

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

Date: June 23, 2015

**TO:** Dave Bullock, Town Manager  
**FROM:** Anne Ross, Assistant Town Manager  
**SUBJECT:** Ordinance 2015-21, Providing for Bond Referendum on November 3, 2015

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At the June 1, 2015, Town Commission Regular Meeting, the Town Commission directed staff to move forward with an undergrounding project set up as follows:

- Referendum One, Onsite Election on November 3, 2015 – Undergrounding GMD and Main Feeders (including 20% Construction Contingency) by Non Ad Valorem Assessments Town- Wide over a 30 Year Financing Period
- Referendum Two, Date and Election Type to be Determined – Undergrounding Overhead Side Streets/Neighborhoods (including 20% Contingency) by Non Ad Valorem Assessments on a Overhead District over a 30 Year Financing Period

The first step in accomplishing Bond Referendum One, is adopting Ordinance 2015-21 establishing the referendum language, the not to exceed project amount, and setting November 3, 2015 as the referendum date.

The Town Attorney, Bond Counsel, Engineer, and Town Staff have collaborated on the Ordinance. The attached PowerPoint presentation will provide an update on the undergrounding project and process as a whole.

Ordinance 2015-21 passed first reading at the June 15, 2015 Special Meeting and is presented for second reading and public hearing at the Town Commission Special Meeting on June 29, 2015.



**UNDERGROUNDING PROJECT UPDATE  
AND  
ORDINANCE 2015-21  
GMD UNDERGROUNDING REFERENDUM**

**June 29, 2015**

**Special Meeting**



# PROJECT LAYOUT

- **Two Referendum Process**
  - **Referendum One, Onsite Election November 3, 2015 (Ordinance 2015-21) – Undergrounding GMD and Feeder (including 20% Construction Contingency) by Non-Ad Valorem Assessments Town-wide over a 30 Year Financing**
  - **Referendum Two, Election Type and Date To Be Determined Current Proposed Framework Undergrounding Overhead Side Streets/Neighborhoods (including 20% Construction Contingency) by Non-Ad Valorem Assessments on an Overhead District over a 30 Year Financing**



# REFERENDUM PROJECT AMOUNTS

- **Must be Not to Exceed Amount**
- **Incorporates Conservative Construction and Financing Costs**
  - **Risk of Interest Rate Increase over Project Duration (Assessments will be shown on both 4.5% and 6% interest rates)**
  - **Adjustments can be made for Lower Final Actual Costs (Shorter Payback or Assessment Reductions)**

# PROJECT COST SUMMARY

	GMD Project (15% Construction Contingency)	GMD Project (20% Construction Contingency)	Overhead Neighborhood/ Side Streets (15% Construction Contingency)	Overhead Neighborhood/ Side Streets (20% Construction Contingency)
<b>Project Component</b>				
Undergrounding GMD & Feeders	\$16,300,000	\$16,900,000		
Undergrounding Neighborhoods			\$14,500,000	\$15,000,000
Street Lighting Enhancement GMD	\$4,400,000	\$4,800,000		
Street Lighting Replacement Neighborhoods			\$1,500,000	\$2,000,000
Fiber Optic Line Installation GMD	\$500,000	\$600,000		
Fiber Optic Line Neighborhoods			\$1,200,000	\$1,200,000
Financing and Legal Costs	\$700,000	\$780,000	\$300,000	\$660,000
Extra Contingency	\$300,000	\$500,000	\$300,000	\$300,000
Multi Year Project Inflation Cost	\$1,200,000	\$1,200,000	\$1,000,000	\$1,000,000
<b>Subtotal</b>	<b>\$23,400,000</b>	<b>\$24,780,000</b>	<b>\$18,800,000</b>	<b>\$20,160,000</b>
<b>Cost Incurred to Date</b>		\$200,720		
<b>Referendum Preparation &amp; Election</b>		\$191,000		\$213,000
Total		\$25,171,720		\$20,373,000
<b>Total Referendum Not to Exceed Amount</b>		<b>\$ 25,250,000</b>		<b>\$ 20,500,000</b>



# UNDERGROUNDING PROJECT PREPARATION COSTS

Service	Cost Incurred to Date (May 2015)	Cost Anticipated for Referendum 1 GMD Through Validation	Cost Anticipated for Referendum 2 Neighborhood/ Side Streets Through Validation
Brannon & Gilespi and Willdan Financial	\$154,880	\$80,000	\$80,000
Outside Legal	\$31,660	\$60,000	\$80,000
Public Information	\$0	\$10,000	\$10,000
Election	\$0	\$21,000	\$23,000
<b>Subtotal</b>	<b>\$186,540</b>	<b>\$171,000</b>	<b>\$193,000</b>
Town Attorney	\$14,180	\$20,000	\$20,000
<b>Total</b>	<b>\$200,720</b>	<b>\$191,000</b>	<b>\$213,000</b>

Notes: Town Attorney costs are covered through the monthly retainer.  
If bond is contested, legal costs increase by \$250,000 .



# REFERENDUM ONE QUESTION ORDINANCE 2015-21

Shall Town of Longboat Key be authorized to issue revenue bonds/notes, in one or more series, not exceeding \$25,250,000.00, bearing interest not exceeding maximum legal rates, maturing not beyond 30 years from issuance, to finance undergrounding electrical, communications, fiber optic and other utilities and installation of street lighting relating to Gulf of Mexico Drive, payable solely from special assessments imposed against real property throughout the Town and other ~~legally available non-ad valorem~~ revenues if necessary?

\_\_\_\_\_  
\_\_\_\_\_

Yes - For Bonds/Notes

No - Against Bonds/Notes



# REFERENDUM INFORMATION OUTREACH

- **Public Open Houses at Town Hall**
- **Presentation to Community Groups**
  - **Kiwanis**
  - **Condominium Federation**
  - **Rotary**
  - **Home Owner Associations**
- **Website Informational Page**
- **Informational Handouts**
- **Informational Mailings**
- **Answer Individual Citizen Questions**



# REFERENDUM ONE SCHEDULE

- **June 15, 2015 – Referendum Ordinance First Reading**
- **June 29, 2015 – Referendum Ordinance Second Reading and Public Hearing**
- **November 3, 2015 – Onsite/In Person Election**



# REFERENDUM ONE COSTS

- **Preparation Costs to Date: \$200,720**
  - Draft Referendum Ordinances
  - Conceptual Engineering
  - Non-Ad Valorem Assessment Report
  - Includes \$14,180 Covered through Town Attorney Retainer
  - Already Paid and Covered through Budget and Contingency
- **Additional Costs through September 2015 To Prepare Referendum One: \$87,000 (Resolution 2015-15)**
  - Finalize Referendum Ordinance
  - Finalize & Publish Non-Ad Valorem Assessments
  - Public Information Development & Dissemination



# REFERENDUM ONE ANTICIPATED PROJECT SCHEDULE

- **November to December 2015 – Establish Assessments & Undergrounding Ordinance**
- **January 2016**
  - **Begin Survey and Engineering Design (One Year Duration)**
  - **Begin Validation Process (6 Month Duration without Contest)**
- **October 2016 – Collect Assessments**
- **Spring 2017 – Construction Commencement**



# REFERENDUM TWO PREPARATION

- **Finalize the Funding Framework**
- **Referendum Ordinance Draft & Final**
- **Establishing Overhead District**
- **Finalize & Publish Non-Ad Valorem Assessments**
- **Public Information Development & Dissemination**



## REFERENDUM TWO SCHEDULE OPTION

- **November 9, 2015 – Referendum Ordinance Workshop**
- **December 7, 2015 – Referendum Ordinance First Reading**
- **January 4, 2016 – Referendum Ordinance Second Reading and Public Hearing**
- **January 15, 2016 – Voting Plan to State (Mail Ballot Only)**
- **April 6, 2016 – Ballots Mailed to Voters within Overhead District (Mail Ballot Only)**
- **April 26, 2016 – Mail Election**



# QUESTIONS

## ORDINANCE 2015-21

**AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, AUTHORIZING THE ISSUANCE, SUBJECT TO THE BOND REFERENDUM HEREIN PROVIDED FOR, OF NOT TO EXCEED \$25,250,000.00 REVENUE BONDS AND/OR NOTES MATURING ON OR WITHIN 30 YEARS OF ISSUANCE PAYABLE FROM SPECIAL NON-AD VALOREM ASSESSMENTS IMPOSED AGAINST REAL PROPERTY THROUGHOUT THE TOWN AND OTHER NON-AD VALOREM REVENUES OF THE TOWN, IF NECESSARY, FOR PROVIDING FUNDS, TOGETHER WITH ANY OTHER LEGALLY AVAILABLE FUNDS, TO FINANCE THE COST OF UNDERGROUNDING ELECTRICAL, COMMUNICATIONS, FIBER OPTICS AND OTHER UTILITIES AND THE INSTALLATION OF STREET LIGHTING RELATING TO GULF OF MEXICO DRIVE WITHIN THE TOWN; PROVIDING FOR AND CALLING A BOND REFERENDUM OF THE QUALIFIED ELECTORS OF THE TOWN TO BE HELD ON NOVEMBER 3, 2015; PROVIDING FOR AN OFFICIAL BALLOT; PROVIDING FOR BOND REFERENDUM PROCEDURES; ESTABLISHING ITS INTENT TO REIMBURSE SUCH CAPITAL EXPENDITURES INCURRED WITH PROCEEDS OF SUCH REVENUE BONDS AND/OR NOTES; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, it is necessary and desirable that the Town of Longboat Key, Florida (the "Town"), issue revenue bonds and/or notes to finance the costs associated with undergrounding electrical, communications, fiber optics and other utilities and installation of street lighting relating to Gulf of Mexico Drive within the Town (the "Project") and pay issuance expenses in connection with the sale thereof; and

**WHEREAS**, Florida Power & Light ("FP&L") plans to replace the existing overhead power poles with new, expensive, larger, and stronger power poles to fortify, or harden, them against tropical storm force winds, thereby significantly increasing the Town's cost to underground the subject utilities at a future date after such replacement has occurred; and

**WHEREAS**, by undertaking the Project at this time, the Town can maximize the financial assistance available for the Project through a reduction of up to 25% of the otherwise required Contribution in Aid of Construction payable to FP&L; and

**WHEREAS**, the Town Commission of the Town (the "Town Commission") hereby determines that the qualified electors of the Town should make, through a bond referendum, the final decision determining whether to issue revenue bonds and/or notes to finance the costs to design, acquire, construct, relocate, and install the Project; and

**WHEREAS**, the Town Commission hereby determines that it serves a public purpose that the Project be designed, acquired, constructed, relocated, and installed and that it is in the best interest of the Town to issue revenue bonds and/or notes to finance the costs of the design, acquisition, construction, relocation, and installation of the Project; and

**WHEREAS**, to pay all or a part of the cost of the Project, it is necessary to issue the revenue bonds and/or notes of the Town as hereinafter provided; and

**WHEREAS**, Section 5(b) of the Charter of the Town 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;" and

**WHEREAS**, the Town now desires to issue revenue bonds and/or notes in one or more series in an amount not to exceed Twenty Five Million, Two Hundred Fifty Thousand Dollars (\$25,250,000.00) (the "Bonds") pursuant to the terms of an authorizing bond resolution hereafter to be adopted by the Town Commission if the qualified electors of the Town approve the bond referendum authorized herein; and

**WHEREAS**, the Bonds shall be limited obligations of the Town payable solely from special non-ad valorem assessments imposed against real property throughout the Town and other non-ad valorem revenues, if necessary; and

**WHEREAS**, the Bonds shall not be or constitute general obligations or indebtedness of the Town as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from special non-ad valorem assessments imposed against real property throughout the Town and other legally available non-ad valorem revenues of the Town, if necessary, in accordance with the terms hereof, and no holder of any Bonds issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real or personal property thereon or the use or application of ad valorem tax revenues to pay such Bonds, or be entitled to payment of such Bonds from any funds of the Issuer except from such special non-ad valorem assessments and legally available non-ad valorem revenues, as described herein; and

**WHEREAS**, this Ordinance is intended to constitute a "declaration of official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations which were promulgated pursuant to the Internal Revenue Code of 1986, as amended, with respect to the debt incurred to finance the design, acquisition, construction, relocation and installation of the Project.

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

**SECTION 1.** AUTHORITY FOR THIS ORDINANCE. This Ordinance is adopted pursuant to the Constitution and laws of the State of Florida, including Chapter 166, Florida Statutes, the Charter of the Town, and other applicable provisions of law (hereinafter collectively referred to as the "Act").

**SECTION 2.** FINDINGS. The Town Commission hereby finds and determines that the recitals set forth herein are true and correct and adopts the same as its findings and determinations.

**SECTION 3.** AUTHORIZATION OF BONDS. Subject and pursuant to the provisions hereof, the Bonds of the Town are authorized to be issued in one or more series in the aggregate principal amount not exceeding Twenty Five Million, Two Hundred Fifty Thousand Dollars (\$25,250,000.00) to provide funds, together with any other legally

available funds of the Town, to finance the cost of the design, acquisition, construction, relocation, and installation of the Project. The monies received and interest earned from the issuance of the Bonds will be used for such purpose. The Bonds shall not be or constitute general obligations or indebtedness of the Town as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from special non-ad valorem assessments imposed against real property throughout the Town and other legally available non-ad valorem revenues of the Town, if necessary, in accordance with the terms hereof, and no holder of any Bonds issued hereunder shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real or personal property thereon or the use or application of ad valorem tax revenues to pay such Bonds, or be entitled to payment of such Bonds from any funds of the Issuer except from such special non-ad valorem assessments and legally available non-ad valorem revenues, as described herein. The Bonds shall mature in not more than thirty (30) years from issuance, and the Bonds shall bear interest at a rate not exceeding the maximum rate permitted by law at the time of the sale of the Bonds. Both principal and interest on the Bonds, and redemption premiums, if any, shall be payable at the office of the paying agent to be named by the Town at or prior to the sale of the Bonds.

The Bonds shall be issued pursuant to authority granted under this Ordinance and the Act, but only after approval of the bond referendum hereinafter called and subsequent adoption of an authorizing bond resolution by the Town Commission, as governing body of the Town.

SECTION 4. BOND REFERENDUM. A bond referendum of the qualified electors residing in the Town is hereby called to be held on Tuesday, November 3, 2015, in conjunction with the general election to be held on such date, to determine whether or not the issuance of the Bonds in an aggregate amount of not exceeding Twenty Five Million, Two Hundred Fifty Thousand Dollars (\$25,250,000.00) shall be approved by such qualified electors to finance the cost of the design, acquisition, construction, relocation, and installation of the Project. All qualified electors in the Town shall be entitled and permitted to vote in the bond referendum.

The Sarasota County Supervisor of Elections and the Manatee County Supervisor of Elections (collectively, the "Supervisors of Elections") and the Town Clerk of the Town (the "Clerk") shall take all necessary measures to hold, administer, and conduct the bond referendum in the manner prescribed by law. The results shall be certified to the Department of State in accordance with Section 100.351, Florida Statutes. All procedures and requirements of the laws of the State of Florida, the Charter of the Town, and other applicable law shall be complied with for the purpose of conducting the computation of ballots and completion of bond referendum procedures.

Trish Granger, Town Clerk of the Town of Longboat Key, Florida, as the elections official of the Town pursuant to Article IV, Section 2(b) of the Charter of the Town, is hereby designated and appointed as the official representative of the Town Commission in all transactions with the Supervisors of Elections in relation to matters pertaining to the use of the registration books and the holding of said bond referendum.

Ballots containing the question set forth in Section 6 hereof shall be prepared for the use of absent electors entitled to cast such ballots in said election. Early voting for the election shall be conducted at Town Hall, 501 Bay Isles Road, Longboat Key, for five (5)

days beginning Monday, October 26 through Friday, October 30, 2015. The hours for early voting shall be daily from 8:30 a.m. to 4:30 p.m. Staffing for early voting will be provided through the applicable Supervisor of Elections offices coordinated by the Town Clerk's office.

**SECTION 5. NOTICE OF BOND REFERENDUM.** Notice of the bond referendum shall be published in a daily newspaper of general circulation in the Town, at least twice, once in the fifth week and once in the third week prior to the week in which the bond referendum is held, the date of first publication in said newspaper to be at least thirty (30) days before said bond referendum, in substantially the form attached hereto as Exhibit A and in the manner provided in Section 100.342, Florida Statutes. The Town Clerk is hereby charged with the responsibility of this notice procedure.

**SECTION 6. OFFICIAL BALLOT.** The ballot for voting in the bond referendum shall be in substantially the following form:

**Official Ballot  
Town Of Longboat Key, Florida  
Bond Referendum Election  
November 3, 2015**

**APPROVING REVENUE BONDS/NOTES TO FINANCE  
UNDERGROUNDING UTILITIES/STREET LIGHTING ALONG  
GULF OF MEXICO DRIVE**

Shall Town of Longboat Key be authorized to issue revenue bonds/notes, in one or more series, not exceeding \$25,250,000.00, bearing interest not exceeding maximum legal rates, maturing not beyond 30 years from issuance, to finance undergrounding electrical, communications, fiber optics and other utilities and installation of street lighting relating to Gulf of Mexico Drive, payable solely from special assessments imposed against real property throughout the Town and other non-ad valorem revenues if necessary?

\_\_\_\_\_ Yes - For Bonds/Notes

\_\_\_\_\_ No - Against Bonds/Notes

**SECTION 7. BOND REFERENDUM RESULTS.** Returns of the votes cast at the bond referendum shall be made as required by law.

If a majority of the votes cast at the bond referendum shall be "Yes - For Bonds/Notes," the Bonds shall be approved, and then the Bonds may be issued pursuant to this Ordinance as provided by authorizing bond resolution of the Town Commission, as governing body of the Town. If less than a majority of the votes cast at the bond referendum shall be "Yes - For Bonds/Notes," the Bonds shall be defeated, and no Bonds shall be issued pursuant to this Ordinance.

**SECTION 8. LANGUAGES.** To the extent required by law, the official ballot and notice of bond referendum shall be published in both the English and the Spanish languages.

SECTION 9. INTENT TO REIMBURSE. The Town Commission hereby expresses its intention that the Town be reimbursed from the proceeds of the Bonds for costs relating to the Project. Pending reimbursement, the Town expects to use funds on deposit in the Town's general fund or other appropriate fund or account to pay such costs. This Ordinance is intended to constitute with respect to the construction of the Project a "declaration of official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations.

SECTION 10. EFFECTIVE DATE. This Ordinance shall become effective immediately upon adoption by the Town Commission.

PASSED at a meeting of the Town Commission held the \_\_\_\_\_ day of June, 2015.

ADOPTED at a meeting and public hearing of the Town Commission held the \_\_\_\_\_ day of \_\_\_\_\_, 2015.

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

ATTEST:

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

Attachment: Exhibit A

**EXHIBIT A**

**NOTICE OF REVENUE BOND REFERENDUM  
FOR UNDERGROUNDING UTILITIES AND STREET LIGHTING  
RELATING TO GULF OF MEXICO DRIVE  
TO BE HELD ON TUESDAY, NOVEMBER 3, 2015**

**TOWN OF LONGBOAT KEY, FLORIDA**

To be held on Tuesday, November 3, 2015, as provided by  
Ordinance 2015-21 of the Town Commission,  
as governing body of the Town of Longboat Key, Florida adopted on  
\_\_\_\_\_, 2015

Notice is hereby given that a bond referendum will be held in the Town of Longboat Key, Florida on Tuesday, November 3, 2015. The bond referendum will be held to determine whether there shall be issued revenue bonds and/or notes (the "Bonds") of the Town, in one or more series, in an amount not exceeding Twenty Five Million, Two Hundred Fifty Thousand Dollars (\$25,250,000.00). The Bonds shall not be or constitute general obligations or indebtedness of the Town as "bonds" within the meaning of Article VII, Section 12 of the Constitution of Florida, but shall be payable solely from special non-ad valorem assessments imposed against real property throughout the Town and other legally available non-ad valorem revenues of the Town, if necessary, and no holder of any of the Bonds shall ever have the right to compel the exercise of any ad valorem taxing power or taxation of any real or personal property thereon or the use or application of ad valorem tax revenues to pay such Bonds, or be entitled to payment of such Bonds from any funds of the Issuer except from such special non-ad valorem assessments and legally available non-ad valorem revenues. The Bonds shall mature in not more than thirty (30) years from issuance, and the Bonds shall bear interest at a rate not exceeding the maximum rate permitted by law at the time of the sale of the Bonds. The monies received and interest earned from the issuance of the Bonds will be used to finance the cost of undergrounding electrical, communications, fiber optics and other utilities and installation of street lighting relating to Gulf of Mexico Drive within the Town.

The issuance of such Bonds and the holding of such bond referendum have been authorized by Ordinance 2015-21 of the Town Commission of the Town adopted on \_\_\_\_\_, 2015.

In accordance with the Constitution and laws of the State of Florida and the Charter of the Town of Longboat Key, all qualified electors of the Town of Longboat Key, Florida, shall be entitled to vote in the bond referendum to which this notice pertains. The polls at said bond referendum will be open from 7 o'clock a.m. until 7 o'clock p.m. on Tuesday, November 3, 2015, and will be held at polling places in the several precincts of the Town.

The Town of Longboat Key shall be authorized to issue the Bonds covered by the question hereinabove set forth only if such issuance shall have been approved by vote of a majority of the qualified electors of the Town of Longboat Key voting thereon.

By order of the Town Commission of the Town of Longboat Key, Florida.

Trish Granger  
Town Clerk,  
Town of Longboat Key, Florida



**End of Agenda Item**