



Commission Communication

Agenda #: 9I

Date: October 9, 2012

Subject: Formalization of Authority to Complete the Water/Sewer/Storm Drainage Project (WSSD) Within a Budget of \$23,635,381

Background: During the August 15, 2012 Town Commission Meeting a 501 page memorandum regarding the Water/Sewer/Storm Drainage project was reviewed and accepted by the Town Commission. There were three very significant elements of that memorandum:

1. The January 17, 2012 Resolution no. 2012-2067 regarding the State Revolving Fund loan was included. The resolution clearly gave authority to the Town Manager in Section 5 (Attachment 1) to complete the transaction.
2. The actual State Revolving Fund transaction draft was also included as Attachment 9 to the 501 page memorandum. As is a normal practice in bond/loan transactions, language is modified right up until the final closing. The details of the final transaction were reviewed and approved by our bond counsel, Jolinda Herring, of the Bryant Miller Olive firm.
3. The new total project cost estimate in the amount of \$23,635,381 was explained in great detail in 23 separate line items on pages 5 -7 of the August 15, 2012 memorandum (Attachment 2). Authority was clearly given to the Administration to finish the project in Attachment 12 of the 501 page August 15, 2012 memorandum within that total sum of \$23,635,381 (Attachment 3) and to finish the project as soon as possible... currently estimated to be in late January early February 2013 due to record rain fall this year.

Regardless of this statement of the facts, Commissioner Kligman has expressed concern (Attachment 4) that the Town Commission direction to the Administration by accepting the August 15, 2012 501 page memorandum was not clear enough. Therefore, the Town Attorney has advised that the attached resolution be adopted to give specific authority within the \$23,635,381 limit and to reaffirm that time is of the essence to complete the project.

The Administration wishes to make it clear and be on record that the rejection of this resolution by the Town Commission will certainly cause delays in completion of the project and will most certainly cause significant additional costs. This statement will be explained by Public Works Director, Bill Evans during the Town Commission meeting tomorrow evening.



Roger M. Carlton
Town Manager

RESOLUTION NO. 2012-2007

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, RELATING TO THE STATE REVOLVING FUND LOAN PROGRAM; MAKING FINDINGS; AUTHORIZING THE LOAN APPLICATION FOR \$9,312,881 FOR CONSTRUCTION ACTIVITIES ASSOCIATED SURFSIDE WATER, WASTEWATER AND STORMWATER IMPROVEMENTS; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE LOAN AGREEMENT; ESTABLISHING PLEDGED REVENUES; DESIGNATING AUTHORIZED REPRESENTATIVES; PROVIDING ASSURANCES; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide for loans to local government agencies to finance the construction of water, wastewater and stormwater facilities; and

WHEREAS, Florida Administrative Code rules require authorization to apply for loans, to establish pledged revenues, to designate an authorized representative; to provide assurances of compliance with loan program requirements; and to enter into a loan agreement; and

WHEREAS, the State Revolving Fund loan priority list designates DEP the Infiltration and inflow for financing of construction activities involved with SURFSIDE Water, Wastewater/Construction Major Sewer and Stormwater Rehabilitation and infiltration and inflow projects are eligible for available funding; and

WHEREAS, the Town of Surfside, Florida, intends to use the funds for projects contained in the original scope of work for the construction activities associated with the wastewater and stormwater improvements; and

WHEREAS, the Town of Surfside, Florida, intends to enter into a loan agreement with the Department of Environmental Protection under the State Revolving Fund for project financing;

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA, AS FOLLOWS:

Section 1: That the foregoing findings are incorporated herein by reference and made a part hereof.

Section 2: That the Town of Surfside, Florida is authorized to apply for a loan to finance the Town's project.

Section 3: That the revenues pledged for the repayment of the loan are net water, sewer and stormwater system revenues after payment of debt service on the Town's existing Series outstanding obligations as noted in the loan application.

Section 4: That the Town Manager is hereby designated as the authorized representative to provide the assurances and commitments required by the loan application.

Section 5: That the Town Manager is hereby designated as the authorized representative to execute the loan agreement which will become a binding obligation in accordance with its terms when signed by both parties. The Town Manager is authorized to delegate responsibility to appropriate Town staff to carry out technical, financial, and administrative activities associated with the loan agreement.

Section 6: That the legal authority for borrowing monies to construct this Project is the Florida Statutes.

Section 7: That all resolutions or part of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

Section 8: That if any Section or portion of a Section of this Resolution proves to be invalid, unlawful, or unconstitutional, it shall not be held to invalidate or impair the validity, force or effect of any other Section or part of this Resolution.

Section 9: That this Resolution shall become effective immediately upon its passage and adoption.

PASSED AND ADOPTED this 17th day of January, 2012.

Motion by Commissioner Karukin . second by Commissioner Olchyk.

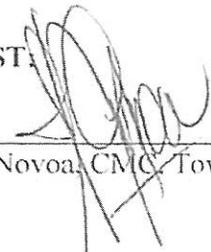
FINAL VOTE ON ADOPTION

Commissioner Michael Karukin	yes
Commissioner Edward Kopelman	Absent
Commissioner Marta Olchyk	yes
Vice Mayor Joseph Graubart	NO
Mayor Daniel Dietch	yes



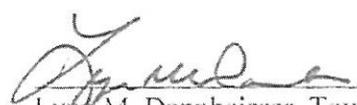
Daniel Dietch, Mayor

ATTEST:



Sandra Novoa, CMC, Town Clerk

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY FOR
THE TOWN OF SURFSIDE ONLY:



Lynn M. Dannheisser, Town Attorney



**Town of Surfside
Commission Communication**

To: Mayor and Members of the Town Commission

From: Roger M. Carlton, Town Manager

Date: August 15, 2012

Subject: Water/Sewer/Storm Drainage Project History and Status

Recommendation: It is recommended that the Town Commission accept this report which includes the history of the project and explains the previously authorized partial refinancing of the water/sewer/storm drainage (WSSD) debt issued by Regions Bank with funds provided and supplemented by the Florida State Revolving Fund (SRF).

Background: The Town's WSSD system on average is more than 60 years old. The elements of the system include water lines in residential back yards which have not been permitted by Miami Dade County for many years and which were so clogged (tuberculated) that fire flow is in question; sanitary sewers and laterals that were either in poor condition or had been repaired so often that the original line no longer existed; a storm drainage system that was grossly inadequate to handle heavy storms and tidal influences that also discharged unclean runoff into Biscayne Bay and was the subject of a more than 10 year old Consent Decree with the Miami Dade County Department of Environmental Resources (DERM), now Permitting, Environment and Regulatory Affairs (PERA); and a 65 year old force main that served both Bal Harbour Village and Surfside and carried sewage under Byron Avenue to a connector at 75th Street in the City of Miami Beach. This force main had never been inspected because it could not be shut down.

Prior to taking on the most comprehensive capital project in the Town's history, the Town was historically incurring repeated expensive emergency repairs; wasting more than \$200,000 per year due to the cost of infiltration/inflow as pipes either lost water or accepted rain/ground water that had to be treated as sewage; failing to establish a renewal and replacement fund to gradually replace the systems and putting the Town at risk of expensive litigation from regulatory agencies.

The two year ago and the current Town Commission took the initiative to undergo this very significant project that included the following actions:

1. A preliminary analysis by Ojito and Associates, Inc. had been submitted on March 3, 2006 that developed a scope of work for the project (Attachment 1). This report was reviewed by Calvin, Giordano and Associates after the firm was retained (Attachment 2).

2. TischlerBise was retained to study the rates necessary to allow the project to be funded including a progressive rate structure that would encourage conservation. This initial study (Attachment 3) was used to develop a rate ordinance that was adopted as an element of the FY 10/11 Budget. Those rates are still in place even though the rate study proposed rate adjustments in each of the next five years (Attachment 4). The initial rate adjustments were adopted by the Town Commission for FY 10/11. FY 11/12 and FY 12/13 (not yet adopted by the Town Commission) have not needed additional rate adjustments for a variety of complex reasons including this partial refinancing with SRF funds at a much lower interest rate that will be explained later in this memorandum.
3. A Citizen's Advisory Committee was appointed that provided substantial expertise to guide the project in its formative stages and met again on July 12, 2012 to review this partial refinancing. The original committee included Gerard Chenevert, Walter Lugo, Irving Levine, Jason Nevader, Marty Oppenheimer, Pete Hernandez and Bertha Goldenberg. Some of the members have left, however, Abraham Issa who has substantial financial expertise has joined.
4. Sergio Masvidal and Marissa Wortman of PFM Group, were retained as financial advisors and JoLinda Herring, Bryant Miller Olive, was retained as bond counsel. These individuals and their firms have substantial municipal financing experience particularly with the State Revolving Fund.
5. Calvin Giordano and Associates, which had been selected through a competitive procurement, was authorized by the Town Commission to complete the project design and to serve as the construction inspection/manager for a fixed price.
6. The construction documents were completed and the Town Commission approved a scope of work which included replacement of the majority of the water system; repair or replacement of the sanitary sewer system and upgrades to the sewer lift stations located on Byron Avenue at 93rd and 89th Streets; upgrades and expansion of the storm drainage system with three new lift stations; and, additive alternates for a street tree program, street sign replacement, traffic calming upgrades and improvements to the street ends throughout Town if the funds were projected to be available when the base water/sewer/storm drainage project nears completion.
7. Bal Harbour Village approached the Town to join in the construction of a new sewer force main on Collins Avenue from 97th Street to 73rd Street (including two blocks requested by Miami Beach) with each municipality paying 50 percent of the cost. Bay Harbor Islands has funded the cost of an emergency interconnect to the new force main in the event their own line on Collins Avenue cannot function. Bal Harbour Village advanced the entire cost of the new force main, managing the construction with their own consultant and our Staff's support. The project is now complete and operational. This had to be done on an expedited basis to finish before the FDOT repaving project was scheduled to begin since FDOT rules do not allow major utility construction for five years after a repaving project. The old line on Byron Avenue will soon be inspected to determine its future. When that is done, a 50 year Memorandum of Understanding will be developed regarding both force mains and Surfside's share of the construction will be fully paid. There will be more on how the force main project was funded later in this memorandum.

8. After a public prequalification process, the CGA designed project was publically advertised and seven (7) bids were received and reviewed. Staff and consultant review was extensive and the project was awarded to Ric-Man International by the Town Commission on June 14, 2011 with a 16 month substantial completion period for three phases beginning August 8, 2011 ending December 14, 2012 (Attachment 5). Even with the extensive rain we are experiencing this summer, the project is on schedule.
9. A project management team meets weekly led by Public Works Director Bill Evans and CGA Project Manager Chris Giordano. Ric-Man senior staff attends as well as the CGA inspection team and others as necessary. The Town Manager attends as needed to resolve issues and keep the team focused on the goal of timely completion within budget as adjusted for factors in this memorandum and with minimal impact on the community.
10. A project website has been established (www.utilityupgradeproject.com) that provides up to date information to citizens and data regarding the number of inquiries to management.
11. Mayor Daniel Dietch has established a platinum service policy that essentially requires two hour response to calls from residents regarding a myriad of issues. On average Staff deals with 10-15 calls daily.

The above eleven points establish the history of the project and how we have implemented the project to date. The next section of this recommendation will define the financial history of the project and explain the benefits of a partial refinancing of the Regions Bank loan using the Florida State Revolving Fund.

Project Financing: This section of the comprehensive update for the WSSD project will explain how the project was financed originally and how the financing will evolve to complete the project while providing the ability to hold down rates paid by our residents and commercial businesses to the lowest level possible. The beginning of this section is an explanation of enterprise funds (non property tax supported operations like WSSD) in general. The rest of the section explains how these principles have been applied to the completion of the WSSD project.

Utilities such as water and sewer operate like businesses in a government context. This means that rates are charged to the customers based on their consumption (water) and an amount is added for sewer since the sewage is not measured with individual meters as is done for water although there are master meters at the Town limits to ensure that the County's and Miami Beach's billings to Surfside are accurate. There are often minimum charges because the infrastructure must still be operated and maintained and debt service funded even if customers are on a vacation for extended periods of time or homes are empty. If bills are not paid for water and sewer, Staff often works out a payment plan or eventually turns off the water service. The Town is eventually paid when a property changes hands. Focus on collecting bad debt in the Water Sewer Fund has reduced the amount currently owed to \$59,385 from the \$190,130 that was past due for more than 150 days two years ago.

Costs of providing service include the cost of wholesale water (Miami Dade County), the cost of sewage treatment (City of Miami Beach transmits our sewage to its southernmost point at Government Cut and then Miami Dade County treats that sewage at its Virginia Key Plant), costs of operation including personnel, small repairs and supplies; the cost of debt service and the cost of funding reserve accounts.

The major cost element for water and sewer is the wholesale cost of water and the cost for treatment of sewage. The underlying cost is determined by Miami Dade County since Miami Beach only adds a 5 percent surcharge for transmission of our sewage. Staff vigorously reviews Miami Dade County proposed rate adjustments to ensure that the wholesale customers are paying only a fair share of the total cost of operating the Miami Dade County systems (Attachment 6).

Debt service is a function of annual principle reduction and semiannual interest payments currently made to Regions Bank for a \$16 million loan amortized over a 20 year schedule with a final payment to be made in the fifteenth year. The debt was structured this way to hold down payments in the early years. The fifteenth year "bullet" was to be funded by gradually building up reserves so it would not be necessary to refinance in the future when the payment came due. The loan covenants were approved by the Town Commission on April 12, 2011 (Attachment 7) and require that the revenues of the system exceed the cost of operation and debt service by 10 percent defined as 1.10 coverage. The excess flows to a series of fund "buckets" which includes operating and maintenance (O & M), debt service, rate stabilization and eventually an excess reserve which is available for any legal expense approved by the Town Commission. The flow of funds to these "buckets" is audited every year by our external auditor as is the debt service coverage calculation. The Town is in compliance with all covenants in the Regions Bank loan agreement.

The Storm Water Utility is slightly different. This Enterprise Fund assesses an annual fee that is calculated by the type of structure (single family, multi-family or commercial). The revenues are used to sweep streets, maintain the storm drainage system, fund the debt service and build up reserves to appropriate levels. The Storm Water Utility debt service costs also must meet the coverage requirements. Once the overall debt service funds are set aside from the both water/sewer and storm drainage funds, they are combined to meet at least 1.10 times the annual debt requirement. All of this is externally audited annually and appears in the Town's Comprehensive Annual Financial Report (CAFR). The debt service coverage levels are also discussed in the Town's annual budget process to ensure that rates are set to meet all requirements.

With this financial background, it is appropriate to move to the process that established our current financing:

1. The August 26, 2010 TischlerBise rate study was amended in October 2010 and was based on cost estimates for the WSSD project that were very preliminary. The study did not incorporate the Collins Avenue force main project nor did it include the stormwater portion of the project and the four additive alternates. This study was accepted by the Town Commission as part of the FY 10/11 Budget process. In essence this was the first time in conjunction with various grant applications that a clear policy direction was made to go forward with the project. The additional revenues from the rate adjustments started to accumulate and build reserves. The initial cost of completing design and permitting was also funded from this source.
2. With a clear decision to move forward, CGA completed the design and bid documents. The project budget was established at \$19,018,938 including the basic cost of construction, a contingency which could be used for the additive alternates if funds were projected to remain near the time of project completion, the cost of design and inspection services and the cost of the Town's share of the Collins Avenue force main. This cost estimate was based on the scope of work defined in the engineering plans as well as the costs of issuance of the Regions Bank

loan. The final cost would not be known until bids were received and awarded. In debt parlance, the project costs are known as the “uses of funds.”

3. The “sources of funds” at that time included \$1,872,500 of grants from the “Better Building Communities” Countywide voter approved General Obligation bond issue and from the State of Florida, a reimbursement from Indian Creek Village for settlement of a ten year old lawsuit (drainage improvements on Surfside Boulevard), the \$16 million Regions Bank financing and transfers from the Miami Dade County half penny sales tax. This transfer would be used for road restoration which Miami Dade staff has approved. The combined sources and uses table was accepted by Regions Bank and established this initial estimated project cost.
4. The Town’s former Finance Director and Town Manager authorized CGA to retain an expert in the State Revolving Fund (SRF) process in early 2010. When the new Town Manager was retained this effort was reinvigorated and the required SRF Master Plan was adopted by the Town Commission in a public hearing held in January, 2011 (Attachment 8). At that time, the plan envisioned \$9,312,881 being borrowed from the SRF. The benefits were a significantly lower interest rate (then 2.5 percent), the lowest construction cost environment in modern times, a twenty year amortization rather than fifteen year and the potential for partial loan forgiveness (estimated to be \$2-3 million in approximately four years) subject to legislative approval. Offsetting these advantages was the one year or more necessary for loan approval by the State of Florida which put the Town in jeopardy of an impending increase in the cost of the more than eight miles of pipe needed for the project, a slightly higher debt service coverage of 1.15, an impending FDOT construction moratorium and the need to get started due to the very deteriorated condition of the system (two major breaks had occurred in Miami Beach within a month before the decision to go forward was made by the Town Commission). The Town Commission weighed all these factors and made the decision to go forward with the Regions Bank loan while directing Staff to continue to pursue the SRF funding as well. That decision proved to be beneficial since we are currently more than 63 percent complete with the WSSD project, the cost savings were achieved, time deadlines were overcome and nearly a year was saved in project start-up. A report regarding the SRF process was made to the Town Commission on January 17, 2012 and authorization was granted to submit and accept the State Revolving Fund application (Attachment 9). This direction was reaffirmed with a status report accepted by the Town Commission on May 8, 2012 (Attachment 10). The result is a draft copy of the State of Florida Clean Water State Revolving Fund Construction Loan Agreement for the funding amount of \$9,312,881 (Attachment 10A).
5. Since SRF approval was received, Staff has been working closely with our Financial Advisor and Bond Counsel to finalize the new Sources and Uses. This is necessary to close on the loan. As has been mentioned many times in the Points of Light and the CGA monthly report, the underlying principle of utilizing SRF funding is to provide sufficient funds to complete the project while eliminating or reducing the need for a rate increase for the longest time possible.
6. The construction cost for the project has increased due to many factors enumerated below:
 - Collins Avenue force main extended length required by City of Miami Beach - \$150,000.
 - Adding 115 multifamily residential units serving nearly 450 dwelling units along Collins Avenue/Harding Avenue due to worse than expected condition of the water lines. This was

also explained in earlier Town Commission discussions and the direction was given that everyone in Town should have service that was either replaced or repaired - \$1,133,825.

- Replacing four times the curb and gutter originally envisioned due to deteriorated conditions greatly exceeding estimated quantities - \$216,000.
- Increasing the Contractor's scope for emergency repairs of the old systems not caused by the construction - \$84,303.
- Adding additional drainage inlets and replacing existing drainage inlet structures that were in disrepair or located in the wrong area allowing water to pond too long - \$105,734.
- Adding the closure of Byron Avenue north bound and other traffic calming on Abbott Avenue as requested by the residents in that area - \$84,750.
- Additional asphalt removal due to improper overlay in a previous repaving project - \$107,932.
- Increased restoration costs for driveways and landscaping for 1100 homes. The decision to fund the entire installation cost and repair for each home was made by the Town Commission early on in this process - \$307,300.
- Increase the number of new meters to complete the microwaveable readable system - \$54,636.
- Modifying the materials and logistics for the subcontractor to perform investigations and paving work in the Collins Avenue/Harding Avenue corridor to minimize traffic impacts - \$166,530.
- Lining in lieu of replacing 349 sewer laterals on Collins Avenue and Harding Avenue particularly in the Downtown area - \$194,050.
- Adding 48 water services to single family residential units along 88th Street due to worse than expected conditions - \$62,000.
- Additional quantities of sewer main point repairs required in lieu of lining due to pipe breakages which have occurred, exacerbating the time between initial video and construction - \$33,950.
- Additional work to complete the interconnects between Surfside's pump stations and the newly installed force main on Collins Avenue - \$27,564.
- Additional work (fire hydrants, reroute existing water services and interconnects) as requested by the Town for to reduce future maintenance costs and for logistics - \$126,792.

- Increase number of single water services (vs. double water services) to minimize impacts to residents behind curb disruption - \$91,910.
 - Perform electrical work required to relocate (and straighten) existing FPL power poles at the pump station locations - \$22,476.
 - Increased Ductile Iron Pipe (DIP) in lieu of plastic pipe (PVC) at intersections. The DIP allows the water mains to be placed with less cover (closer to the surface) due to the DIP greater strength. The Town preferred this option for future service/maintenance of the system - \$65,521.
 - Potential claim from the Contractor regarding unsuitable subsurface material encountered - \$39,375. Under negotiation.
 - Potential claim from the Contractor regarding sewer cleaning and lining preparation, totaling \$473,665. To date the Town has rejected this potential claim submitted by the Contractor. Discussions to resolve are continuing, however, funding is provided.
 - Offsetting these costs increases are various savings by purchasing materials (no sales tax) and streamlining construction procedures - \$200,000 credit.
 - The above cost savings and real or potential expense increases create a net increase for the project in the amount of \$3,026,392 or 15.9 percent. This will still leave a contingency of \$1,268,049 which is comprised of \$618,049 for the additive alternates and \$650,000 for any further unforeseen issues.
7. When the current Regions Bank loan plus the SRF loan are closed, the project will carry a total debt of \$20,820,326 (Attachment 11). This amount is net of the \$4 million in proceeds from the SRF loan used to reduce the amount of the Regions Bank loan. The manner that this is done is by paying down \$4 million of the Regions Bank loan with maturities after the 15 year bullet described earlier. The estimated sources and uses for the project are enumerated in (Attachment 12). The actual sources and uses for this loan will be finalized when the project is completed. It is important to note that the total debt could be reduced by \$1,268,049 if the Town Commission does not build the additive alternates and we do not need the extra contingency. This is because there is a very significant difference between the Regions Bank loan where all the funds are borrowed at closing and the SRF funding which is a reimbursement after the actual costs are advanced by the Town. In essence the \$9,312,881 is a maximum loan potential which may not be exceeded. Further enabling this transaction is the fact that the SRF interest rate is 2.12 percent fixed for the 20 year term of the loan rather than the 4.72 percent rate for the Regions Bank loan. Another factor is that the terms of the Regions Bank loan allow the first \$4 million to be paid without a prepayment penalty. That is why only \$4 million is being prepaid since the formula used to calculate the prepayment penalty cost nearly 25 percent of the amount prepaid. Further, the SRF funds can only be used for sewer and storm drainage. Therefore the water portion of the project is not eligible. It is also

important to remember that we are able to seek legislative forgiveness of a portion of the debt in the future.

8. To summarize the status of the project, SRF financing in the amount of \$9,312,881 will be utilized to refund \$4 million of the existing Regions Bank loan at a lower interest rate, complete the sewer/storm drainage project and fund the costs of issuance of \$25,000, SRF onetime fee of \$186,258 (nonnegotiable) and \$100,000 for capitalized interest on the SRF. Capitalized interest is used to pay a portion of the interest during construction. Annual debt service for the combined loan will be \$1,387,608 or less if we do not borrow all the funds as discussed above and we are successful in negotiating the disputed cost increases. Debt service coverage will meet all requirements of both loan documents and the rates charged to our customers will not have to increase as a result.
9. The Water/Sewer/Storm Drainage Citizens Advisory Committee was reconvened on July 12, 2012. After review of the combined financial structure, the Committee recommended the transaction to the Town Commission. The group has been invited to the August 15, 2012 Town Commission meeting to present their views.
10. One final note. None of this factors in the potential rate adjustments from Miami Dade County over the next five years due to the very deteriorated condition of their systems. When and if this happens, the Town Commission can make annual decisions regarding passing these increases through to our customers or using the rate stabilization fund or a combination of the two. The Black and Veatch 2012 rate study did include sewage disposal cost increases of 5.5% in FY 12/13 and 3.0 % for FY 13/14 and beyond. Fortunately, Miami Dade County will not implement the rate increase for FY 12/13 thereby providing a year of relief. The capital needs of Miami Dade County WASD are extensive and could result in four years of rate increases beginning in FY 13/14 (Attachment 13 A-C).

Where Do We Go From Here?

There are a number of steps necessary to complete the WSSD project by the end of 2012. These include:

1. Close on the SRF funding which is scheduled for August 24, 2012. The funds will be drawn down monthly as construction requests (draws) are submitted by the contractor and reviewed by the Town. If all goes according to plan and the weather holds the project will be substantially complete by the end of December 2012.
2. Complete the CGA design of the traffic calming devices authorized by the Town Commission on May 8, 2012 (Attachment 14). In conjunction with review of the proposed devices (rotaries, speed tables and speed humps as well as signage) by the Town Commission and Miami Dade County, a meeting should be held to garner input from our residents. Based on the outcome of this process, decisions should be made in October, 2012 so that the work can be done before Ric-Man demobilizes.
3. If after the final estimate to complete is available (when we reach 90% construction completion), the Town Commission will be requested to determine if it wishes to go forward

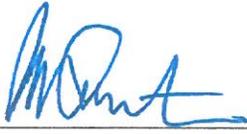
with the additive alternates, or lessen the total amount of debt if the total SRF funds are not needed. This decision does not have to be made at this time.

4. A project closeout memorandum will be prepared when the final costs are known, all change orders up and down are reviewed and releases are received from all parties. Acceptance of the closeout memorandum by the Town Commission allows any retainage to be released. This is the same process that was used to close out the Community Center project without any litigation.

5. Staff will refocus its efforts in conjunction with the Bal Harbour Village and Bay Harbor Islands to convince Miami-Dade County to go forward with the north force main. When the WSSD project is complete, we will have a new or restored water, sewer and storm drainage system Townwide, a new force main interconnect with Miami Beach and a new emergency bypass force main to carry our sewage north if that becomes necessary. While this is not a glamorous project, it is an extraordinary and critically necessary project that will serve the people of Surfside and our neighbors for generations to come.

It is important to thank our Town team including Bill Evans, Randy Stokes, Donald Nelson, Mayte Gamiotea and Andria Meiri for their hard work; Chris Giordano, Bob McSweeney, Sabrina Baglieri, Bruce Bernard, JC Echavarria and Ryan Spradlin of CGA for their good design and detailed project supervision; Rene Castillo, Victor Menocal and Luis Hernandez of Ric-Man International for their seven day a week construction and sensitivity to the citizens of Surfside; many subcontractors, and the Miami-Dade County Departments of Water and Sewer (WASD), PERA and Health for their quality inspection and support in many areas. Finally to our Police Department for their ongoing effort to maintain traffic during a very difficult time.

Based on all the aforementioned information your acceptance of this report for the partial Regions Bank/SRF refinancing is recommended.



Roger M. Carlton
Town Manager



Bill Evans
Public Works Director



Donald Nelson
Finance Director

RC/dh

ATTACHMENT

"12"

AUGUST 15, 2012

**Town of Surfside
Sources & Uses -Infrastructure Rehabilitation Projects**

Uses			
Surfside W/S/D Project Total Construction Budget	\$	19,213,629.33	
Surfside W/S/D Project Total Soft Costs	\$	1,842,344.93	
Surfside W/S/D Project Total Cost	\$	21,055,974.26	
SRF Closing Costs	\$	211,257.62	
Bal Harbor/Surfside FM Project Total Cost	\$	1,650,000.00	
Pre Capitalized Interest per State Loan	\$	100,100.00	
Remaining for Rate Stabilization or Additive Alternates	\$	618,049.13	
Total Uses	\$	23,635,381.01	

Sources			
Regions Bond (Less origination Costs)	\$		15,950,000.00
Indian Creek Agreement	\$		150,000.00
Reallocation of Roadway Funds	\$		200,000.00
Reallocation of Storm Water Funds	\$		150,000.00
FDEP Grants & BBC Bond	\$		1,872,500.00
Subtotal	\$		18,322,500.00
SRF Loan	\$		9,312,881.00
Prepayment of Regions Bond	\$		(4,000,000.00)
Subtotal	\$		5,312,881.00
Total Sources	\$		23,635,381.00

Roger Carlton

From: Michelle Kligman
Sent: Friday, October 05, 2012 12:24 PM
To: Roger Carlton
Cc: Daniel Dietch; Michael Karukin; Marta Olchyk; Joe Graubart; Lynn Dannheisser
Subject: Follow Up Regarding Inquiry

Roger,

Regarding your e-mail of September 20, 2012 on the Water, Sewer & Storm drainage project (where you reference item 9H of the August 15, 2012 Town Commission Meeting, specifically "Commission Communication Page 8, bullet # 1 and page 9, bullet # 4" as your authority in response to my inquiry) and notwithstanding the fact that you believe you had the authorization to execute the loan agreement, for informational purposes please include in the next packet of the agenda a copy of the agreement/contract so that the Commission may see the specific terms that they approved.

In addition, with regard to #4 of your report on page 9 in which you advise that you will be preparing a project close out memorandum "when the final costs are known, all change orders up and down are received and releases are received from all parties". Please be reminded that at the June 12, 2012 Commission meeting, the Commission unanimously approved a Resolution specifying a requirement that any expenditures above your spending authority had to come to the Commission for approval. Accordingly, regarding the project referenced above, if the change orders exceed the approved contract amount the Town Commission expects you will bring those change orders to us for our approval.

As you know, the Town Charter is clear regarding the administration's role of all affairs of the Town and makes recommendations to the Commission. However, it is the Commission that must approve all proposed purchases and other expenditures above either the Manager's spending authority or a contract amount previously approved by the Commission.

Finally, please be advised that I intend to propose that the Commission no longer "accept reports" by vote, as you previously advised us to motion at the August 15, 2012 Commission meeting, for the following reasons:

- 1). A report is just that information on the status of issues and projects to the Commission.
- 2). By not voting on the report ("motion to accept this report") we will avoid the slippery slope of "approving" matters without a full appreciation of what we are specifically voting on. For example, the SRF refinance loan agreement, the memo, as you affectionately refer to "mother of all memos", explained different issues and moving parts, never actually included the contract/agreement for refinancing the loan which in my opinion should have been a separate agenda item with a Resolution.
- 3.) Since we seem to have inherited issues with record keeping already if we have a separate agenda item with a Resolution it will be far easier to access the matter in the future.

Please don't misconstrue this request but anything more than what it is. I believe that all of the Commission is appreciative of all the hard work that goes into the Manager's Points of Light and the Town Attorney's Report, as it keeps us up to date with the status, follow up and progress of our Town.

Sincerely,

Michelle Kligman

Elected Officials please do not respond directly to me or this e-mail.



Michelle Kligman, Psy.D.
Commissioner
Town of Surfside
9293 Harding Ave
Surfside, FL 33154
954-549-4173
mkligman@townofsurfsidefl.gov

RESOLUTION NO. 12- _____

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA AUTHORIZING THE TOWN MANAGER TO EXECUTE CHANGE ORDERS FOR THE WATER SEWER STORMWATER DRAINAGE PROJECT (“WSSD”) FROM THE DATE OF THIS RESOLUTION TO THE COMPLETION AND RETURN TO THE TOWN COMMISSION FOR AFTER-THE-FACT APPROVALS SO LONG AS THE TOTAL AMOUNT OF CONSTRUCTION COSTS DOES NOT EXCEED \$23,635,381; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, on July 12, 2011, the Town of Surfside passed Resolution 11-2028 approving the award of a competitive bid to Ric-Man International, Inc. (hereinafter “RIC-MAN”) as the lowest, most responsible, responsive bidder (RFQ Project Number 065355-15) for the Infrastructure Rehabilitation Project (a/k/a “WSSD Project”); and

WHEREAS, the Town Commission approved that the contract to be entered into between the Town and RIC-MAN, that the Town enter into a contract in substantially the same form as the contract contained in the RFQ, and authorized the Town Manager and Town Attorney to do whatever was necessary to complete the execution of said contract; and

WHEREAS, the Town entered into such contract as well as an Addendum Number One of the Standard Form Agreement on the basis of a stipulated price between the Town of Surfside and RIC-MAN and including authorized additives; and

WHEREAS, RIC-MAN and all of its subcontractors are continuously and progressively working in order to timely complete construction of the Water Sewer Stormwater Drainage Project (“WSSD”); and

WHEREAS, change orders (written orders to the contractor, issued after execution of the contract, that authorize a change in the construction work, contract amount or materials which are approved by the construction project manager and often the design professionals which become

necessary through the construction process for a variety of reasons are a normal and regular part of any construction process; and

WHEREAS, in order to keep RIC-MAN and all subcontractors working to timely complete the WSSD Project, the Town Manager must be given the authority and ability to approve necessary change orders as and when they occur; and

WHEREAS, such change orders would normally be approved before issuance by the Town Commission at regular monthly meetings but as these occur only once a month, to defer approvals until then will delay the construction of the WSSD Project and raise the cost of the project such that there can be no timely completion and the maximum available funds are at risk; and

WHEREAS, the Town Commission finds it is in the best interest of the Town of Surfside to grant the Town Manager such authority.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF SURFSIDE, FLORIDA,

Section 1. **Recitals.** That the above and foregoing recitals are true and correct and are incorporated herein.

Section 2. **Authorization.** The Town Commission hereby authorizes the Town Manager to execute all necessary change orders for the construction cost or work or materials so long as the total amount of construction costs does not exceed \$23,635,381 for the completion of the WSSD Project from the date of this resolution to the completion of the project and return to the Town Commission for after-the-fact approvals.

Section 3. **Effective Date.** This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this _____ day of _____, 2012

Motion by Commissioner _____, Second by Commissioner _____

FINAL VOTE ON ADOPTION:

Commissioner Joseph Graubart _____
Commissioner Michelle Kligman _____
Commissioner Marta Olchyk _____
Vice Mayor Michael Karukin _____
Mayor Daniel Dietch _____

Daniel Dietch, Mayor

ATTEST:

Sandra Novoa, Town Clerk

**APPROVED AS TO FORM AND LEGALITY FOR THE USE
AND BENEFIT OF THE TOWN OF SURFSIDE ONLY:**



Lynn M. Dannheisser
Town Attorney