

M E M O R A N D U M

Date: December 7, 2015

TO: Town Commission

FROM: Dave Bullock, Town Manager

SUBJECT: Ordinance 2015-30, Providing for Funding of Capital Improvements and Essential Services Through Imposition of Special Assessments

Ordinance 2015-20 sets up the framework for establishing special assessments in the Town. The Ordinance does not obligate the Town to impose any assessments; it merely sets forth the procedure the Town would follow in the future if it elects to proceed with any special assessment program. If the undergrounding referendum passes, this Ordinance will allow the special assessments to be implemented. The procedures in the Ordinance tracks the tax bill collection statute, such that by complying with its own Ordinance, the Town will simultaneously comply with the statutory prerequisites for collecting assessments on the annual property tax bill.

Ordinance 2015-30 authorizes the Commission to impose assessments against property located within an assessment area. It provides that the assessment will be computed in a manner that fairly and reasonably apportions the costs among parcels in the assessment area based on objectively determined assessment units. The Ordinance also allows the Town Commission to set up assessment areas where the assessment will be imposed. It allows for the Commission to authorize prepayment of the total assessment obligation. Ordinance 2015-30 provides for the method of collection of assessments, provides for the collection of delinquent assessments, allows issuance of debt obligations supported by the assessments, and otherwise provides the general framework for establishing assessments for capital improvements and essential services.

Ordinance 2015-30 is placed on the December 7, 2015 Regular Meeting for second reading, public hearing, discussion and Commission consideration.

ORDINANCE 2015-30

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA RELATING TO THE FUNDING OF CAPITAL IMPROVEMENTS AND ESSENTIAL SERVICES THROUGH THE IMPOSITION OF SPECIAL ASSESSMENTS; PROVIDING THE PROCEDURE FOR THE IMPOSITION OF SUCH SPECIAL ASSESSMENTS; PROVIDING DEFINITIONS AND FINDINGS; AUTHORIZING THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS TO FUND THE COST OF CAPITAL IMPROVEMENTS AND ESSENTIAL SERVICES PROVIDING A SPECIAL BENEFIT TO REAL PROPERTY WITHIN THE TOWN; AUTHORIZING THE CREATION OF ASSESSMENT AREAS; PROVIDING FOR THE OPTIONAL AND MANDATORY PREPAYMENT OF ASSESSMENTS; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS AND FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING THAT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLLS; ESTABLISHING PROCEDURES AND METHODS FOR COLLECTION OF ASSESSMENTS, INCLUDING ASSESSMENTS IMPOSED ON GOVERNMENT PROPERTY; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY ASSESSMENTS; PROVIDING FOR VARIOUS RIGHTS AND REMEDIES OF THE HOLDERS OF SUCH OBLIGATIONS; PROVIDING THAT SUCH OBLIGATIONS WILL NOT CREATE A GENERAL DEBT OR OBLIGATION OF THE TOWN; REPEALING TOWN ORDINANCE NO. 79-18; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

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

ARTICLE I INTRODUCTION

SECTION 1.01. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Annual Assessment Resolution" means the resolution described in Section 2.08 hereof, approving an Assessment Roll for a specific Fiscal Year.

"Assessment" means a special assessment imposed by the Town Commission pursuant to this Ordinance to fund the Capital Cost of Capital Improvements or the Service Cost of Essential Services. The term "Assessment" and the reference to non-ad valorem assessments herein means those assessments which are not based upon millage and which can become a lien against a homestead as permitted by Article X, Section 4 of the Florida Constitution.

"Assessment Area" means any of specific areas created by resolution of the Town Commission pursuant to Section 2.02 hereof, that specially benefit from Capital

Improvements or Essential Services.

"Assessment Coordinator" means the Town Manager or such person's designee.

"Assessment Roll" means the special assessment roll relating to Capital Improvements or Essential Services containing the information specified in Section 2.04 hereof, approved by a Final Assessment Resolution or an Annual Assessment Resolution pursuant to Section 2.07 or Section 2.08 hereof.

"Assessment Unit" means the apportionment unit utilized to determine the Assessment for each parcel of property, as set forth in the Initial Assessment Resolution. "Assessment Units" may include, by way of example and not limitation, one or a combination of the following: front footage, land area, improvement area, equivalent residential connections or units, equivalent benefit units, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrency management regulations, property value or any other physical characteristic or reasonably expected use of the property that is related to the Capital Improvements or Essential Services to be funded from proceeds of the Assessment.

"Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of Capital Improvements under generally accepted accounting principles; and including reimbursement to the Town for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"Capital Improvements" means capital improvements constructed or installed by the Town which provide a special benefit to lands within an Assessment Area.

"Essential Services" means the services, facilities, or programs which provide a special benefit to, or relieve a burden attributable to, lands within an Assessment Area.

"Final Assessment Resolution" means the resolution described in Section 2.07 hereof, which shall confirm, modify or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of an Assessment.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the following September 30, or such other period as may be prescribed by law as the Fiscal Year for the Town.

"Government Property" means property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

"Initial Assessment Resolution" means the resolution described in Section 2.03 hereof, which shall be the initial proceeding for the imposition of an Assessment.

"Maximum Assessment Rate" means the highest rate of an Assessment established by the Town Commission in an Initial Assessment Resolution and included in

the notices required by Sections 2.05 and 2.06 hereof.

"Obligations" means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligation issued or incurred to finance Capital Improvements and secured, in whole or in part, by proceeds of the Assessments.

"Ordinance" means this Capital Improvement and Essential Services Procedural Assessment Ordinance.

"Pledged Revenue" means, as to any series of Obligations, (A) the proceeds of such Obligations, including investment earnings, (B) proceeds of the Assessments pledged to secure the payment of such Obligations, and (C) any other legally available non-ad valorem revenue pledged, at the Town Commission's sole option, to secure the payment of such Obligations, as specified by the Ordinance and any resolution authorizing such Obligations.

"Property Appraiser" means the Sarasota County Property Appraiser and/or Manatee County Property Appraiser, as the context for a given Assessment Area may require.

"Resolution of Intent" means the resolution expressing the Town Commission's intent to collect Assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act.

"Service Cost" means all or any portion of the expenses that are properly attributable to the provision of Essential Services under generally accepted accounting principles; and including reimbursement to the Town for any funds advanced for such expenses and interest on any interfund or intrafund loan for such purposes.

"Tax Collector" means the Sarasota County Tax Collector and/or Manatee County Tax Collector, as the context for a given Assessment Area may require.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Town" means Longboat Key, Florida.

"Town Code" means the Code of Ordinances of the Town of Longboat Key, Florida.

"Town Commission" means the Town Commission of the Town of Longboat Key, Florida.

"Town Manager" means the chief executive officer of the Town, or such person's designee.

"Uniform Assessment Collection Act" means sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem

assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder," and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words importing either gender include the correlative words of the other gender unless the context indicates otherwise.

SECTION 1.03. FINDINGS. It is hereby ascertained, determined, and declared as follows:

(A) Article VIII, Section 2 of the Florida Constitution and Section 166.021, Florida Statutes, grant the Town all governmental, corporate, and proprietary powers to enable the Town Commission to conduct municipal government, perform municipal functions, and render municipal services, and exercise any power for municipal purposes, except when expressly prohibited by law, and such powers may be exercised by the enactment of Town ordinances.

(B) The Assessments authorized herein shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(C) The Assessments imposed pursuant to this Ordinance 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 Ordinance shall be construed solely as ministerial.

ARTICLE II ASSESSMENTS

SECTION 2.01. AUTHORITY AND PURPOSE. The Town Commission is hereby authorized to impose Assessments against property located within an Assessment Area to fund Capital Improvements or Essential Services. The Assessment shall be computed in a manner that fairly and reasonably apportions the Capital Costs or Service Costs among the parcels of property within an Assessment Area, based upon objectively determinable Assessment Units related to the value, use, or physical characteristics of the property.

SECTION 2.02. CREATION OF ASSESSMENT AREAS.

(A) The Town Commission is hereby authorized to create Assessment Areas by resolution. Each Assessment Area shall encompass only that property specially benefited by the Capital Improvements or Essential Services proposed for funding from the proceeds of Assessments to be imposed therein. Either the Initial Assessment Resolution proposing an Assessment Area or the Final Assessment Resolution creating an Assessment Area shall include brief descriptions of the Capital Improvements or Essential Services proposed for such area, a description of the property to be included within the Assessment Area, and specific legislative findings that recognize the special

benefit to be provided by each proposed Capital Improvement or Essential Service to property within the Assessment Area. Properties in any Assessment Area need not be adjacent or contiguous to any other property in an Assessment Area.

(B) At its option, the Town Commission may establish a process pursuant to which the owners of property may petition for creation of an Assessment Area to fund Capital Improvements and Essential Services. Notwithstanding any petition process established pursuant to this section, the Town Commission shall retain the authority to create Assessment Areas without a landowner petition.

SECTION 2.03. INITIAL ASSESSMENT RESOLUTION. The initial proceeding for imposition of an Assessment shall be the Town Commission's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall:

- (A) describe the proposed Assessment Area;
- (B) describe the Capital Improvements or Essential Services proposed for funding from proceeds of the Assessments;
- (C) estimate the Service Cost or Capital Cost;
- (D) establish a Maximum Assessment Rate if desired by the Town Commission;
- (E) describe with particularity the proposed method of apportioning the Service Cost or Capital Cost among the parcels of property located within the Assessment Area, such that the owner of any parcel of property can objectively determine the amount of the Assessment, based upon its value, use or physical characteristics;
- (F) include specific legislative findings that recognize the equity provided by the apportionment methodology;
- (G) schedule a public hearing at a meeting of the Town Commission, which meeting shall be a regular, adjourned, or special meeting, at which to hear objections of all interested persons and to consider adoption of the Final Assessment Resolution and approval of the Assessment Roll; and
- (H) direct the Assessment Coordinator to (1) prepare the Assessment Roll pursuant to Section 2.04 hereof, (2) publish the notice required by Section 2.05 hereof, and (3) mail the notice required by Section 2.06 hereof using information then available from the Property Appraiser.

SECTION 2.04. ASSESSMENT ROLL

- (A) The Assessment Coordinator shall prepare a preliminary Assessment Roll that contains the following information:
 - (1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Assessment;

- (2) the name of the owner of record of each parcel, as shown on the Tax Roll;
- (3) the number of Assessment Units attributable to each parcel;
- (4) if applicable, the estimated maximum annual Assessment to become due in any Fiscal Year for each Assessment Unit; and
- (5) if applicable, the estimated maximum annual Assessment to become due in any Fiscal Year for each parcel.

(B) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be on file in the office of the Assessment Coordinator and open to 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 parcel of property can be determined by use of a computer terminal or otherwise accessible through the internet or similar data base.

SECTION 2.05. NOTICE BY PUBLICATION. After filing the Assessment Roll in the office of the Assessment Coordinator, as required by Section 2.04(B) hereof, the Assessment Coordinator shall publish once in a newspaper of general circulation within Sarasota County and/or Manatee County (as the context of the relevant Assessment Area may require) a notice stating that at a meeting of the Town Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the Town Commission will hear objections of all interested persons to the Final Assessment Resolution and approval of the Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (A) a geographic depiction of the property subject to the Assessment; (B) the proposed schedule of the Assessment; (C) the method by which the Assessment shall be collected; (D) the Maximum Assessment Rate in the event one was adopted in the Initial Assessment Resolution; and (E) a statement that all affected property owners have the right to appear at the public hearing and to file written objections within 20 days of the publication of the notice. Notwithstanding anything herein to the contrary, notice of a proposed Assessment may be given in any manner authorized by law.

SECTION 2.06. NOTICE BY MAIL. In addition to the published notice required by Section 2.05 hereof, the Assessment Coordinator shall provide notice of the proposed Assessment by first class mail to the owner of each parcel of property subject to the Assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (A) the purpose of the Assessment; (B) the rate of Assessment to be levied against each parcel of property including a Maximum Assessment Rate in the event one was adopted by the Initial Assessment Resolution; (C) the Assessment Unit to be applied to determine the Assessment; (D) the number of such Assessment Units contained in each parcel; (E) the total revenue to be collected by the Assessment; and (F) a statement that failure to pay the Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings may be instituted, either of which may result in a loss of title to the property; (G) a statement that all affected property owners have a right to appear at the hearing and to file written objections with the Town Commission within 20 days of the notice; and (H) the date, time and place of the hearing. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown

on the Tax Roll on the twentieth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The Assessment Coordinator may provide proof of such notice by affidavit. Notwithstanding anything herein to the contrary, notice of a proposed Assessment may be given in any manner authorized by law.

SECTION 2.07. ADOPTION OF FINAL RESOLUTION. At the time named in such notices, or to which an adjournment or continuance may be taken, the Town Commission shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the Town Commission, adopt the Final Assessment Resolution which shall:

- (A) confirm, modify or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Town Commission;
- (B) create the Assessment Area;
- (C) establish the maximum amount of the Assessment for each Assessment Unit;
- (D) approve the Assessment Roll, with such amendments as it deems just and right; and
- (E) determine the method of collecting the Assessments.

SECTION 2.08. ANNUAL ASSESSMENT RESOLUTION. The Town Commission shall adopt an Annual Assessment Resolution during its budget adoption process for each Fiscal Year in which Assessments will be imposed to approve the Assessment Roll for such Fiscal Year. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year. The Assessment Roll, as prepared in accordance with the Initial Assessment Resolution and confirmed or amended by the Final Assessment Resolution, shall be confirmed or amended by the Annual Assessment Resolution to reflect the then applicable portion of the cost of the Capital Improvements or Essential Services, or both, to be paid by Assessments. If the proposed Assessment for any parcel of property exceeds the Maximum Assessment Rate established in the Initial Assessment Resolution for the area and described in the notices provided pursuant to Sections 2.05 and 2.06 hereof or if an Assessment is imposed against property not previously subject thereto, the Town Commission shall provide notice to the owner of such property in accordance with Section 2.06 hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution. Failure to adopt an Annual Assessment Resolution during the budget adoption process may be cured at any time.

SECTION 2.09. EFFECT OF ASSESSMENT RESOLUTIONS. The adoption of the Final Assessment Resolution or of an Annual Assessment Resolution requiring notice as provided in Section 2.08 hereof, shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the maximum annual Assessment of each parcel, the adoption of the Assessment Roll and the levy and lien of the Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date

of the Town Commission's adoption of the Final Assessment Resolution. The Assessments for each Fiscal Year shall be established upon adoption of the Annual Assessment Resolution. If the Assessments are to be collected pursuant to the Uniform Assessment Collection Act, the Assessment Roll, as approved by the Annual Assessment Resolution, shall be certified to the Tax Collector.

SECTION 2.10. PREPAYMENT OF ASSESSMENTS.

(A) The Assessment imposed against any parcel of property to fund Capital Improvements shall be subject to prepayment at the option of the property owner, as follows:

(1) Prior to the issuance of Obligations, the Assessment Coordinator shall provide first class mailed notice to the owner of each parcel of property subject to the Assessment of the Town Commission's intent to issue such Obligations. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth day following the date on which the notice is delivered to the possession of the U.S. Postal Service), or such later date as the Town Commission may allow in its sole discretion, the owner of each parcel of property subject to the Assessment shall be entitled to prepay the total Assessment obligation.

(2) Following the date specified in the notice provided pursuant to Section 2.10(A) hereof, or such later date as the Town Commission may allow in its sole discretion, the owner of each parcel of property subject to the Assessment shall be entitled to prepay the total remaining Assessment upon payment of an amount equal to the sum of (a) such parcel's share of the principal amount of Obligations then outstanding, (b) the premium associated with redemption of such parcel's share of the principal amount of Obligations then outstanding, and (c) interest on such parcel's share of the principal amount of Obligations then outstanding, from the most recent date to which interest has been paid to the next date following such prepayment on which the Town can redeem Obligations after providing all notices required by the ordinance or resolution authorizing issuance of such Obligations; provided however, that during any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the Town may reduce the amount required to prepay the Assessments imposed against any parcel of property by the amount of the Assessment certified for collection with respect to such parcel.

(B) At the Town's election, the Assessment imposed against any parcel of property may be subject to acceleration and mandatory prepayment if at any time a tax certificate has been issued and remains outstanding in respect of such property. In such event, the amount required for mandatory prepayment shall be the same as that required for an optional prepayment authorized by Section 2.10(B) hereof.

(C) The amount of all prepayments computed in accordance with this Section 2.10 shall be final. The Town shall not be required to refund any portion of a prepayment if (1) the Capital Cost is less than the amount upon which such prepayment was

computed, or (2) annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 2.11. LIEN OF ASSESSMENTS.

(A) Upon adoption of the Annual Assessment Resolution for each Fiscal Year, Assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district, 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 adoption by the Town Commission of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) Upon adoption of the Final Assessment Resolution, Assessments to be collected under the alternative method of collection provided in Section 3.02 hereof shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district 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 on the date notice thereof is recorded in the Official Records of Sarasota County, Florida and/or Manatee County, Florida, as the context of the relevant Assessment Area may require.

SECTION 2.12. REVISIONS TO ASSESSMENTS. If any Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Town Commission is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Town Commission has omitted the inclusion of any property on the Assessment Roll which property should have been so included, the Town Commission may take all necessary steps to impose a new Assessment against any property benefited by the Capital Improvement or Essential Service, following as nearly as may be practicable the provisions of this Ordinance, and in case such second Assessment is annulled, the Town Commission may levy and impose other Assessments until a valid Assessment is imposed.

SECTION 2.13. PROCEDURAL IRREGULARITIES. Any informality or irregularity in the proceedings in connection with the levy of any Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Assessment as finally approved shall be competent and sufficient evidence that such Assessment was duly levied, that the Assessment was duly made and adopted, and that all proceedings related to such Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section 2.13, any party objecting to an Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

SECTION 2.14. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Town Commission, Assessment Coordinator, Property Appraiser, Tax Collector, or their deputies or employees, shall operate to release or discharge any obligation for payment of any Assessment imposed by the Town Commission under the provisions of this Ordinance.

(B) The number of Assessment Units attributed to a parcel of property may be corrected at any time by the Assessment Coordinator, including upon presentation of competent substantial evidence by the owner of such parcel. Any such correction which reduces an Assessment shall be considered valid from the date on which the Assessment was imposed and shall in no way affect the enforcement of the Assessment imposed under the provisions of this Ordinance. Any such correction which increases an Assessment or imposes an assessment on omitted property shall first require notice to the affected owner at the address shown on the Tax Roll notifying the owner of the date, time and place that the Town Commission will consider confirming the correction and offering the owner an opportunity to be heard.

(C) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

ARTICLE III COLLECTION OF ASSESSMENTS

SECTION 3.01. METHOD OF COLLECTION. Unless directed otherwise by the Town Commission, Assessments (other than Assessments imposed against Government Property) shall be collected pursuant to the Uniform Assessment Collection Act, and the Town shall comply with all applicable provisions thereof, including but not limited to (1) entering into a written agreement with the Property Appraiser and the Tax Collector for reimbursement of necessary expenses, (2) certifying the Assessment Roll to the Tax Collector, and (3) adopting a Resolution of Intent after publishing weekly notice of such intent for four consecutive weeks preceding the hearing. The Resolution of Intent may be adopted either prior to or following the Initial Assessment Resolution; provided however, that the Resolution of Intent must be adopted prior to January 1 (March 1 with consent of the Property Appraiser and Tax Collector) of the year in which the Assessments are first collected on the ad valorem tax bill. This section shall not be construed to require adoption of an additional Resolution of Intent, and notice thereof, if a Resolution of Intent was previously adopted and is currently in effect for the area in question. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION. In lieu of using the Uniform Assessment Collection Act, the Town may elect to collect the Assessment by any other method which is authorized by law or provided by this Section 3.02 as follows:

(A) The Town shall provide Assessment bills by first class mail to the owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the

Assessment, (2) a description of the Assessment Units used to determine the amount of the Assessment, (3) the number of Assessment Units attributable to the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Assessment is due, and (7) a statement that the Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Assessments shall be recorded in the Official Records of Sarasota County, Florida and/or Manatee County, Florida, as the context of the relevant Assessment Area may require. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The Town shall have the right to appoint or retain an agent to foreclose and collect all delinquent Assessments in the manner provided by law. An Assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The Town or its agent shall notify any property owner who is delinquent in payment of an Assessment within sixty (60) days from the date such Assessment was due. Such notice shall state in effect that the Town or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the Town may be the purchaser to the same extent as an individual person or corporation. The Town may join in one foreclosure action the collection of Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town and its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the Town as a result of such delinquent Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Assessment is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

SECTION 3.03. RESPONSIBILITY FOR ENFORCEMENT. The Town and its agents, if any, shall maintain the duty to enforce the prompt collection of Assessments by the means provided herein. The duties related to collection of Assessments may be enforced at the suit of any holder of Obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

SECTION 3.04. GOVERNMENT PROPERTY.

(A) If Assessments are imposed against Government Property, the Town shall provide Assessment bills by first class mail to the owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the Assessment Units used to determine the amount of the Assessment, (3) the number of Assessment Units attributable to the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Assessment is due.

(B) Assessments imposed against Government Property shall be due on the same date as Assessments against other property within the Assessment Area and, if applicable, shall be subject to the same discounts for early payment.

(C) An Assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The Town shall notify the owner of any Government Property that is delinquent in payment of its Assessment within sixty (60) days from the date such Assessment was due. Such notice shall state in effect that the Town will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the Town or its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the Town as a result of such delinquent Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of, or in addition to, the costs of the action.

(E) As an alternative to the foregoing, an Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The Town Commission may also contract for such billing services with any utility not owned by the Town.

(F) Notwithstanding anything herein to the contrary, Assessments shall not be imposed against Government Property which is exempt or immune from the payment of special assessments and/or non-ad valorem assessments under state or federal law. The foregoing class of properties not to be assessed do not include Government Property that is leased for private use. Nothing herein shall be construed to required the imposition of Assessments against Government Property.

[Remainder of Page Intentionally Left Blank]

**ARTICLE IV
ISSUANCE OF OBLIGATIONS**

SECTION 4.01. GENERAL AUTHORITY.

(A) Subject to the provisions of the Longboat Key Charter, including but not limited to Article 1, Section 5(b) thereof, the Town Commission shall have the power and is hereby authorized to provide by ordinance or resolution, at one time or from time to time in series, for the issuance of Obligations to fund Capital Improvements and any amounts to be paid or accrued in connection with issuance of such Obligations including but not limited to capitalized interest, transaction costs and reserve account deposits.

(B) The principal of and interest on each series of Obligations shall be payable from Pledged Revenue. At the option of the Town Commission, the Town may agree, by ordinance or resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the Obligations or in the payment of the Obligations, from other non-ad valorem revenue sources. The Town Commission may also provide, by ordinance or resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the Obligations. Any such ordinance or resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

SECTION 4.02. TERMS OF THE OBLIGATIONS. The Obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by ordinance or resolution of the Town Commission, and may be made redeemable before maturity, at the option of the Town, at such price or prices and under such terms and conditions, all as may be fixed by the Town Commission. Said Obligations shall mature not later than forty (40) years after their issuance. The Town Commission shall determine by ordinance or resolution the form of the Obligations, the manner of executing such Obligations, and shall fix the denominations of such Obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the Obligations as it deems appropriate. The Obligations may be sold at public or private sale for such price or prices as the Town Commission shall determine by ordinance or resolution. The Obligations may be delivered to any contractor to pay for the provision of Capital Improvements or may be sold in such manner and for such price as the Town Commission may determine by ordinance or resolution to be for the best interests of the Town.

SECTION 4.03. VARIABLE RATE OBLIGATIONS. At the option of the Town Commission, Obligations may bear interest at a variable rate.

SECTION 4.04. TEMPORARY OBLIGATIONS. Prior to the preparation of definitive Obligations of any series, the Town Commission may, under like restrictions, issue interim receipts, interim certificates, or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The Town Commission may also provide for the replacement of any Obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things other than those

proceedings, conditions or things which are specifically required by this Ordinance.

SECTION 4.05. ANTICIPATION NOTES. In anticipation of the sale of Obligations, the Town Commission may, by ordinance or resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the Obligations, the proceeds of the Assessments, the proceeds of the notes and such other legally available moneys as the Town Commission deems appropriate by ordinance or resolution. Said notes shall mature within five (5) years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The Town Commission may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

SECTION 4.06. TAXING POWER NOT PLEDGED. Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the Town within the meaning of the Constitution of the State of Florida, but such Obligations shall be payable only from Pledged Revenue and, if applicable, proceeds of the Assessments, in the manner provided herein and by the ordinance or resolution authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the Town to levy or to pledge any form of ad valorem taxation whatsoever. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the Town to pay any such Obligations or the interest thereon or to enforce payment of such Obligations or the interest thereon against any property of the Town, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the Town, except the Pledged Revenue.

SECTION 4.07. TRUST FUNDS. The Pledged Revenue received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the ordinance or resolution authorizing issuance of the Obligations. Such Pledged Revenue may be invested by the Town, or its designee, in the manner provided by the ordinance or resolution authorizing issuance of the Obligations. The Pledged Revenue upon receipt thereof by the Town shall be subject to the lien and pledge of the holders of any Obligations or any entity other than the Town providing credit enhancement on the Obligations.

SECTION 4.08. REMEDIES OF HOLDERS. Any holder of Obligations, except to the extent the rights herein given may be restricted by the ordinance or resolution authorizing issuance of the Obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such ordinance or resolution, and may enforce and compel the performance of all duties required by this part, or by such ordinance or resolution, to be performed by the Town.

SECTION 4.09. REFUNDING OBLIGATIONS. The Town may, by ordinance or resolution of the Town Commission, issue Obligations to refund any Obligations issued pursuant to this Ordinance, or any other obligations of the Town issued to finance Capital Improvements, and provide for the rights of the holders hereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be

refunded. If the issuance of such refunding Obligations results in an annual Assessment that exceeds the estimated maximum annual Assessments set forth in the notice provided pursuant to Section 2.06 hereof, the Town Commission shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article III of this Ordinance.

ARTICLE V GENERAL PROVISIONS

SECTION 5.01. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 5.02. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to the Town Code and any powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the health, safety and welfare of the inhabitants of the Town, shall be liberally construed to effect the purposes hereof.

SECTION 5.03. REPEAL OF ORDINANCE NO. 79-18. Ordinance No. 79-18, enacted on November 7, 1979, and currently codified in sections 152.15 through 152.26 of the Town Code, set forth authorizations and procedures for the imposition of special assessments to fund canal and waterway maintenance. In order to avoid potential errors and inconsistencies arising by virtue of having multiple assessment procedures set forth in the Town Code, Ordinance No. 79-18 is hereby repealed.

SECTION 5.04. TOWN CODE. The appropriate officers and agents of the Town are authorized and directed to codify, include and publish the provisions of this Ordinance within the Town Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. The provisions of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to "section," "article" or other appropriate word whenever necessary or convenient to accomplish such codification.

[Remainder of Page Intentionally Left Blank]

SECTION 5.05. EFFECTIVE DATE. This Ordinance shall take effect immediately upon second reading.

PASSED at a meeting of the Town Commission held the 9th day of November, 2015.

ADOPTED at a meeting and public hearing of the Town Commission held the 7th day of December, 2015.

Jack G. Duncan, Mayor

ATTEST:

Trish Granger, Town Clerk



End of Agenda Item