

AN ORDINANCE CREATING THE PLANTATION PALMS MUNICIPAL SERVICE BENEFIT UNIT; PROVIDING FOR BOUNDARIES; PROVIDING FOR LEVY OF NON AD-VALOREM SPECIAL ASSESSMENTS; PROVIDING FOR THE MUNICIPAL SERVICES TO BE FUNDED; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Section 125.01(1)(q), Florida Statutes, provides that the legislative and governing body of a county, to the extent not inconsistent with general or special law, may establish municipal service taxing or benefit units, within which may be provided essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within such unit only; and

WHEREAS, Section 125.01(1)(r), Florida Statutes, empowers the County to levy and collect special assessments within a municipal service taxing or benefit unit, and Section 125.01(1)(q), Florida Statutes, provides that the Board of County Commissioners shall be the governing body of any municipal service taxing or benefit unit created thereunder; and

WHEREAS, the Plantation Palms Subdivision was platted in fourteen phases, and recorded in the Official Records of Pasco County, in Plat Book 44, Page 001; Plat Book 47, Page 133; Plat Book 49, Page 100; Plat Book 41, Page 069; Plat Book 46, Page 028; Plat Book 45, Page 040; Plat Book 39 PGS 66-72; Plat Book 48, Page 078; Plat Book 47, Page 071; Plat Book 42, Page 010; Plat Book 42, Page 006; Plat Book 41, Page 072; Plat Book 40, Page 048; Plat Book 41, Page 125 (Plantation Palms Subdivision); and

WHEREAS, each developed residential lot in the Plantation Palms Subdivision is a mandatory member of the Plantation Palms Homeowner’s Association, Inc. (Association); and

WHEREAS, the Association owns, in fee, a parcel of land that is encumbered by a drainage ditch that flows along the northern boundary of the Plantation Palms Subdivision, which is further described in Exhibit “A,” and said ditch is in need of repairs; and

WHEREAS, the Association members will specially benefit by the County’s construction of the Facilities; and

WHEREAS, the Association members, who are the owners of each developed residential lot within the boundaries of the municipal service unit established herein, as identified on Exhibit “B,” have been provided with notice by mail and by publication, in a newspaper of general circulation, of the public hearing to consider the adoption of this Ordinance and the subsequent non-ad valorem special assessment charge that may be

levied against their lot, and the fact that a copy of this Ordinance was available for review in the County Attorney's Office; and

WHEREAS, the Pasco County Board of County Commissioners has reviewed the boundaries of the proposed municipal service benefit unit (MSBU) and determined that the improved residential lots within the MSBU will be specially benefited; and

WHEREAS, the Board of County Commissioners heard and considered all evidence submitted, presentations made, and documents filed before and during the public hearing, and is fully advised and informed on this matter.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PASCO COUNTY, FLORIDA, THAT:

SECTION 1. WHEREAS CLAUSES.

The foregoing "whereas" clauses are true and correct, are hereby ratified and confirmed by the Board, and are incorporated herein and made a part hereof.

SECTION 2. DEFINITIONS.

Unless the context clearly indicates that a different meaning was intended, the following words and terms shall have the following meaning:

A. "Assessment Unit" shall mean each developed residential lot, with a constructed residence, that is a member of the Plantation Palms Homeowners Association, Inc., subject to such adjustments as determined by the Board to be fair and equitable and in accordance with the benefits received from the facilities and services that will be furnished. A single family residence located on more than one residential lot will be considered a single lot.

B. "Board" means the Board of County Commissioners of Pasco County, Florida.

C. "Clerk" means the Clerk and Comptroller for Pasco County, Florida, ex-officio clerk for the Board.

D. "Cost" or "Costs" mean the construction costs and expenses associated with the construction of the Facilities, described in Section 7, herein; amounts necessary due to uncollected or uncollectible special assessments and to provide for the enforcement or collection of delinquent special assessments; all administrative and overhead costs associated with the creation and affairs of the MSBU, including, but not limited to, wages, salaries, and benefits for personnel and administrators of the MSBU; advertising and conducting hearings and meetings, auditing and recordkeeping expenses; reimbursement or payment for any services, materials or supplies provided for the benefit of the MSBU, and reimbursement of any monies or services provided in advance by the Board for services, supplies, or materials provided for the benefit of the MSBU.

E. "Ordinance Governing Body" shall mean the Board sitting as the governing body of the MSBU.

F. "MSBU" shall mean the municipal service benefit unit established under this Ordinance.

G. "Notice" as used herein shall mean notice mailed by first class mail to the owner or owner's agent at the address on file with the Property Appraiser or Tax Collector for notice associated with ad valorem taxes.

H. "Owner" shall mean the owner or owners of record and shall include any corporation, partnership, trust, or other entity or agent of the owner of record as shown on the records of the Tax Collector or Property Appraiser, or a deed of record.

I. "Uniform Method" shall mean the uniform method for the levy, collection, and enforcement of non-ad valorem assessments pursuant to Section 197.3632, Florida Statutes, including any subsequent amendments thereto.

SECTION 3. THE PLANTATION PALMS MSBU ESTABLISHED.

There is hereby created and established a municipal services benefit unit which shall be known and designated as the Plantation Palms Municipal Service Benefit Unit, hereinafter referred to as the "MSBU."

SECTION 4. BOUNDARIES.

The MSBU shall include the property described in Exhibit "B", attached hereto and incorporated herein.

SECTION 5. POWER AND AUTHORITY OF THE GOVERNING BODY.

The Board shall have the power and authority to administer the affairs of the MSBU and to make necessary rules and regulations for the handling of the affairs of the MSBU, provided, however, that all matters related to the MSBU shall be in accordance with this Ordinance and all applicable provisions of the general law.

SECTION 6. MANAGEMENT OF FUNDS FOR THE MSBU.

The Clerk shall act as custodian of the funds for the MSBU and shall establish an account for such funds and maintain proper accounting records identifying the receipts, expenditures, and cash balances of the MSBU, and all other records for the MSBU in accordance with the customary practices of the County and all applicable provisions of law.

SECTION 7. FACILITIES PROVIDED.

The facilities to be provided shall consist of the Plantation Palms Ditch Restoration Project, to be constructed on the real property identified as Pasco County

Property Appraiser Parcel ID No. 20-26-19-0000-00300-0011, SWFWMD Permit No. 43726.000. A typical cross section of the Project is depicted in Exhibit "C."

SECTION 8. LEVY, COLLECTION AND ENFORCEMENT OF SPECIAL ASSESSMENTS.

Funds for the facilities authorized under Section 7 of this Ordinance shall be provided by non-ad valorem special assessments which shall be levied, collected, and enforced in accordance with the Uniform Method pursuant to Section 197.3632, Florida Statutes and Board of County Commissioners' Resolution. The non-ad valorem special assessments, as adopted by separate resolution of the Board of County Commissioners, shall be collected annually from the owner of each developed residential lot in the MSBU and shall not exceed the cost of providing the facilities described in Section 7. The non-ad valorem special assessments shall be levied upon all developed residential lots within the MSBU, who are members of the Plantation Palms Homeowner's Association, Inc., and who are specially benefited by the facilities authorized herein and the total costs of the facilities will be divided equally among such lots, and the Board finds that this method of apportionment is fair and equitable and in accordance with the benefits received from the facilities that will be furnished.

SECTION 9. SPECIAL ASSESSMENTS.

A. The facilities authorized under Section 7 of this Ordinance shall be performed and purchased as authorized by the Board. A copy of this Ordinance shall be recorded in the Official Records of the County, but any preliminary assessments shall not constitute liens and shall not be due and payable until the adoption of the special assessment roll. The special assessment roll shall be adopted by resolution, and an executed copy of the resolution shall be recorded promptly by the Clerk of the Board of County Commissioners in the Public Records of the County. The resolution shall indicate when and in what manner the assessments are to be paid, and shall also state that special assessment liens are subject to modification. All special assessment liens may be paid without interest if paid within thirty (30) days of the adoption of the resolution.

B. Any special assessment lien not paid as provided in the resolution shall bear interest from the date of adoption of the resolution or as otherwise specified therein, at a rate not exceeding the maximum interest rate authorized by law and established in the resolution. The special assessment liens may, in accordance with the resolution, be made payable in installments over a 30-year period. If any payment is not made when due, there may be charged a penalty, as allowed by law. If payment of special assessments is not made when due, the County may enforce collection thereof by any lawful means.

SECTION 10. CORRECTION OF ERRORS IN ASSESSMENT; PRESUMPTION OF VALIDITY.

A. In case of any omission, error, or mistake in preparing or adopting the special assessment roll, or imposing special assessment liens, the Board may correct such omissions, errors, or mistakes, provided such correction does not impose a greater special assessment lien on any lot or parcel, and does not establish a lien on any lots or parcels not included in the special assessment roll. Any such correction which increases the special assessment lien on any lot or parcel, or which adds any additional lots or parcels, shall be made only after notice and a hearing provided as for the adoption of the special assessment roll, unless consent of the affected property owners is given in writing. Any corrections shall be made by resolution, and the resolution shall be recorded in the Public Records of the County together with any written consent obtained from an affected property owner.

B. Any informality or irregularity in the proceedings in connection with the establishment of any special assessment hereunder shall not affect the validity of the same where the special assessment roll has been adopted by the Board, and the special assessment roll as finally adopted shall be competent and sufficient evidence that the assessment was duly established, that all other proceedings required in connection with the adoption of the special assessment roll were duly accomplished, taken, and performed as required, and no variance from the directions hereunder shall be held material unless it is clearly shown that the party objecting was materially injured thereby.

SECTION 11. ALTERNATIVE METHOD FOR THE COLLECTION AND ENFORCEMENT OF SPECIAL ASSESSMENTS.

If, for any reason, the Uniform Method is not used for the collection and enforcement of special assessments established pursuant to this Ordinance, the Board may provide for the collection and enforcement of such assessments by any other lawful means. Any alternative method for the collection and enforcement of such assessments shall be established by resolution of the Board adopted at a public hearing, provided notice of the public hearing has been provided to each owner at least twenty (20) days prior to a public hearing. Such notice shall include the date by which payment may be made without default, any interest or penalties that may be assessed if payment is not made, and any consequences that may result from the failure to pay the assessment when due.

SECTION 12. MSBU FUNDS; RETURN OF EXCESS.

Nothing contained herein shall allow the expenditure of funds collected from within the MSBU or interest earned on an account maintained for the MSBU for purposes other than the payment of costs associated with the MSBU, including costs related to additional services and facilities provided pursuant to an amendment to this Ordinance for and specially benefiting parcels within the MSBU. If any revenue in excess of the funds reasonably needed to construct the facilities in the MSBU, and

reasonable contingency or surplus funds for purposes related thereto, should be available in the fund at any time, or if the MSBU created under this Ordinance should be dissolved or abolished, such funds shall be returned to the owner of record on the date such returns or refunds are made.

SECTION 14. LIMITATION ON AMENDMENTS.

This Ordinance may be amended in accordance with the provisions of Chapter 125, Florida Statutes, except that prior to any amendment that would require additional notice pursuant to Chapter 197, Florida Statutes, or any applicable provision of general law, notice of the intent to consider such an amendment shall be published and mailed to each owner within the MSBU, in accordance with the requirements of such law.

SECTION 15. SEVERABILITY.

Should any portion of this Ordinance be held invalid, the remainder thereof shall not be affected.

SECTION 16. EFFECTIVE DATE.

A certified copy of this Ordinance shall be filed with the Department of State by the Clerk to the Board within ten (10) days after adoption of this Ordinance, and this Ordinance shall take effect upon filing with the Department of State.

SECTION 17. LIMITATIONS ON ACTIONS.

Any action or proceeding to contest the validity or sufficiency of this Ordinance or any of its provisions must be commenced within thirty (30) days after the adoption of this Ordinance. After the expiration of such period of limitation, no right of action or defense founded upon the invalidity of said Ordinance or any of its provisions shall be asserted, nor shall the validity of said ordinance or any of its provisions be open to question in any court upon any ground whatever, except in an action or proceeding commenced within such periods.

ADOPTED with a quorum present and voting this ___ day of _____, 2018.

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

ATTEST:

BY: _____
Paula S. O'Neil, Ph.D.
Clerk & Comptroller

BY: _____
Mike Wells, Chairman

Exhibit "A"

Legal Description of the Ditch

40 FOOT WIDE DRAINAGE EASEMENT PARCEL LYING ALONG THE NORTH BOUNDARY LINE OF HILLSIDE GOLF & COUNTRY CLUB

A PORTION OF SECTION 20, TOWNSHIP 26 SOUTH, RANGE 19 EAST, PASCO COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE ALONG THE EAST BOUNDARY LINE OF SAID NORTHEAST ¼, NORTH 0°49'35" EAST, A DISTANCE OF 1,281.11 FEET FOR A POINT OF BEGINNING; THENCE PARALLEL WITH THE SOUTH BOUNDARY LINE OF THE UNRECORDED PLAT OF LAKE PADGETT ESTATES, NORTH 89°27'10" WEST, A DISTANCE OF 5,061.01 FEET; THENCE NORTH 0°41'15" EAST, A DISTANCE OF 39.98 FEET TO THE SOUTH BOUNDARY LINE OF SAID LAKE PADGETT ESTATES; THENCE ALONG THE SOUTH BOUNDARY LINE OF SAID LAKE PADGETT ESTATES AND THE EASTERLY EXTENSION THEREOF, THE SAME BEING THE NORTH BOUNDARY LINE OF THE SOUTH ¾ OF SAID SECTION 20, SOUTH 89°27'03" EAST, A DISTANCE OF 5,061.11 FEET TO THE EAST BOUNDARY LINE OF THE NORTHEAST ¼ OF SAID SECTION 20; THENCE ALONG THE EAST BOUNDARY LINE OF THE NORTHEAST ¼ OF SAID SECTION 20, SOUTH 0°49'35" WEST, A DISTANCE OF 39.81 FEET TO THE POINT OF BEGINNING.

Exhibit "B"

LEGAL DESCRIPTION

PLANTATION PALMS MSBU

All of Plantation Palms Phase One as shown on the plat recorded in Plat Book 39, Page 66, all of Plantation Palms Phase Two-A as shown on the plat recorded in Plat Book 40, Page 48, all of Plantation Palms Phase Two-B as shown on the plat recorded in Plat Book 41, Page 125, all of Plantation Palms Phase Three-A as shown on the plat recorded in Plat Book 47, Page 71, all of Plantation Palms Phase Three-B as shown on the plat recorded in Plat Book 42, Page 10, all of Plantation Palms Phase Three-C as shown on the plat recorded in Plat Book 42, Page 6, all of Plantation Palms Phase Three-D as shown on the plat recorded in Plat Book 41, Page 72, all of Plantation Palms Phase Four-A as shown on the plat recorded in Plat Book 49, Page 100, all of Plantation Palms Phase Four-B as shown on the plat recorded in Plat Book 41, Page 69, all of Plantation Palms Phase Four-C, Unit I, as shown on the plat recorded in Plat Book 44, Page 1, all of Plantation Palms Phase Four-C, Unit II, as shown on the plat recorded in Plat Book 46, Page 28, all of Plantation Palms Phase Four-D as shown on the plat recorded in Plat Book 45, Page 40, all of Plantation Palms Phase Five as shown on the plat recorded in Plat Book 47, Page 133, all of Plantation Palms Phase Six as shown on the plat recorded in Plat Book 48, Page 78 and Plantation Palms Golf Club as shown on the plat recorded in Plat Book 41, Page 18, all being recorded in the Public Records of Pasco County, Florida, and a portion of Section 20, Township 26 South, Range 18 East, Pasco County, Florida, all being further described as follows:

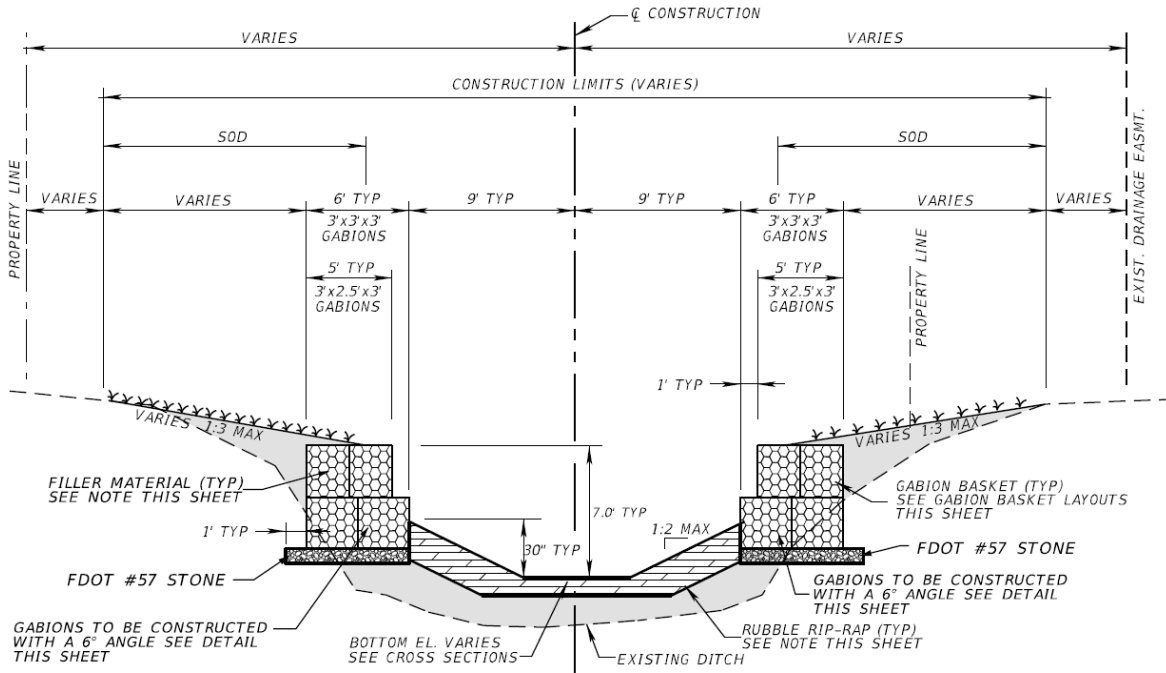
Commence at the Southeast corner of the Southeast 1/4 of said Section 20 for a **POINT OF BEGINNING**; thence along the South boundary of the Southeast 1/4 of said Section 20, North 89°23'37" West, a distance of 2348.93 feet to a point on the South boundary of Parcel GC-6 of said Plantation Palms Golf Club; thence along the South boundary of said Parcel GC-6 the following four courses and distances: 1) North 62°40'19" West, 472.83 feet; 2) North 90°00'00" West, 133.13 feet; 3) South 39°58'16" West, 247.78 feet; 4) North 89°26'36" West, 243.85 feet to the East boundary of the Pasco County Parcel as described in Official Record Book 1794, Page 1513 of the Public Records of Pasco County, Florida; thence along the East boundary of said Pasco County Parcel, North 00°42'11" East, a distance of 1036.69 feet to the Northeast corner of said Pasco County Parcel; thence along the North boundary of said Pasco County Parcel, North 89°25'36" West, a distance of 1205.40 feet to the East right-of-way of Collier Parkway as described in Official Record Book 1824, Page 1234 of the Public Records of Pasco County, Florida; thence along the East right-of-way of said Collier Parkway the following six courses and distances: 1) North 05°08'38" East, 889.91 feet to a point of curvature; 2) 1430.73 feet along the arc of a curve to the left, said curve having a radius of 2445.00 feet, a central angle of 33°31'39" and a chord of 1410.40 feet which bears North 11°37'12" West; 3) South 61°36'59" West, 10.00 feet to a non-tangent curve; 4) 163.43 feet along the arc of a curve to the left, said curve having a radius of 2435.00 feet, a central angle of 03°50'44" and a chord of 163.40 feet which bears North 30°18'23" West; 5)

South 57°46'15" West, 20.00 feet to a non-tangent curve; 6) 293.75 feet along the arc of a curve to the left to the West boundary of said Plantation Palms Three-D, said curve having a radius of 2415.00 feet, a central angle of 06°58'09" and a chord of 293.57 feet which bears North 35°42'50" West; thence along the West boundary of said Plantation Palms Phase Three-D the following three courses and distances: 1) North 00°41'15" East, 96.20 feet; 2) North 89°18'44" West, 30.00 feet; 3) North 00°41'15" East, 138.58 feet to the Northwest corner of said Plantation Palms Phase Three-D; thence continue North 00°41'15" East, a distance of 39.71 feet more or less, to the North boundary of the South 3/4 of said Section 20; thence along the North boundary of the South 3/4 of said Section 20, South 89°27'07" East, a distance of 5059.99 feet to the East boundary of the Northeast 1/4 of said Section 20; thence along the East boundary of the Northeast 1/4 of said Section 20, South 00°40'51" West, a distance of 1321.05 feet to the Northeast corner of the Southeast 1/4 of said Section 20; thence along the East boundary of the Southeast 1/4 of said Section 20, South 00°46'44" West, a distance of 2640.65 feet to the **POINT OF BEGINNING**.

The above described property contains 384.91 Acres more or less.

Exhibit "C"

PLANTATION PALMS DITCH RESTORATION PROJECT



PLANTATION PALMS TYPICAL SECTION

STA. 24+50.00 TO 28+26.60

N.T.S.