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ORDINANCE NO. 20\_\_\_\_\_-\_\_\_\_\_

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AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING PALM BEACH COUNTY CODE CHAPTER 26, ARTICLE II, DIVISION 1, KNOWN AS THE MUNICIPAL SERVICE TAXING UNIT (MSTU) SPECIAL ASSESSMENT ORDINANCE (ORDINANCE 2008-063); AMENDING SECTION 26-23, IMPROVEMENTS; AMENDING SECTION 26-24, SPECIAL ASSESSMENTS; AMENDING SECTION 26-29, PERCENTAGE OF COSTS, FURTHER PROCEDURES; AMENDING SECTION 26-30.3, PUBLIC HEARING; AMENDING SECTION 26-30.10, PAYMENTS; AMENDING SECTION 26-30.15, SAVINGS CLAUSE; PROVIDING FOR REPEAL OF LAWS IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION IN THE CODE OF LAWS AND ORDINANCES; PROVIDING FOR CAPTIONS; PROVIDING FOR EFFECTIVE DATE.

22           **WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida  
23 enacted Palm Beach County Code Chapter 26, Article II, Division 1, Ordinance No. 2008-  
24 063 referred to as the Municipal Service Taxing Unit (MSTU) Special Assessment  
25 Ordinance which enhanced the efficiency of the County's funding and construction of  
26 street improvements and related projects through special assessments; and

27           **WHEREAS**, there is a recognized need to make revisions to the MSTU Special  
28 Assessment Ordinance in order to better facilitate and enhance the application of the  
29 County's MSTU special assessment process; and

30           **WHEREAS**, the Board of County Commissioners desires to amend the MSTU  
31 Special Assessment Ordinance as set forth herein.

32           **NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY**  
33 **COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, that:**

34           The following Sections of the MSTU Ordinance as codified in the Palm Beach  
35 County Code Chapter 26, Article II, Division 1, are hereby amended as follows:

36           **Section 1.**

37           **Section 26-23. IMPROVEMENTS:**

38           (a) Road improvements as provided in this division include but are not limited  
39 to such improvements as pavement, grassing, landscaping, storm drainage  
40 facilities, traffic-control devices, driveways, earthwork, and all engineering and  
41 administrative expenses in connection with the project. The term "landscaping"

1 includes the installation and maintenance thereof pursuant to the county's  
2 landscaping ordinance (appendix F, §500.35).

3 (b) Street lighting improvements as provided in this division include, but are not  
4 limited to, such improvements as poles, wires, lines, cables, lamps, meter boxes;  
5 all other components of a street lighting system; and all engineering and  
6 administrative expenses in connection with the design, implementation,  
7 construction, as well as maintenance expenses thereof, including electric utility  
8 company charges for the supply of electric power to the improvements if capable  
9 of being calculated for special assessment purposes.

10 (c) The board may, by resolution, establish guidelines applicable to the board's  
11 determination of whether to proceed with any project for which a petition is  
12 submitted.

13 (d) In neighborhoods of special environmental concern subject to problems that  
14 are capable of remediation by providing facilities for water and/or sewer service or  
15 drainage, the board may provide any or all such improvements under the terms of  
16 this division. In such circumstances, the provision of such services and  
17 improvements shall be subject to all pertinent provisions of this division and shall  
18 be treated in the same manner as road improvements, street lighting and  
19 landscaping improvements for special assessment percentage purposes and other  
20 purposes. The term "drainage" as used herein includes clearing and dredging of  
21 canals and other drainage facilities not under the jurisdiction of other governmental  
22 entities.

23 (e) In areas of special concern along thoroughfares, the board may provide for  
24 walls under the terms of this division. Improvements of this type include but are  
25 not limited to all components of walls, and all administrative and engineering  
26 expenses in connection with design, implementation and construction, as well as  
27 advising property owners and/or property owners associations of all requirements,  
28 including but not limited to acquisition of easements by property owners  
29 associations and maintenance responsibilities.

1     **Section 2.**

2             **Section 26-24. SPECIAL ASSESSMENTS:**

3             The Board may provide for payment of the costs of any improvement under  
4     Section 26-23(a), (b), (c) (d) or (e) ~~or (f)~~ of this division by levying and collecting special  
5     assessments on the abutting, adjoining, contiguous, or other property specially benefited  
6     by the improvements provided herein. The percentage of the cost of improvements  
7     under Section 26-23 of this division to be paid by special assessment, unless otherwise  
8     directed by the Board, shall be 100 percent of the total cost of the improvements, except  
9     as provided in Section 26-30.13 of this division.

10    **Section 3.**

11             **Section 26-29. PERCENTAGE OF COSTS, FURTHER PROCEDURES:**

12             Upon completion of the preliminary cost estimate and compliance with the  
13     requirements of Section 26-28 of this division, the improvements shall be brought to the  
14     BOARD for a public hearing. No action is required by the BOARD prior to the public  
15     hearing if the method of assessment is proposed to be the abutting footage method. The  
16     proposed percentage of costs for a road improvement, street lighting improvements,  
17     barrier walls, water and/or sewer is one hundred (100) percent unless otherwise directed  
18     by the Board. If the proposed method of assessment is other than abutting footage, then  
19     prior to the public hearing the BOARD shall determine the method of assessment to be  
20     utilized for the improvement to be repaid to the trust fund by the property owners through  
21     special assessments upon the specially benefited property. However, the BOARD at any  
22     time, in its sole discretion, may reject the petition or project for any further consideration.

23    **Section 4.**

24             **Section 26-30.3. PUBLIC HEARING:**

25             Prior to awarding the contract for construction of the improvements for which  
26     special assessments will be made, the Board shall hold a public hearing on the proposed  
27     project unless the Board rejects the project from further consideration. Property owners  
28     to be assessed shall be notified by regular mail of the time and place of the public  
29     hearing. The mailed notice shall advise each property owner of their individual proposed  
30     special assessment, per parcel, based on the lowest acceptable bid, including other

1 allowable costs and the percentage and method of assessment determined in  
2 accordance with the above provisions of this division.

3 The public hearing shall be held ~~not later than twelve (12) weeks~~ as soon as  
4 practicable after the date the construction bids are received and no sooner than ten (10)  
5 days after the mailing of the notices described in this section. Addresses for the mailed  
6 notices shall be obtained from the records of the property appraiser or other reliable  
7 sources.

8 In addition, a notice shall be published once each week for two (2) consecutive  
9 weeks in a newspaper of general circulation in the locality. If there is no newspaper of  
10 general circulation in the locality, the notice shall be published in a newspaper of general  
11 circulation in the county. The most recent of such publication shall be no less than one  
12 (1) week before the public hearing, the Board shall do so by resolution as provided in  
13 Section 26-30.4 of this division.

14 At least ten (10) days before the public hearing, each property owner shall be  
15 given notice of the public hearing by regular mail. The mailed and published notices shall  
16 describe the streets or areas to be improved and advise all interested persons that each  
17 property and amount to be assessed may be obtained at the office of the county engineer  
18 ~~clerk of the board~~. At this public hearing, the owners of property to be specially assessed  
19 or any other interested persons may appear before the Board and be heard as to the  
20 propriety and advisability of making such improvements, costs, manner of payment, and  
21 amount to be specially assessed against each property to be improved.

22 At the public hearing, an assessment roll prepared in accordance with the method  
23 and percentage of assessment provided by this division shall be presented to the Board.  
24 The assessment roll shall show the lots and lands assessed, and the amount of benefit to  
25 and assessment against each lot or parcel of land. If the special assessment is to be  
26 paid in installments, the number of annual installments into which the special assessment  
27 is divided shall also be entered and shown upon the assessment roll.

28 At the time and place named in the notice of publication, the Board shall meet as  
29 an equalizing Board to hear and consider all complaints as to such special assessments  
30 and shall adjust, equalize, and approve by resolution as required in Section 26-30.4 of  
31 this division. Such assessment shall stand affirmed and remain legal, valid and binding  
32 as a first lien upon the property against which such assessment is made until paid.

1 Promptly after such confirmation of assessment, the assessment roll shall be recorded by  
2 ~~the clerk of board in a special book known as the "Improvement Lien Book" and the~~  
3 ~~record of the lien in this book shall constitute prima facia evidence of its validity. A copy~~  
4 ~~of the resolution above shall also be recorded~~ in the official records of the clerk of the  
5 ~~circuit court~~ Clerk & Comptroller of the county to facilitate knowledge of the lien by third  
6 parties.

7 Upon completion of the improvements, the board may credit to each assessment  
8 the difference in the original assessment made, approved and confirmed, and the  
9 proportionate part of the actual costs of the improvement to be paid by special  
10 assessment determined upon completion of the improvements. This information shall be  
11 set forth in an "amending resolution" which shall be adopted by the Board and also  
12 recorded in the public records as referenced above. In no event shall the final  
13 assessments exceed the amount of benefits originally assessed by the Board.

14 **Section 5.**

15 **Section 26-30.10. PAYMENTS:**

16 Billing, receiving and accounting for the payment of assessments shall be the  
17 responsibility of the ~~clerk of the circuit court~~ Clerk & Comptroller. A record of payments  
18 and balances shall be kept for each property assessed. All payments received shall be  
19 deposited into the applicable trust fund or deposited as otherwise provided in this division.

20 A tabulation of accounts shall be provided by the ~~clerk of the circuit court~~ Clerk &  
21 Comptroller.

22 **Section 6.**

23 **Section 26-30.15. SAVINGS CLAUSE:**

24 Notwithstanding the provisions of this division herein repealing Ordinance No. 91-  
25 41 and Ordinance No. 93-26, this division shall not affect or impair the processing and  
26 implementation of any improvement project commenced under the provisions of  
27 Ordinance No. 82-17, 84-5, 86-16, 87-10, 91-41, or 93-26, 94-11 and 2008-063. All  
28 projects initiated under the divisions referenced above shall be deemed valid and in full  
29 force and effect. Further, any money available for use in the units created and funded  
30 under the above-referenced divisions shall be available for use in and transferred to the  
31 corresponding units and trust funds created hereunder.

1 **Section 7. PROVIDING FOR REPEAL OF LAWS IN CONFLICT:**

2 All local laws and ordinances in conflict with any provisions of this Ordinance are  
3 hereby repealed to the extent of such conflict.

4 **Section 8. SEVERABILITY:**

5 If any section, paragraph, sentence, clause, phrase, or word of this Ordinance is  
6 for any reason held by a Court of competent jurisdiction to be unconstitutional,  
7 inoperative, or void, such holding shall not affect the remainder of this Ordinance.

8 **Section 9. INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

9 The provisions of this Ordinance shall become and be made a part of the Palm  
10 Beach County Code. The sections of this Ordinance may be renumbered or relettered to  
11 accomplish such, and the word ordinance may be changed to section, article, or other  
12 appropriate word.

13 **Section 10. CAPTIONS:**

14 The captions, section headings, and section designations used in this Ordinance  
15 are for convenience only and shall have no effect on the interpretation of the provisions of  
16 this Ordinance.

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1 **Section 11. EFFECTIVE DATE:**

2 The provisions of this Ordinance shall become effective upon filing with the  
3 Department of State.

4 APPROVED and ADOPTED by the Board of County Commissioners of Palm  
5 Beach County, Florida, on this the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

6 **SHARON R. BOCK, CLERK**

**PALM BEACH COUNTY, FLORIDA, BY ITS  
BOARD OF COUNTY COMMISSIONERS**

7  
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10 By: \_\_\_\_\_  
11 Deputy Clerk

By: \_\_\_\_\_  
\_\_\_\_\_, Chair

12  
13 **APPROVED AS TO FORM AND  
14 LEGAL SUFFICIENCY**

15  
16  
17 By: \_\_\_\_\_  
18 Assistant County Attorney  
19

20 **EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_ day of**  
21 \_\_\_\_\_, 20\_\_\_\_.