any right or power accruing upon any default shall impair any such right or power or shall be construed to be a waiver of any such default, or an acquiescence therein; and every power and remedy given by Section 6.02 of this Resolution to the Bondholders may be exercised from time to time, and as often as may be deemed expedient.

**SECTION 6.06 Application of Moneys After Default.**

If an Event of Default shall happen and shall not have been remedied, the Issuer or a trustee or receiver appointed for the purpose shall apply all Pledged Funds as follows and in the following order:

(A) To the payment of the reasonable and proper charges, expenses and liabilities of the trustee or receiver, Registrar and Paying Agent hereunder; and

(B) To the payment of the interest and principal or Redemption Price, if applicable, then due on the Bonds, as follows:

FIRST: to the payment to the Persons entitled thereto of all installments of interest then due, in the order of the maturity of such installments, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the Persons entitled thereto, without any discrimination or preference;

SECOND: to the payment to the Persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due at maturity or as Amortization Installments upon mandatory redemption prior to maturity (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of Section 8.01 of this Resolution), in the order of their due dates, with interest upon such Bonds from the respective dates upon which they became due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment first of such interest, ratably according to the amount of such interest due on such date, and then to the payment of such principal, ratably according to the amount of such principal due on such date, to the Persons entitled thereto without any discrimination or preference; and

THIRD: to the payment of the Redemption Price of any Bonds called for optional redemption pursuant to the provisions of this Resolution.

**ARTICLE VII  
SUPPLEMENTAL RESOLUTIONS**

**SECTION 7.01 Supplemental Resolutions without Bondholders' Consent.**

The Issuer, from time to time and at any time, may adopt such Supplemental Resolutions without the consent of the Bondholders (which Supplemental Resolutions shall thereafter form a part hereof) for any of the following purposes:

(A) To cure any ambiguity or formal defect or omission or to correct any inconsistent provisions in this Resolution or to clarify any matters or questions arising hereunder.

(B) To grant to or confer upon the Bondholders any additional rights, remedies, powers, authority or security that may lawfully be granted to or conferred upon the Bondholders.

(C) To add to the conditions, limitations and restrictions on the issuance of Bonds under the provisions of this Resolution other conditions, limitations and restrictions thereafter to be observed.

(D) To add to the covenants and agreements of the Issuer in this Resolution other covenants and agreements thereafter to be observed by the Issuer or to surrender any right or power herein reserved to or conferred upon the Issuer.

(E) To specify and determine the matters and things referred to in Sections 2.01, 2.02 or 2.09 hereof, and also any other matters and things relative to such Bonds which are not contrary to or inconsistent with this Resolution as theretofore in effect, or to amend, modify or rescind any such authorization, specification or determination at any time prior to the first delivery of such Bonds.

(F) To change or modify the description of the Project.

(G) To specify and determine matters necessary or desirable for the issuance of Variable Rate Bonds.

(H) To make any other change that, in the reasonable opinion of the Issuer, would not materially adversely affect the security for the Bonds.

**SECTION 7.02 Supplemental Resolutions with Bondholders' Consent.** Subject to the terms and provisions contained in this Section 7.02 and Sections 7.01 and 7.03 hereof, the Holder or Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding shall have the right, from time to time, anything contained in this Resolution to the contrary notwithstanding, to consent to and approve the adoption of such Supplemental Resolutions hereto as shall be deemed necessary or desirable by the Issuer for the purpose of supplementing, modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Resolution; provided, however, that if such modification or amendment will, by its terms, not take effect so long as any Bonds of any specified Series or maturity remain Outstanding, the consent of the Holders of such Bonds shall not be required and such Bonds shall not be deemed to be Outstanding for the purpose of any calculation of Outstanding Bonds under this Section 7.02. No Supplemental Resolution may be approved or adopted which shall permit or require (A) an extension of the maturity of the principal of or the payment of the interest on any Bond issued hereunder, (B) reduction in the principal amount of any Bond or the Redemption Price or the rate of interest thereon, (C) the creation of a lien upon or a pledge of other than the lien and pledge created by this Resolution which adversely affects any Bondholders, (D) a preference or priority of any Bond or Bonds over any other Bond or Bonds, or (E) a reduction in the aggregate principal amount of the Bonds required for consent to such Supplemental Resolution. Nothing herein contained, however, shall be construed as making necessary the approval by Bondholders of the adoption of any Supplemental Resolution as authorized in Section 7.01 hereof.

If, at any time the Issuer shall determine that it is necessary or desirable to adopt any Supplemental Resolution pursuant to this Section 7.02, the Clerk shall cause the Registrar to give notice of the proposed adoption of such Supplemental Resolution and the form of consent to such adoption to be mailed, postage prepaid, to all Bondholders at their

addresses as they appear on the registration books. Such notice shall briefly set forth the nature of the proposed Supplemental Resolution and shall state that copies thereof are on file at the offices of the Clerk and the Registrar for inspection by all Bondholders. The Issuer shall not, however, be subject to any liability to any Bondholder by reason of its failure to cause the notice required by this Section 7.02 to be mailed and any such failure shall not affect the validity of such Supplemental Resolution when consented to and approved as provided in this Section 7.02.

Whenever the Issuer shall deliver to the Clerk an instrument or instruments in writing purporting to be executed by the Holders of not less than a majority in aggregate principal amount of the Bonds then Outstanding, which instrument or instruments shall refer to the proposed Supplemental Resolution described in such notice and shall specifically consent to and approve the adoption thereof in substantially the form of the copy thereof referred to in such notice, thereupon, but not otherwise, the Issuer may adopt such Supplemental Resolution in substantially such form, without liability or responsibility to any Holder of any Bond, whether or not such Holder shall have consented thereto.

If the Holders of not less than a majority in aggregate principal amount of the Bonds Outstanding at the time of the adoption of such Supplemental Resolution shall have consented to and approved the adoption thereof as herein provided, no Holder of any Bond shall have any right to object to the adoption of such Supplemental Resolution, or to object to any of the terms and provisions contained therein or the operation thereof, or in any manner to question the propriety of the adoption thereof, or to enjoin or restrain the Issuer from adopting the same or from taking any action pursuant to the provisions thereof.

Upon the adoption of any Supplemental Resolution pursuant to the provisions of this Section 7.02, this Resolution shall be deemed to be modified and amended in accordance therewith, and the respective rights, duties and obligations under this Resolution of the Issuer and all Holders of Bonds then Outstanding shall thereafter be determined, exercised and enforced in all respects under the provisions of this Resolution as so modified and amended.

**SECTION 7.03 Supplemental Resolutions with Insurer's Consent in lieu of Bondholders' Consent.** Notwithstanding any provisions of Section 7.02 above to the contrary, if the Insurer of a particular Series of Bonds is not then in default in the performance of any of its obligations under its Insurance Policy, the approvals, consents and notifications required by Section 7.02 above to be given by or to the Holders of the Bonds, as the case may be, subject to such Insurance Policy shall be given solely by or to the Insurer, as the case may be, and the instrument contemplated by Section 7.02 above shall be executed solely by the Insurer and the Holders of the Bonds subject to such Insurance Policy shall have no right to receive such notification or give such approvals and consents or to execute such certificate except that the adoption of Supplemental Resolutions that would have any of the effects described in (A) through (E) in Section 7.02 above shall require the approval and consent of all Holders of Bonds then Outstanding and the Insurer.

## **ARTICLE VIII MISCELLANEOUS**

**SECTION 8.01 Defeasance.** If the Issuer shall pay or cause to be paid, or there shall otherwise be paid to the Holders of all Bonds, the principal or Redemption Price, if applicable, and interest due or to become due thereon, at the times and in the manner stipulated therein and in this Resolution, then the pledge of the Pledged Funds, and all covenants, agreements and other obligations of the Issuer to the Bondholders, shall thereupon cease, terminate and become void and be discharged and satisfied. In such event, the Paying Agents shall pay over or deliver to the Issuer all money or securities held by them pursuant to this Resolution which are not required for the payment or redemption of Bonds not theretofore surrendered for such payment or redemption.

Any Bonds or interest installments appertaining thereto, whether at or prior to the maturity or redemption date of such Bonds, shall be deemed to have been paid within the meaning of this Section 8.01 if (A) in case any such Bonds are to be redeemed prior to the maturity thereof, there shall have been taken all action necessary to call such Bonds for redemption and notice of such redemption shall have been duly given or provision shall have been made for the giving of such notice, and (B) there shall have been deposited in irrevocable trust with a banking institution or trust company by or on behalf of the Issuer either moneys in an amount which shall be sufficient, or Federal Securities the principal of and the interest on which when due will provide moneys which, together with the moneys, if any, deposited with such bank or trust company at the same time shall be sufficient, to pay the principal of or Redemption Price, if applicable, and interest due and to become due on said Bonds on and prior to the redemption date or maturity date thereof, as the case may be. Except as hereafter provided, neither the Federal Securities nor any moneys so deposited with such bank or trust company nor any moneys received by such bank or trust company on account of principal of or Redemption Price, if applicable, or interest on said Federal Securities shall be withdrawn or used for any purpose other than, and all such moneys shall be held in trust for and be applied to, the payment, when due, of the principal of or Redemption Price, if applicable, of the Bonds for the payment or redemption of which they were deposited and the interest accruing thereon to the date of maturity or redemption; provided, however, the Issuer may substitute new Federal Securities and moneys for the deposited Federal Securities and moneys if the new Federal Securities and moneys are sufficient to pay the principal of or Redemption Price, if applicable, and interest on the refunded Bonds.

For purposes of determining whether Variable Rate Bonds shall be deemed to have been paid prior to the maturity or redemption date thereof, as the case may be, by the deposit of moneys, or specified Federal Securities and moneys, if any, in accordance with this Section 8.01, the interest to come due on such Variable Rate Bonds on or prior to the maturity or redemption date thereof, as the case may be, shall be calculated at the Maximum Interest Rate; provided, however, that if on any date, as a result of such Variable Rate Bonds having borne interest at less than the Maximum Interest Rate for any period, the total amount of moneys and specified Federal Securities on deposit for the payment of interest on such Variable Rate Bonds is in excess of the total amount which would have been required to be deposited on such date in respect of such Variable Rate Bonds in order to satisfy this Section 9.01, such excess shall be paid to the Issuer free and clear of

any trust, lien, pledge or assignment securing the Bonds or otherwise existing under this Resolution.

In the event the Bonds for which moneys are to be deposited for the payment thereof in accordance with this Section 8.01 are not by their terms subject to redemption within the next succeeding sixty (60) days, the Issuer shall cause the Registrar to mail a notice to the Holders of such Bonds that the deposit required by this Section 8.01 of moneys or Federal Securities has been made and said Bonds are deemed to be paid in accordance with the provisions of this Section 8.01 and stating such maturity or redemption date upon which moneys are to be available for the payment of the principal of or Redemption Price, if applicable, and interest on said Bonds.

Nothing herein shall be deemed to require the Issuer to call any of the Outstanding Bonds for redemption prior to maturity pursuant to any applicable optional redemption provisions, or to impair the discretion of the Issuer in determining whether to exercise any such option for early redemption.

**SECTION 8.02 Sale of Bonds.** The Bonds shall be issued and sold at public or private sale at one time or in installments from time to time and at such price or prices as shall be consistent with the provisions of the Act and the Bond Referendum, the requirements of this Resolution and other applicable provisions of law and as shall be approved by Supplemental Resolution of the Issuer.

**SECTION 8.03 Preliminary Official Statement.** The Issuer hereby authorizes the distribution of a Preliminary Official Statement for the purpose of marketing the Series 2016 Bonds and delegates to the Town Manager the authority to deem such Preliminary Official Statement "final" except for "permitted omissions" within the contemplation of Rule 15c2-12 of the Securities and Exchange Commission. The form of such Preliminary Official Statement shall be approved by Supplemental Resolution.

**SECTION 8.04 Validation Authorized.** The Town Attorney and Bryant Miller Olive P.A., Bond Counsel, are hereby authorized and directed to pursue validation of the Series 2016 Bonds pursuant to the provisions of Chapter 75, Florida Statutes.

**SECTION 8.05 General Authority.** The members of the Town Commission of the Issuer and the Issuer's officers, attorneys and other agents and employees are hereby authorized to perform all acts and things required of them by this Resolution or desirable or consistent with the requirements hereof for the full, punctual and complete performance of all of the terms, covenants and agreements contained in the Bonds and this Resolution, and they are hereby authorized to execute and deliver all documents which shall be required by Bond Counsel or the initial purchasers of the Bonds to effectuate the sale of the Bonds to said initial purchasers.

**SECTION 8.06 No Third Party Beneficiaries.** Except such other Persons as may be expressly described herein or in the Bonds, nothing in this Resolution or in the Bonds, expressed or implied, is intended or shall be construed to confer upon any Person, other than the Issuer and the Holders, any right, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof, or of the Bonds, all provisions hereof and thereof being intended to be and being for the sole and exclusive benefit of the Issuer and the Persons who shall from time to time be the Holders.

**SECTION 8.07 No Personal Liability.** Neither the members of the Town Commission of the Issuer, any employees of the Issuer, nor any Person executing the

Bonds shall be personally liable therefor or be subject to any personal liability or accountability by reason of the issuance thereof.

**SECTION 8.08 Severability of Invalid Provisions.** If any one or more of the covenants, agreements or provisions of this Resolution shall 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 separable from the remaining covenants, agreements and provisions of this Resolution and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or of the Bonds issued hereunder.

**SECTION 8.09 Superseding of Inconsistent Resolutions.** This Resolution supersedes all prior actions of the Town Commission inconsistent herewith. All prior resolutions or parts thereof in conflict herewith are hereby superseded by this Resolution to the extent of such conflict.

**SECTION 8.10 Effective Date.** This Resolution shall take effect immediately upon its adoption on July 5, 2016, by the Town Commission of the Town of Longboat Key, Florida.

Passed by the Town Commission of the Town of Longboat Key, Florida this 5th day of July, 2016.

(SEAL)

**TOWN OF LONGBOAT KEY, FLORIDA**

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Jack G. Duncan, Mayor

**ATTEST:**

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Trish Granger, Town Clerk

**CERTIFICATE AS TO PUBLIC MEETINGS  
AND NO CONFLICT OF INTEREST**

**STATE OF FLORIDA  
COUNTY OF SARASOTA**

We, the undersigned members of the Town Commission of the Town of Longboat Key, Florida (the "Issuer"), recognizing that the purchasers of the Issuer's not to exceed \$23,850,000 Special Assessment Revenue Bonds, Series 2016 (Remaining Neighborhoods Undergrounding Project) (the "Bonds"), will have purchased said Bonds in reliance upon this certificate, each HEREBY CERTIFIES that he or she has not, meeting together with any other member or members of the Issuer, reached any conclusion as to the actions taken by the Issuer with regard to the Bonds, the security therefor or the application of the proceeds therefrom, or any other material matters in regard to the Bonds.

IN WITNESS WHEREOF, we have hereunto affixed our official signatures this 5<sup>th</sup> day of July, 2016.

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**End of Agenda Item**

## MEMORANDUM

Date: July 5, 2016

**TO:** Town Commission

**FROM:** Dave Bullock, Town Manager

**SUBJECT:** Proposed Resolution 2016-17, Reallocating the Phase III Infrastructure Surtax; Reducing the Functional Category of Beach Management and Increasing Public Safety for the Purpose of Purchasing Police and Fire Vehicles and Fire Department Equipment

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During the budget workshops we discussed that the Infrastructure funds available for Public Safety Vehicles and Equipment would be 100% expended by the end of FY2017. Proposed Resolution 2016-17 reallocates \$715,000 from the functional category of Comprehensive Beach Management to Public Safety.

The beach project has several funding sources available to accomplish the project, while public safety vehicles and equipment require ad valorem taxes in order to purchase them. With the Public Safety functional category completely expended, there will be a growing burden on the general fund budget moving forward (see scheduled replacement of public safety vehicles and equipment attached).

The Phase III Infrastructure Surtax referendum was passed in November of 2007 for revenue collection beginning in September of 2009 and continues through FY2024.

The following excerpt from Sarasota County Ordinance 2007-087 addresses the authorization of the local governing body to adopt changes to the funding allocations.

*H. Modification to Projects and to Allocated Funding. Each Local Governing Body shall have authority, after a public hearing, to adopt by resolution changes to the infrastructure projects to be funded and to reallocate its share of the Sales Tax proceeds. Each Committee shall ensure that its Local Governing Body has followed the procedural requirements for making changes to the infrastructure projects or to the allocation of Sales Tax proceeds.*

Attachment A of the Proposed Resolution "Exhibit F" shows the change to the budget.

Resolution 2016-17 was presented to the Commission at its July 27, 2016 Budget Workshop and forwarded to the July 5, 2016 Regular Meeting for public hearing formal action.

Please don't hesitate to contact me if you have any questions.

Below is the scheduled replacement for Public Safety Vehicles and Equipment in our five-year Capital Plan.

Department	Project Title	2016-17	2017-18	2018-19	2019-20	2020-21	Total
Fire	Defibrillator Replacement Program	38,000	0	0	0	0	38,000
Fire	Bunker Gear Replacement	37,000	0	0	0	0	37,000
Fire	Town AED Replacements	0	0	0	0	25,000	25,000
Fire	Beach Rescue Vehicle	0	0	20,000	0	0	20,000
Fire	Replace Above Ground Diesel Tanks	0	120,000	0	0	0	120,000
Fire	MDTs and Integraph Mobile CAD Licenses	6,000	0	0	0	0	6,000
Fire	Mobex Devices	10,000	50,000	0	0	0	60,000
Fire	Generator Replacement - North Station	0	85,000	0	0	0	85,000
Fire	Stretchers	0	0	45,000	0	0	45,000
Fire	Fitness Equipment	0	35,000	0	0	0	35,000
Fire	Extraction Equipment	0	15,000	0	15,000	0	30,000
Fire	Video Airway	6,000	6,000	0	0	0	12,000
Police	In-Car Cameras	0	0	0	0	50,000	50,000
Police	All Terrain Vehicle	17,000	0	0	0	20,000	37,000
Police	Firearm replacement	8,000	0	0	0	0	8,000
Police	Taser Replacement	32,000	0	0	0	0	32,000
Fire	Fire Truck Replacement	0	0	0	850,000	0	850,000
Fire	Ambulance Replacement	315,000	0	0	315,000	0	630,000
Fire	SUV 4x4 Replacement	40,000	0	30,000	0	0	70,000
Police	Police Patrol Cars	100,000	94,000	40,000	94,000	90,000	418,000
Police	Marine Patrol Pick-up 4x4	0	40,000	0	0	0	40,000
Police	Detective SUV 4x2	0	0	0	40,000	0	40,000
Police	Van - Crime Scene / Evidence	0	0	24,000	0	0	24,000
Police	Code Enforcement SUV 4x4	0	27,800	0	0	0	27,800
Police	Unmarked Police Vehicle	0	21,000	0	0	0	21,000
Fire	Jet Ski Water Rescue	0	20,000	0	0	0	20,000
Fire	Outboard Motor	0	0	36,000	0	0	36,000
Police	Boat Motors /Marine Patrol Boat - 24'	0	15,000	0	18,000	0	33,000
Police	Outboard Motors (Intrepid)	33,000	0	0	36,000	0	69,000
Police	Refurbish Marine Patrol Boat (30' Intrepid)	45,000	0	0	0	18,000	63,000
	<b>Total</b>	<b>687,000</b>	<b>528,800</b>	<b>195,000</b>	<b>1,368,000</b>	<b>203,000</b>	<b>2,981,800</b>

RESOLUTION 2016-17

**A RESOLUTION OF THE TOWN OF LONGBOAT KEY, FLORIDA, REALLOCATING THE PHASE III INFRASTRUCTURE SURTAX PROJECT AMOUNTS; REDUCING THE FUNCTIONAL CATEGORY COMPREHENSIVE BEACH MANAGEMENT AND INCREASING THE FUNCTIONAL CATEGORY PUBLIC SAFETY; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, In 1997, Sarasota County enacted Ordinance 97-083 (the “County Ordinance”) which provided for a one percent local government Infrastructure Sales Tax for the construction of infrastructure projects subject to referenda approval; and

**WHEREAS**, the voters within Sarasota County subsequently approved the Infrastructure Sales Tax (also known as Infrastructure Surtax); and

**WHEREAS**, Pursuant to Section 212.055(2), Florida Statutes, Sarasota County voters approved the extension of Phase II of the Sales Tax be continued commencing September 1, 2009 through December 31, 2024, with the extension known as Phase III; and

**WHEREAS**, at the request of Sarasota County, the Town of Longboat Key provided the County with a list of areas to be funded with the anticipated Infrastructure Surtax revenue, as well as Project Titles, and probable amounts to be allocated to each as reflected in Exhibit “F” of the County Ordinance; and

**WHEREAS**, the Infrastructure Surtax, Phase III, commenced on September 1, 2009, and will continue through December 31, 2024; and

**WHEREAS**, the Town Commission wishes to amend Exhibit “F” - Functional Area for “Comprehensive Beach Management”, decreasing “Longboat Key Beach Nourishment Project and Erosion Control Structures” from \$1,430,569 to \$715,569, a reduction of \$715,000; and

**WHEREAS**, the Town Commission wishes to amend Exhibit “F” - Functional Area for “Public Safety”, increasing “Fire and Police Vehicles and Equipment” from \$1,588,168 to \$2,303,168, an increase of \$715,000; and

**WHEREAS**, in accordance with Sarasota County Ordinance 2007-087, Section 5.H., each Local Governing Body shall have the authority, after a public hearing, to designate changes to the infrastructure projects to be funded and to reallocate its share of the sales tax; and

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

**SECTION 1.** The above Whereas clauses are true and correct and are hereby ratified and confirmed.

SECTION 2. The Town Commission hereby amends Exhibit “F” of the Phase III Infrastructure Surtax program by reducing the funding allocation for the Functional Area of “Comprehensive Beach Management” by \$715,000, and increasing the funding allocation for the Functional Area “Public Safety” by \$715,000.

SECTION 3. Effective Date. This Resolution shall become effective immediately upon adoption.

Passed by the Town Commission of the Town of Longboat Key on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jack G. Duncan, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk

Exhibit A - Amended Exhibit “F” of Sarasota County Ordinance 2007-087

EXHIBIT "A"

EXHIBIT "F"

TOWN OF LONGBOAT KEY PROJECTS LIST  
FOR INFRASTRUCTURE SURTAX FY 2010 - FY 2024

CATEGORIES	PROJECT TITLE	SURTAX FUNDING ORIGINAL	SURTAX FUNDING REVISED	PROJECT IMPLEMENTATION DATE
COMPREHENSIVE BEACH MANAGEMENT	Longboat Key Beach Nourishment Project and Erosion Control Structures	\$1,730,569	\$1,015,569	2010 - 2024
	<b>Comprehensive Beach Management Total</b>	<b>\$1,730,569</b>	<b>\$1,015,569</b>	
STREETS and DRAINAGE	Street Resurfacing and Drainage Improvements	\$0	\$0	2010 - 2020
	<b>Streets &amp; Drainage Total</b>	<b>\$0</b>	<b>\$0</b>	
PARKS and RECREATION IMPROVEMENTS	Parks & Recreation Improvements	\$2,922,000	\$2,922,000	2010 - 2020
	<b>Parks &amp; Recreation Total</b>	<b>\$2,922,000</b>	<b>\$2,922,000</b>	
CANAL DREDGING	Dredging maintenance	\$900,000	\$900,000	2010 - 2024
	<b>Canal Dredging Total</b>	<b>\$900,000</b>	<b>\$900,000</b>	
PUBLIC SAFETY	Fire and Police Vehicles and Equipment	\$1,588,168	\$2,303,168	2010-2024
	<b>Public Safety Total</b>	<b>\$1,588,168</b>	<b>\$2,303,168</b>	
IMPROVEMENTS TO PUBLIC FACILITIES	Facilities Maintenance	\$922,000	\$922,000	2010 - 2024
	<b>Public Facilities Improvements Total</b>	<b>\$922,000</b>	<b>\$922,000</b>	
	<b>Town of Longboat Key Infrastructure Surtax Project Grand Total</b>	<b>\$8,062,737</b>	<b>\$8,062,737</b>	
	<b>Town of Longboat Key Estimated Infrastructure Surtax Revenue FY 2010-FY 2024</b>	<b>\$8,062,737</b>	<b>\$8,062,737</b>	



**End of Agenda Item**

## M E M O R A N D U M

**DATE:** June 9, 2016

**TO:** Dave Bullock, Town Manager  
**FROM:** Chris Elbon, Code Enforcement Officer  
**CC:** Frank Rubino, Deputy Chief  
**SUBJECT:** Ordinance 2016-15, Amending Chapter 100, Sea Turtles

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As a result of the beach nourishment projects, the Town has been required by state and federal regulatory agencies to strengthen its ordinance for the protection of marine turtles that nest along the Town's beaches. Additionally, the Town has a responsibility under the Endangered Species Protection Act of 1973 and Florida's Marine Turtle Protection Act for the protection of nesting marine turtles and their hatchlings on its beaches through beach nourishment and wildlife protection practices, while ensuring the safety and security of its residents and visitors.

The Town Commission considered Ordinance 2016-15 at their May 16, 2016 Regular Workshop and unanimously forwarded Ordinance 2016-15 as written to their June 6, 2016 Special Meeting for first reading and public hearing. At their June 6, 2016 Special Meeting, the Town Commission forwarded Ordinance 2016-15 as written to their July 5, 2016 Special Meeting for second reading and public hearing.

Following the May 16, 2016 Regular Workshop, Commissioner Zunz submitted a memo to the Town Manager with some suggested changes to Ordinance 2016-15, Marine Turtle Protection (memo attached). The Town Commission discussed the suggested changes at their June 6, 2016 Special Meeting, which the suggested changes were voted on and did not pass. The Town Commission requested another discussion on the suggested changes at their July 5, 2016 Special Meeting.

During the June 6, 2016 Special Meeting, it was pointed out that section 100.04 was missing from the proposed ordinance. Section 100.04 had been omitted from the proposed ordinance because there was no recommended change to that particular section, but has since been added back into the proposed ordinance (see attached) for continuity.

Staff will provide a PowerPoint presentation to illustrate specific provisions of the Ordinance and suggested changes.



Ordinance 2016-15  
Chapter 100:  
Marine Turtle Protection

*Town Commission Special Meeting  
July 5, 2016*

*Prepared by: Chris Elbon, Code Enforcement Officer*



## *Background*

- § At the April 20, 2015 Goals and Objectives Special Workshop, the Town Commission expressed interest in a citizens committee exploring options, recommendations and alternatives for the protection of the environment and protected wildlife.
  
- § At the March 23, 2016 Regular Workshop Meeting, the Town Commission discussed:
  - § The current ordinance;
  - § Proposed changes to current ordinance;
  - § Lighting surveys & violations;
  - § FWC approved fixtures & bulbs;
  - § Obstructions on the beach; and
  - § Nesting & disorientation data.



## *Background*

§ At the April 18, 2016 Regular Workshop Meeting, the Town Commission discussed:

- § Reasons for amending the current ordinance;
- § Proposed changes to current ordinance;
- § Specific causes for disorientations;
- § Nesting & disorientation data;
- § Volunteer efforts; and
- § Ordinance comparisons.



## *Background*

§ At the May 16, 2016 Regular Workshop Meeting, the Town Commission discussed:

- § State and federal regulations protecting threatened and endangered species and their habitats;
- § Violation data from Sarasota County;
- § Light shields and other means of lighting enforcement;
- § Elements of the proposed ordinance; and
- § Ordinance comparisons.

§ The Town Commission unanimously forwarded Ordinance 2016-15 as written to their June 6<sup>th</sup> Special Meeting for first reading and public hearing.



## *Town Commission Recommendation*

§ At their June 6, 2016 Special Meeting, the Town Commission discussed suggested changes to Ordinance 2016-15, which did not pass, and forwarded Ordinance 2016-15 as written to their July 5<sup>th</sup> Special Meeting for second reading and public hearing.



## *Provisions of Proposed Ordinance*

- § The adoption of Ordinance 2016-15 would require new and existing developments to comply with new lighting restrictions and restrictions on beach furniture and portable recreational equipment located on the beach.
  
- § New developments that have not yet received building permits would be required to:
  - § Utilize FWC approved lighting fixtures & bulbs;
  - § Install low-mounted fixtures when possible; and
  - § Tint or film glass with an inside-to-outside light transmittance value of 45 percent or less.



## *Provisions of Proposed Ordinance*

- § Existing developments that have already received building permits and/or Certificates of Occupancy would be given the following options to resolve exterior lighting issues if a violation exists:
  - § Remove, disable, or turn lights off;
  - § Plant or improve vegetation buffers;
  - § Construct ground-level barriers;
  - § Replace bulbs; or
  - § Replace or retrofit fixtures.



## *Provisions of Proposed Ordinance*

- § Existing developments would also be given the following options for resolving interior lighting issues if a violation exists:
  - § Turn lights off;
  - § Utilize window treatments;
  - § Rearrange movable fixtures; or
  - § Apply tinted or filmed glass with an inside-to-outside light transmittance value of 45 percent or less.
  
- § All temporary structures and portable recreational equipment would be required to be removed from the beach from 11:00 p.m. – 5:00 a.m. daily during nesting season, with the exception of temporary structures that are relocated along the dune.



## *Suggested Changes to Proposed Ordinance*

### § Change #1:

Revise section 100.04 to read as follows:

#### “100.04 - Classification of Certain Developments

The provisions of preceding section 100.03 shall apply to all structures for which a building permit was issued by the Building Department subsequent to the effective date of this chapter. The provisions of succeeding section 100.05 shall apply to all structures for which a building permit was issued prior to the effective date of this chapter, regardless of the date when a certificate of occupancy was issued.”



## *Suggested Changes to Proposed Ordinance*

- § Proposed ordinance already contains language that covers and distinguishes between new and existing developments similarly to ordinances of surrounding jurisdictions.
  
- § Section 100.04 - New development; exemptions that is currently in the proposed ordinance is the same language used from the current ordinance and would require no amendment.



## *Suggested Changes to Proposed Ordinance*

### § Change #2:

Add the following language to the end of the opening paragraph of section 100.05:

“...or within three months of issuance by the building department of a certificate of occupancy, whichever date is later.”



## *Suggested Changes to Proposed Ordinance*

- § Suggested change would allow existing developments that have received a building permit but have not yet received a certificate of occupancy to refrain from complying with the proposed ordinance for an unspecified amount of time.
  
- § Properties would have to comply within three months of receiving a certificate of occupancy, which may shift the responsibility of complying with the ordinance from the builder to the property owner.



## *Suggested Changes to Proposed Ordinance*

### § Change #3:

Add the following language to section 100.10:

“(B) It was an important purpose of amending this chapter to better protect sea turtles and hatchlings from disorientations caused by “indirectly or cumulatively illuminated” beaches. A wide variety of up to date equipment, procedures and standards are mandated herein to minimize or entirely eliminate indirectly or cumulatively illuminated beaches. However, it has been found to be impractical to set, measure or enforce the precise level of such artificial illumination, if any, at a particular time. Therefore, when all of the technical and objective lighting standards set forth herein are provided by a person or property, in compliance with the requirements of this ordinance, no violation shall be asserted against any such person or property on a claim of excessive indirect or accumulated illumination.”



## *Suggested Changes to Proposed Ordinance*

- § The language in the suggested change may create a loophole for property owners to violate the proposed ordinance.
  
- § The language in the suggested change is not entirely accurate and would declare the proposed ordinance as being unenforceable.

ORDINANCE 2016-15

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, RELATING TO PUBLIC SAFETY AND TO THE PROTECTION OF SEA TURTLES; AMENDING THE CODE OF ORDINANCES, TITLE 9 GENERAL REGULATIONS, CHAPTER 100 SEA TURTLES; RENAMING CHAPTER 100 SEA TURTLES TO MARINE TURTLE PROTECTION; RENAMING AND AMENDING SECTION 100.02 PURPOSE OF PROVISIONS TO SECTION 100.01 PURPOSE OF PROVISIONS; RENAMING AND AMENDING SECTION 100.01 DEFINITIONS TO SECTION 100.02 DEFINITIONS; AND AMENDING SECTION 100.02 FOR "ARTIFICIAL LIGHT," "BEACH," "COASTAL CONSTRUCTION CONTROL LINE (CCCL)," "DIRECT ILLUMINATION," "LOW-PROFILE LUMINARIES," "NEW DEVELOPMENT," AND BY ADDING DEFINITIONS OF "BEACH ACCESS," "COASTAL CONSTRUCTION ACTIVITIES," "CUMULATIVELY ILLUMINATED," "DECORATIVE LIGHTING," "DOWNWARD-DIRECT," "DUNE," "EXISTING DEVELOPMENT," "FDEP," "FLOODLIGHT," "FRONTAL DUNE," "FWC," "FWC APPROVED MARINE TURTLE FIXTURES AND BULBS," "FWS," "GROUND-LEVEL BARRIER," "HATCHLING," "ILLUMINATED," "INDIRECTLY ILLUMINATED," "LIGHT FIXTURE," "MARINE TURTLE," "NEST," "NESTING SEASON," "NIGHTTIME," "OFFICIAL TRAFFIC CONTROL DEVICE," "OFFICIAL TRAFFIC CONTROL SIGNAL," "POINT SOURCE," "PORTABLE RECREATIONAL EQUIPMENT," "SHIELD," "SHIELDED," "SPOTLIGHT," "TEMPORARY STRUCTURES," "TINTED OR FILMED GLASS," "UPLIGHT," AND "VISIBLE FROM THE BEACH" TO THE REGULATIONS; RENAMING AND AMENDING SECTION 100.03 FROM NEW DEVELOPMENT; REQUIREMENTS; PROHIBITIONS TO LIGHTING STANDARDS FOR NEW DEVELOPMENT, AMENDING SECTION 100.03 TO INCLUDE ADDING AND AMENDING EXTERIOR ARTIFICIAL LIGHT FIXTURES, SOURCES OF ARTIFICIAL LIGHT, DIRECT ILLUMINATION, INDIRECT ILLUMINATION, CUMULATIVE ILLUMINATION, FLOODLIGHTS AND ACCENT LIGHTS, MOTION DETECTOR LIGHTING, DUNE CROSSWALK LIGHTING, PARKING AREA LIGHTING, VEHICULAR LIGHTING, TINTED OR FILMED GLASS, ILLUMINATED SIGNS AND TEMPORARY CONSTRUCTION LIGHTING; AMENDING SECTION 100.05 EXISTING DEVELOPMENT TO INCLUDE ADDING AND AMENDING EXTERIOR ARTIFICIAL LIGHT FIXTURES, SOURCE OF ARTIFICIAL LIGHT, DIRECT ILLUMINATION, INDIRECT ILLUMINATION, CUMULATIVE ILLUMINATION, GROUND-LEVEL BARRIERS, INTERIOR LIGHTING, FLOODLIGHTS AND ACCENT LIGHTS, MOTION DETECTOR LIGHTING, DUNE CROSSWALK LIGHTING, ILLUMINATED SIGNS AND VARIANCES; AMENDING SECTION 100.06 PUBLICLY OWNED LIGHTING TO INCLUDE ADDING AND AMENDING PUBLICLY OWNED LIGHTING, TRAFFIC CONTROL DEVICES AND TRAFFIC CONTROL SIGNALS; RENAMING SECTION 100.07 FROM ENFORCEMENT AND PENALTY TO PROHIBITED ACTIVITIES; DELETING REFERENCES TO ENFORCEMENT PROCESS IN SECTION 100.07 AND AMENDING BY ADDING TRANSIENT LIGHTING, OPERATION OF MOTOR VEHICLES ON THE BEACH, PROMOTIONAL ACTIVITIES, FIRES ON THE BEACH, PLACING TRASH ON THE BEACH,

**LAUNCHING MOTORIZED VESSEL FROM THE BEACH, GOLFING ON THE BEACH, USING PUBLIC BEACH ACCESS FOR MECHANICAL BEACH CLEANING, ANIMALS ON THE BEACH; ADDING SECTION 100.08 OBSTRUCTIONS ON THE BEACH AND BEACH ACCESS AREAS PROHIBITED BY LIMITING TEMPORARY STRUCTURES AND PORTABLE RECREATIONAL EQUIPMENT ON THE BEACH AND PROVIDING FOR ENFORCEMENT AND PENALTIES; ADDING SECTION 100.09 UNLAWFUL TO KILL, MOLEST, OR INJURE MARINE TURTLES BY ADDING PROVISIONS OF CHAPTER 379.2431 OF THE FLORIDA STATUTE; RENUMBERING SECTION 100.07 ENFORCEMENT AND PENALTY TO SECTION 100.10 ENFORCEMENT AND PENALTY; AMENDING SECTION 100.10 ENFORCEMENT AND PENALTY BY PROVIDING FOR ENFORCEMENT AND PENALTY; ADDING SECTION 100.11 LOCAL APPROVAL NOT EXCLUSIVE; ADDING SECTION 100.12 APPLICABILITY; ADDING SECTION 100.13 SEVERABILITY; PROVIDING FOR SEVERABILITY; AMENDING SECTION 100.20 SEA TURTLE VEGETATION PROTECTION; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HERewith; PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Longboat Key recognizes marine turtles are protected by federal, state, and local law; and

**WHEREAS**, in addition to being a major factor in attracting purchasers and tourists to choose Longboat Key at the place to invest, reside or vacation, the Town recognizes the Gulf of Mexico beaches serve as prime nesting and hatching habitat for hundreds of marine turtles; and

**WHEREAS**, the Town of Longboat Key recognizes that artificial lighting of beaches is a serious threat to marine turtles and other species utilizing its beaches; and

**WHEREAS**, the Town of Longboat Key recognizes that nesting adult and hatchling marine turtles are negatively affected by artificial lighting; and

**WHEREAS**, the Town of Longboat Key recognizes that temporary structures and portable recreation equipment left on the beach is a public nuisance and is a serious threat to marine turtles; and

**WHEREAS**, the Town of Longboat Key desires to minimize the detrimental impact on marine turtles and other species utilizing its beaches while maintaining lighting standards necessary for public safety and security; and

**WHEREAS**, the Town Commission of the Town of Longboat Key, after careful consideration, determined that the protection of marine turtles, nesting sites, and hatchlings is of a significant public interest; and

**WHEREAS**, after careful consideration, the Town Commission has determined that the balance between the interests of its residents in the full use and enjoyment of the beaches and their beachfront residences, on the one hand, and safeguarding nesting female marine turtles and their hatchlings, on the other hand, needs to be adjusted to

provide greater protection for the latter through significantly reducing the adverse effects of artificial lighting and the prohibition and/or removal from the beach of temporary structures and portable recreational equipment that might interfere with the nesting of marine turtles, and

**WHEREAS**, these amendments to the Code of Ordinances for the Town of Longboat Key, Florida, as provided herein, are consistent with the Town's Comprehensive Plan.

**NOW, THEREFORE, BE IT ORDAINED** BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:

SECTION 1. The Whereas clauses above are ratified and confirmed as true and correct.

SECTION 2. Title 9 *General Regulations*, Chapter 100, *SEA TURTLES* is hereby amended to read:

Chapter 100 - ~~SEA TURTLES~~ MARINE TURTLE PROTECTION

Sections:

100.01 ~~400.02~~ - Purpose of provisions.

The purpose of this chapter is to protect ~~the threatened and endangered sea~~ marine turtles which nest along the beaches of the town by safeguarding the nesting female and hatchlings from the adverse effects sources of artificial light and from injury or harassment by prohibiting activities disruptive to marine turtles, while maintaining lighting standards necessary for public safety and security.

100.02 ~~400.04~~ - Definitions.

For the purpose of this chapter, the following terms shall have the meaning set forth in this section:

(A) "Artificial light." Any source of light emanating from a human-made device. ~~manmade device, including, but not limited to, incandescent mercury vapor, metal halide, or sodium lamps, flashlights, spotlights, street lights, vehicular lights, construction or security lights.~~

(B) "Beach." That area of unconsolidated material that extends landward from the mean low waterline to the place where there is a marked change in material or physiographic form, or to the line of permanent vegetation. ~~(usually the effective limit of storm waves).~~

"Beach access." Any path through or over the dune used by the general public or private property owners for the purpose of gaining access to the beach.

"Coastal construction activities." Any work or activity that may have a physical effect on existing coastal conditions or natural shore and inlet processes.

(C) "Coastal Construction Control Line (CCCL)." The portion of the Coastal Construction Control Line established pursuant to the provisions of Chapter 161.053 of the Florida Statute that lies within Sarasota County and Manatee County. ~~The State Coastal Construction Control Line for Manatee County and the original proposed State Coastal Construction Setback Line for Sarasota County on file in town hall.~~

“Cumulatively Illuminated.” Illuminated by multiple artificial light sources that as a group illuminate any portion of the beach.

“Decorative lighting.” Any source of artificial lighting used solely for accent or decorative purposes. Decorative lighting shall include, but are not limited to, accent lighting and landscape lighting.

~~(D)~~ “Directly illuminated.” Glowing element(s), lamp(s), or globe(s) of an artificial light source or electronic device(s) which illuminate, and are visible from, any portion of the beach. “Direct illumination of the beach.” Light from a point source which is sufficiently strong to cast a detectable shadow on the beach on a dark, moonless night.

“Downward-direct.” Light fixture which directs artificial light entirely down.

“Dune.” A mound or ridge of loose sediments, usually sand sized, lying landward of the beach and deposited by any natural or artificial mechanism, which may be bare or covered with vegetation, and is subject to fluctuations in configuration and location.

“Existing development.” Any building or structure for which a building permit has been issued prior to the adoption of this chapter.

“FDEP.” Florida Department of Environmental Protection or successor agency.

“Floodlight.” A reflector-type light fixture which is freestanding or attached directly to a building or other structure and which is unshielded.

“Frontal dune.” The first natural or manmade mound or bluff of sand which is located landward of the beach and which has sufficient ground vegetation, height, continuity and configuration to offer protective value.

“FWC.” Florida Fish and Wildlife Conservation Commission or successor agency.

“FWC approved marine turtle fixtures and bulbs.” Fixtures and bulbs that have been reviewed through the Wildlife Lighting Certification Process and approved by FWC for marine turtle lighting use, or similar fixtures and bulbs that meet the same lighting standards for marine turtle lighting use.

“FWS.” United States Fish and Wildlife Service or successor agency.

“Ground-level barrier.” Any vegetation, natural feature or artificial structure rising from the ground that prevents artificial light from directly, indirectly, or cumulatively illuminating any of the beach.

“Hatchling.” Any species of marine turtle, within or outside of a nest, which has recently hatched from an egg.

“Illuminated” Exposed to light from an artificial light source that does not meet the approved specification of this chapter in a way that produces a detectable brightness visible from any portion of the beach.

“Indirectly illuminated.” Illumination of any portion of the beach as a result of an artificial light source in which the artificial light source is not directly visible from any portion of the beach.

“Light fixture.” The mechanism which, or within which, sources of artificial light are attached.

~~(E)~~ “Low-profile luminaries luminaire.” Light fixture set on a base which raises the source of the light no higher than 48 inches off the ground and designed in such a way that light is downward-direct directed downward from a shielded light source.

“Marine turtle.” Any marine-dwelling reptile of the families Cheloniidae or Dermochelyidae found in Florida waters or using any portion of the beach as nesting habitat, including, but not limited to, the species: Caretta caretta (loggerhead), Chelonia mydas (green), Dermochelys coriacea (leatherback), Eretmochelys imbricata (hawksbill), and Lepidochelys kempii (Kemp's ridley). For purposes of this chapter, marine turtle is synonymous with sea turtle.

“Nest.” An area where marine turtle eggs have been naturally deposited or subsequently relocated.

“Nesting season.” The period from May 1 through October 31 of each year, or as amended by FDEP, FWC, FWS or appropriate agency.

~~(F)~~ “New development.” Shall include Includes new construction and remodeling of existing structures when such remodeling includes alteration of exterior lighting or replacement of any glass or glazing.

“Nighttime.” The locally effective time period between sunset and sunrise.

“Official traffic control device.” All signs, signals, markings, and devices placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning, or guiding vehicular or pedestrian traffic.

“Official traffic control signal.” Any device, whether manually, electrically, or mechanically operated, by which vehicular or pedestrian traffic is alternately directed to stop and permitted to proceed.

~~(G)~~ “Person.” Any individual, firm, association, joint venture, partnership, estate, trust, syndicate, fiduciary, corporation, group, or unit or federal, state, county or municipal government.

“Point source.” Any bulb(s), lamp(s), or glowing element(s) of any light fixture or electronic device(s) from which artificial light is emitted.

~~(H)~~ “Pole lighting.” Light fixture set on a base or pole which raises the source of the light higher than 48 inches off the ground.

“Portable recreational equipment.” Any human-made object with a location or arrangement that is temporary or transient in nature. Portable recreational equipment shall include, but are not limited to, inflatable recreational equipment, grills, volleyball nets, fishing equipment, or vessels.

“Shield.” A covering, hood or canopy or other such device with a non-reflective interior, which is fitted over, around and extended below an artificial light source, preventing light from illuminating the beach.

“Shielded.” Fitted with a shield.

“Spotlight.” Light fixture designed to project a narrow, intense beam of artificial light in a specific direction.

“Temporary structures.” Any human-made structure or objects with a location or arrangement that is temporary or transient in nature. Temporary structures and objects shall include, but are not limited to, tents, canopies, chairs, tables, umbrellas, and cabanas.

“Tinted or filmed glass.” Any glass or glazing treated to achieve an industry-approved, inside-to-outside light transmittance value of 45 percent or less. Such transmittance is limited to the visible spectrum (400 to 700 nanometers) and is measured as the percentage of light that is transmitted through the glass.

“Uplight.” Light fixture designed to cast artificial light upward.

“Visible from the beach.” Visible to a person standing on any portion of the beach.

100.03 - Lighting standards for new development. ~~New development; requirements; prohibitions.~~

~~It is the policy of the town commission that no artificial light illuminate any area of the gulf beaches of the town. To meet this intent, building and electrical plans for construction of single-family or multifamily dwellings, commercial or other structures, including electrical plans associated with parking lots, dune walkovers or other outdoor lighting for~~

~~real property if lighting associated with such construction or development can be seen from the beach, shall be in compliance with the following:~~

~~(A) Direct illumination of the beach shall be prohibited. Wall-mounted light fixtures shall be fitted with hoods so that no light illuminates the beach.~~

~~(B) Pole lighting shall be shielded in such a way that light will be contained within an arc of three to 73 degrees on the seaward side of the pole. Outdoor lighting shall be held to the minimum necessary for security and convenience.~~

~~(C) Low-profile luminaries shall be used in parking lots, and such lighting shall be positioned so that no light illuminates the beach.~~

~~(D) Dune crosswalks shall utilize low-profile shielded luminaries.~~

~~(E) Lights on balconies shall be fitted with hoods or shades so that lights will not illuminate the beach.~~

~~(F) Temporary security lights at construction sites shall not be mounted more than 15 feet above the ground. Illumination from the lights shall not spread beyond the boundary of the property being developed, and in no case shall those lights illuminate the beach.~~

In order to provide protection for nesting marine turtles and their hatchlings during marine turtle nesting season while maintaining lighting standards necessary for public safety and security, the following standards are adopted for artificial light sources on all new development, coastal construction activities, and building and electrical plans for construction of any structure and shall be in compliance with the following, if the proposed development is water ward of the Coastal Construction Control Line (CCCL), or if the development creates any artificial light sources that will be visible from the beach. Provisions of this section apply, but are not limited to, all new coastal construction activities and development, including electrical plans associated with parking lots, dune walkovers, or other outdoor lighting for real property:

(A) Exterior artificial light fixtures shall be designed and positioned so that:

1. The point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach; and

2. Areas seaward of the frontal dune, or the beach in areas where the frontal dune no longer exists, are not directly, indirectly, or cumulatively illuminated.

(B) Exterior artificial light fixtures within direct line of sight of the beach are permitted if lights are completely shielded downlight-direct fixtures with non-reflective interior surfaces or completely recessed fixtures with non-reflective interior surfaces. These fixtures shall utilize FWC approved marine turtle fixtures and bulbs during marine turtle nesting season and shall be in compliance with subsection (A) of this section.

(C) All fixtures shall be mounted as low in elevation when possible through use of low-mounted wall fixtures, low-profile luminaries, low bollards, and ground-level fixtures.

(D) Floodlights, uplights, spotlights, or decorative lighting in which the point source of artificial light or any reflective interior surface of the light fixture is directly visible from the beach, or which directly, indirectly, or cumulatively illuminate the beach are prohibited. All light fixtures on floodlights, uplights, spotlights, or decorative lighting shall utilize FWC approved marine turtle bulbs during marine turtle nesting season.

(E) The use of motion detecting lighting devices that keep artificial lights off except when approached are required for all exterior lights used expressly for safety or security during marine turtle nesting season. All motion detecting lighting devices shall be set to the minimum duration possible for illumination according to the manufacturers specifications for the device during marine turtle nesting season.

(F) Dune crosswalks may be lighted. If lighted, dune crosswalks shall utilize low-profile, completely shielded luminaries, with non-reflective interior surfaces directed and positioned so that the point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach. All light fixtures on dune crosswalks shall utilize FWC approved marine turtle fixtures and bulbs during marine turtle nesting season. Dune crosswalk lighting seaward of the frontal dune, or on the beach in areas where the frontal dune no longer exists, shall be prohibited.

(G) Parking areas within direct line-of-sight of the beach shall be designed with the minimum lighting necessary to provide safety and security and lighting shall be:

1. Downward-direct and completely shielded;
2. Utilize low-profile luminaries and bollards to the maximum extent possible. Any pole lighting determined to be necessary to provide safety and security shall be completely shielded and installed at a maximum height of 12 feet; and
3. Positioned or shielded with non-reflective interior surfaces so that the light is downward-direct and the point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach and does not directly, indirectly, or cumulatively illuminate the beach.

(H) Except for single-family residences, all newly constructed parking areas and driveways, including any paved or unpaved areas upon which motorized vehicles will park or operate, shall be designed and located to prevent vehicular headlights from directly, indirectly, or cumulatively illuminating the beach.

(I) Vehicular lighting, parking area lighting, and roadway lighting shall be downward-direct and shielded from the beach through the use of ground level barriers. Ground level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short-term or long-term damage to the beach and/or dune system.

(J) Tinted or filmed glass shall be installed on all windows and doors of single- or multi-story structures within direct line of sight of the beach. Tint or film must meet the standards for tinted or filmed glass as stated in the definition of tinted or filmed glass of this chapter.

(K) Lights illuminating signs and internally illuminated signs shall be designed, positioned, shielded and/or screened in such a manner that they do not directly, indirectly or cumulatively illuminate the beach and that any artificial light internally or externally illuminating any sign shall not be visible from any portion of the beach.

(L) Temporary lighting of construction sites during marine turtle nesting season shall be restricted to the minimal amount necessary and shall incorporate all standards of this section.

#### 100.04 - New development; exemptions.

The provisions of section 100.03 of this chapter shall not apply to any structure for which a building permit has been issued by the building department prior to the effective date of this chapter.

#### 100.05 - Existing development.

~~It is the policy of the town commission that no artificial light illuminate any area of the gulf beaches of the town. To meet this intent, lighting of existing structures which can be seen from the beach shall be in compliance with the following within six months of the effective date of the ordinance codified in this chapter:~~

~~(A) Lights illuminating buildings or associated grounds for decorative or recreational purposes shall be shielded or screened such that they do not illuminate the beach, or~~

~~turned off or dimmed from sunset to sunrise during the period of May 1 to October 31 of each year.~~

~~(B) Lights illuminating dune crossovers of any areas seaward of the dune line shall be turned off or dimmed from sunset to sunrise during the period of May 1 to October 31 of each year.~~

~~(C) Security lighting shall be permitted throughout the night so long as low-profile luminaries are used and are screened to prevent direct illumination of the beach.~~

In order to provide protection for nesting marine turtles and their hatchlings during marine turtle nesting season while maintaining lighting standards necessary for public safety and security, the following standards are adopted for artificial light sources on all existing developments and existing structures that are visible from the beach, and shall be in compliance with the following within six months of the effective date of the ordinance codified in this chapter:

(A) Existing artificial light fixtures shall be repositioned, modified, replaced or removed so that:

1. The point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach; and

2. Areas seaward of the frontal dune, or the beach in areas where the frontal dune no longer exists, are not directly, indirectly, or cumulatively illuminated during marine turtle nesting season.

(B) One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing exterior artificial lighting, so that all existing developments are in compliance with subsection (A) of this section:

1. Replace fixtures having an exposed point source of artificial light with completely shielded downlight-direct fixtures with non-reflective interior surfaces or completely recessed fixtures with non-reflective interior surfaces which utilize FWC approved marine turtle fixtures and bulbs;

2. Replace traditional light bulbs with FWC approved marine turtle fixtures and bulbs;

3. Replace non-directional fixtures with completely shielded downward-direct fixtures with non-reflective interior surfaces which utilize FWC approved marine turtle fixtures and bulbs;

4. Replace fixtures having transparent or translucent coverings with shields with non-reflective interior surfaces designed to be in compliance with subsection (A) of this section and utilize FWC approved marine turtle fixtures and bulbs;

5. Replace pole lamps with low-profile, low-level luminaries which utilize FWC approved marine turtle fixtures and bulbs;

6. Plant or improve native vegetation buffers between the point source of artificial light and the beach to sufficiently screen artificial light from directly, indirectly, or cumulatively illuminating the beach;

7. Construct a ground-level barrier to shield point sources of artificial light from the beach. Ground level barriers must not interfere with marine turtle nesting or hatchling emergence, or cause short-term or long-term damage to the beach and/or dune system; and/or

8. Remove, turn off, or disable any fixture which cannot be brought into compliance with the provisions of this chapter.

(C) One or more of the following measures shall be taken to reduce or eliminate the negative effects of existing interior artificial lighting emanating from doors and windows

within direct line of sight of the beach during marine turtle nesting season so that all existing developments are in compliance with subsection (A) of this section:

1. Turn off unnecessary lights;
2. Use window treatments (e.g., blinds, shutters, curtains, or similar treatments) to shield interior lights from the beach;
3. Rearrange moveable lighting fixtures away from windows; and/or
4. Apply window tint or film. Tint or film must meet the standards for tinted or filmed as stated in the definition of tinted or filmed glass of this chapter.

(D) Floodlights, uplights, spotlights, or decorative lighting in which the point source of artificial light or any reflective interior surface of the light fixture is directly visible from the beach, or which directly, indirectly, or cumulatively illuminate the beach are prohibited. All light fixtures on floodlights, uplights, spotlights, or decorative lighting shall utilize FWC approved marine turtle bulbs during marine turtle nesting season.

(E) The use of motion detecting lighting devices that keep artificial lights off except when approached are required for all existing exterior lights used expressly for safety or security during marine turtle nesting season. All motion detecting lighting devices shall be set to the minimum duration possible for illumination according to the manufacturers specifications for the device during marine turtle nesting season.

(F) Existing dune crosswalks may be lighted. If lighted, existing illumination of dune crosswalk shall utilize low-profile, completely shielded luminaries, with non-reflective interior surfaces directed and positioned so that the point source of artificial light or any reflective interior surface of the light fixture is not directly visible from the beach. All light fixtures on dune crosswalks must utilize FWC approved marine turtle fixtures and bulbs during marine turtle nesting season. Dune crosswalk lighting seaward of the frontal dune, or on the beach in areas where the frontal dune no longer exists, shall be prohibited.

(G) Lights illuminating signs and internally illuminated signs shall be designed, positioned, shielded and/or screened in such a manner that they do not directly, indirectly or cumulatively illuminate the beach and that any artificial light internally or externally illuminating any sign shall not be visible from any portion of the beach.

(H) The Town Commission is authorized to grant variances to the date of compliance, after notice to the owner and a public hearing, where lighting installed before the adoption of the ordinance from which this chapter derives would be in violation of this chapter. Requests for variances must be submitted in writing to the town clerk. The variance will be considered by the Town Commission at a regularly scheduled meeting. Such variances may be granted only where the applicant has demonstrated that the application of these standards to lighting will cause such an undue and unique hardship to the property, and that more time is needed to amortize the owner's reasonable investment in the lighting. In granting a variance, the Town Commission shall specify a schedule and plan to attain compliance. Violation of the terms of such a plan or schedule shall constitute a violation of this chapter.

#### 100.06 - Publicly owned lighting.

~~Street lights and lighting at parks and other publicly owned beach access areas shall be subject to the following:~~

~~(A) Whenever possible, streetlights shall be located so that the bulk of their illumination will travel away from the beach.~~

~~(B) Lights at parks or other public beach access points shall be shielded or shaded or shall not be utilized during the period May 1 to October 31 of each year.~~

All publicly owned lighting with light sources that are visible from the beach including, but not limited to, streetlights, parking lot lights, and beach access lighting, shall be:

(A) Fitted with a shield or positioned so that the point source of artificial light is not visible from the beach and do not directly, indirectly, or cumulatively illuminate the beach;  
or

(B) Extinguished between sunset and sunrise during marine turtle nesting season.

(C) Specifically exempted from the terms of this chapter are official traffic control devices and official traffic control signals.

100.07 - Prohibited activities Enforcement and penalty.

Sections 100.01 through 100.07 of this chapter shall be enforced by the code enforcement board in accordance with the provisions of chapter 33, sections 33.01 through 33.12 of this Code.

The following activities and situations are prohibited on the beach daily:

(A) Any transient lighting which purposely illuminates nesting sea turtles or hatchlings. This prohibition does not apply to persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FWC, FDEP or the town, and who are acting in conformance with such authorization or permit;

(B) The operation of all motorized vehicles, with the exception of:

1. Emergency and law enforcement vehicles;  
2. Persons who have authorization or a permit to engage in marine turtle conservation or research issued by FWS, FDEP, FWC or the town, and who are acting in conformance with such authorization or permit; and

3. Construction, renourishment, and beach cleaning activities that have authorization or a permit to operate motorized vehicles on the beach as issued by FWS, FDEP, FWC or the town, and who are acting in conformance with such authorization or permit;

(C) Engage in promotional or commercial activities or otherwise hold a special event, as defined in Chapter 92, Subsection 92.06(A) of the Town of Longboat Key Code of Ordinances, without first obtaining a special events permit pursuant to Chapter 92, Subsection 92.06 of the Town of Longboat Key Code of Ordinances;

(D) Start a fire, other than fires for cooking purposes contained in a grill or stove, pursuant to Chapter 92, Subsection 92.05(F) of the Town of Longboat Key Code of Ordinances;

(E) Throw, place, or deposit any paper, food, trash, cans, bottles, or other refuse, except in designated refuse containers pursuant to Chapter 92, Subsection 92.05(G) of the Town of Longboat Key Code of Ordinances;

(F) Launch a motorized vessel into the waters of the Gulf of Mexico by bringing it across the beach, except in an emergency pursuant to Chapter 92, Subsection 92.05(K) of the Town of Longboat Key Code of Ordinances;

(G) Golf, including chip and putt pursuant to Chapter 92, Subsection 92.05(M) of the Town of Longboat Key Code of Ordinances;

(H) Use any public beach access for the transportation of mechanical beach cleaning equipment pursuant to Chapter 92, Subsection 92.05(N) of the Town of Longboat Key Code of Ordinances;

(I) Possess any pet or animal on the beach except as provided in Chapter 92, Subsection 92.04 of the Town of Longboat Key Code of Ordinances; or

(J) Engage in any other activity in violation of Chapter 92 of the Town of Longboat Key Code of Ordinances.

100.08 - Obstructions on the beach and beach access areas prohibited.

The following activities and situations are prohibited on the beach and beach access areas during marine turtle nesting season:

(A) No temporary structure(s) or portable recreational equipment shall be located on the beach or public beach access located within the corporate limits of the Town of Longboat Key from 11:00 p.m. until 5:00 a.m. daily during marine turtle nesting season, except as otherwise permitted in this chapter.

(B) Unattended or abandoned temporary structure(s) or portable recreational equipment are declared a public nuisance and interfere with the use of the natural beach environment for nesting habitat. Any temporary structure(s) or article(s) of portable recreational equipment that remain on the beach or public beach access in violation of this chapter shall be deemed abandoned by the owner and shall be tagged or removed by the code enforcement officer or designee. Any temporary structure(s) or portable recreational equipment so removed shall be stored in areas designated by the Town for that purpose of avoiding interference with marine turtles. After 90 days of impoundment, as required by Chapter 705.103 of the Florida Statute, the town may dispose of any item(s) removed pursuant to this section. The town may, by resolution, enact an impoundment fee to be collected at the time any items are retrieved from impoundment by the party claiming the item(s).

(C) From 11:00 p.m. until 5:00 a.m. daily during marine turtle nesting season, temporary structures that are relocated as close to the dune, or where there are no dunes or native vegetation, are relocated as close as practicable to an existing permanent structure or the line of buildings, will not be considered abandoned or in violation of this chapter, provided:

1. Such temporary structures shall not be placed on the dune or on native vegetation;

2. Such temporary structures shall be stored in a neat and orderly manner as much as possible;

3. Such temporary structures shall not inhibit access to the beach from the nearest public beach access, nor obstruct access on the beach, nor adversely impact native vegetation, nor significantly affect marine turtles; and

4. Such temporary structures shall not be placed on any public beach access point.

100.09 - Unlawful to kill, molest, or injure marine turtles.

In accordance with Chapter 379.2431 of the Florida Statute "Marine Turtle Protection Act" and the Endangered Species Act of 1973, it shall be unlawful for any person to kill, molest, harass, or cause direct or indirect injury to any species of marine turtle within the corporate limits of the town or its jurisdictional waters. It shall be unlawful to collect or possess any part of a marine turtle, turtle nest and/or egg(s). The Town of Longboat Key will cooperate with appropriate state and federal agencies in prosecuting violations of the act.

100.07 100.10 - Enforcement and penalty.

~~Sections 100.01 through 100.07 of this chapter shall be enforced by the code enforcement board in accordance with the provisions of chapter 33, sections 33.01 through 33.12 of this Code.~~

The code enforcement officer or any law enforcement officer shall have the power to enforce the provisions of this chapter through civil fines and administrative proceedings, including, but not limited to, code enforcement proceedings in accordance with Chapter 33 of the Code of Ordinances of the Town of Longboat Key, Chapter 162 of the Florida Statute, and by equitable or legal judicial proceedings. Each day of any such violation shall constitute a separate and distinct offense.

100.11 - Local approval not exclusive.

Approval required pursuant to this chapter shall be in addition to and not in lieu of any federal, state, regional or other local approvals which may be required for the same or similar activities. Similarly, compliance with provisions of this chapter does not excuse any person from having to comply with other applicable federal, state, regional or local laws.

100.12 - Applicability.

This chapter shall be applicable and enforceable throughout the Town of Longboat Key.

100.13 - Severability.

It is declared to be the legislative intent that, if any section, subsection, sentence, clause, or provision of this chapter is held invalid, the remainder of this chapter shall not be affected.

100.20 - ~~Sea~~ Marine turtle vegetation protection.

(A) It shall be unlawful for any person, without the express written permission from the town manager, to cut, trim, modify, fertilize, defoliate, kill, harm, or in any way alter vegetation planted on the west side of Gulf of Mexico Drive between 3495 Gulf of Mexico Drive and 4011 Gulf of Mexico Drive located within the FDOT right-of-way between the paved portion of Gulf of Mexico Drive and the westerly sidewalk.

(B) Any person, firm, company, corporation, association or agent of any person, firm, company, corporation, association who violates subsection 100.20(A) shall be deemed guilty of a misdemeanor in the first degree and upon conviction shall be fined in a sum of not more than \$500.00 for each occurrence or imprisoned for not more than 60 days with unlawful activity concerning each plant constituting a separate offense. Nothing contained herein shall preclude prosecution under the Marine Protection Turtle Act (F.S. § 370.12 as may be amended) or the Federal Endangered Species Act.

SECTION 3. If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

SECTION 4. All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

SECTION 5. This Ordinance shall take effect upon second reading in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading on the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

Adopted on second reading and public hearing the \_\_\_\_\_ day of \_\_\_\_\_,  
2016.

\_\_\_\_\_  
Jack G. Duncan, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk

To: Dave Bullock

From: Ed Zunz

Re: Pending Turtle Ordinance Amendment

Date: May 19, 2016

Consistent with our discussions at the recent May 16 Workshop, when the above Ordinance was referred to the Commission's regular June meeting for first reading, I respectfully request that the Ordinance presented at that time contain the following revisions:

- That section 100.04 be retitled and revised to read as follows:

100.04 - Classification of certain developments.

The provisions of preceding section 100.03 shall apply to all structures for which a building permit was issued by the building department subsequent to the effective date of this chapter. The provisions of succeeding section 100.05 shall apply to all structures for which a building permit was issued prior to the effective date of this chapter, regardless of the date when a certificate of occupancy was issued.

- That the opening paragraph of section 100.05 be extended by removing the colon at the end (after the word "chapter") and adding the following additional language:

"or within three months of issuance by the building department of a certificate of occupancy, whichever date is later."

- That section 100.10 (Enforcement and Penalty) be expanded by designating the existing paragraph as subsection "A" and adding

a subsection "B" as follows:

(B) It was an important purpose of amending this chapter to better protect sea turtles and hatchlings from disorientation caused by "indirectly or cumulatively illuminated" beaches. A wide variety of up to date equipment, procedures and standards are mandated herein to minimize or entirely eliminate indirectly or cumulatively illuminated beaches. However, it has been found to be impracticable to set, measure or enforce the precise level of such artificial illumination, if any, at a particular time. Therefore, when all of the technical and objective lighting standards set forth herein are provided by a person or property, in compliance with the requirements of this ordinance, no violation shall be asserted against any such person or property on a claim of excessive indirect or accumulated illumination.



**End of Agenda Item**

## M E M O R A N D U M

**DATE:** June 23, 2016

**TO:** Dave Bullock, Town Manager

**FROM:** Alaina Ray, Director  
Planning, Zoning and Building Department

**RE:** Ordinance 2016-20, Amending Chapter 150, Buildings

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At the Town Commission's Regular Workshop on May 16, 2016, the Town Attorney discussed the need to revise the Town's procedures related to abatement of unsafe structures and equipment, as set forth in the Town's Code of Ordinances, Section 150.21. The Town Attorney indicated that the revisions would need to go through the Planning and Zoning Board for a recommendation. Due to the limited time before the Town Commission's summer break, and considering the potential need to abate unsafe conditions during the upcoming hurricane season, the Town Commission reached consensus to consider the May 16, 2016 discussion as fulfilling the workshop procedural provision.

The Town's Land Development Code (LDC) includes Chapter 150: Buildings, which adopts the Florida Building Code and regulates all structures and equipment within the Town of Longboat Key. Within Chapter 150 is Section 151.21, which contains the provisions that regulate and provide for the authority and procedures for abating conditions that render structures or equipment as unsafe and/or unfit. The Town's Building Official is responsible for enforcing the provisions of Chapter 150 and the Florida Building Code.

Many of the Town's structures are several decades old. While the vast majority of these structures are well-maintained, Staff is increasingly encountering conditions which may give rise to concerns for the health, safety and welfare of occupants and/or the general public. As such, Staff has studied the provisions within Section 150.21, Procedures for unsafe structures and equipment to determine if the current provisions are adequate to address these conditions.

Staff has also reviewed instances from other jurisdictions where the provisions for abating unsafe and/or unfit structures and equipment have been challenged in a court of law. These challenges often arise from the notification processes utilized and/or the method of due process provided to an aggrieved property owner.

The examination of the Town's Code, ordinances from other jurisdictions, and recent court rulings has revealed that Section 150.21 does not appear to contain adequate authority, notification procedures, due process, or specificity to provide assurance that the provisions within Section 150.21 would withstand legal scrutiny. Therefore, Staff recommends extensive revisions to Section 150.21, in order to address these deficiencies.

The proposed revisions have been modelled on procedures that have withstood recent court challenges within the region. These proposed revisions contain provisions which

significantly increase and describe the specific notification processes required when the Building Official deems structures or equipment to be unsafe and/or unfit. The revisions also include stringent notification requirements for the issuance of a demolition order.

Regarding demolition of structures and/or equipment, the proposed revisions provide for two (2) levels of notification and due process. The first level is for demolition after a property owner has been afforded appropriate time to abate unsafe and/or unfit conditions, either through repair, rehabilitation, replacement, or demolition. This level would provide for a minimum notification period, newspaper advertisement of the intent to demolish, and an available appeal to the Town Commission prior to demolition being carried out. The revisions also set forth the criteria that the Town Commission must consider to revise or rescind the Building Official's Order.

The second level deals with emergency demolition, when the Building Official and Fire Marshal have jointly determined that a structure or equipment pose an imminent danger to the occupants and/or the health, safety and welfare of the public or their property. In these cases, the Building Official and Fire Marshal will document the conditions and will send notification to the owner of record and interested parties; however, demolition may proceed immediately, whether or not the property owner receives the notification. In the event of emergency demolition, there is no appeal to the Town Commission afforded to the property owner or any aggrieved party; rather appeals must be made to the appropriate circuit court within ten (10) days from the date the notice of intent to demolish is mailed.

### **Planning and Zoning Board Recommendation**

The Planning and Zoning Board held a public hearing and considered Ordinance 2016-20 at a Special Meeting on May 31, 2016, and recommended approval with the following recommended revisions:

1. Page 2 of 16: Third Whereas clause from top of page; Add "a" between the words "have" and "need."
2. Page 10 of 16: 150.21(l); Include statement that an appeal will stay the demolition action, except in the case of Emergency Demolition.
3. Page 10 of 16: 150.21(l) and in various places throughout document; Replace "interested" with "other."
4. Page 10 of 16: 150.21(l)(1); Add the word "within" between "Manager" and "ten."
5. Page 10 of 16: 150.21(l)(1); Require a statement from the applicant identifying the specific alleged grievance.

The Town Commission held first reading and public hearing at their June 6, 2016 Special Meeting. This item was forwarded to the July 5, 2016 Special Meeting for Town Commission second reading and public hearing.



# **Ordinance 2016-20**

# **Chapter 150: Buildings**

Town Commission  
Special Meeting  
July 5, 2016



## Background

- May 31, 2016: Planning & Zoning Board held public hearing on Ord. 2016-20
- June 6, 2016: Town Commission held first reading and public hearing and forwarded Ord. 2016-20 to their July 5, 2016 Special Meeting for second reading and public hearing.



## **Section 150.21: Procedure for unsafe structures and equipment**

- Majority of structures in the Town were constructed several decades ago.
- Most structures have been maintained well, but multiple structures need to be addressed for deteriorating conditions
- A review of Section 150.21 and recent court cases from other jurisdictions indicates the current provisions may lack adequate authority, notification procedures, due process, and specificity



# Revisions

- Section 150.21 reorganized to reflect the following order:
  - A. Definitions
  - B. Authority to order vacation, condemnation, repair or demolition.
  - C. Authority to secure all open and vacant structures
  - D. Authority to disconnect service utilities.
  - E. Notice of Unsafe or Unfit Structures or Equipment and manner of service.
  - F. Abatement methods.
  - G. Extension
  - H. Condemnation Order and Notice of Intent to Demolish
  - I. Appeal Procedure
  - J. Emergency Demolition
  - K. Authority to Order Rodent Control
  - L Condition of Lot After Demolition
  - M. Assessment of Costs of Abatement and/or Demolition and lien on Property.
  - N. Civil Remedies.



# Revisions

- Adds definitions
- Provides detailed statements of authority
- Includes detailed notification processes
- Provides criteria regarding compliance extensions and compliance agreements
- Provides defined appeal processes based on the type of action being taken by the Town
- Authorizes the Town to seek injunctive relief or other judicial remedy
- Establishes two (2) levels of procedure for demolition: Standard Demolition and Emergency Demolition



# Demolition

## Standard Demolition

- Taken when the owner has failed to abate conditions during time specified
- Requires minimum 10 day notification period
- Requires posting on structure or equipment
- Requires newspaper advertisement
- Provides for appeal to Town Commission
- Establishes criteria for modification or reversal of Building Official decision

## Emergency Demolition

- Reserved for conditions that constitute an imminent danger to the occupants, the public, or nearby property
- Requires joint determination of imminent danger by the Building Official and Fire Marshal
- Requires notice, but demolition can proceed immediately
- Establishes that appeal would be to circuit court

## ORDINANCE 2016-20

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AMENDING WITHIN TITLE 15 OF THE LAND DEVELOPMENT CODE, CHAPTER 150, BUILDINGS; DELETING, REVISING, AND AMENDING PROVISIONS WITHIN SECTION 150.21, PROCEDURE FOR UNSAFE STRUCTURES AND EQUIPMENT; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Longboat Key (Town) is a barrier island that is primarily built out; and

**WHEREAS**, the Town's Code of Ordinances contains the Land Development Code (LDC) which establishes the building and construction standards throughout the Town's jurisdictional limits; and

**WHEREAS**, the LDC incorporates and adopts the Florida Building Code (FBC) as may be amended;

**WHEREAS**, the FBC establishes a uniform state building code and provides for the minimum building and construction standards for public or private buildings, structures or facilities within the state of Florida; and

**WHEREAS**, pursuant to Section 553.72, Florida Statutes, it is the intent of the FBC to provide for a standard for the "design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, or facilities in this state and to the enforcement of such requirements and which will allow effective and reasonable protection for public safety, health, and general welfare for all the people of Florida at the most reasonable cost to the consumer"; and

**WHEREAS**, the Town's Building Official is responsible for enforcing the Town's Building Code and the FBC; and

**WHEREAS**, the Town's Building Code contains provisions and procedures relating to buildings, structures and equipment deemed unsafe, unfit for human occupancy, or unlawful; and

**WHEREAS**, the Town's current Building Code does not contain sufficient provisions to expeditiously address unsafe buildings, structures and equipment that pose an immediate risk to the health, safety and welfare of the public; and

**WHEREAS**, due to its proximity to the Gulf of Mexico, the Town's buildings and structures are susceptible to damage from tropical storms and hurricanes; and

**WHEREAS**, hurricane season is defined as the annual period between June 1 and November 30; and

**WHEREAS**, during hurricane season the threat of storm events increases the risk associated with windborne debris to the health, safety and welfare of the public; and

**WHEREAS**, buildings, structures and equipment that are deemed unsafe, unfit for human occupancy, or unlawful may be more susceptible to contributing to windborne debris due to deteriorated conditions; and

**WHEREAS**, the Town may have need to expeditiously address buildings, structures and equipment that pose an imminent risk to the health, safety, and welfare of the public, especially before and/or during hurricane season; and

**WHEREAS**, the Town finds it is in the best interest of the public to revise the Town's Building Code to incorporate provisions to expeditiously address buildings and structures that are deemed unsafe, unfit for human occupancy, or unlawful, while also providing due process for affected property owners; and

**WHEREAS**, the Town Commission held a workshop on May 16, 2016, and authorized Town Staff to bring forward revisions to the Town's Building Code (which is within the Land Development Code) that addresses unsafe and unfit structures and equipment in anticipation of the 2016 Hurricane season; and

**WHEREAS**, after due public notice, the Town's Planning and Zoning Board held a public hearing on May 31, 2016, to consider the proposed Building Code revisions relating to unsafe and unfit structures and equipment, and provided recommendations to the Town Commission as the local governing body; and

**WHEREAS**, on June 6, 2016, the Town Commission conducted the first reading on Ordinance 2016-20, the proposed Building Code revisions and amendments; and

**WHEREAS**, on July 5, 2016, the Town Commission conducted a duly noticed public hearing on the proposed Building Code revisions and amendments and the Town Commission approved the amendments.

**THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF LONGBOAT KEY, AS FOLLOWS**

SECTION 1. The above recitals are true and correct and are hereby incorporated fully by reference.

SECTION 2. Chapter 150, Buildings, Section 150.21, is hereby amended as follows:

**Chapter 150 Buildings**

**150.21 - Procedure for unsafe or unfit structures and equipment.**

*General.* When a structure or equipment is found by the building official to be unsafe, or when a structure is found unfit for human occupancy, or is found unlawful, such

structure or equipment shall be condemned and shall be abated by repair, rehabilitation, or demolition and removal pursuant to the provisions of this Code.

~~(A) *Unsafe structures.* An unsafe structure is one that is found to be dangerous to the life, health, property, or safety of the public or the occupants of the structure by not providing minimum safeguards to protect or warn occupants in the event of fire, or because such structure contains unsafe equipment or is so damaged, decayed, dilapidated, structurally unsafe or of such faulty construction or unstable foundation, that partial or complete collapse is possible.~~

(A) Definitions. The following definitions shall apply for purposes of this section:

*Building official.* The Town Manager of the Town shall appoint a Building Official. The Building Official shall meet all necessary requirements for a Building Official provided for pursuant to Florida Statutes.

*Equipment.* Any boiler, heating/cooling components, elevator, moving stairway, electrical wiring or device, flammable liquid containers, mechanical device, or any other component that, in the opinion of the building official, is applicable under this section.

*Imminent danger.* Structurally unsound conditions of a structure or portion thereof that is likely to cause physical injury to a person entering the structure; or due to structurally unsound conditions, any portion of a structure is likely to fail, be carried by the wind, or otherwise detach or move, and in doing so cause physical injury or damage to a person on the property or to a person or property nearby; or the condition of the property is such that it harbors or is inhabited by pests, vermin or organisms injurious to human health, the presence of which constitutes an immediate hazard to people in the vicinity; or equipment that is inadequately maintained or installed, or found to be in any unsafe condition, and constitutes an immediate hazard to the health, safety and welfare of the occupants thereof or any member of the public or their property.

*Interested parties.* Any individual or organization that has submitted to the building official a written request to be notified with respect to the procedures set forth in this section, identifying a specific property by tax identification number or street address, within twelve (12) months prior to a notice by the building official related to the identified property.

*Owner of record.* The person, persons, or entity recorded in the public property records on the most recent deed, and all parties whose names appear on the County tax rolls, for the parcel of property that the structure or equipment is located that is in violation of this section.

Structure. Anything which is built or constructed. The term “structure” shall be construed as if followed by the words “or part thereof.”

~~(B) *Unsafe equipment.* Unsafe equipment includes any boiler, heating/cooling equipment, elevator, moving stairway, electrical wiring or device, flammable liquid containers or other equipment on the premises or within the structure which is in such disrepair or condition that such equipment is a hazard to life, health, property, or safety of the public or occupants of the premises or structure.~~

~~(C) *Structure unfit for human occupancy.* A Unfit. Any structure or equipment that is unfit unsuitable or improper for the use or human occupancy for which it is intended. Includes any structure or equipment that whenever the building official finds that such structure is unsafe, unlawful or, because of the degree to which the structure is in disrepair or lacks maintenance, is unsanitary, vermin or rat infested, contains filth and contamination, or lacks ventilation, illumination, sanitary, or heating facilities or other essential equipment required by this Code, or because the location of the structure constitutes a hazard to the occupants of the structure or to the public or property nearby.~~

~~(D) *Unlawful structure.* An unlawful Any structure or equipment that is one found, in whole or in part, to be occupied by more persons than permitted under this Code, or was erected, installed, altered, or occupied contrary to law.~~

Unsafe. Any structure or equipment, in whole or in part, that is structurally dangerous, unstable, inadequately provided with exit facilities, constituting a fire hazard, lacking minimum safeguards to protect or warn occupants in the event of fire, or is so damaged, decayed, dilapidated, structurally unstable, inadequately maintained, improperly constructed or installed, or of such faulty construction that partial or complete collapse is possible, or otherwise constitutes a hazard to the life, health, property, safety, or welfare to the occupants thereof or any members of the public or property nearby.

~~(E) *Dangerous structure or premises.* For the purpose of this chapter, any structure or a premises that has any or all of the conditions or defects described below shall be considered dangerous:~~

~~(1) Any door, aisle, passageway, stairway, exit or other means of egress that does not conform to the approved building or fire code of the town as related to the requirements for existing buildings.~~

~~(2) The walking surface of any aisle, passageway, stairway, exit or other means of egress is so warped, worn loose, torn or otherwise unsafe as to not provide safe and adequate means of egress.~~

~~(3) Any portion of a building, structure or appurtenance that has been damaged by fire, wind, flood, deterioration, neglect, abandonment, vandalism or by any~~

~~other cause to such an extent that it is likely to partially or completely collapse, or to become detached or dislodged.~~

~~(4) Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof that is not of sufficient strength or stability, or is not so anchored, attached, or fastened in place so as to be capable of resisting natural or artificial loads of 1½ the original designed value.~~

~~(5) The building or structure, or part of the building or structure, because of dilapidation, deterioration, decay, faulty construction, the removal or movement of some portion of the ground necessary for the support, or for any other reason, is likely to partially or completely collapse, or some portion of the foundation or underpinning of the building or structure is likely to fail or give way.~~

~~(6) The building or structure, or any portion thereof, is clearly unsafe for its use and occupancy.~~

~~(7) The building or structure is neglected, damaged, dilapidated, unsecured, or abandoned so as to become an attractive nuisance to children who might play in the building or structure to their danger, becomes a harbor for vagrants, criminals, or immoral persons, or enables persons to resort to the building or structure for committing a nuisance or an unlawful act.~~

~~(8) Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the approved building or fire code of the jurisdiction, or of any law or ordinance to such an extent as to present either a substantial risk of fire, building collapse, or any other threat to life and safety.~~

~~(9) A building or structure, used or intended to be used for dwelling purposes that because of inadequate maintenance, dilapidation, decay, damage, faulty construction or arrangement, inadequate light, ventilation, mechanical or plumbing system, or otherwise, is determined by the code official to be unsanitary, unfit for human habitation, or in such a condition that is likely to cause sickness or disease.~~

~~(10) Any building or structure, because of a lack of sufficient or proper fire resistance-rated construction, fire protection systems, electrical system, fuel connections, mechanical system, plumbing system or other cause, is determined by the code official to be a threat to life or health.~~

~~(11) Any portion of a building remains on a site after the demolition or destruction of the building or structure or whenever any building or structure is abandoned so as to constitute such building or portion thereof as an attractive nuisance or hazard to the public.~~

~~(F) *Closing of vacant structures.* If the structure is vacant and unfit for human habitation and occupancy, and is not in danger of structural collapse, the code official is authorized to post a placard of condemnation on the premises and order the structure closed up so as not to be an attractive nuisance. Upon failure of the owner to close up the premises within the time specified in the order, the building official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate and may be collected by any other legal resource.~~

- ~~(1) *Authority to disconnect service utilities.* The building official shall have the authority to authorize disconnection of utility service to the building, structure, or system regulated by this Code in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The building official shall notify the serving utility and, whenever possible, the owner and occupant of the building, structure, or service system of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the building, structure, or service system shall be notified in writing as soon as practical thereafter.~~
- ~~(2) *Notice.* Whenever the building official has condemned a structure or equipment under the provisions of this section, notice shall be posted in a conspicuous place on or about the structure affected by such notice and served on the owner or the person or persons responsible for the structure or equipment in accordance with section 150.20.~~
- ~~(3) *Placarding.* Upon failure of the owner or person responsible to comply with the notice provisions within the time given, the building official shall post on the premises or on defective equipment a placard bearing the word "Condemned" and a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.~~
- ~~(4) *Placard removal.* The building official shall remove the condemnation placard whenever the defect or defects upon which the condemnation and placarding action were based have been eliminated. Any person who defaces or removes a condemnation placard without the approval of the code official shall be subject to the penalties provided by this Code.~~

(B) Authority to order vacation, condemnation, repair, or demolition. The building official is hereby authorized to order the vacation, condemnation, repair, or demolition and removal of any unsafe or unfit structure or equipment, or to order repair and/or replacement of any part or parts thereof.

(1) In the event any owner of record or other interested parties fails to comply with any order from the building official within the time therein fixed, the building official is authorized to repair, demolish and/or remove the unsafe or unfit structure or equipment utilizing any available public agency or by contract or arrangement with independent contractors licensed in the State of Florida. The building official is also authorized to utilize the services of independent architects, engineers, and contractors licensed in the State of Florida to determine the condition of the structures or equipment in question.

(2) All costs incurred by the Town for the abatement of unsafe or unfit conditions, including administrative costs, shall be charged against the real property upon which the structure is located and shall be a lien upon such real estate as set forth in Section 150.21(M) and may be collected by any other legal recourse.

(C) Authority to secure all open and vacant structures. The building official is hereby authorized to secure all open and vacant structures. Before securing any

such structure, the building official shall notify the current owner of record by certified mail with return receipt requested and first class mail at least five (5) calendar days prior to proceeding. The notice shall include photographic evidence of the open and vacant conditions. Upon receipt of the notification, the owner of record may either secure the structure, or may appeal the determination that a structure was open and vacant by filing with the building official a Notice of Appeal to the Town Commission as set forth in 150.21(I). Any appeal under this provision must be filed within ten (10) calendar days from receipt of the mailed notice. Nothing herein shall prevent the building official from securing an open and vacant structure prior to the end of the appeal period.

(1) All openings including windows and doors, shall be secured with exterior plywood and suitably coated with an appropriate neutral paint color blending with or harmonizing with the exterior colors of the structure so as to be as inconspicuous as possible.

(2) Upon failure of the owner to close up the premises within the time specified in the order, the building official shall cause the premises to be closed and secured through any available public agency or by contract or arrangement by private persons and the cost thereof, including administrative costs, shall be charged against the real property upon which the structure is located and shall be a lien upon such real property and may be collected by any other legal recourse.

(3) Notwithstanding the foregoing, the securing of a structure as provided for in subsection (C)(1), above, shall not extend beyond one (1) year, unless approved by the building official.

(D) Authority to disconnect service utilities. The building official shall have the authority to authorize disconnection of utility service to the structure or equipment regulated by this Code in case of emergency where necessary to eliminate an immediate hazard to life or property or when such utility connection has been made without approval. The building official shall notify the serving utility and, whenever possible, the owner and occupant of the structure or equipment of the decision to disconnect prior to taking such action. If not notified prior to disconnection the owner or occupant of the structure or equipment shall be notified by certified mail with return receipt requested and first class mail within five (5) calendar days of disconnection. The service utilities shall not thereafter be reconnected without approval from the building official. Any Notice of Appeal to the Town Commission filed relating to the utility disconnection order must be filed within ten (10) calendar days from receipt of the mailed notice and shall proceed as provided for in subsection 150.21(I).

(E) Notice of unsafe or unfit structures or equipment and manner of service. Whenever the building official has verified the existence of an unsafe or unfit structure or equipment under the provisions of this section, the building official shall determine the owner of record as defined in this section and shall notify the owner

of record and interested parties that the structure or equipment is in violation of this Code.

(1) *Written Notice.* The building official shall send a notice to the owner of record and interested parties, by certified mail with return receipt requested and by First Class mail. The notice shall describe the unsafe or unfit conditions, and shall indicate that these conditions must be corrected within a reasonable time frame as determined by the building official and as specified in the notice, or else the structure or equipment shall be subject to abatement as provided in this section. The notice shall also indicate that a building or demolition permit must be secured prior to the commencement of any corrective work, including repair and/or replacement, or demolition and removal.

(2) *Placarding.* In addition to sending notice to the owner of record and interested parties, the building official shall post on the premises or on defective equipment a placard bearing the words "This structure or equipment is unsafe or unfit for human habitation" at the primary entrance or entrances to the structure. The placard shall also include a statement of the penalties provided for occupying the premises, operating the equipment, or removing the placard.

(3) *Placard removal.* Once a structure or equipment has been placarded, it shall be unlawful for any person to enter such structure or use such equipment except for the purposes of making the required repairs or demolishing it. However, if the structure is occupied at the time of placarding, it shall be vacated within fourteen (14) calendar days. Otherwise, no person shall occupy or let another person occupy such a placarded structure. The owner shall immediately begin action to vacate the structure and bring it into compliance within the time prescribed. Any person who defaces or removes a placard without the approval of the building official shall be subject to the penalties provided by this Code. The placard shall remain until such time as the building official orders the placard to be removed.

(G4) *Prohibited occupancy.* Any occupied structure placarded by the building official shall be vacated as ordered by the building official. Any person who shall occupy placarded premises or shall operate placarded equipment, and any owner or ~~any person~~ interested parties responsible for the premises who shall let anyone occupy placarded premises or operate placarded equipment shall be liable for the penalties provided by this Code.

(HF) Abatement methods. The owner of record or other interested parties, operator, or occupant of a building, premises, structure or equipment deemed unsafe or unfit by the ~~code~~ building official shall abate or cause to be abated or corrected such unsafe or unfit conditions either by repair, rehabilitation, demolition, or other approved corrective action. ~~The building official shall cause a report to be filed on an unsafe condition. The report shall state the occupancy of the structure and the nature of the unsafe condition.~~ Prior to taking any corrective action to abate

the unsafe or unfit condition, the owner of record or interested parties shall secure a building or demolition permit.

(G) Extension. If the owner of record or interested parties is unable to complete the work by the date ordered or to fully comply with the Notice of Unsafe or Unfit Structure or Equipment, a written request may be filed to the building official stating the reasons for the delay, and if justifiable cause is demonstrated as merited by special hardship, unusual difficulty or unique problems such as preserving significant portions and features of a structure of historic or architectural value, the building official is hereby authorized to grant written reasonable extensions of time to comply.

(1) An extension to comply in excess of thirty (30) calendar days shall be by compliance agreement with the owner of record, in a form approved by the Town Attorney and signed by the owner of record, the building official and Town Manager, for the abatement of the unsafe or unfit structure or equipment. Such agreement shall be controlling and will govern the subsequent course of action to abate the unsafe or unfit conditions through repair and/or rehabilitation work or demolition.

(2) All repair and/or rehabilitation work or demolition shall require the appropriate building or demolition permits. All work shall conform to the minimum requirements of this Code.

(3) A compliance agreement shall establish completion dates for the submittal of permit documents and for the completion of repair and/or rehabilitation or demolition. The compliance agreement shall provide for the demolition and removal of the unsafe or unfit structure or equipment by the Town if the completion dates are not met. The cost of demolition and removal shall be assessed on the real property in the form of a lien.

(H) Condemnation Order and Notice of Intent to Demolish. If the unsafe or unfit conditions are not corrected within the time indicated in the Notice of Unsafe or Unfit Structure(s) or Equipment, the building official shall condemn the unsafe or unfit structure or equipment and send a Condemnation Order and Notice of Intent to Demolish to the owner of record and to interested parties.

(1) The Condemnation Order and Notice of Intent to Demolish shall be sent by certified mail with return receipt requested and by First Class mail.

(2) In addition to sending a Condemnation Order and Notice of Intent to Demolish, a copy of the Order and Notice shall be posted in a conspicuous place upon the unsafe or unfit structure or equipment.

(3) A Condemnation Order and Notice of Intent to Demolish shall be recorded with the public records of the county in which the unsafe or unfit structure or equipment is located.

(4) Ten (10) calendar days prior to authorizing the demolition of any unsafe or unfit structure or equipment by the Town, a Notice of Intent to Demolish shall be

published in a newspaper of general circulation in the county where the unsafe or unfit structures or equipment is located. Such notice shall be substantially in the following form:

### **NOTICE OF INTENT TO DEMOLISH**

Pursuant to Section 150.21(H) of the Town of Longboat Key Code of Ordinances, the owner or other interested parties having failed to either repair or demolish the structure or equipment at [insert property address] as ordered by the Town of Longboat Key are hereby notified that the Town of Longboat Key has ordered the structure or equipment condemned and will proceed to have the structure or equipment demolished on [insert date], and a lien placed against the property to recover all costs.

To appeal this order and notice, the owner or interested parties must file a written appeal with the Town Manager [insert name, address, and phone number] prior to ten (10) calendar days from the date the Condemnation Order and Notice of Intent to Demolish is received.

(5) The building official shall assess the entire cost of demolition and removal including asbestos abatement, sodding or seeding of the lot, and rodent extermination against the real property in the form of a lien. This lien shall also include all administrative costs, including but not limited to postal expenses and the cost of newspaper publications. The lien shall be filed in the county's official record book where the property is located.

~~(1) *Emergency measures.*~~

~~(1) *Imminent danger.* When, in the opinion of the building official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in the proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the building official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The building official shall cause to be posted at each entrance to such structure a notice reading as follows: "This Structure Is Unsafe and Its Occupancy Has Been Prohibited by the building official." It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition, or of demolishing the same.~~

~~(2) *Temporary safeguards.* Notwithstanding other provisions of this Code, whenever, in the opinion of the building official, there is imminent danger due to an unsafe condition, the code official shall order the necessary work to be done, including the boarding up of openings, to render such structure temporarily safe whether or not the legal procedure herein described has been~~

~~instituted; and shall cause such other action to be taken as the code official deems necessary to meet such emergency.~~

~~(3) *Closing streets.* When necessary for public safety, the building official shall temporarily close structures and close, or order the authority having jurisdiction to close, sidewalks, streets, public ways, and places adjacent to unsafe structures, and prohibit the same from being utilized.~~

~~(4) *Emergency repairs.* For the purposes of this section, the building official shall employ the necessary labor and materials to perform the required work as expeditiously as possible.~~

~~(5) *Costs of emergency repairs.* Costs incurred by the town in the performance of emergency work shall be paid by the property owner. The town attorney shall institute appropriate action against the owner of the premises where the unsafe structure is or was located for the recovery of such costs.~~

~~(6) *Hearing.* Any person ordered to take emergency measures shall comply with such order forthwith. Any affected person shall thereafter, upon petition directed to the town commission, be afforded a hearing as described in section 150.22.~~

~~(7) *Demolition.*~~

~~(a) The building official shall order the owner of any premises upon which is located any structure, which in the building official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, unsanitary, or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or if such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the building official shall order the owner to demolish and remove such structure, or board up until future repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the building official.~~

~~(b) *Notices and orders.* All notices and orders shall comply with section 150.20.~~

~~(c) *Failure to comply.* If the owner of a premises fails to comply with a demolition order within the time prescribed, the building official shall cause the structure to be demolished and removed, either through an available public agency or by contract or arrangement with private persons, and the cost of such demolition and removal shall be charged against the real estate upon which the structure is located and shall be a lien upon such real estate.~~

~~(d) *Salvage materials.* When any structure has been ordered demolished and removed, the governing body or other designated officer under said contract or arrangement afore said shall have the right to sell the salvage and valuable materials at the highest price obtainable. The net proceeds of such sale, after deducting the expenses of such demolition and removal, shall be promptly remitted with a report of such sale or transaction, including the items of expense and the amounts deducted, for the person~~

~~who is entitled thereto, subject to any order of a court. If such a surplus does not remain to be turned over, the report shall so state.~~

(l) Appeal procedure and appearance before the Town Commission. Except in cases of Emergency Demolition as set forth in Section 150.21(J), appeals may be taken by the owner of record or interested parties who has been aggrieved by the following building official orders: Order to Secure Vacant Structure(s) or Equipment, Order to Disconnect Utility Service, or a Condemnation Order and Notice of Intent to Demolish.

(1) Appeals of a Building Official must be submitted in writing to the Town Manager ten (10) calendar days from the date of receipt of the Order. At a minimum the written appeal must contain the following information:

(a) Identification of the building, structure and equipment by street address or legal description;

(b) A statement identifying the legal interest of each appellant;

(c) A statement of the specific order or portion of the order or section of the Code that is being appealed;

(d) A statement detailing the issues the appellant desires to be heard; and

(e) the legal signature of all appellants and their mailing address.

(2) An owner or interested parties who have been aggrieved is afforded the right of a hearing before the Town Commission within thirty (30) calendar days of the date the appeal is received by the Town Manager, or as soon thereafter as practicable.

(3) A Condemnation Order and Notice of Appeal hearing by the Town Commission shall be published once in a newspaper of general circulation in the County in which the property is located at least ten (10) calendar days prior to the time and place of the hearing. Notices of hearing appealing Orders to Secure a Vacant Structure or Equipment or Disconnect Utility Service shall be published on the Town's website and posted within Town Hall at least ten (10) calendar days prior to the time and place of the hearing.

(4) At the hearing, the owner and interested parties, if present, shall be afforded the opportunity to be heard concerning the structure, equipment or property, after which the Town Commission may hear testimony from the public concerning the status of the structure, equipment or property. Any owner of record or interested party may appear in person, by counsel, or by an authorized agent.

(5) Following the public hearing on the appeal, Town Commission may elect to:

(a) Uphold the building official's Order and decision; or

(b) Modify the building official's decision, in whole or in part; or

(c) Reverse the decision or interpretation by the building official; or

(d) Authorize the entering into a Compliance Agreement with the owner of record for the abatement of the unsafe or unfit structure or equipment or

open and vacant structure pursuant to certain agreed upon terms and Section 150.21(G).

(6) In evaluating the merits of the appeal and determining whether to modify or reverse the building official's decision, the Town Commission shall evaluate whether the literal enforcement of the Code or decision by the building official would do manifest injustice and would be contrary to the spirit and purpose of the Code or public interest, and consider the following:

(a) Any evidence presented by the appellant that the unsafe and/or unfit conditions do not exist; and

(b) Any evidence presented by the appellant that the unsafe and/or unfit structure or equipment does not present a danger to any persons or property nearby; and

(c) Whether the grant of a modification or reversal of the building official's decision will be in harmony with the general intent and purpose of this Code; and

(d) Any evidence presented by the appellant that the grant of a modification or reversal of the building official's decision will not be detrimental to the public health, safety and general welfare.

(7) The Town Commission shall enter a written decision relating to the appeal. The Town Manager shall advise the owner of record and interested parties in writing of the Town Commission's action by First Class mail.

(8) Any person aggrieved by the decision of the Town Commission may apply to the circuit court for judicial relief within 30 days after rendition of the decision.

(J) Emergency demolition. In cases where there is imminent danger to the public health, safety or welfare, or immediate danger to the life or safety of any person, or where the public or their property is endangered by wind, storm, fire, or other natural disasters, or where a structure is in imminent danger of collapse from structural decay, the building official shall promptly cause such structure or equipment to be made safe or cause its removal. For this purpose, the building official and fire marshal may at once enter such a structure or the land on which such structure or equipment stands or abutting land or structures, to perform an inspection with such assistance and at such costs as they may deem necessary.

(1) Upon inspection, the building official and the fire marshal shall jointly determine whether or not the structure or equipment requires immediate emergency demolition to maintain the public's health, safety and welfare. A written report will document the results of these inspections.

(2) The building official may order the vacation of adjacent structures and may require the protection of the public by ordering the installation of appropriate fencing or other such means as may be necessary, and for this purpose may close public or private streets, sidewalks, driveways, and other such public or private lands as may be necessary.

(3) Upon determination by the building official and the fire marshal to proceed with demolition, exterior and interior photographs of the structure or equipment will be taken when deemed feasible by the building official and fire marshal.

(4) Written notification of intent to demolish the structure or equipment shall be sent by certified mail with return receipt requested and by First Class mail to the owner of record and interested parties. This written notification shall document the cause for demolition. However, failure to effect personal notice upon the owner of record or interested parties shall not prevent the Town from demolishing the structure and placing a lien on the property for all Town costs associated with the demolition and removal.

(5) Emergency demolition orders shall not be afforded an appeal to the Town Commission. Any appeal must be filed to the appropriate circuit court within ten (10) calendar days of the date the notification of intent to demolish is mailed. Nothing herein shall prevent the building official from demolishing and removing the structure(s) or equipment prior to the end of the appeal period.

(K) Authority to order rodent and pest control. When the building official verifies the existence of rodent and/or pest infestation in a structure that is to be demolished, the building official may require that a licensed pest control operator exterminate the rodents and/or pests to preclude the migration of such rodents and/or pests.

(L) Condition of lot after demolition. A lot from which a structure or equipment is demolished and removed shall be sodded or seeded with grass, or otherwise covered with vegetative landscaping within five (5) calendar days of the completion of demolition.

(M) Assessment of costs of abatement and/or demolition and lien on property. The building official shall assess the entire cost of repair, rehabilitation, boarding up or securing, demolition, removal, asbestos abatement, sodding or seeding, vegetative landscaping, rodent and/or pest extermination, and any other costs associated with abatement of unsafe or unfit conditions against the real property where the conditions existed in the form of a lien. To the extent permitted by applicable law, this lien shall be superior to all others except property taxes and shall include all administrative costs, including but not limited to expert reports or assessments, postal expenses, the cost of newspaper publications, and similar expenses incurred by the Town.

(1) A lien shall be filed in the County's official record book for the County where the real property is located and shall show the nature of such lien, the amount thereof, and an accurate legal description of the property, including street address and the date of filing, and shall recite the names of all owners of record and interested parties notified. Such lien shall bear interest from such date at the rate of ten percent (10) per annum and may be enforceable if unsatisfied after the expiration of one (1) year from the date of filing.

(2) Notwithstanding the foregoing, the Town may elect to charge any and all costs described in this section against any applicable bond or surety for the property that the Town may hold.

(3) In addition to filing a lien and/or charging against a bond or surety, when the Town abates unsafe or unfit conditions the Town retains the right to sell any salvaged materials at the highest price obtainable. The net proceeds of such sale, after deducting all costs indicated herein, shall be promptly remitted with a report of such sale or transaction, including items of expense and the amounts deducted, for the person or entity who is entitled thereto, subject to any order of the court. If such a surplus does not remain to be turned over, the report shall so state.

(N) Civil remedies. The remedies available to the Town within this section are non-exclusive. Nothing herein shall preclude the Town Commission from seeking other available civil remedies to protect the public from dangerous, unsafe or unfit structures or equipment or conditions. The Town Commission reserves its right to initiate in a court of competent jurisdiction litigation to abate any dangerous, unsafe or unfit structure, equipment or condition that is harmful to the persons or property within the Town.

SECTION 5. Severability. If any provision of this Ordinance or the application thereof is held invalid, such invalidity shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid provisions or applications, and to this end the provisions of this Ordinance are hereby declared severable.

SECTION 6. Repeal of Ordinances in Conflict. All other ordinances of the Town of Longboat Key, Florida, or parts thereof which conflict with this or any part of this Ordinance are hereby repealed.

SECTION 7. Codification. This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key.

SECTION 8. Effective Date. This Ordinance shall take effect immediately upon its adoption, as provided by law.

Passed on first reading the 6<sup>th</sup> day of June, 2016.

Adopted on second reading and public hearing the \_\_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jack G. Duncan, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk





**End of Agenda Item**

**Persson & Cohen, P.A.**  
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**Reply to: Lakewood**

**M E M O R A N D U M**

**DATE:** June 28, 2016  
**TO:** Town Commission  
**THRU:** Dave Bullock, Town Manager  
**FROM:** Maggie D. Mooney-Portale, Town Attorney  
Kelly M. Fernandez, Assistant Town Attorney  
**SUBJECT:** Ordinance 2016-21

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In 1990, the Town adopted a Code of Ethics (Town Code Chapter 39) which was last amended in 1999. The Florida Code of Ethics for Public Officers and Employees is found in Chapter 112, Part III, Florida Statutes. Many provisions of the Florida and Town Codes of Ethics are identical or nearly identical, but others are in conflict.

At the September 28, 2015 Special Meeting the Town Attorney discussed her concerns regarding the variations and conflicts between the Florida Code of Ethics and Town Code of Ethics. At the May 16, 2016 Regular Workshop, the Town Commission directed the Town Attorney to prepare Ordinance 2016-21 to amend Chapter 39 to adopt the Florida Code of Ethics as the Town Code of Ethics. Article I, Section 8 of the Town Charter calls for a Special Masters process to enforce the Town Code of Ethics. Due to the adoption of the Florida Code of Ethics, proposed Ordinance 2016-21 relies on the Florida Commission on Ethics for enforcement, but provides that the Town will adopt a Special Master process should the Florida Legislature ever abolish the Florida Commission on Ethics.

Ordinance 2016-21 was presented for first reading at the June 6, 2016 Special Meeting and forwarded to the July 5, 2016 Regular Meeting for second reading and public hearing.

## ORDINANCE 2016-21

**AN ORDINANCE AMENDING CHAPTER 39, CODE OF ETHICS, OF THE CODE OF ORDINANCES OF THE TOWN OF LONGBOAT KEY, FLORIDA; AMENDING SECTION 39.01, DECLARATION OF PURPOSE AND POLICY; REPEALING SECTION 39.02, DEFINITIONS; AMENDING AND RENUMBERING SECTION 39.03, ESTABLISHMENT; RENUMBERING SECTION 39.04, RESPONSIBILITIES OF PUBLIC OFFICE; REPEALING SECTION 39.05, FAIR AND EQUAL TREATMENT; REPEALING SECTION 39.06, STANDARDS OF CONDUCT; CONFLICTS OF INTEREST; REPEALING SECTION 39.07, VOTING CONFLICTS; REPEALING SECTION 39.08, INFLUENCE OF BOARD MEMBERS BY TOWN COMMISSIONERS; APPEARANCE BEFORE BOARDS; REPEALING SECTION 39.09, APPLICABILITY OF THE CODE; REPEALING SECTION 39.10, RELATIONSHIP TO STATE STATUTE; REPEALING SECTION 39.11, COPIES FURNISHED; AMENDING AND RENUMBERING SECTION 39.12, SPECIAL MASTERS; REPEALING SECTION 39.13, SUBPOENA POWER; REPEALING SECTION 39.14, APPEALS; PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the Town of Longboat Key's Code of Ethics has not been amended in over 15 years; and

**WHEREAS**, the Florida Code of Ethics for Public Officers and Employees, Chapter 112, Part III, Florida Statutes ("Florida Code of Ethics"), applies to all Town officers and certain Town employees; and

**WHEREAS**, pursuant to Section 112.3142, Florida Statutes, the Town Commissioners are required to annually complete four hours of trainings on the Florida Code of Ethics; and

**WHEREAS**, the Town Code of Ethics is nearly identical to the Florida Code of Ethics, but some conflicts exist and some provisions of the Florida Code of Ethics have not been incorporated into the Town Code of Ethics; and

**WHEREAS**, the Town recognizes the possibility for confusion or conflict between state and Town ethics requirements; and

**WHEREAS**, the Town desires to adopt, in whole, the Florida Code of Ethics as the Town Code of Ethics and rely on the expertise of the Florida Commission on Ethics and that agency's administration to handle any enforcement issues arising out of violations of the Florida Code of Ethics; and

**WHEREAS**, the Town Commission of the Town of Longboat Key finds that the amendments to the Town Code of Ethics are in the best interest of the health, safety, and welfare of the citizens of Longboat Key.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN OF LONGBOAT KEY, FLORIDA, THAT:**

**SECTION 1.** The Whereas clauses above are ratified and confirmed as true and correct.

**SECTION 2.** The amendments to Chapter 39, Code of Ethics, attached hereto as Exhibit "A" are hereby adopted.

**SECTION 3.** If any section, subsection, sentence, clause or provision of this Ordinance is held invalid, the remainder of the Ordinance shall not be affected.

**SECTION 4.** All ordinances or parts of ordinances in conflict herewith shall be and the same are hereby repealed.

**SECTION 5.** This Ordinance shall be codified and made a part of the official Code of Ordinances of the Town of Longboat Key upon adoption.

**SECTION 6.** This Ordinance shall take effect upon second reading and adoption in accordance with Law and the Charter of the Town of Longboat Key.

Passed on the first reading this \_\_\_\_ day of \_\_\_\_\_, 2016.

Adopted on the second reading and public hearing this \_\_\_\_ day of \_\_\_\_\_, 2016.

\_\_\_\_\_  
Jack G. Duncan, Mayor

ATTEST:

\_\_\_\_\_  
Trish Granger, Town Clerk

**ORDINANCE 2016-21**  
**EXHIBIT "A"**

**Chapter 39 - CODE OF ETHICS**

~~39.01 - Declaration of purpose and policy.~~

~~39.02 - Definitions.~~

~~39.03 39.02 - Establishment Adoption of Florida Code of Ethics.~~

~~39.04 39.03 - Responsibilities of public office.~~

~~39.05 - Fair and equal treatment.~~

~~39.06 - Standards of conduct; conflicts of interest.~~

~~39.07 - Voting conflicts.~~

~~39.08 - Influence of board members by town commissioners; appearance before boards.~~

~~39.09 - Applicability of the Code.~~

~~39.10 - Relationship to state statute.~~

~~39.11 - Copies furnished.~~

~~39.12 39.04 - Special masters Enforcement of Code of Ethics.~~

~~39.13 - Subpoena power.~~

~~39.14 - Appeals.~~

**39.01 - Declaration of purpose and policy.**

The purpose of this chapter is to promote the welfare of the citizens of the town through the adoption of a code of ethics to govern all town officers and town employees, employed either on a part-time or full-time basis by the town. Within this framework, the general objectives of this chapter are as follows:

- ~~(A) To facilitate the proper operation of municipal government by providing officers and employees who are independent, impartial and responsible to the people, and able to make governmental decisions and formulate policy within the established channels of governmental structure.~~
  - ~~(B) To ensure that public office or public employment not be used for private gain other than as provided for by law.~~
  - ~~(C) To ensure that the financial interests of employees and public office holders present neither a conflict nor the appearance of a conflict with the public trust.~~
  - ~~(D) To foster continued recognition of the concept that public employees and public office holders are agents of the public and hold office or employment for the benefit of the public.~~
  - ~~(E) To enhance public confidence in the integrity of its municipal government.~~
  - ~~(F) To promote a recommitment to the concept that public employees and public office holders are required to uphold the Constitution of the United States, the Constitution of the State of Florida and the Charter of the town, and are required to impartially carry out and enforce the laws of the nation, the state and the town.~~
  - ~~(G) To continue high moral standards in government.~~
- ~~To this end, there is established a code of ethics for the town.~~

**ORDINANCE 2016-21**  
**EXHIBIT "A"**

**39.02 - Definitions.**

~~When used in this chapter:~~

~~"Business entity." Any person or individual, proprietorship, partnership, corporation, association or any organization which is engaged in business.~~

~~"Conflict" or "conflict of interest." A situation in which regard for a private interest tends to lead to disregard of a public duty or interest.~~

~~"Governmental body." The town or any of its departments, agencies, commissions, authorities or boards.~~

~~"Represent" or "representation." Actual physical attendance on behalf of a client in a town proceeding, the writing of letters or filing of documents on behalf of a client, and personal communications made with the officers or employees of the town on behalf of a client.~~

~~"Town employee." Any person employed by the town or any of its departments, agencies, commissions, authorities or boards, whether on a full-time or part-time basis.~~

~~"Town officer." Any person elected or appointed to any public office or public body of the town, whether paid or unpaid, and whether part-time or full-time, including the town commission, planning and zoning board, code enforcement board, zoning board of adjustment, pension board, and the investment advisory board, but excluding any person serving on an advisory body not stated above or required by Florida law; except that any person serving on an advisory body shall be subject to the requirements of the ethics code, except for § 39.06(H) (1).~~

**39.03 39.02 - Establishment Adoption of Florida Code of Ethics.**

~~The requirements set forth in this chapter shall constitute a code of ethics establishing reasonable standards and guidelines for the ethical conduct of town officers and employees. The Town adopts the Code of Ethics for Public Officers and Employees found in Chapter 112, Part III, Florida Statutes, as it may be amended from time to time, as the Town's Code of Ethics.~~

**39.04 39.03 - Responsibilities of public office.**

~~Town officers and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States, and the Constitution of this state, and the Charter of the town, and to carry out impartially the laws of the nation, state, and municipality and thus to foster respect for all government. As such, they are bound to observe the highest standards of morality and to discharge faithfully the duties of their office regardless of personal considerations, recognizing that the public interest must be their primary concern.~~

**39.05 - Fair and equal treatment.**

~~(A) Influencing appointments. Canvassing the members of the town commission, directly or through a third party, in order to obtain preferential consideration in connection with any appointment to and any application for employment in the town service shall disqualify the candidate for appointment except with reference to positions filled by appointment by the town commission. Town officers and employees shall not canvass any town commissioner on behalf of a candidate for appointment to the town service. Town commissioners shall not respond to canvassing by granting any special consideration, treatment, or advantage to the candidate which is not available to every~~

**ORDINANCE 2016-21**  
**EXHIBIT "A"**

~~other candidate. Members of the town commission shall adhere to article II, § 13, of the Town Charter, entitled "Relationship of Town Commission With Administration".~~

- ~~(B) Use of property. No town officer or employee shall use, request or permit the use of town-owned vehicles, equipment, materials or property for personal convenience or profit; except when such services are available to the public generally or are provided as town policy pursuant to town resolution passed by the town commission for the use of such officer, employee or others. Notwithstanding anything herein to the contrary, the town manager may authorize the personal use of the following town-owned property by town officers or employees upon receipt of a written request for such use and an authorization for the town to collect payment for any damages to the town property by payroll deduction:~~
- ~~(1) Hand tools not requiring a power source to operate;~~
  - ~~(2) Folding chairs and tables;~~
  - ~~(3) Books;~~
  - ~~(4) On-premises, after-hours use of typewriters, drafting boards, calculators and similar nonexpendable office equipment.~~
- ~~(C) Obligations to citizens. No town officer or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen.~~

**~~39.06 – Standards of conduct; conflicts of interest.~~**

- ~~(A) Solicitation or acceptance of gifts.~~
- ~~(1) No town officer or employee, or candidate for nomination or election shall solicit or accept anything of value to the recipient, including a gift, loan, reward, promise of future employment, favor, or service, based upon any understanding that the vote, official action, or judgment of the town officer or employee, or candidate would be influenced thereby.~~
  - ~~(2) No town officer or employee shall accept any gift in excess of \$100.00 in value, whether in the form of entertainment, service, loan, thing, or promise, from any person, firm or corporation which to his knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the town.~~
- ~~(B) Doing business with town. No employee of the town acting in his official capacity as a purchasing agent, or town officer acting in his official capacity, shall either directly or indirectly purchase, rent, or lease any realty, goods, or services for the town from any business entity of which he or his spouse or child is an officer, partner, director, or proprietor or in which such officer or employee or his spouse or child, or any combination of them, has a material interest. Nor shall a town officer or employee, acting in a private capacity, rent, lease, or sell any realty, goods or services of the town if he is serving as an officer or employee of the town. This subsection shall not affect or be construed to prohibit contracts entered into prior to:~~
- ~~(1) October 1, 1975;~~
  - ~~(2) Qualification for elective office;~~
  - ~~(3) Appointment to public office;~~
  - ~~(4) Beginning public employment.~~
- ~~(C) Unauthorized compensation. No town officer or employee or his spouse or minor child shall, at any time, accept any compensation, payment, or thing of value when such officer or employee knows or, with the exercise of reasonable care, should know that it~~

**ORDINANCE 2016-21**  
**EXHIBIT "A"**

- ~~was given to influence a vote or other action in which the officer or employee was expected to participate in his official capacity.~~
- ~~(D) Salary and expenses. No town officer or employee shall be prohibited from voting on a matter affecting his salary, expenses, or other compensation as a town officer, as provided by law.~~
- ~~(E) Misuse of public position. No town officer or employee of the town shall corruptly use or attempt to use his official position or any property or resource which may be within his trust, or perform his official duties, to secure a special privilege, benefit, or exemption for himself or others. This section shall not be construed to conflict with F.S. § 104.31.~~
- ~~(F) Conflicting employment or contractual relationship.~~
- ~~(1) No town officer or employee shall have or hold any employment or contractual relationship with any business entity or any agency which is subject to the regulation of, or is doing business with, the town, excluding those organizations and their officers who, when acting in their official capacity, enter into or negotiate a collective bargaining contract with the town; nor shall an officer or employee of the town have or hold any employment or contractual relationship that will create a continuing or frequently recurring conflict between his private interests and the performance of his public duties or that would impede the full and faithful discharge of his public duties.~~
- ~~(2) This subsection shall not prohibit a town officer or employee from practicing in a particular profession or occupation when such practice by persons holding such town office or employment is required or permitted by law or ordinance.~~
- ~~(3) town commissioner may represent another person or entity for compensation before the town commission or any town board for a period of two years following vacation of office.~~
- ~~(G) Disclosure or use of certain information. No town officer or employee shall disclose or use information not available to members of the general public and gained by reason of his official position for his personal gain or benefit or for the personal gain or benefit of any other person or business entity.~~
- ~~(H) Disclosure of specified interests.~~
- ~~(1) If a town officer or employee is an officer, director, partner, proprietor, associate, or general agent (other than a resident agent solely for service of process) of, or owns a material interest in, any business entity which is granted a privilege to operate in this state, he shall file with the town clerk a statement disclosing such facts. Such statement shall be filed no later than 45 days after becoming an officer or employee or after the acquisition of such position or material interest. The statement shall give the name, address, and principal business activity of the business entity and shall state the position held with such business entity or the fact that a material interest is owned and the nature of that interest. New appointees to town office or new town employees shall file the statement required herein, if applicable, no later than 45 days after their appointment or after the date their employment begins.~~
- ~~(2) A person seeking to qualify as a candidate for nomination or election to any office shall file a like statement along with, and as a part of, the required qualification papers. Persons seeking to qualify as a candidate for nomination or election to town office, and officers and employees of the town, shall file their statements with~~

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~~the town clerk and the supervisor of elections of the county in which they are principally employed or are residents in accordance with Florida law.~~

- ~~(I) Employees holding office. No employee of the town shall hold office as a member of the town commission while, at the same time, continuing as an employee of the town.~~
- ~~(J) Exemption. The requirements of subsections (B) and (F) as they pertain to persons serving on advisory boards may be waived in a particular instance by the town commission upon a full disclosure of the transaction or relationship to the town commission prior to the waiver and an affirmative vote in favor of waiver by two-thirds vote of the town commission. In instances in which appointment to the advisory board is made by an individual, waiver may be effected, after public hearing, by a determination by the appointing person and full disclosure of the transaction or relationship by the appointee to the appointing person. In addition, no person shall be held in violation of subsection (B) or subsection (F) if:
  - ~~(1) Within the town the business is transacted under a rotation system whereby the business transactions are rotated among all qualified suppliers of the goods or services within the town.~~
  - ~~(2) The business is awarded under a system of sealed, competitive bidding to the lowest or best bidder and:
    - ~~(a) The official or his spouse or child has in no way participated in the determination of the bid specifications or the determination of the lowest or best bidder;~~
    - ~~(b) The official or his spouse or child has in no way used or attempted to use his influence to persuade the town or any personnel thereof to enter such a contract other than by the mere submission of the bid; and~~
    - ~~(c) The official, prior to or at the time of the submission of the bid, has filed a statement with the Supervisor of Elections of Sarasota or Manatee County disclosing his interest, or the interest of his spouse or child, and the nature of the intended business.~~~~
  - ~~(3) The purchase or sale is for legal advertising in a newspaper, for any utilities service, or for passage on a common carrier.~~
  - ~~(4) An emergency purchase or contract which would otherwise violate a provision of subsection (B) or subsection (F) must be made in order to protect the health, safety, or welfare of the citizens of the town.~~
  - ~~(5) The business entity involved is the only source of supply within the town and there is full disclosure by the officer or employee of his interest in the business entity to the town commission prior to the purchase, rental, sale, leasing, or other business being transacted.~~
  - ~~(6) The total amount of the subject transaction does not exceed \$500.00.~~
  - ~~(7) The fact that a town officer or member of a town board or body, is a stockholder, officer, or director of a bank will not bar such bank from qualifying as a depository of funds coming under the jurisdiction of any such town board or body, provided it appears in the records of the town that the town commission has determined that such officer or member of a town board or body has not favored such bank over other qualified banks.~~~~
- ~~(K) Additional exemption. No elected town commissioner shall be held in violation of subsection (F) (1) or (F) (2) if the commissioner maintains an employment relationship with an entity which is currently a tax-exempt organization under § 501(c) of the~~

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~~Internal Revenue Code and which contracts with or otherwise enters into a business relationship with the town and:~~

- ~~(1) The town commissioner's employment is not directly or indirectly compensated as a result of such contract or business relationship;~~
- ~~(2) The town commissioner has in no way participated in the town's decision to contract or to enter into the business relationship with his employer, whether by participating in discussion at the meeting, by communicating with officers or employees of the town or otherwise; and~~
- ~~(3) The town commissioner abstains from voting on any matter which may come before the town involving the town commissioner's employer, publicly states to the assembly the nature of his interest in the matter from which he is abstaining, and files a written memorandum as provided in F.S. § 112.3143, (3).~~

**~~39.07 - Voting conflicts.~~**

- ~~(A) No town officer is prohibited from voting in his official capacity on any matter, except that no town officer shall vote in his official capacity upon any measure which inures to his special private gain or loss or shall knowingly vote in his official capacity upon any measure which inures to the special gain or loss of any principal, other than an agency, as defined in F.S. § 112.312(2), by whom he is retained.~~
- ~~(B) Any town officer abstaining pursuant to subsection (A) of this section shall, prior to the vote being taken, publicly state to the assembly the nature of his interest in the matter from which he is abstaining from voting and, within 15 days after the vote occurs, disclose the nature of his interest as a public record in a memorandum filed with the person responsible for recording the minutes of the meeting, who shall incorporate the memorandum in the minutes.~~
- ~~(C) Any town commissioner voting in his official capacity on a matter or measure which inures to the special gain or loss of any person or business entity from whom he has received a campaign contribution as defined in F.S. § 106.011(3), in excess of \$100.00 within two years prior to the time the vote is taken shall disclose such fact on the record of the commission prior to the vote. He shall also disclose any such contribution if received from an officer, director, major stockholder, general or limited partner (if known), or any other principal of any such contributing business entity.~~
- ~~(D) No appointed town officer shall participate in any matter which inures to his special private gain or loss or the special gain or loss of any principal by whom he is retained, without first disclosing the nature of his interest in the matter and the nature of the factual situation in which the regard for his private interest tends to lead to a disregard of his public duty or the public interest. Such disclosure shall be made in a written memorandum filed with the person responsible for recording the minutes of the meeting and shall be incorporated in the minutes; if the disclosure is initially made orally at a meeting attended by the officer, the written memorandum disclosing the nature of the conflict shall be filed within 15 days with the person responsible for recording the minutes of the meeting and shall be incorporated in the minutes. A copy of such memorandum, which shall become a public record upon filing, shall immediately be provided to the other members of the agency and shall be read publicly at the meeting prior to the consideration of the matter. For purposes of this paragraph, the term "participate" means any attempt to influence the decision by oral or written communication whether made by the officer or at his direction.~~

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~~(E) Whenever a town officer or former town officer is being considered for appointment or reappointment to public office, the appointing body shall consider the number and nature of the memoranda of conflict previously filed under this section by the officer.~~

**~~39.08 - Influence of board members by town commissioners; appearance before boards.~~**

~~(A) Town commissioners are hereby prohibited from:~~

- ~~(1) Attempting directly or indirectly to influence the decision or official act of any member of any board or committee of the town;~~
- ~~(2) Appearing before any such board except upon invitation of a majority of the members of such board; provided, however, that if a town commissioner shall appear before such board without invitation, he shall be presumed to have a financial or personal interest in any matter which he shall have advocated or espoused before the board.~~

~~(B) Excepted from the provisions hereof is participation by the mayor or members of the town commission in the acts and deliberations of any board of which they are appointed regular, or ex officio, or liaison members of the board.~~

~~(C) Violations of this section shall be deemed a misuse of public position as set forth in § 39.06(E) above.~~

**~~39.09 - Applicability of the Code.~~**

~~When a town commissioner or other officer or employee has doubt as to the applicability of a provision of this Code to a particular situation, he shall apply to the town attorney for an advisory opinion and be guided by that opinion when given. The town attorney may refer the request to a special master chosen pursuant to section 39.12. The commissioner or other officer or employee shall have the opportunity to present his interpretation of the facts at issue and of the applicable provisions of the Code before such advisory decision is made. This Code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or Charter provision.~~

**~~39.10 - Relationship to state statute.~~**

~~To the extent of any conflict between F.S. ch. 112, (1987), as it may be amended from time to time, and this Code, chapter 112 shall apply, except that any provision of this Code, which is more stringent than or in addition to the requirements of chapter 112 shall apply if not in conflict with chapter 112.~~

**~~39.11 - Copies furnished.~~**

~~A copy of this ethics code shall be furnished to all new town officers and town employees prior to assumption of any official duties.~~

**~~39.12 39.04 - Special masters Enforcement of Code of Ethics.~~**

~~The Florida Commission on Ethics enforces the Florida Code of Ethics for Public Officers and Employees. Should the Florida Legislature abolish the Florida Commission on Ethics, the Town shall appoint Special Masters and create duties and powers of the Special Masters for enforcement of the Town Code of Ethics consistent with the requirements of Article I, Section 8, of the Longboat Key Charter.~~

~~(A) Special masters. The town commission shall appoint a minimum of three independent special masters selected on the basis of their qualifications. When an ethics complaint~~

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~~is filed which is within the jurisdiction of the special master as set forth below, the special master shall be chosen by lot. Special masters may conduct investigations upon complaints or information received, and may subpoena evidence and swear witnesses. Special masters shall cause to be kept accurate and complete minutes of any and all public hearings.~~

~~(b) Ethics complaints concerning elected officials, candidates for town commission, and advisory board or committee members.~~

~~(1) Upon the filing with the town clerk of a written, sworn complaint of any person concerning an alleged ethical breach by a town officer, candidate for town commission, or advisory board or committee member, the town clerk shall present the complaint to the town attorney, who, within five days of receipt of the complaint, shall cause a copy to be delivered to the alleged violator. If the facts contained within the complaint, if true, set forth a violation of the town's ethics code, the town attorney shall refer the matter to a special master who shall be chosen by lot by the town clerk. The special master, once selected, shall investigate the alleged violation of this chapter in accordance with the procedures set forth herein. All proceedings, the complaint, and other records relating to the preliminary investigation as provided herein, including a dismissal of the complaint, shall be open to the public. In no event shall a complaint under this section against a candidate in any town election be filed or the filing of or intention of filing such a complaint be disclosed on the day of any such election or within the five days immediately preceding the date of the election.~~

~~(2) (a) A preliminary investigation shall first be undertaken by the special master to determine if the facts alleged in the complaint constitute probable cause to believe that an ethical violation has occurred. If upon completion of the preliminary investigation the special master finds no probable cause to believe that this chapter has been violated, the special master shall dismiss the complaint stating with particularity the reasons for dismissal of the complaint. The complaint, together with a written statement of the findings of the preliminary investigation and a summary of the facts, shall be transmitted to the complainant and the alleged violator.~~

~~(b) If the special master finds from the preliminary investigation probable cause to believe that this chapter has been violated, he shall so notify the complainant and the alleged violator in writing. Such notification and all documents made or received in the disposition of the complaint shall be public records.~~

~~(c) Upon request submitted to the special master in writing, any person who the special master finds probable cause to believe has violated any provision of this chapter shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if request therefor is not received by the special master within 14 days following the mailing of the probable cause notification required by this section; however, the special master may on his own motion require a public hearing and may conduct such further investigation as he deems appropriate and necessary. The complainant and alleged violator shall be given notice in writing of the date and time set for such public hearing at least ten days before the public hearing is held.~~

~~(d) The hearing shall be conducted in accordance with all requirements of due process of law and in accordance with any written rules and regulations that have been promulgated by the special master and approved by the town~~

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~~commission. Any person filing such a sworn complaint and any alleged violator may appear before the special master in person or by counsel and shall be entitled to question witnesses and present evidence in accordance with any rules that have been adopted. Within ten days after the public hearing, the special master shall make and promulgate written findings of fact and conclusions based thereon, including a determination as to the propriety of the conduct of the alleged violator, all of which shall be transmitted to the complainant, the alleged violator, the town commission, and the town manager.~~

~~(e) In any case in which the special master finds probable cause to believe a violation of criminal law has been committed by an alleged violator, or where the special master finds probable cause to believe that a complainant has committed perjury in regard to any document filed with or any testimony given before the special master, he shall refer such evidence to the appropriate law enforcement agency for prosecution.~~

~~(3) Sanctions to be determined by special master.~~

~~(a) If the special master, pursuant to the provisions of this subsection makes a determination that the conduct of any town commissioner, candidate for town commission, or member of any advisory board or committee is or was improper, the town commission may institute appropriate action for correction or rectification of that conduct, and may institute appropriate action to avoid any transaction with a public body or any determination made by a public body.~~

~~(b) Violation of any provision of the town ethics code, in addition to any criminal penalty involved, shall constitute grounds for, and the special master may impose, one or more of the following sanctions:~~

- ~~1. Public censure and reprimand.~~
- ~~2. Forfeiture of no more than one-third of any salary per month for no more than 12 months.~~
- ~~3. Restitution of any pecuniary benefits received because of any violation committed.~~
- ~~4. Removal of the town officer from office.~~
- ~~5. Recommendation to the governor of the State of Florida for the removal from public office of the town officer.~~

~~(c) The special master shall base any decision to impose sanctions upon written findings of fact, conclusions and determinations. The imposition of sanctions should occur after the promulgation of the findings of fact, conclusions and determinations by the special master.~~

~~(C) Ethics complaints concerning town employees.~~

~~(1) If the complaint involves ethical conduct of any town employee other than the town manager, the complainant shall file the sworn complaint with the town manager who shall review the complaint pursuant to federal and state law, the Charter, this Code, and the personnel rules and regulations then in existence. The town manager shall have the power to investigate, and when appropriate to reprimand, punish, demote, dismiss or take any and all other disciplinary action concerning employees who breach ethical standards. For purposes of the Whistleblower Act, the town commission designates the town manager as the chief executive officer~~

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~~and appropriate local official for all complaints filed pursuant to F.S. § 112.3187 et seq., as amended.~~

~~(D) Ethics complaints concerning the town manager and town attorney.~~

~~(1) Upon the filing with the town clerk of a written, sworn complaint of any person concerning an alleged ethical breach by the town manager or town attorney, the town clerk shall present the complaint to a special master chosen by lot who, within five days of receipt of the complaint, shall cause a copy to be delivered to the alleged violator. If the facts contained within the complaint, if true, set forth a violation of the town's ethics code, the special master shall instruct the town clerk to select another special master by lot to investigate the alleged violation of this chapter in accordance with the procedures as set forth in subsection (B) above, except that after all due proceedings the special master shall only make findings of fact as to whether an ethical breach occurred. These findings of fact shall be forwarded to the town commission for its consideration and further action.~~

~~(E) The right to notice of public hearing from the special master.~~

~~(1) Timing of the notice to the person charged. The notice shall be given to the person charged whenever all the following conditions are present:~~

~~(a) The stated reason(s) for the allegations and the finding of the probable cause have a significant bearing on the individual's reputation; and~~

~~(b) There is a factual dispute as to the truth or falsity of the stated reason(s); and~~

~~(c) The stated reason(s) is/are made or become a public record pursuant to Florida's Public Records Law, or is made public in any other way.~~

~~(2) Content of the notice. At the time of the relevant finding of probable cause action, under the necessary conditions, the special master shall inform the person charged that he/she has a right to seek a hearing. The notice:~~

~~(a) Shall be in writing; and~~

~~(b) Shall inform the person charged of the nature of the stated charge(s) that were made public in connection with any of the special master actions, in sufficient detail to enable the person to show the error in the statements and allegations, including but not limited to the laws, statutes, ordinance, rules or regulations which the employee or public official has allegedly violated along with an explanation of the factual circumstances that constitute the alleged violation; and~~

~~(c) Shall state that the person charged may request a hearing; and~~

~~(d) Shall inform the person charged that he/she may submit documents or testimony at the hearing that contradicts the stated charge(s) that were made in connection with the special master's finding of probable cause. The notice shall inform the person charged that the purpose of the hearing is to factually dispute the statement or charge, and its purpose is not to inquire into or dispute the propriety of the special master's decision to investigate any initial finding of probable cause, even though the employee or public official may be totally exonerated or found innocent of all charges by the special master after due process.~~

~~(3) Hearing.~~

~~(a) The hearing shall be set if the employee/town officer requests a hearing within 14 days after the mailing and receipt of the probable cause or right to hearing notification or if the special master requests a hearing upon its own initiative.~~

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- ~~(i) The public hearing will be deemed waived as to the person charged if timely request is not made by the person charged.~~
- ~~(ii) If the person charged waives his right to a public hearing, the special master may on his own require a public hearing.~~
- ~~(b) Notice of the date and time of the hearing shall be sent in writing to the complainant and person charged at least ten days before the public hearing is held.~~
- ~~(c) The hearing shall be conducted by the special master, who shall be the hearing officer.~~
- ~~(d) The town officer may submit documents and/or sworn testimony of himself/herself and/or third party witnesses and the initial complainant to contradict the statement(s) that were publicly made in connection with the charges.~~
- ~~(e) The hearing shall be recorded by a court reporter, whose minutes or transcript shall become public record. One original transcript may be ordered and paid for by the town. Any party or interested person may order additional transcriptions or copies thereof at their own expense.~~
- ~~(f) Both the complainant and the person charged who requested the hearing shall have the opportunity to submit written memoranda and/or briefs to the special master within such reasonable time as shall be set by the special master. The public hearing shall be continued and not closed pending receipt or official transcripts, memoranda, briefs, or proposed findings of fact and conclusions of law to be considered by the special master.~~

**39.13 - Subpoena power.**

- ~~(A) The special master is empowered to issue subpoenas to persons, ordering them to appear for testimony before the special master, and to issue subpoenas ordering the person to whom it is directed to produce books, papers, documents or tangible things designated therein. The special master may issue subpoenas for investigatory functions or probable cause determinations, and public hearings.~~
- ~~(B) Every subpoena shall be sealed by the town clerk upon request of the special master for issuance of a subpoena. The special master shall sign the subpoena upon the town clerk's verifying that the town seal has been affixed to the subpoena.~~
- ~~(C) The special master may have the subpoena served by any person authorized by law to serve process or any other person who is not a party and who is not less than 18 years of age. Service of a subpoena upon a person named therein shall be as provided by law. Proof of such services shall be made by affidavit of the person making service if not otherwise served by a public officer authorized by law to do so.~~
- ~~(D) In the event the person to whom the subpoena is directed fails to obey it, the special master may apply to the circuit court for its enforcement.~~

**39.14 - Appeals.**

~~Anyone aggrieved by a determination of the special master shall apply to the circuit court for judicial relief within 30 days after rendition of the decision.~~



**End of Agenda Item**