

**RESOLUTION NO. 201-2015**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, PROVIDING FOR THE ISSUANCE OF GENERAL OBLIGATION BONDS FOR THE PURPOSE OF FINANCING ALL OR A PORTION OF THE COSTS OF BURYING OVERHEAD UTILITY LINES LOCATED WITHIN THE TOWN OF PALM BEACH, FLORIDA IN THE PRINCIPAL AMOUNT OF NOT EXCEEDING NINETY MILLION DOLLARS (\$90,000,000), CALLING FOR A BOND REFERENDUM OF THE QUALIFIED ELECTORS OF THE TOWN OF PALM BEACH TO BE HELD ON MARCH 15, 2016, AS TO WHETHER GENERAL OBLIGATION BONDS FOR SUCH UNDERGROUND UTILITY PROJECT SHOULD BE ISSUED; REPEALING TOWN RESOLUTION NO. 160-2015 AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Constitution, the Town Charter and applicable laws of the State of Florida authorize and empower the Town of Palm Beach, Florida (the "Town") to adopt this Resolution; and

**WHEREAS**, the Town Council of the Town of Palm Beach, Florida (the "Town Council") has determined that the overhead aerial utility lines located within the Town are not aesthetically pleasing and present a potential public safety risk as well as a utility reliability issue and therefore threaten the safety and property of the residents of the Town and that it is in the best interest of the Town and its residents to bury utility lines located within the Town; and

**WHEREAS**, the Town Council, based on the foregoing findings and studies performed by the Town's staff and consultants and based on requests for such action by the Town citizenry, believes that it is necessary to finance all or a portion of the cost of burying overhead utility lines located within the Town, including without limitation, electric, telephone and cable service, together with costs incidental thereto (the "Underground Utility Project"); and

**WHEREAS**, the Town Council finds it to be in the best interest of the Town to issue its General Obligation Bonds (the "Bonds"), in one or more series, in the aggregate principal amount of not exceeding ninety million dollars (\$90,000,000) for the Underground Utility Project, to finance all or a portion of the costs for such Underground Utility Project; and

**WHEREAS**, it is necessary and essential to call and to hold a bond referendum submitting the issuance of such Bonds for the approval or disapproval of the residents who are qualified electors within the Town; and

**WHEREAS**, on October 13, 2015, the Town Council adopted Resolution No. 160-2015, calling for a referendum regarding the proposed financing of the Underground Utility Project; and

**WHEREAS**, the Town Council has determined that it is in the best interest of the Town to repeal Resolution No. 160-2015 and adopt this resolution as a replacement.

**NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PALM BEACH, FLORIDA, AS FOLLOWS:**

**SECTION 1. Findings.** That the findings of the Town Council set forth in the foregoing recitals are hereby adopted.

**SECTION 2. Bond Referendum.** That a bond referendum is hereby ordered to be held in the Town on the 15th day of March, 2016 to determine whether or not there shall be issued the Bonds of the Town in the aggregate principal amount of not exceeding ninety million dollars (\$90,000,000) for the Underground Utility Project maturing within 31 years from the date or respective dates of issuance of said Bonds and bearing interest at a rate or rates not exceeding the legal maximum rate of interest. The Bonds will be issued for the purpose of financing the costs of the Underground Utility Project and to pay the costs of issuing the Bonds, together with all other costs incidental thereto, for which the full faith and credit and taxing power of the Town shall be pledged. The payment of the principal of and interest on the Bonds shall be payable at such times and in such manner as shall be determined by subsequent proceedings of the Town Council. The Bonds shall be payable first from non-ad valorem special assessments imposed in connection with the Underground Utility Project pursuant to Chapter 90, Town Code of Ordinances, and, to the extent such non-ad valorem special assessments are insufficient to pay debt service or not assessed, ad valorem taxes levied and collected in the Town (without limitation as to rate or amount) on all taxable property in the Town sufficient to pay principal of and interest on such Bonds as the same become due and payable. The Town may apply other legally available sources of revenues, including particularly, those revenues relating to the Underground Utility Project, to the payment of the Bonds.

**SECTION 3. Municipal Purpose.** That the Underground Utility Project will be for a valid municipal purpose and, therefore, accordingly, subject to approval of the issuance of the Bonds by the qualified electors of the Town, the financing of the costs of the Underground Utility Project through the issuance of the Bonds is hereby authorized and approved. The Underground Utility Project will provide a special benefit to the properties served thereby within the Town by (1) improving utility service reliability through reduced service interruptions, particularly during severe weather and post-storm clean up, (2) protecting and

enhancing the value of all property within the Town due to enhanced safety and aesthetics, including avoidance of utility pole hardening.

**SECTION 4. Underground Utility Project.** That the Underground Utility Project is more fully described in Exhibit A hereto. In this regard, on November 10, 2015, the Town Council appointed a citizens advisory committee to advise the Town during the design and construction phase of the Underground Utility Project.

**SECTION 5. One or More Series.** That the Bonds may be issued all at one time or in part from time to time as the Town Council may in its discretion hereafter determine by subsequent proceedings.

**SECTION 6. Voter Approval.** That the Bonds shall not be issued for the Underground Utility Project unless such Bonds authorized for the Underground Utility Project shall be approved at the bond referendum by a majority of the qualified electors of the Town voting in such election all in the manner provided in the Constitution and the statutes of the State of Florida.

**SECTION 7. Polling Locations.** That polling locations or places shall be determined by the Supervisor of Elections for Palm Beach County, Florida, and all qualified electors of the Town who vote in said election shall vote at said designated polling places. The polls shall be opened on the date of said bond referendum from seven o'clock a.m. until seven o'clock p.m. on the same day, and, in the case of early voting, at such times, on such days prior to the date of said bond referendum and at such polling locations or places as determined by the Supervisor of Elections for Palm Beach County, Florida. Only the duly qualified electors of the Town will be permitted to vote in said bond referendum.

**SECTION 8. Publication of Notice.** That the Town Attorney shall prepare and give notice of the bond referendum by causing appropriate Notice, to be published in accordance with the provisions of Sections 100.342 of the Florida Statutes, at least twice, once in the fifth week and once in the third week prior to the week in which the referendum is held, provided the first publication shall take place at least thirty (30) days before the date fixed for election in the PALM BEACH DAILY NEWS, a newspaper of general circulation within the Town. The Town Attorney shall secure from the publisher of said newspaper an appropriate affidavit of proof that said Notice has been duly published, as herein set forth, and said affidavit shall be made a part of the record of the Town Council.

**SECTION 9. Voting Device.** That the vote at said bond referendum shall be by such voting device/equipment (the "Device"), as approved by the Florida Department of State pursuant to the Florida Election Code, comprising Chapter 101 of Florida Statutes, and in each polling place there shall be at least one such Device. It shall be the responsibility of the Supervisor of Elections for Palm Beach County, Florida, to have prepared and furnished to the inspectors said Devices in such numbers as shall be required to carry out the intent of this Resolution, and to have prepared and approved by the proper authorities for use in said Devices such ballots (or mechanical ballot record) as shall be necessary to conduct the election of the

qualified electors of the Town relative to the question of whether the issuance of Bonds in the aggregate principal amount of not exceeding ninety million dollars (\$90,000,000) shall be approved to finance the cost of the Underground Utility Project and to pay the costs of issuance of the Bonds, together with all other costs incidental thereto. Ballots in the same general form as hereinafter described shall be available to absentee voting.

**SECTION 10. Form of Ballot.** That the ballots to be issued in said bond referendum shall be substantially in the following form:

**BALLOT**

TOWN OF PALM BEACH, FLORIDA  
UNDERGROUND UTILITY PROJECT  
GENERAL OBLIGATION BONDS

To improve reliability, safety, aesthetics and avoid pole hardening, shall Town finance burying overhead utility lines for electric, telephone and cable service by issuing general obligation bonds not exceeding \$90,000,000, maturing within 31 years of issuance, bearing interest rate(s) not exceeding legal maximum, payable from Town's full faith, credit, ad valorem taxing power and non-ad valorem special assessments, with project review by a citizens advisory committee, as described in Resolution No. 201-2015?

\_\_\_\_\_ **FOR BONDS**

\_\_\_\_\_ **AGAINST BONDS**

**SECTION 11. Canvassing of Returns.** That the returns of the referendum shall be canvassed in the manner provided by law, and said returns shall be certified to the Town Council, which shall declare the results thereof. Upon canvassing the returns of the referendum, the results of such referendum shall be recorded in the minutes of the Town Council in the manner prescribed by law.

**SECTION 12. Election in Accordance with Florida Law.** That said bond referendum shall in all other respects be held and conducted in the manner provided in and by the laws of the State of Florida.

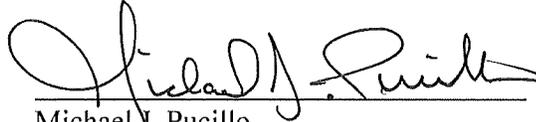
**SECTION 13. Saving Clause.** That in the event that any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holdings shall not affect any other word, clause, phrase, sentence or paragraph hereof.

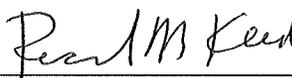
**SECTION 14. Resolution No. 160-2015 Repealed.** That Resolution No. 160-2015 adopted by the Town Council on October 13, 2015 is hereby repealed and this Resolution supersedes and replaces Resolution No. 160-2015.

**SECTION 15. Effective Date.** That this Resolution shall take effect immediately upon its passage.

**PASSED AND ADOPTED** in a regular session on this 8th day of Dec., 2015.

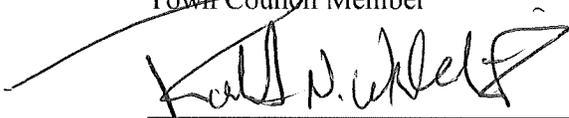
  
\_\_\_\_\_  
Gail L. Coniglio  
Mayor

  
\_\_\_\_\_  
Michael J. Pucillo  
Town Council President

  
\_\_\_\_\_  
Richard M. Kleid  
Town Council President Pro-Tem

  
\_\_\_\_\_  
Danielle H. Moore  
Town Council Member

  
\_\_\_\_\_  
Penelope D. Townsend  
Town Council Member

  
\_\_\_\_\_  
Robert N. Wildrick  
Town Council Member

ATTEST:

  
\_\_\_\_\_  
Susan A. Owens, MPA, MMC, Town Clerk



TOWN OF PALM BEACH  
TOWN-WIDE  
UNDERGROUND UTILITY PROJECT

PROJECT DESCRIPTION

The Underground Utility Project (the "Project") consists of capital improvements for the conversion of the Town's overhead utility lines and related facilities to underground utilities including, but not limited to, removal of overhead utility lines and facilities, construction of underground utility lines and related facilities, landscaping removal and restoration, and other utility and utility related improvements. The Project includes the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of facilities necessary or desirable for the Project, and costs of machinery, equipment and supplies, engineering, architectural, financing costs, project management expenses, legal fees and expenses and such other expenses as may be necessary for, or incidental to, the completion of the Project.