

RESOLUTION NO. 21-30

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF FORT MYERS BEACH, FLORIDA, RELATING TO THE FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION STATE REVOLVING FUND (SRF) LOAN PROGRAM; APPROVING AMENDMENT #2 TO SRF LOAN AGREEMENT DW360801; AUTHORIZING THE TOWN MANAGER TO EXECUTE THE AMENDMENT AND EXPEND BUDGETED FUNDS; PROVIDING FOR CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.

WHEREAS, Florida Statutes provide that municipalities shall have the governmental, corporate, and proprietary powers to enable them to conduct municipal government, perform municipal functions, and render municipal service, and exercise any power for municipal purposes, except when expressly prohibited by law; and

WHEREAS, Article X of the Town Charter of the Town of Fort Myers Beach empowers the Town to adopt, amend, or repeal such ordinances and resolutions as may be required for the proper governing of the Town; and

WHEREAS, the Town of Fort Myers Beach entered into SRF Loan Agreement DW360801 with the Florida Department of Environmental Protection to fund necessary drinking water system improvements; and

WHEREAS, the Town of Fort Myers Beach has identified other drinking water system improvements which require additional SRF funding; and,

WHEREAS, the Florida Department of Environmental Protection has approved the additional funding requested and drafted Amendment #2 to SRF Loan Agreement No. DW360801.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN OF FORT MYERS BEACH AS FOLLOWS:

Section 1. The above recitals are true, correct, incorporated herein by this reference, and adopted as the legislative and administrative findings of the Town Council.

Section 2. Amendment number two to SRF Loan Agreement No. DW360801 (“Amendment #2) attached as “Exhibit “A” is approved, and the Town Manager is authorized to execute Amendment #2 and expend budgeted funds.

Section 3. All Resolutions or part of Resolutions in conflict with any of the provisions of this Resolution are hereby repealed.

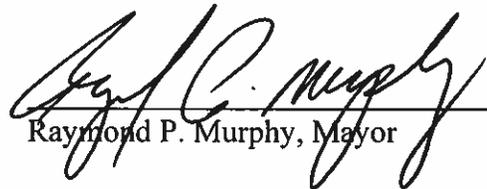
Section 4. This resolution shall take effect immediately upon its adoption by the Town Council of the Town of Fort Myers Beach.

The foregoing Resolution was adopted by the Town Council upon a motion by Council Member Veach and seconded by Vice Mayor Hosafros, and upon being put to a vote, the result was as follows:

Raymond P. Murphy, Mayor	<u>Aye</u>
Rexann Hosafros, Vice Mayor	<u>Aye</u>
Dan Allers, Councilmember	<u>Aye</u>
Bill Veach, Councilmember	<u>Aye</u>
Jim Atterholt, Councilmember	<u>Aye</u>

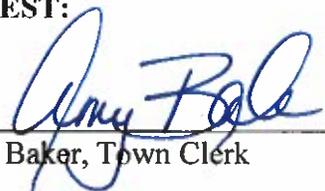
ADOPTED this 7th day of June 2021 by the Town Council of the Town of Fort Myers Beach, Florida.

TOWN OF FORT MYERS BEACH



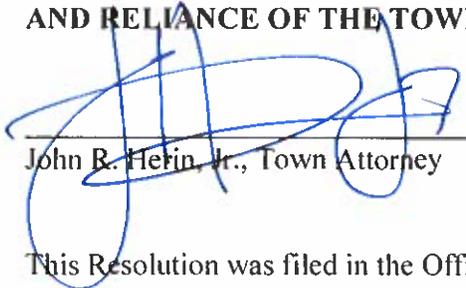
Raymond P. Murphy, Mayor

ATTEST:



Amy Baker, Town Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY FOR THE USE AND RELIANCE OF THE TOWN OF FORT MYERS BEACH ONLY:



John R. Herin, Jr., Town Attorney

This Resolution was filed in the Office of the Town Clerk on this 10 day of June 2021.

**STATE REVOLVING FUND
AMENDMENT 2 TO LOAN AGREEMENT DW360801
TOWN OF FORT MYERS BEACH**

This amendment is executed by the STATE OF FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION (Department) and the TOWN OF FORT MYERS BEACH, FLORIDA, (Project Sponsor) existing as a local governmental entity under the laws of the State of Florida. Collectively, the Department and the Project Sponsor shall be referred to as "Parties" or individually as "Party".

The Department and the Project Sponsor entered into a Drinking Water State Revolving Fund Loan Agreement, Number DW360801, as amended, authorizing a Loan amount of \$11,083,000, excluding Capitalized Interest; and

The Project Sponsor is entitled to additional financing in the amount of \$9,246,458, excluding Capitalized Interest; and

Certain provisions of the Agreement need revision.

The Parties hereto agree as follows:

1. Subsection 2.03(1) of the Agreement is deleted and replaced as follows:

(1) The financial assistance authorized pursuant to this Loan Agreement consists of the following:

Federal Resources, Including State Match, Awarded to the Recipient Pursuant to this Agreement Consist of the Following:					
Federal Program Number	Federal Agency	CFDA Number	CFDA Title	Funding Amount	State Appropriation Category
FS98452218-0	EPA	66.468	Capitalization Grants for Drinking Water State Revolving Fund	\$20,329,458	140129

2. Additional financing in the amount of \$9,246,458, excluding Capitalized Interest, is hereby awarded to the Project Sponsor.

3. An interest rate of 0.98 percent per annum is established for the additional financing amount awarded in this amendment.

4. The estimated principal amount of the Loan is hereby revised to \$20,419,558, which consists of \$20,329,458 authorized for disbursement to the Project Sponsor and \$90,100 of Capitalized Interest. This total consists of the following:

(a) Original Agreement in the amount of \$6,132,400, including \$6,083,000 authorized for disbursement to the Project Sponsor and \$49,400 of Capitalized Interest, at an interest rate of 0.98 percent per annum; and

(b) Amendment 1 in the amount of \$5,031,100, including \$5,000,000 authorized for disbursement to the Project Sponsor and \$31,100 of Capitalized Interest, at an interest rate of 0.98 percent per annum; and

(c) Amendment 2 in the amount of \$9,256,058, including \$9,246,458 authorized for disbursement to the Project Sponsor and \$9,600 of Capitalized Interest, at an interest rate of 0.98 percent per annum.

5. An additional Loan Service Fee in the amount of \$184,929, for a total of \$406,589, is hereby estimated. The fee represents two percent of the Loan amount excluding Capitalized Interest; that is, two percent of \$20,329,458.

6. The Semiannual Loan Payment amount is hereby revised and shall be in the amount of \$574,614. Such payments shall be received by the Department on February 15, 2022 and semiannually thereafter on August 15 and February 15 of each year until all amounts due hereunder have been fully paid. Until this Agreement is further amended, each Semiannual Loan Payment will be proportionally applied, after deduction of the Loan Service Fee is complete, toward repayment of the amounts owed on each incremental Loan amount at the date such payment is due.

The Semiannual Loan Payment amount is based on the total amount owed of \$20,826,147, which consists of the Loan principal plus the estimated Loan Service Fee.

7. The Project Sponsor and the Department acknowledge that the actual cost of the Project has not been determined. Project cost adjustments may be made as a result of mutually agreed upon Project changes. Capitalized Interest will be recalculated based on actual dates and amounts of Loan disbursements. If the Project Sponsor receives other governmental financial assistance for this Project, the costs funded by such other governmental assistance will not be financed by this Loan. The Department shall establish the final Project costs after its final inspection of the Project records. Changes in Project costs may also occur as a result of an audit.

The estimated Project costs are revised as follows:

<u>CATEGORY</u>	<u>PROJECT COSTS (\$)</u>
Construction and Demolition	19,169,424
Contingencies	509,815
Technical Services After Bid Opening	650,219
SUBTOTAL (Disbursable Amount)	20,329,458
Capitalized Interest	90,100
TOTAL (Loan Principal Amount)	20,419,558

8. Subsection 10.07(4) of the Agreement is revised as follows:

(4) The first Semiannual Loan Payment in the amount of \$574,614 shall be due February 15, 2022.

9. Section 10.08 of the Agreement is revised as follows

Prior to this Amendment being executed, the Project Sponsor shall submit a Legal Opinion addressing the full amount of the loan, availability of Pledged Revenues, the right to increase rates, and subordination of the pledge.

10. All other terms and provisions of the Loan Agreement shall remain in effect.

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This Amendment 2 to Loan Agreement DW360801 may be executed in two or more counterparts, any of which shall be regarded as an original and all of which constitute but one and the same instrument.

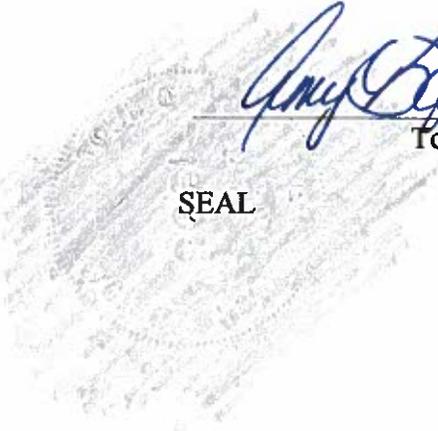
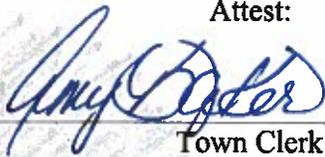
IN WITNESS WHEREOF, the Department has caused this amendment to the Loan Agreement to be executed on its behalf by the Secretary or Designee and the Project Sponsor has caused this amendment to be executed on its behalf by its Authorized Representative and by its affixed seal. The effective date of this amendment shall be as set forth below by the Department.

for
TOWN OF FORT MYERS BEACH *sf*



Town Manager

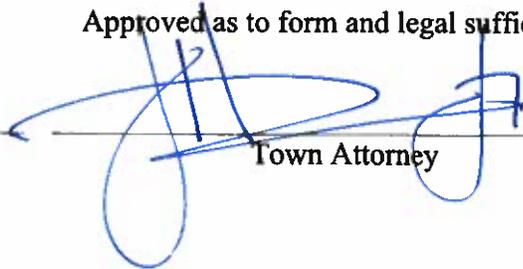
Attest:

Town Clerk

SEAL

Approved as to form and legal sufficiency:



Town Attorney

for
STATE OF FLORIDA
DEPARTMENT OF ENVIRONMENTAL PROTECTION

Secretary or Designee

Date