

M E M O R A N D U M

To: Town Commission

From: Howard Tipton, Town Manager

Report date: November 20, 2024

Meeting date: December 2, 2024

Subject: Ordinance 2024-11, Providing for the holding of a Referendum Election to determine if electors shall approve a State Revolving Fund (SRF) loan in an amount NTE \$33 million payable from the utility system revenues with a General Fund backup covenant to budget and appropriate revenues in order to construct a redundant Subaqueous Wastewater Force Main across Sarasota Bay to the Manatee County Southwest Water Reclamation Facility.

Recommended Action

Adopt Ordinance 2024-11 following second reading and public hearing.

Background

The Town of Longboat Key operates and maintains the wastewater collection system for the island. The system consists of 47 lift stations pumping effluent to the Town's primary lift station, Lift Station D, on Gulf Bay Road. From Lift Station D, the material is pumped approximately four (4) miles through the Town's force main to the Manatee County Southwest Water Reclamation Facility (SWWRF) located on 65th Avenue East in Bradenton. The Town's force main is a 20-inch ductile iron pipe installed in 1973 and was put into service in 1975.

The Town has received Florida Department of Environmental Protection (FDEP) and U.S. Army Corps of Engineers permits to open cut Sarasota Bay and install a redundant subaqueous force main under Sarasota Bay (the "Subaqueous Project"). As part of the permit conditions, the Town will also perform sea grass and mangrove mitigation within Sarasota Bay.

The Town's consultants, financial advisor and bond counsel reviewed the different long term financing options for the project, which included 20-Year Revenue Bonds, 30-Year Revenue Bonds and a loan through the State Revolving Fund Loan Program ("SRF") administered by the FDEP. The Commission approved moving forward with a Referendum at the March 2025 election cycle to pursue a low-interest loan through the SRF program, which provides substantial savings over the Revenue Bond options.

Under the Town's charter, the Town may issue debt for its Water and Wastewater System without a referendum. However, in SRF loan agreements, there is certain standard language which requires that, when the utility revenues are not sufficient, the Local Government shall include in such budget other legally available non-ad valorem funds

which will be sufficient, together with the Pledged Revenues, to make the Semiannual Loan Payments. Such other legally available non-ad valorem funds shall be budgeted in the regular annual government budget and designated for this purpose. Because of the need to "Budget and Appropriate" Other Legally Available Non-Ad Valorem Funds, Town's Legal Counsel considers that a Referendum is required for the Town's utility to secure an SRF loan.

Town staff proposes to use an estimate not to exceed \$33 million for the project amount to include final design, easement acquisition and construction, contingency and capitalized interest on the loan. The Referendum, if authorized by the Commission, will be held March 11, 2025.

The rate adjustments adopted in Resolution 2024-14, provided for a planned 8% increase in the Town's portion of the rates each year for Fiscal Years 2025 to 2027, plus any pass-through increases from Manatee County, followed by a 7% and 3% increase in Fiscal Years 2027 and 2028, respectively. These rates include the revenue required to make debt payments on a new 20-year loan needed to finance the Subaqueous Project. The Town must be able to show that a rate plan is in place to support the debt.

Staff provided a presentation at the November 12, 2024, Special Meeting and the Commission forwarded Ordinance 2024-11 to the December 2, 2024 Regular Meeting for second reading and public hearing.

Staff Recommendation

Adopt Ordinance 2024-11 following second reading and public hearing.

Attachments

- A. Ordinance 2024-11

ORDINANCE 2024-11

AN ORDINANCE OF THE TOWN OF LONGBOAT KEY, FLORIDA, PURSUANT TO ARTICLE I, SECTION 5, OF THE TOWN CHARTER ORDERING AND PROVIDING FOR THE HOLDING OF A REFERENDUM ELECTION TO DETERMINE IF THE TOWN ELECTORS APPROVE A STATE REVOLVING FUND LOAN IN A PRINCIPAL AMOUNT NOT TO EXCEED \$33,000,000, MATURING OVER A TERM NOT LONGER THAN 25 YEARS, TO BE SECURED BY AND PAYABLE FROM UTILITY SYSTEM REVENUES AND A BACKUP COVENANT TO BUDGET AND APPROPRIATE LEGALLY AVAILABLE NON-AD VALOREM REVENUES OF THE TOWN IN ORDER TO FINANCE THE COST OF DESIGNING, CONSTRUCTING, AND ACQUIRING CERTAIN CAPITAL IMPROVEMENTS TO THE UTILITY SYSTEM INCLUDING A SUBAQUEOUS WASTEWATER FORCE MAIN ACROSS SARASOTA BAY TO TRANSMIT WASTEWATER FROM THE TOWN TO THE MANATEE COUNTY SOUTHWEST WATER RECLAMATION FACILITY ON THE MAINLAND; PROVIDING FOR A REFERENDUM TO BE HELD AT THE MARCH 11, 2025, GENERAL ELECTION, OR AS SOON THEREAFTER AS PRACTICABLE; ESTABLISHING TOWN INTENT TO REIMBURSE CAPITAL EXPENDITURES INCURRED WITH PROCEEDS OF SUCH STATE REVOLVING FUND LOAN; PROVIDING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; PROVIDING FOR CODIFICATION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Town of Longboat Key, Florida (the "Town") operates a utility system that provides water and sewer services to the Town's residents (the "Utility System"); and

WHEREAS, the Town has determined that there is a critical need to make significant infrastructure investments to the Utility System to increase the Utility System's functionality, create needed redundancies within the Utility System, and better enable the Town to accomplish its service mission and continue providing high-quality service levels for water and sewer services; and

WHEREAS, such infrastructure investments are comprised of the design, construction, and acquisition of certain capital improvements for the Utility System, including but not limited to a new subaqueous wastewater force main across Sarasota Bay as the primary means of transmitting wastewater from Longboat Key to the Manatee County Southwest Water Reclamation Facility on the mainland and repurposing the existing force main as a redundant line in accordance with plans and specifications on file with the Town (the "Project"); and

WHEREAS, the Town Commission of the Town (the "Town Commission") now desires to obtain a State Revolving Fund Loan from the Florida Department of Environmental Protection ("FDEP") in a principal amount not to exceed \$33,000,000 (the "SRF Loan") to finance the design, construction and acquisition of the Project; and

WHEREAS, the SRF Loan shall be documented by a loan agreement entered into between the Town and FDEP (the "SRF Loan Agreement") and shall be secured by and

payable from Utility System revenues and a backup covenant to budget and appropriate the Town's legally available non-ad valorem revenues, in the event revenues of the Utility System are insufficient to pay principal and interest on the loan when due; and

WHEREAS, the backup security of a covenant to budget and appropriate non-ad valorem revenues combined with the amount of the SRF Loan implicates Article I, Section 5 of the Town Charter pursuant to which debt obligations of a particular size which are not payable exclusively from proprietary funds must be approved by vote of the town electors; and

WHEREAS, the Town Commission hereby determines, pursuant to Article I, Section 5 of the Town Charter, that the qualified electors of the Town should make, through a referendum, the final decision determining whether to enter into the SRF Loan Agreement to finance the design, construction and/or equipping of the Project; and

WHEREAS, the Town Commission hereby determines that it serves a public purpose that the Project be designed, constructed and acquired and that it is in the best interest of the Town to enter into the SRF Loan Agreement to finance the costs thereof; and

WHEREAS, the Town Commission desires to enter into the SRF Loan Agreement pursuant to the terms of an authorizing resolution hereafter to be adopted by the Town Commission if the qualified electors of the Town approve the referendum authorized 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, construction and acquisition 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, particularly Chapter 166, Florida Statutes, Sections 100.201-100.351, 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 adopt the same as its findings and determinations.

SECTION 3. AUTHORIZATION OF THE LOAN. Subject and pursuant to the provisions hereof, the SRF Loan is authorized in the principal amount not exceeding Thirty-Three Million Dollars (\$33,000,000) to finance the cost of the design, construction, and acquisition of the Project, to finance necessary reserves, if any, to finance capitalized interest, if any, and to pay the cost of issuing the SRF Loan. The monies received and interest earned from the issuance of the SRF Loan will be used for such purposes. The SRF Loan shall be a limited obligation payable from the revenues of the Utility System and a backup covenant to budget and appropriate legally available non-ad valorem revenues. The SRF Loan shall mature over a term not longer than twenty-five (25) years, and the SRF Loan shall bear interest at a rate not exceeding the maximum rate permitted by law.

The SRF Loan Agreement may be entered into pursuant to authority granted under this Ordinance and the Act, but only after approval of the referendum hereinafter called

and subsequent adoption of an authorizing resolution by the Town Commission, as the governing body of the Town.

SECTION 4. REFERENDUM. A referendum of the qualified electors of the Town is hereby called to be held on Tuesday, March 11, 2025, to determine whether an SRF Loan not exceeding Thirty-Three Million Dollars (\$33,000,000) shall be approved by such qualified electors to finance costs relating to the design, construction, and acquisition of the Project. All qualified electors of the Town shall be entitled and permitted to vote in the 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 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 laws shall be complied with for the purpose of conducting the computation of ballots and completion of referendum procedures.

Trish Shinkle, 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 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 in conjunction with the schedules and locations established by the Supervisors of Elections offices.

SECTION 5. NOTICE OF THE REFERENDUM. Notice of the 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 referendum is held, the date of first publication in said newspaper to be at least thirty (30) days before said 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 referendum shall be in substantially the following form:

Official Ballot
Town of Longboat Key, Florida
Referendum Election
March 11, 2025
APPROVING A STATE REVOLVING FUND LOAN
TO FINANCE CONSTRUCTION OF A
SUBAQUEOUS WASTEWATER LINE

Shall Town of Longboat Key be authorized to borrow money through a State Revolving Fund loan, not exceeding \$33,000,000, bearing interest not exceeding maximum legal rates, maturing over a term not longer than 25 years, payable from revenues of the Town's water and sewer utility system and a backup

covenant to budget and appropriate legally available non-ad valorem revenues, to finance the design and construction of a subaqueous wastewater line across Sarasota Bay?

YES (FOR LOAN) _____
NO (AGAINST LOAN) _____

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

If a majority of the votes cast at the referendum shall be "Yes (For Loan)," the SRF Loan shall be approved, and then the SRF Loan Agreement may be entered into pursuant to this Ordinance as provided by authorizing resolution of the Town Commission, as governing body of the Town. If less than a majority of the votes cast at the referendum shall be "Yes (For Loan)," the SRF Loan shall be defeated, and no SRF Loan shall be obtained pursuant to this Ordinance.

SECTION 8. LANGUAGES. To the extent required by law, the official ballot and notice of 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 SRF Loan for costs relating to the design, construction and acquisition of 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 design, construction and acquisition of the Project a "declaration of official intent" within the meaning of Section 1.150-2 of the Income Tax Regulations.

SECTION 10. REPEALER. Any and all ordinances in conflict herewith are hereby repealed to the extent of any conflict.

SECTION 11. SEVERABILITY. It is declared to be the intent of the Town Commission, that if any section, subsection, sentence, clause, or provision of this Ordinance is held invalid, the remainder of this Ordinance shall be construed as not having contained the said section, subsection, sentence, clause, or provision and shall not be affected by such holding.

SECTION 12. 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 _____, 2024.

ADOPTED at a meeting and public hearing of the Town Commission held the _____ day of _____, 2024.

Kenneth Schneier, Mayor

ATTEST:

Trish Shinkle, Town Clerk

Attachment: Exhibit A

EXHIBIT A

**TOWN OF LONGBOAT KEY, FLORIDA
NOTICE OF REFERENDUM
REGARDNIG A STATE REVOLVING FUND LOAN
TO FINANCE IMPROVEMENTS
FOR THE TOWN'S SUBAQUEOUS WASTEWATER LINE AND UTILITY SYSTEM
TO BE HELD ON TUESDAY, MARCH 11, 2025**

To be held on Tuesday, March 11, 2025, as provided by
Ordinance 2024-11 of the Town Commission,
as governing body of the Town of Longboat Key, Florida adopted on
_____, 2024

Notice is hereby given that a referendum will be held in the Town of Longboat Key, Florida (the "Town") on Tuesday, March 11, 2025. The referendum will be held to determine whether the Town shall be authorized to enter into a State Revolving Fund Loan (the "SRF Loan") of the Town, in an amount not exceeding Thirty-Three Million Dollars (\$33,000,000). The SRF Loan shall be a limited obligation of the Town and shall be payable from the revenues of the Town's water and sewer utility system (the "Utility System") and a backup covenant to budget and appropriate legally available non-ad valorem revenues of the Town. The SRF Loan shall mature over a term of not longer than twenty-five (25) years, and the SRF Loan shall bear interest at a rate not exceeding the maximum rate permitted by law. The monies received from the SRF Loan will be used to finance costs relating to the design, construction, and acquisition of certain capital improvements for the Utility System, including but not limited to a new subaqueous wastewater force main across Sarasota Bay to transmit wastewater from Longboat Key to the Manatee County Southwest Water Reclamation Facility on the mainland and repurposing the existing force main as a redundant line(the "Project").

Town Ordinance 2024-11, adopted by the Town Commission on _____, 2024, authorized the holding of such referendum, and approved the following ballot for such referendum:

**Town of Longboat Key, Florida
Referendum Election
March 11, 2025**

**APPROVING A STATE REVOLVING FUND LOAN
TO FINANCE CONSTRUCTION OF A
SUBAQUEOUS WASTEWATER LINE**

Shall Town of Longboat Key be authorized to borrow money through a State Revolving Fund loan, not exceeding \$33,000,000, bearing interest not exceeding maximum legal rates, maturing over a term not longer than 25 years, payable from revenues of the Town's water and sewer utility system and a backup covenant to budget and appropriate legally available non-ad valorem revenues, to finance the design and construction of a subaqueous wastewater line across Sarasota Bay?

Copies of Ordinance 2024-11 are available in the office of the Town Clerk, 501 Bay Isles Road, Longboat Key, 34228.

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 referendum to which this notice pertains. The polls at the said referendum will be open from 7 o'clock a.m. until 7 o'clock p.m. on Tuesday, March 11, 2025, and will be held at polling places in the several precincts of the Town.

The Town of Longboat Key shall be authorized to obtain the SRF Loan covered by the question hereinabove set forth only if such loan shall have been approved by a 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 Shinkle
Town Clerk
Town of Longboat Key, Florida

End of Agenda Item