

AN ORDINANCE CREATING THE GULF HARBORS NEIGHBORHOOD PARK 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 (including recreation service and facilities) 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, this Board finds that Chapter 94, Pasco County Code of Ordinances, is not the exclusive method for adoption of a special assessment; and

WHEREAS, this Board intends that this ordinance shall not be governed by the procedural requirements of Chapter 94, Pasco County Code of Ordinances; and

WHEREAS, the former Flor-a-Mar (Gulf Harbors) Golf Course, consisting of approximately 50 acres and located west of U.S. 19 in the Gulf Harbors/Flor-a-mar community (the Property) has been found to serve as a hotspot for numerous species of migratory waterfowl and shorebirds, which are attracted to the salt barrens of the area; and

WHEREAS, this natural feature of the Property also attracts rare sandpipers and other uncommon birds and has been deemed a valuable ecological resource; and

WHEREAS, the Environmental Lands Acquisition Selection Committee recommended adding the Property to the Environmental Lands Acquisition and Management Program (ELAMP) Acquisition List, which was approved by the Board on July 7, 2013; and

WHEREAS, some members of Gulf Harbors Civic Association, Inc. have asked if the residents could participate in the joint acquisition of the Property for conservation and use as a passive park (the Park); and

WHEREAS, the County has proposed to purchase the 50-acre Property for \$1,200,000.00, wherein \$600,000.00 of the acquisition costs would be funded by the MSBU, and the balance of the acquisition costs, including closing costs, of approximately \$600,000.00 would be funded from the County's ELAMP program; and

WHEREAS, approximately 25 acres will be designated as the ELAMP conservation area, and located in the center of the property, and the balance of the Property, approximately

25 acres, will surround the ELAMP conservation area and will be designated as a neighborhood park; and

WHEREAS, access to the Park and Property will be limited to the owners of each Assessment Unit within the MSBU, ELAMP staff and their guests, and County staff and County contractors; and

WHEREAS, the Project is uniquely situated so as to provide a special benefit to the Assessment Unit owners within Gulf Harbors and Flor-a-Mar subdivisions described in Exhibit "A"; and

WHEREAS, this Board finds that the neighborhood park provides a special benefit to the Assessment Units within the MSBU; and

WHEREAS, this Board finds that the open space preserved by the ELAMP conservation area also provides a special benefit to the Assessment Units within the MSBU; and

WHEREAS, notice has been provided by publication in a newspaper of general circulation of the public hearing to consider the adoption of this Ordinance; and

WHEREAS, the Pasco County Board of County Commissioners has reviewed the boundaries of the proposed municipal service benefit unit (MSBU) established herein, and identified on Exhibit "A," and has determined that the parcels of land within the MSBU are the parcels that will be specially benefited by the Project; 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. "Advisory Committee" shall mean a committee composed of seven (7) volunteer members, appointed by the Board and established for the purpose of making recommendations to the Board on all matters relating to the MSBU.

B. "Assessment Unit" shall mean each residential lot or dwelling unit within Exhibit "A," whether developed or undeveloped, subject to such adjustments as determined by the Board, after consideration of the Advisory Committee's recommendation, to be fair and equitable and in accordance with the benefits received from the Project and services that will be

furnished. A single family residence located on more than one lot will be considered a single Assessment Unit.

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. "Costs" means \$600,000.00 for the acquisition of the Park property, and all costs and expenses associated with the operation and maintenance of the Park, including, but not limited to, the actual costs of ongoing maintenance of the Park, or other passive natural resource based amenities or other capital improvements or expenditures proposed by the Advisory Committee or the Board and approved by the Board; 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, engineering fees and legal fees, and court costs; 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. In no event shall "costs" include any costs for environmental studies, testing or remediation of contaminated soils. Costs shall not include ELAMP's costs for managing or maintaining the ELAMP conservation area of the Property.

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. "Owner" shall mean the owner or owners of record of each Assessment Unit 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.

H. "Neighborhood Park" shall mean the 25 acres of the former Flor-a-Mar (Gulf Harbors) Golf Course surrounding the 25-acre ELAMP conservation area (the Property) and any improvements thereto.

SECTION 3. THE GULF HARBORS/FLOR-A-MAR PARK CONSERVATION MSBU ESTABLISHED.

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

SECTION 4. BOUNDARIES.

The MSBU shall include the property described in Exhibit "A", 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. ADVISORY COMMITTEE.

There shall be a Gulf Harbors Neighborhood Park MSBU Advisory Committee which will be appointed by the Board of County Commissioners in accordance with a resolution to be adopted setting forth the number of members, the method of appointment and the term of office. It shall be the function and responsibility of the Advisory Committee to advise the County Administrator and the Board of County Commissioners in all matters as they relate to the operation and maintenance of the MSBU, including rules and restrictions to be imposed upon the use of the Park and Property. Such rules and regulations shall (a) ensure that the use of the Park does not materially impact the migratory bird habitat on the Property, and (b) allow ELAMP staff and their guests to have reasonable access to the ELAMP conservation area for conservation purposes.

The Advisory Committee shall elect a Chair, who shall be responsible for ensuring that the notice and meeting minute requirements of Section 286.011, Florida Statutes have been met for all Advisory Committee meetings, and that the Advisory Committee meetings are held in a facility accessible to persons with disabilities in compliance with Title II of the American with Disabilities Act. Meetings of the Advisory Committee shall be conducted first pursuant to any applicable statute, then pursuant to any procedural rules adopted by the Board or Advisory Committee, then finally pursuant to the most recent edition of Robert's Rules of Order. The members of the Advisory Committee shall not receive any compensation for service on the Advisory Committee, but the Board may elect to reimburse the Advisory Committee members for out-of-pocket expenses that were incurred to carry out the duties of the Advisory Committee.

SECTION 7. 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 8. PROJECT TO BE PROVIDED WITHIN THE MSBU; RESTRICTIVE COVENANTS

The Project to be provided within the MSBU shall consist of the acquisition of the property commonly known as the former Flor-a-Mar (Gulf Harbors) Golf Course, and the operation and maintenance of the Park Property, including, but not limited to, \$600,000.00 towards land acquisition, ongoing maintenance of the Park Property, or other amenities or capital improvements or expenditures proposed by the Advisory Committee or the Board and approved by the Board, as defined in Section 2, and incurred within the MSBU.

The County shall record restrictive covenants prohibiting the development of the Park Property for any use that is inconsistent with the use of the Property as conservation and a park.

SECTION 9. LEVY, COLLECTION AND ENFORCEMENT OF SPECIAL ASSESSMENTS.

Funds for the Project authorized under Section 8 of this Ordinance shall be provided by non-ad valorem special assessments. 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 Assessment Unit, within the MSBU authorized herein, and shall not exceed the costs of providing the Project and the annual maintenance described in Section 8, after the one-time contribution of \$600,000.00 for the acquisition cost of the Property. The costs will be divided equally among all the Assessment Units within the MSBU (except for those properties which are owned by the County, state or federal government), and the Board finds that this method of apportionment is fair and equitable and in accordance with the benefits received from the Project that will be furnished.

SECTION 10. SPECIAL ASSESSMENTS.

A. The Project authorized under Section 8 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 annually. 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 11. 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 12. SUBDIVISION OF PARCELS.

A. At any time a lot or parcel against which a special assessment lien has been established is subdivided, all installments of principal remaining unpaid and any interest due thereon shall be due and payable without notice or other proceedings, and the County may, at any time after such subdividing, institute foreclosure or other appropriate proceedings for the collection of all principal and interest against any or all portions of a lot or parcel against which the lien has been established. Failure to comply with this section or enforce the provisions hereof shall not extinguish the lien against the real property.

B. In the alternative, the Board may adopt policies providing for the continuation of installment payments at the request of the owner of any or all portions of a lot or parcel against which the special assessment lien has been established.

SECTION 13. COLLECTION AND ENFORCEMENT OF SPECIAL ASSESSMENTS.

The Board may provide for the collection and enforcement of 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 in accordance with the requirements of the law.

SECTION 14. 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 Project 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 15. 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 noticed in accordance with the requirements of such law.

SECTION 16. SEVERABILITY.

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

SECTION 17. EFFECTIVE DATE.

The Ordinance shall be transmitted to the Department of State by the Clerk to the Board by electronic mail within ten (10) days after adoption of this Ordinance, and it shall take effect upon filing with the Department of State.

SECTION 18. 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.

By the adoption of this Ordinance, this Ordinance supersedes and repeals Ordinance 16-25.

ADOPTED with a quorum present and voting this _____ day of _____, 2019.

BOARD OF COUNTY COMMISSIONERS
OF PASCO COUNTY, FLORIDA

ATTEST:

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

BY: _____
Ronald Oakley, Chairman

Exhibit "A"

MAP AND LEGAL DESCRIPTION OF MSBU

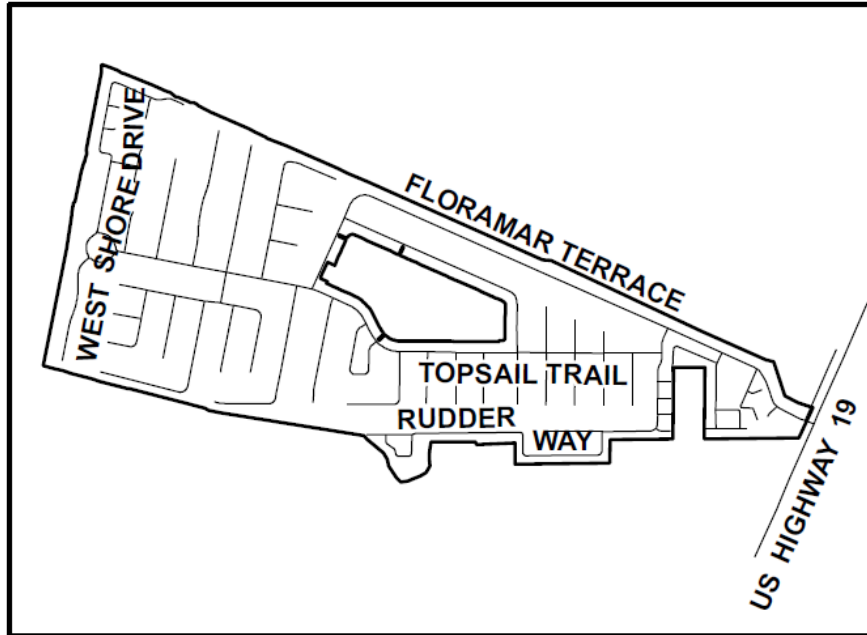


Exhibit "A"

(Continued)

LEGAL DESCRIPTION OF MSBU
GULF HARBORS MSBU

A portion Sections 12 and 13, Township 26 South, Range 15 East, Pasco County, Florida and a portion of Sections 7, 17 and 18, Township 26 South, Range 16 East, Pasco County, Florida, all being further described as follows:

Commence at the Northwest corner of said Section 18; thence along the South $00^{\circ}14'32''$ West, a distance of 1338.14 feet for a **POINT OF BEGINNING**; thence South $89^{\circ}28'22''$ West, a distance of 1050.02 feet; thence North $75^{\circ}12'29''$ West, a distance of 4499.88 feet; thence North $11^{\circ}02'19''$ East, a distance of 4640.65 feet; thence South $65^{\circ}58'25''$ East, a distance of 10373.71 feet; thence South $20^{\circ}58'48''$ East, a distance of 494.80 feet; thence South $65^{\circ}57'00''$ East, a distance of 188.04 feet; thence South $65^{\circ}58'50''$ East, a distance of 140.00 feet; thence South $24^{\circ}01'37''$ West, a distance of 40.00 feet; thence South $69^{\circ}01'06''$ West, a distance of 28.29 feet; thence South $65^{\circ}58'52''$ East, a distance of 75.00 feet to the West right-of-way of U.S. Highway 19; thence along the West right-of-way of U.S. Highway 19, South $24^{\circ}01'38''$ West, a distance of 260.0 feet to the South right-of-way of Floramar Terrace; thence North $65^{\circ}58'48''$ West, a distance of 390.14 feet to a point of curvature; thence 44.37 feet along the arc of a curve to the right, said curve having a radius of 285.44 feet, a central angle of $08^{\circ}54'24''$ and a chord of 44.33 feet which bears North $61^{\circ}48'43''$ West to a point of reverse curvature; thence 29.02 feet along the arc of a curve to the left, said curve having a radius of 25.00 feet, a central angle of $66^{\circ}30'50''$ and a chord of 27.42 feet which bears South $89^{\circ}23'04''$ West to a point of compound curvature; thence 123.06 feet along the arc of a curve to the left, said curve having a radius of 200.00 feet, a central angle of $35^{\circ}15'17''$ and a chord of 121.13 feet which bears South $38^{\circ}30'01''$ West; thence North $30^{\circ}23'59''$ West, a distance of 88.63 feet; thence North $73^{\circ}13'20''$ West, a distance of 2.17 feet; thence South $24^{\circ}01'28''$ West, a distance of 338.02 feet; thence North $89^{\circ}33'55''$ West, a distance of 22.31 feet; thence North $00^{\circ}26'05''$ East, a distance of 155.49 feet to a point of curvature; thence 53.86 feet along the arc of a curve to the right, said curve having a radius of 45.00 feet, a central angle of $68^{\circ}34'35''$ and a chord of 50.70 feet which bears North $34^{\circ}43'22''$ East; thence North $20^{\circ}59'07''$ West, a distance of 167.47 feet to a point of curvature; thence 23.94 feet along the arc of a curve to the left, said curve having a radius of 20.00 feet, a central angle of $68^{\circ}34'47''$ and a chord of 22.54 feet which bears North $55^{\circ}16'31''$ West; thence North $89^{\circ}33'54''$ West, a distance of 29.43 feet; thence South $00^{\circ}33'02''$ West, a distance of 182.94 feet; thence North $89^{\circ}26'58''$ West, a distance of 95.40 feet; thence North $00^{\circ}33'02''$ East, a distance of 182.75 feet; thence North $89^{\circ}33'56''$ West, a distance of 51.19 feet; thence North $00^{\circ}26'03''$ East, a distance of 22.82 feet; thence North $89^{\circ}33'56''$ West, a distance of 103.00 feet; thence North $00^{\circ}26'05''$ East, a distance of 7.18 feet; thence North $89^{\circ}33'56''$ West, a distance of 192.26 feet; thence North $00^{\circ}26'04''$ East, a distance of 520.09 feet to a point of curvature; thence 77.40

feet along the arc of a curve to the right, said curve having a radius of 188.05 feet, a central angle of $23^{\circ}35'00''$ and a chord of 76.86 feet which bears North $12^{\circ}13'34''$ East; thence North $65^{\circ}58'56''$ West, a distance of 50.00 feet; thence North $24^{\circ}01'04''$ East, a distance of 100.00 feet to a point of curvature; thence 39.27 feet along the arc of a curve to the left, said curve having a radius of 25.00 feet, a central angle of $90^{\circ}00'00''$ and a chord of 35.36 feet which bears North $20^{\circ}58'56''$ West; thence North $65^{\circ}58'56''$ West, a distance of 613.30 feet; thence South $24^{\circ}01'04''$ West, a distance of 134.19 feet to a point of curvature; thence 82.22 feet along the arc of a curve to the left, said curve having a radius of 200.00 feet, a central angle of $23^{\circ}33'14''$ and a chord of 81.64 feet which bears South $12^{\circ}14'27''$ West; thence South $00^{\circ}27'50''$ West, a distance of 62.87 feet; thence North $89^{\circ}32'10''$ West, a distance of 104.00 feet; thence South $00^{\circ}27'50''$ West, a distance of 23.45 feet; thence North $89^{\circ}32'10''$ West, a distance of 12.50 feet to a non-tangent curve; thence 129.26 feet along the arc of a curve to the right, said curve having a radius of 285.46 feet, a central angle of $25^{\circ}56'39''$ and a chord of 128.16 feet which bears South $13^{\circ}26'09''$ West to a point of reverse curvature; thence 106.62 feet along the arc of a curve to the left, said curve having a radius of 235.46 feet, a central angle of $25^{\circ}56'39''$ and a chord of 105.71 feet which bears South $13^{\circ}26'09''$ West; thence South $00^{\circ}27'50''$ West, a distance of 9.35 feet; thence North $89^{\circ}27'57''$ East, a distance of 190.00 feet; thence South $00^{\circ}27'43''$ West, a distance of 916.11 feet; thence South $89^{\circ}32'12''$ West, a distance of 880.08 feet; thence South $00^{\circ}30'20''$ West, a distance of 333.10 feet; thence South $89^{\circ}28'22''$ West, a distance of 2633.04 feet to the **POINT OF BEGINNING.**