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ORDINANCE NO. 20 ____ - ____

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; AMENDING SECTION 26-24, SPECIAL ASSESSMENTS; AMENDING SECTION 26-25, PROPERTY OWNERS; AMENDING SECTION 26-27, INITIAL PETITION; AMENDING SECTION 26-28, FINAL PETITION; AMENDING SECTION 26-30.2, PUBLIC INFORMATION MEETING; AMENDING SECTION 26-30.3 PUBLIC HEARING; 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.

23 **WHEREAS**, the Board of County Commissioners of Palm Beach County, Florida
24 enacted Palm Beach County Code Chapter 26, Article II, Division 1, referred to as the
25 Municipal Service Taxing Unit (MSTU) Special Assessment Ordinance which enhanced
26 the efficiency of the County's funding and construction of street improvements and related
27 projects through special assessments; and

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

31 **WHEREAS**, the Board of County Commissioners desires to amend the Municipal
32 Service Taxing Unit (MSTU) Special Assessment Ordinance as set forth herein.

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

35 **Section 1**

36 The following Sections of the Municipal Service Taxing Unit (MSTU) Special
37 Assessment Ordinance as codified in the Palm Beach County Code Chapter 26, Article II,
38 Division 1, are hereby amended as follows:

39 **Sect. 26-24. SPECIAL ASSESSMENTS:**

40 The board may provide for payment of the costs of any improvement under
41 Section 26-23(a), (b), (c) (d) or (e) of this division by levying and collecting special
42 assessments on the abutting, adjoining, contiguous, or other property specially benefited
43 by the improvements provided herein. The percentage of the cost of improvements under
44 Section 26-23 of this division to be paid by special assessment shall be one hundred

1 (100) percent for all projects, with the exception of: (1) those projects accepted into the
2 MSTU program by the board prior to May 1, 2013, including those with fixed assessment
3 amounts and, (2) projects that the board deem to have exceptional circumstances or, (3)
4 as provided in Section 26-30.13 of this division, but in no instance should the assessment
5 threshold for projects covered in (2) or (3) be less than fifty (50) percent. For road
6 projects, where one (1) side of the road is adjacent to a canal; where county owned
7 property exists; or where there are property(s) whose access to the road has been legally
8 restricted, the county may be treated as an assessed property owner and may pay its
9 proportionate share of the assessed amount.

10 **Section 2**

11 **Sec. 26-25. PROPERTY OWNERS:**

12 Property owners, as referred to in this division, shall include any person, firm,
13 partnership, corporation or other legal entity holding title to any property liable for special
14 assessments hereunder if the special assessments were made.

15 **Section 3**

16 **Sec. 26-27. INITIAL PETITION:**

17 Property owners may request an estimate of the cost of construction of the desired
18 improvements under the provisions of this division. The county engineer shall process all
19 requests. Such processing shall be done according to the provisions of this division. Initial
20 petition forms shall be provided to any interested person. Signatures on the petitions shall
21 be verified based on information in the public records. Pursuant to this division, the board
22 may proceed with an improvement project without any petition by the property owners. It
23 shall also be determined if sufficient right-of-way exists for the proposed improvements. If
24 additional right-of-way is required, further action on the petition may be delayed unless or
25 until right-of-way acquisition is complete.

26 In the case of walls, it shall be determined if sufficient land exists outside the right-
27 of-way for the proposed improvements and whether the necessary easements exist or
28 can be acquired by property owners associations. If sufficient land does not exist or
29 property owners associations are unable to acquire necessary easements, no further
30 action will be taken unless or until easement acquisition is complete.

31 **Section 4**

1 **Sec. 26-28. FINAL PETITION:**

2 Upon direction by the board or receipt of initial petitions wherein the majority
3 ownership, right-of-way, and easement conditions have been complied with, final petitions
4 shall be prepared indicating a preliminary cost estimate. This estimate shall include,
5 separately stated, all improvements pursuant to the petition as considered necessary for
6 cost estimate purposes. As estimate of fees, direct charges, and administrative costs
7 shall be included in the preliminary estimate. Such improvements shall be constructed to
8 county standards.

9 An informational meeting will be conducted with property owners where deemed
10 necessary or as directed by the board. The board may, upon its own motion, require the
11 preparation of a preliminary cost estimate for specific improvements even though the
12 petition of property owners and majority ownership conditions have not been met. In any
13 case, a list of specially affected property owners, the status of any petitions, and a report
14 of existing right-of-way and easements shall be included with the preliminary cost
15 estimate. The board will not be required to take any further action unless sufficient right-
16 of-way exists to accommodate the proposed improvements or in the case of walls, unless
17 satisfactory easements exist.

18 **Section 5**

19 **Sec. 26-30.2. PUBLIC INFORMATION MEETING:**

20 All specially benefited property owners will be notified of an informational
21 meeting to be held at least one (1) week prior to the public hearing required under
22 Section 26-30.3 of this division. At the meeting, county staff shall explain the proposed
23 improvements, tentative assessment to each property, and the procedure to be
24 followed. The board shall not be required to attend the meeting, but any member
25 thereof may be present to observe the proceedings. The notification required to be
26 given for such meeting shall consist of a notice published in a local newspaper of
27 general circulation. If there is no local newspaper of general circulation, then in any
28 newspaper of general circulation in the county. This publication shall be made once at
29 least ten (10) days before the informational meeting date. A courtesy notice for board-
30 initiated and petitioner-initiated projects shall be mailed to each property owner by
31 regular mail no less than ten (10) days before the informational meeting date. The

1 mailed notice shall be based on names and addresses found in the records of the
2 property appraiser or from other reliable sources. The mailed notice shall include the
3 property owner's tentative assessment applicable to the property to be assessed.
4 However, in lieu of an informational meeting, a comprehensive and detailed
5 explanation of the proposed improvements may be distributed by regular mail after all
6 property owners have been notified that an informational meeting will not be held.

7 **Section 6**

8 **Sec. 26-30.3. PUBLIC HEARING:**

9 Prior to awarding the contract for construction of the improvements for which
10 special assessments will be made, the board shall hold a public hearing on the proposed
11 project unless the board rejects the project from further consideration. Property owners to
12 be assessed shall be notified by regular mail of the time and place of the public hearing.
13 The mailed notice shall advise each property owner of their individual proposed special
14 assessment, per parcel, based on the lowest acceptable bid, including other allowable
15 costs and the percentage and method of assessment determined in accordance with the
16 above provisions of this division.

17 The public hearing shall be held as soon as practicable: (1) after the date the
18 construction bids are received or, (2) after the board has established a fixed assessment.

19 The public hearing shall be held no sooner than ten (10) days after the mailing of the
20 notices described in this section. Addresses for the mailed notices shall be obtained from
21 the records of the property appraiser or other reliable sources.

22 In addition, a notice shall be published once each week for two (2) consecutive
23 weeks in a newspaper of general circulation in the locality. If there is no newspaper of
24 general circulation in the locality, the notice shall be published in a newspaper of general
25 circulation in the county. The most recent of such publication shall be no less than one (1)
26 week before the public hearing, the board shall do so by resolution as provided in Section
27 26-30.4 of this division.

28 At least ten (10) days before the public hearing, each property owner shall be
29 given notice of the public hearing by regular mail. The mailed and published notices shall
30 describe the streets or areas to be improved and advise all interested persons that each
31 property and amount to be assessed may be obtained at the office of the county

1 engineer. At this public hearing, the owners of property to be specially assessed or any
2 other interested persons may appear before the Board and be heard as to the propriety
3 and advisability of making such improvements, costs, manner of payment, and amount to
4 be specially assessed against each property to be improved.

5 At the public hearing, an assessment roll prepared in accordance with the method
6 and percentage of assessment provided by this division shall be presented to the board.
7 The assessment roll shall show the lots and lands assessed, and the amount of benefit to
8 and assessment against each lot or parcel of land. If the special assessment is to be paid
9 in installments, the number of annual installments into which the special assessment is
10 divided shall also be entered and shown upon the assessment roll.

11 At the time and place named in the notice of publication, the board shall meet as
12 an equalizing board to hear and consider all complaints as to such special assessments
13 and shall adjust, equalize, and approve by resolution as required in Section 26-30.4 of
14 this division. Such assessment shall stand affirmed and remain legal, valid and binding as
15 a first lien upon the property against which such assessment is made until paid. Promptly
16 after such confirmation of assessment, the assessment roll shall be recorded in the
17 official records of the clerk and comptroller of the county to facilitate knowledge of the lien
18 by third parties.

19 Upon completion of the improvements, the board may credit to each assessment
20 the difference in the original assessment made, approved and confirmed, and the
21 proportionate part of the actual costs of the improvement to be paid by special
22 assessment determined upon completion of the improvements. This information shall be
23 set forth in an "amending resolution" which shall be adopted by the board and also
24 recorded in the public records as referenced above. In no event shall the final
25 assessments exceed the amount of benefits originally assessed by the board.

26 **Section 7**

27 **Sect. 26-30.15. SAVINGS CLAUSE:**

28 Notwithstanding the provisions of this division herein repealing Ordinance No. 91-
29 41 and Ordinance No. 93-26, this division shall not affect or impair the processing and
30 implementation of any improvement project commenced under the provisions of
31 Ordinance No. 82-17, 84-5, 86-16, 87-10, 91-41, 93-26, 94-11, 2008-063 and 2012-002.
32 All projects initiated under the divisions referenced above shall be deemed valid and in

1 full force and effect. Further, any money available for use in the units created and funded
2 under the above-referenced divisions shall be available for use in and transferred to the
3 corresponding units and trust funds created hereunder.

4 **Section 8**

5 **PROVIDING FOR REPEAL OF LAWS IN CONFLICT:**

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

8 **Section 9**

9 **SEVERABILITY:**

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

13 **Section 10**

14 **INCLUSION IN THE CODE OF LAWS AND ORDINANCES:**

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

19 **Section 11**

20 **CAPTIONS:**

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

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1 **Section 12**

2 **EFFECTIVE DATE:**

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

5 APPROVED and ADOPTED by the Board of County Commissioners of Palm
6 Beach County, Florida, on this the ____ day of _____, 20____.

7 **SHARON R. BOCK, CLERK &**
8 **COMPTROLLER**

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

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By: _____
Deputy Clerk

By: _____
Steven L. Abrams, Mayor

APPROVED AS TO FORM AND
LEGAL SUFFICIENCY

By: _____
Assistant County Attorney

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EFFECTIVE DATE: Filed with the Department of State on the ____ day of
_____, 20____.