Effective Date November 19, 1992

ORDINANCE
NUMBER 92-101

AN ORDINANCE CREATING THE SOUTH GULF COVE WATERWAY BENEFIT UNIT; PROVIDING DEFINITIONS; PROVIDING THE PURPOSE OF THE UNIT; DESCRIBING THE TERRITORY INCLUDED IN THE UNIT; PROVIDING FOR A GOVERNING BODY AND ITS POWERS; PROVIDING FOR THE ADOPTION OF A BUDGET, THE LEVY OF CAPITAL AND MAINTENANCE ASSESSMENTS, AND THE COLLECTION OF ASSESSMENTS; PROVIDING FOR THE ISSUANCE OF DEBT OBLIGATIONS; PROVIDING FOR INCLUSION IN THE CHARLOTTE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

Barbara T. Scott, Clerk of the Circuit Court - Charlotte County
File Number: 199353 OR BOOK 1248 PAGE 0953
Recorded: 11-23-92 01:59 P.M.
Recording $ 177.00
Record Verified: NANCY WALLING, D.C.

RECITALS

1. Under Section 125.01, Florida Statutes, the Board of County Commissioners has the authority to establish, merge, or abolish municipal service benefit or taxing units.

2. It is in the best interest of the citizens of the County to create a waterway benefit unit to provide funding necessary for maintenance and operation of the waterways and canals.

NOW, THEREFORE, BE IT ORDAINED by the Board of County Commissioners of Charlotte County, Florida:

SECTION 1. DEFINITIONS. For the purpose of this ordinance, words used in the singular shall include the plural, and the plural, the singular; words used in the present tense shall include the future tense. The word "shall" is mandatory and not discretionary. The word "may" is permissive. Words not defined herein shall be construed to have the meaning given by common and ordinary use as defined in the latest edition of Webster's Dictionary.

Minutes 95

39 pgs

1. *Assessment Roll* means a non-ad valorem assessment roll relating to an assessment, approved by a resolution as required in this ordinance.

2. *Benefit Area* means any portion of a Benefit Unit (which may be the entire Benefit Unit) that is specially benefitted by one or more specific maintenance projects.

3. *Benefit Unit* means a municipal services benefit unit established pursuant to Section 125.01, Florida Statutes.

4. *Board* means the Board of County Commissioners of Charlotte County, Florida.

5. *Bonds* means the bonds issued by the County, payable from the pledged revenues.

6. *Capital Cost* means, as applied to any Capital Project, (A) the cost of physical construction, reconstruction or completion; (B) the costs of acquisition of purchase; (C) the cost of all labor, materials, machinery and equipment, (D) the cost of all lands and interest therein, property rights, easements and franchises of any nature whatsoever; (E) the cost of any indemnity or surety bonds and premiums for insurance during construction, (F) interest prior to and during construction, for such period of time after completion of the construction or acquisition of such Capital Project as the Board deems appropriate, and for such period of time after the issuance of the Bonds, Notes and Existing Obligations as may be necessary to collect the initial annual installment of Capital Project Assessments; (G) amounts necessary to pay redemption premiums or other costs associated with the early

retirement of Bonds, Notes or Existing Obligations related to the Capital Project; (H) the creation of reserve or debt service funds; (I) costs and expenses related to the issuance of Bonds, Notes or Existing Obligations related to the Capital Project, all financing charges and any expenses related to any liquidity facility or credit facility, including interest on Bonds, Notes or Existing Obligations held by the issuer of such liquidity facility or credit facility; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal and other consultant services associated with the Capital Project; (L) the cost of engineering, financial, legal and other consultant services and any other cost associated with the structure, implementation and collection of Capital Project Assessments, including any service charges of the Tax Collector or Property Appraiser and amounts necessary to offset discounts received for early payment of Capital Project Assessments pursuant to applicable law, and (M) all other costs and expenses properly attributable to such acquisition or construction and such other expenses as may be necessary or incidental to financings authorized by this ordinance; and including reimbursement of the County or any other person, firm or corporation for any moneys advanced for any costs incurred by the County or such person, firm or corporation in connection with any of the foregoing items of cost. With respect to any specific Benefit Unit, the Board may elect to include as an additional element of Capital Cost a contingency amount to offset any errors in the Capital Project Assessment Roll which, upon

OR BOOK 1248 PAGE 0955

correction, will reduce the aggregate amount of Capital Project Assessments reflected therein, for the purpose of providing relief to the owners of specific parcels of property which, because of the special nature of such property, have not been assessed equitably.

7. *Clerk* means the Clerk of the Circuit Court of Charlotte County, ex-officio Clerk of the Board, or any Deputy Clerk.

8. *County* means Charlotte County, Florida.

9. *Director* means the Director of the Public Works Department or his designee.

10. *Equivalent Residential Unit (ERU)* means the number of residential units (single family, mobile homes, multi-family, condominiums, etc., within the boundaries of the Unit.

11. *Final Capital Assessment Resolution* means the resolution which shall confirm or deny the Initial Capital Assessment Resolution and which shall be the final proceeding for the imposition of a Capital Project Assessment.

12. *Final Maintenance Assessment* means a non-ad valorem assessment or reassessment lawfully imposed by the County for the payment of maintenance in accordance with the terms of this ordinance against properties specially benefitted by one or more specific maintenance projects.

13. *Final Maintenance Assessment Resolution* means the resolution which shall confirm or deny the Initial Maintenance Assessment Resolution and which shall be the final proceeding for the imposition of a Maintenance Assessment.

14. *Initial Capital Assessment Resolution* means the resolution which shall be the initial proceeding for the imposition of Capital project Assessments.

15. *Initial Maintenance Assessment Resolution* means the resolution which shall be the initial proceeding for the imposition of a Maintenance Assessment.

16. *Maintenance Assessment* means a non-ad valorem assessment lawfully imposed by the County for the payment of Maintenance Costs of the Unit.

17. *Maintenance Assessment Roll* means a non-ad valorem assessment roll relating to Maintenance Costs, approved by a Final Maintenance Assessment Resolution or an Annual Maintenance Rate Resolution.

18. *Maintenance Cost* means the County's reasonable and necessary expenses for maintenance of the Unit. Maintenance cost shall include but not be limited to personnel costs, administration expenses, insurance and surety bond premiums, legal and engineering expenses, ordinary and current rentals of equipment or other property, and any other expenses required to be paid for or with respect to proper maintenance of such facilities, all to the extent properly attributable to such facilities and shall include any "indirect cost" properly allocated thereto. Maintenance cost shall also include the cost of engineering, financial, legal and other consultant services and any other cost associated with the structure, implementation and collection of maintenance assessments, including any service charges of the Tax Collector or

Property Appraiser and amounts necessary to offset discounts received for early payment of maintenance assessments pursuant to applicable law. With respect to any specific benefit unit, the Board may elect to include as an additional element of maintenance cost a contingency amount to offset any errors in the maintenance assessment roll which, upon correction, will reduce the aggregate amount of maintenance assessments reflected therein, for the purpose of providing relief to the owners of specific parcels of property which, because of the special nature of such property, have not been assessed equitably.

19. *Maximum Maintenance Assessment Rate* means the maximum rate of assessment for maintenance services established by the final maintenance assessment resolution.

20. *Notes* means notes issued in anticipation of bonds as permitted herein.

21. *Pledged Revenues* means (a) the proceeds of the Bonds, including investment earnings, (b) proceeds of the maintenance assessments, as specified by the resolution authorizing the bonds, and (c) any other non-ad valorem revenues or other legally available monies specifically pledged by the County under the resolution authorizing the bonds.

SECTION 2. UNIT ESTABLISHED. There is hereby created, pursuant to the authority contained in Section 125.01, Florida Statutes, a municipal service benefit unit to be known as the South Gulf Cove Waterway Benefit Unit ("Unit").

SECTION 3. TERRITORY. The territory included within the Unit shall include only the following portions of the unincorporated area of Charlotte County, more particularly described as follows:

a. A portion of Port Charlotte Subdivision Section 58, according to the plat thereof recorded in Plat Book 5, Page 72 of the Public Records of Charlotte County, Florida. Said portions being:

Lots 22 thru 35, Block 4211; Block 4213; Lots 1 thru 19, Lots 21 thru 24, Lots 26 thru 30, Block 4268; Lots 1 thru 6, Block 4269; Block 4270; Block 4272; Lots 1 thru 18, Lots 21 thru 34, Block 4286; Tract F, and G, Tract H and I.

b. A portion of Port Charlotte Subdivision Section 71, according to the plat thereof recorded in Plat Book 6, Page 27 of the Public Records of Charlotte County, Florida. Said Portions being:

Lots 2 and 3, Lots 5 thru 29, Block 4343; Lots 2 and 3, Lots 5 thru 27, Block 4345; Lots 2 and 3, Lots 5 thru 30, Block 4347; Lots 1 thru 18, Lots 37 thru 40, Block 4349; Lots 1 thru 21, Lot 35, Lots 37 thru 68, Block 4354; Lots 2 and 3, Lots 5 thru 33, Block 4359; Lots 2 and 3, Lots 5 thru 28, Block 4361; Lots 2 and 3, Lots 5 thru 29, Block 4363; Lots 1 thru 19, Lots 21 and 22, Block 4366; Lots 1 thru 25, Lots 27 and 28, Block 4367; Lots 1 thru 23, Lots 25 and 26, Block 4369; Lots 1 thru 23, Lots 25 and 26, Block 4371; Lots 2 and 3, Lots 5 thru 20, Block 4378; Lots 2 and 3, Lots 5 thru 38, Block 4379; Lots 2 and 3, Lots 5 thru 28. Block 4383; Lots 2 and 3, Lots 5 thru 28, Block 4385; Lots 2 and 3, Lots 5 thru 28, Block 4387; Block 4389; Lots 1 thru 9, Lot 11, Lots 13 thru 28, Lots 30 and 31, Block 4391.

c. A portion of Port Charlotte Subdivision Section 78, according to the plat thereof recorded in Plat Book 6, Page 42 of the Public Records of Charlotte County, Florida. Said portion being:

Lots 2 thru 54, Lot 56, Block 4400; Lots 2 thru 46, Block 4401; Tract C, Lots 1 thru 23, Lot 25, Block 4402; Tract B, Lots 1 thru 35, Lot 86, Block 4409; Lot 1, Lots 3 thru 39, Block 4410; Lots 1 thru 32, Block 4412.

d. A Portion of Port Charlotte Subdivision Section 81, according to the plat thereof recorded in Plat Book 6, Page 51 of the Public Records of Charlotte County, Florida. Said portion being:

Lot 2, Block 4430; Lot 2 Block 4432; Lots 1 thru 14, Block 4470; Lot 1, Lots 3 thru 39, Block 4473; Lots 2 and 3, Lots 5 thru 34, Block 4476; Lots 2 and 3, Lots 5 thru 25, Block 4478; Lots 2 and 3, Lots 5 thru 23, Block 4479; Lots 2 and 3, Lots 5 thru 28, Block 4481; Lots 2 and 3, Lots 5 thru 31, Block 4483; Lots 2 and 3, Lots 5 thru 16, Block 4485; Lots 2 and 3, Lots 5 thru 14, Block 4492; Lots 2 and 3, Lots 5 thru 14, Block 4493; Lots 1 and 2, Lots 6 thru 12, Lots 14 and 15, Block 4494; Lots 2 and 3, Lots 5 thru 14, Block 4495; Lots 2 and 3, Lots 5 thru 16, Block 4497; Lots 2 and 3, Lots 5 thru 23, Block 4499; Block 4501; Lots 1 and 2, Lots 4 thru 18, Block 4505; Lots 2 and 3, Lots 5 thru 19, Lots 21 thru 32, Block 4507; Lots 2 and 3, Lots 5 thru 26, Block 4511; Lots 2 and 3, Lots 5 thru 21, Block 4512; Lots 2 and 3, Lots 5 thru 21, Block 4514; Lots 2 and 3, Lots 5 thru 22, Block 4516; Block 4519; Lots 2 and 3, Lots 5 thru 35, Block 4520; Lots 2 and 3, Lots 5 thru 41, Block 4522; Lots 2 and 3, Lots 5 thru 42, Block 4524; Lots 2 and 3, Lots 5 thru 43, Block 4528; Lots 2 and 3, Lots 5 thru 47, Block 4532; Lots 2 and 3, Lots 5 thru 24, Block 4533; Lots 2 and 3, Lots 5 thru 25, Block 4535; Lots 2 and 3, Lots 5 thru 15, Block 4537; Block 4540.

e. A portion of Port Charlotte Subdivision Section 82, according to the plat thereof recorded in Plat Book 6, Page 52 of the Public Records of Charlotte County, Florida. Said portions being:

Block 4419; Lots 2 and 3, Lots 5 thru 37, Block 4421; Lots 2 and 3, Lots 5 thru 35, Block 4423; Lots 2 and 3, Lots 5 thru 35, Tract B, Block 4425; Lots 2 and 3, Lots 5 thru 37, Block 4426; Lots 2 and 3, Lots 5 thru 37, Block 4428; Lot 3, Lots 5 thru 37, Block 4430; Lot 3, Lots 5 thru 73, Block 4432; Lots 2 and 3, Lots 5 thru 73, Block 4435; Lots 2 and 3, Lots 5 thru 73, Block 4438; Lots 2 and 3, Lots 5 thru 39, Block 4441; Lots 2 and 3, Lots 5 thru 17, Block 4442; Lots 2 and 3, Lots 5 thru 30, Block 4443; Lots 2 and 3, Lots 5 thru 34, Block 4445; Tract D, Lots 1 thru 11, Lot 13, Block 4448; Lots 2 and 3, Lots 5 thru 16, Block 4450; Lots 2 and 3, Lots 5 thru 37, Block 4452; Lots 2 and 3, Lots 5 thru 40, Block 4453; Lots 2 and 3,

Lots 5 thru 31, Block 4455; Lots 2 and 3, Lots 5 thru 23, Block 4456; Lots 2 and 3, Lots 5 thru 27, Block 4458; Lots 2 and 3, Lots 5 thru 11, Tract E, Block 4460; Lots 2 and 3, Lots 5 thru 29, Block 4463; Lots 2 and 3, Lots 5 thru 30, Block 4464; Block 4466; Tract C; Block 4467; Lots 2 and 3, Lots 5 thru 25, Lot 27, Lots 29 and 30, Tract F, Block 4469.

f. A portion of Port Charlotte Subdivision Section 85, according to the plat thereof recorded in Plat Book 6, at Page 60 of the Public Records of Charlotte County, Florida. Said portions being:

Lots 2 thru 5, Lots 7 thru 23, Tract N, Block 4591; Lots 2 thru 58, Block 4601; Block 4611; Tract P, Tract Q; Tract F; Block 4620; Tract C; Tract A; Lots 1 thru 11, Block 4625.

g. A portion of Port Charlotte Subdivision Section 87, according to the plat thereof recorded in Plat Book 6, at Page 60 of the Public Records of Charlotte County, Florida. Said portions being:

Lots 2 thru 14, Block 4541; Lot 2, Lots 4 thru 33, Block 4542; Lot 2, Lots 4 thru 52, Block 4545; Lots 2 and 3, Lots 5 thru 55, Block 4550; Lot 2, Lots 4 thru 31, Block 4556; Lot 2, Lots 4 thru 24, Block 4559; Lots 2 and 3, Lots 5 thru 26, Block 4561; Lots 2 and 3, Lots 5 thru 26, Block 4564; Lots 2 and 3, Lots 5 thru 27, Block 4567; Lots 2 and 3, Lots 5 thru 34, Block 4569; Lots 2 and 3, Lots 5 thru 25, Block 4572; Lots 2 and 3, Lots 5 thru 29, Block 4575; Lot 2, Lots 4 thru 14, Block 4578; Lots 2 and 3, Lots 5 thru 58, Lots 60 and 61, Block 4580; Block 4634; Lots 2 and 3, Lots 5 thru 14, Lot 16, Block 4635; Lots 2 thru 33, Tract J, Block 4636; Lots 1 thru 28, Block 4644; Lot 1, Lots 3 thru 10, Lots 12 and 13, Lots 15 thru 25, Block 4645; Lots 2 and 3, Lots 5 thru 36, Block 4646; Lot 2, Lots 4 thru 14, Tract K, Block 4652; Lots 1 and 2, Lot 4, Lots 6 thru 31, Block 4653; Lots 2 and 3, Lots 5 thru 27, Lot 29, Block 4655.

h. A portion of Port Charlotte Subdivision Section 93, according to the plat thereof recorded in Plat Book 9, at Page 1 of the Public Records of Charlotte County, Florida. Said portion being:

Block 4901; Block 4904; Block 4907; Block 4910; Lots 1 thru 22, Lots 24 thru 45, Tract C, Block 4912; Block 4915; Block 4917; Block 4919; Block

4921; Tract G, Lots 1 thru 55, Lot 57, Block 4923; Lot 1, Lots 3 thru 55, Block 4925; Lots 1 thru 86, Tract S, Block 4927; Tract R, Lots 4 thru 37, Block 4948; Lots 1 thru 16, Tract H, Block 4949; Tract M, Lots 1 thru 6, Block 4955; Lots 1 thru 35, Lot 37, Block 4966; Block 4968; Lots 1 thru 29, Block 4970; Lots 4 thru 16, Lots 18 thru 49, Lots 51 thru 74, Block 4972; Block 4974; Block 4976.

i. A portion of Port Charlotte Subdivision Section 97, according to the plat thereof recorded in Plat Book 10, at Page 13 of the Public Records of Charlotte County, Florida. Said portions being:

Lots 1 thru 5, Block 5216; Lots 41 thru 55, Block 5220, Lots 1 thru 21, Block 5225.

j. A portion of an unrecorded subdivision known as Farm Lots lying southerly of the Myakka River in the South 1/2 of Section 3, Township 41 South, Range 21 East, Charlotte County, Florida. Said portion being;

Lots 5 and 6, 11 and 12, 21 and 22, 27.

k. A portion of unplatted land lying in the South 1/2 of Section 3, Township 41 South, Range 21 East, Charlotte County, Florida. Said portion being:

Parcel 1.

l. A portion of unplatted land lying in the South 1/2 of Section 9, Township 41 South, Range 21 East, Charlotte County, Florida. Said portion being:

Parcel 2.

m. A portion of unplatted land lying in Section 10, Township 41 South, Range 21 East, Charlotte County, Florida. Said portion being:

Parcel 1.

SECTION 4. PURPOSE. The purpose of this Unit is to provide for (1) periodic dredging, (2) any repair, expansion or replacement of the waterways, canals, locks or accessory facilities, and (3) operation of the lock.

SECTION 5. GOVERNING BODY The Board of County Commissioners of Charlotte County, Florida, shall be the governing body of the Unit.

SECTION 6. POWERS OF THE GOVERNING BODY. The Board shall have the following powers within the Unit:

(a) to acquire, improve and construct Capital Projects;

(b) to impose and collect Capital Project Assessments in the manner provided herein;

(c) to authorize and issue Bonds payable from Pledged Revenues to finance the Capital Cost of the Capital Projects in the manner provided in this ordinance;

(d) to authorize and issue Notes to finance the Capital Cost of a Capital Project;

(e) to refinance any Existing Obligations;

(f) to acquire in the name of the County, either by purchase or the exercise of the right of eminent domain by the County, such lands and rights and interests and to acquire such personal property as may be deemed necessary in connection with the acquisition and construction of the Capital Projects;

(g) to make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this ordinance, and to employ such consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers and other employees, contractors and agents as may, in the judgment of the Board, be deemed necessary or convenient and to fix their compensation;

OR BOOK 1248 PAGE 0963

(h) to pay out of any funds that may be available for that purpose such portion of the Capital Costs or financing costs (including costs incident to refinancing any Existing Obligations) associated with any Capital Project as it may deem proper;

(i) to impose and collect Maintenance Assessments in the manner provided herein;

(j) to appoint an advisory committee that will offer recommendations to the Board as to the timing, nature, and quantity of work to be performed; and

(k) to exercise any and all of the powers of the County not enumerated above necessary or incidental for the purpose of providing the services, improvements and benefits described herein.

SECTION 7. CAPITAL PROJECT ASSESSMENTS.

1. General Authority. The Board may provide for the capital cost of one or more Capital Projects, in the Benefit Unit in which such Capital Projects are located, by Capital Project Assessments upon benefitted property within the Benefit Unit at a rate of assessment based on the special benefit accruing to such property from such projects. For the purpose of imposing Capital Project Assessments, a benefit unit may be divided into benefit areas. Capital Project Assessments shall be assessed in conformity with the procedures set forth in this section. The computation of Capital Project Assessments shall be made on the basis of a general methodology designed to provide the maximum achievable equity among properties within each benefit unit or benefit area, which

methodology shall be applied uniformly against all similar properties.

2. **Initial Proceedings.** The initial proceeding for imposition of a Capital Project Assessment shall be the passage by the Board of an Initial Capital Assessment Resolution ordering the acquisition, construction or reconstruction of assessable improvements constituting an individual Capital Project or several Capital Projects indicating, in general, the location (the location may be established by reference to boundaries or a map or by reference to the benefit unit) and description of such improvements, which shall be sufficient to enable the Public Works Director to prepare the preliminary plans and specifications of such improvements as described in this section. The Initial Capital Assessment Resolution may also state the portion, if any, of the Capital Project to be paid by the County and shall state the estimated Capital Costs of the Capital Project, if available, and the method of assessment which may be by frontage, acreage, square footage, parcel or any other combination thereof or any other method deemed equitable by the Board. An Initial Capital Assessment Resolution may be combined with an Initial Maintenance Assessment Resolution. The improvements constituting the Capital project or Capital Projects need not be contiguous and may be in more than one locality or street. The Initial Capital Assessment Resolution ordering any such improvement may give any short and convenient designation to each improvement ordered thereby. If the Board has elected to include as an additional element of capital

cost a contingency amount to offset any errors in the Capital Project Assessment Roll, the Initial Capital Assessment Resolution may provide (i) a brief description of the characteristics of specific parcels of property which may be entitled to relief; (ii) the period in which the owners of such property may petition for relief; and (iii) any other provisions reasonably related to such contingency amount.

3. **Plans and Specifications.** For any Capital Project that has not yet been constructed, the Public Works Director shall, as soon as possible after the passage of the Initial Capital Assessment Resolution, prepare or cause to be prepared, preliminary plans, specifications and capital cost estimates for the improvements constituting the Capital Project. The plans and specifications need only be in sufficient form to enable the Public Works Director to estimate the capital costs of the Capital Project and prepare the Capital Project Assessment Roll. The Public Works Director shall not be required to prepare preliminary plans and specifications for improvements previously constructed, but shall in lieu thereof provide a general description of the nature and location of such improvements.

4. **Capital Project Assessment Roll.** The Public Works Director shall also prepare, or cause to be prepared, the Capital Project Assessment Roll, which shall contain the following:

A. A summary description of lots and parcels of land or land within the Benefit Unit (conforming to the description contained on the Tax Roll) which will benefit from such assessable

OR BOOK 1248 PAGE 0966

improvements constituting the Capital Project or Capital Projects and the amount of such benefits to each such lot or parcel of land.

B. The name of the owner of record of each lot or parcel as shown on the tax rolls.

C. The total Capital Cost of the improvements to be assessed against each benefited lot or parcel.

Such plans, specifications, Capital Cost estimates and the Capital Project Assessment Roll shall be provided to the Clerk and retained by the Public Works Department and shall be open to public inspection. The foregoing shall not be construed to require that the Capital Project Assessment Roll be in printed form if the amount of the Capital Project Assessment for each parcel of property can be determined by use of a computer terminal available at each location.

5. **Notice by Publication.** The County Administrator, upon the filing of such plans, specifications, Capital Cost estimates and Capital Project Assessment Roll, shall publish once a week in a newspaper of general circulation, published and circulating in the County, a notice stating that at a meeting of the Board on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the Board will hear objections of all interested persons to the Final Capital Project Resolution which shall approve the aforementioned plans, specifications, Capital Cost estimates and the Capital Project Assessment Roll. The published notice shall conform to the requirements set forth in

OR BOOK 1248 PAGE 0967

Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes. Such notice shall include (1) a geographic depiction of the property subject to the Capital Project Assessment, (2) a brief and general description of the applicable Capital Project with the location thereof (location may be established by reference to boundaries or a map or by reference to the Benefit Unit), (3) the procedure for objecting provided in this section, and (4) a statement that plans, specifications, capital cost estimates and the Capital Project Assessment Roll, which shall include the method or methods of assessment, are available for inspection at the offices of the Clerk and the Public Works Department, and all interested persons may ascertain the amount to be assessed against a lot or parcel of property at the offices of the Clerk and the Public Works Department. The notice required by this section may be combined with the Maintenance Assessment notice required herein.

6. **Notice by Mail.** In addition to the published notice required by this section, the County Administrator shall provide notice by first class mail to each property owner proposed to be assessed. The mailed notice shall conform to the requirements set forth in Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the tax rolls.

OR BOOK 1248 PAGE 0968

Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The County Administrator may provide proof of such notice by affidavit. The notice required by this section may be combined with the Maintenance Assessment notice required herein.

7. **Adoption of Final Capital Assessment Resolution.** At the time named in such notice, or to which an adjournment or continuance may be taken by the Board, the Board shall receive any written objections of interested persons and may then or at any subsequent meeting of the Board adopt the Final Capital Project Resolution which shall (1) approve the aforementioned plans, specifications and Capital Cost estimates, with such amendments as it deems just and right; (2) repeal or conform the Initial Capital Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Board; (3) approve the Capital Project Assessment Roll, including the method of assessment, with such amendments as it deems just and right; and (4) establish the interest rate or the method of determining the rate of interest (payable either in advance or in arrears) which the Capital Project Assessments shall bear, including the date from which such interest shall accrue. A Final Capital Assessment Resolution may be combined with a Final Maintenance Assessment Resolution. Capital Project Assessments shall be levied against all property in the applicable Benefit Unit or Benefit Area specially benefited by the improvements. The Board shall not approve any Capital Project Assessment in excess of the special benefits to the property

assessed, and the Capital Project Assessments so approved shall be in proportion to the special benefits. All objections to the Final Capital Project Resolution shall be made in writing, and filed with the Clerk at or before the time or adjourned time of such hearing. If the Board has elected to include as an additional element of Capital Cost, a contingency amount to offset any errors in the Capital Project Assessment Roll, the Final Capital Project Resolution may provide (i) a brief description of the characteristics of specific parcels of property which may be entitled to relief, (ii) the period in which the owners of such property may petition for relief, and (iii) any other provisions reasonably related to such contingency amount.

8. **Effect of Final Capital Assessment Resolution.** Capital Project Assessments shall be established upon adoption of the Final Capital Project Resolution. The adoption of the Final Capital Project Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of assessment, the Capital Project Assessment Roll, the plans and specifications, the estimated Capital Cost of the Capital Project, the levy and lien of the Capital Project Assessments and the interest rate the Capital Project Assessments shall bear (including the date from which such interest shall accrue) unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Board action on the Final Capital Project Resolution. Notice of the lien of the Capital Project Assessments shall be recorded in the Official Records Book

OR BOOK 12248 PAGE 0670

in the Office of the Clerk. Such notice shall provide in general the locations of the property which are assessed and direct interested parties to the Capital Project Assessment Roll, upon approval thereof. The Final Capital Project Resolution shall provide for the rate of interest or the method of determining the rate of interest (payable either in advance or in arrears) which the Capital Project Assessments shall bear, including the date from which such interest shall accrue. The amount of the Capital Project Assessment against any lot or parcel which may be reduced or abated, unless the non-ad valorem assessment upon the entire Benefit Unit or Benefit Area be reduced or abated, may be made chargeable against the applicable Benefit Unit or Benefit Area at large. Notwithstanding the foregoing, if the Board has elected to include as an additional element of Capital Cost a contingency amount to offset any errors in the Capital Project Assessment Roll, the owners of property having the characteristics described in the Final Capital Assessment Resolution may petition for relief within one year of the date such Final Capital Assessment Resolution is adopted.

9. **Payment of Capital Project Assessments.** Unless specifically authorized and approved by the Tax Collector, no prepayments of Capital Project Assessments shall be accepted. All Capital Project Assessments shall be payable in installments (in the manner provided by resolution of the Board), with interest on the outstanding balance (payable either in advance or in arrears) at the rate and from the date set by the Final Capital Project

Resolution. Capital Project Assessments shall be collected in the manner set forth herein. Subject to the provisions of paragraphs 10 and 11 hereof, if bonds or notes are issued pursuant to this ordinance or if existing obligations remain outstanding, the Capital Project Assessments shall bear interest at a rate not to exceed one percent above the true interest cost of such bonds, notes and existing obligations (provided the true interest cost on the bonds, notes and existing obligations may include any ongoing expenses related to the bonds, notes and existing obligations or collection of the Capital Project Assessments), from the date the Final Capital Project Resolution is adopted or such other date as the Board may provide by resolution, payable in each of the succeeding number of years which the Board shall determine by resolution, not exceeding 20.

10. **Lien of Capital Project Assessments.** All Capital Project Assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

11. **Additional Payments.** If Capital Project Assessments made under the provisions of this ordinance to defray the capital costs of the Capital Project shall be deemed by the Board to be inadequate to meet the obligation owned to bondholders and to pay fees required for credit enhancement on the bonds, if any, the Board may adjust the payment period of and the rate of interest on

installment payments of the Capital Project Assessment so that payments of Capital Project Assessments shall be sufficient to satisfy the contractual obligation owed to bondholders and the credit enhancement provider. However, such adjustment shall not have the effect of increasing the Capital Project Assessment of any property, including the effect of increasing the amount of Capital Project Assessment of any property in proportion to the amount of benefits conferred on that property. Further, the Board, in adjusting the interest rates and the period of payment of Capital Project Assessments, shall follow the provisions of this section providing for notice and hearing to interested persons and providing for passage of resolutions establishing Capital Project Assessments.

12. **Revisions to Capital Project Assessments.** If any Capital Project Assessment made under the provisions of this ordinance to defray the Capital Costs of any Capital Project shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Board shall be satisfied that any such Capital Project Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board shall have omitted to include any property on the Capital Project Assessment Roll which properly should have been so included, the Board shall take all necessary steps to cause a new Capital Project Assessment to be made against any property benefited by any Capital Project, following as nearly as may be practicable the provisions of this ordinance and in case such second Capital Project

Assessment shall be annulled, the Board may obtain and make other Capital Project Assessments until a valid Capital Project Assessment shall be made.

13. **Procedural Irregularities.** Any informality or irregularity in the proceedings in connection with the levy of any Capital Project Assessment under the provisions of this ordinance shall not affect the validity of the same after the approval thereof, and any Capital Project Assessment as finally approved shall be competent and sufficient evidence that such Capital Project Assessment was duly made and adopted, and that all other proceedings adequate to such Capital Project Assessment were duly had, taken and performed as required by this ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this section, any party objecting to a Capital Project Assessment imposed pursuant to this ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

14. **Apportionment of Assessments.** The County may, by resolution, provide a procedure by which the lien of a Capital Project Assessment on property may be apportioned between subdivided parcels of such property. Such apportionment shall be reflected on the Capital Project Assessment Roll. The County may establish a different procedure of apportioning a Capital Project Assessment lien for each Benefit Unit or Benefit Area. The County shall not establish a procedure which has a material adverse effect

on the security for Bonds issued to finance the Capital Project related to such Capital Project Assessments.

15. **Correction of Errors and Omissions.**

A. No act of error or omission on the part of the Property Appraiser, Tax Collector, County Administrator, Clerk, Public Works Director, Board or their deputies or employees, shall operate to release or discharge any obligation for payment of a Capital Project Assessment imposed by the Board under the provisions of this ordinance. Any errors or omissions may be corrected at any time by the Board, or its designee, and when so corrected shall be considered valid ab initio and shall in no way affect the enforcement of the Capital Project Assessment imposed under the provisions of this ordinance.

B. When it shall appear that any Capital Project Assessment should have been imposed under this ordinance against a lot or parcel of property specially benefited by the Capital Project, but that such property was omitted from the Capital Project Assessment Roll, the Board may, upon provision of appropriate notice as set forth in this section, impose the applicable Capital Project Assessment against such benefited property. The Capital Project Assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district or municipal taxes and non-ad valorem assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or

against the real property involved and may be recorded as provided in this section and collected as provided herein.

C. The Board shall have the authority at any time, upon its own initiative or in response to a timely filed petition from the owner of any property subject to a Capital Project Assessment, to correct any error or omission in the adoption of any Capital Project Assessment Roll, or in the implementation of this ordinance, including, but not limited to, an error in inclusion or exclusion of any property.

SECTION 8. MAINTENANCE ASSESSMENTS.

1. **General Authority.** The Board may provide for the maintenance of the unit through the imposition of Maintenance Assessments upon property within the Benefit Unit at a rate of assessment based on the special benefit accruing to such property from the maintenance or repair of such facilities within the Benefit Unit. Maintenance Assessments shall be assessed in conformity with the procedures set forth in this section.

2. **Initial Proceedings.** The initial proceeding for imposition of a Maintenance Assessment shall be the passage by the Board of an Initial Maintenance Assessment Resolution (i) identifying the area to be subject to the Maintenance Assessment, (ii) generally describing the maintenance services to be provided, (iii) designating a Maximum Maintenance Assessment Rate, and (iv) describing the method of assessment which may be by frontage, acreage, square footage, parcel or any other combination thereof or any other method deemed equitable by the Board. An Initial

OR BOOK 1248 PAGE 0976

Maintenance Assessment Resolution may be combined with an Initial Capital Assessment Resolution. If the Board has elected to include as an additional element of maintenance cost a contingency amount to offset any errors in the Maintenance Assessment Roll, the Initial Maintenance Assessment Resolution may provide (i) a brief description of the characteristics of specific parcels of property which may be entitled to relief (ii) the period in which the owners of such property may petition for relief, and (iii) any other provisions reasonably related to such contingency amount.

3. **Maintenance Assessment Roll.** The Public Works Director shall also prepare, or cause to be prepared, the initial Maintenance Assessment Roll, which Roll shall contain the following:

A. A summary description of all lots and parcels of land or land within the Benefit Unit conforming to the description contained on the Tax Roll.

B. The name of the owner of record of each lot or parcel as shown on the Tax Rolls.

C. The amount of the initial Maintenance Assessment to be imposed against each such lot or parcel.

The initial Maintenance Assessment Roll shall be provided to the Clerk and retained by the Public Works Department and shall be open to public inspection. The foregoing shall not be construed to require that the Maintenance Assessment Roll be in printed form if the amount of the Maintenance Assessment for each parcel of

property can be determined by use of a computer terminal available at each location.

4. **Notice by Publication.** The County Administrator, upon the filing of the initial Maintenance Assessment Roll, shall publish once in a newspaper of general circulation, published and circulated in the County, a notice stating that at a meeting of the Board on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the Board will hear objections of all interested persons to the Final Maintenance Assessment Resolution which shall establish the Maximum Maintenance Assessment Rate and approve the aforementioned initial Maintenance Assessment Roll. The published notice shall conform to the requirements set forth in Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes. Such notice shall include (A) a geographic depiction of the property subject to the Maintenance Assessment, (B) a brief and general description of the maintenance to be provided, (C) the Maximum Maintenance Assessment Rate, (D) the procedure for objecting provided in paragraph 6 hereof, and (E) a statement that the initial Maintenance Assessment Roll is available for inspection at the offices of the Clerk and the Public Works Department, and all interested persons may ascertain the amount to be assessed against a lot or parcel of property at the offices of the Clerk and the Public Works Director.

The notice required by this paragraph may be combined with a Capital Assessment notice required herein.

5. **Notice by Mail.** In addition to the published notice required by paragraph 4, but only for the first fiscal year in which a Maintenance Assessment is imposed against property within a Benefit Unit or any specific portion thereof, the County Administrator shall provide notice by first class mail to each property owner proposed to be assessed. The mailed notice shall conform to the requirements set forth in Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the Tax Rolls. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The County Administrator may provide proof of such notice by affidavit. The notice required by this paragraph may be combined with the Capital Assessment notice.

6. **Adoption of Final Maintenance Assessment Resolution.** At the time named in such notice, or to which an adjournment or continuance may be taken by the Board, the Board shall receive any written objections of interested persons and may then or at any subsequent meeting of the Board adopt the Final Maintenance Resolution which shall (A) repeal or confirm the Initial Maintenance Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Board; (B) establish the Maximum

Maintenance Assessment Rate; and (C) approve the initial Maintenance Assessment Roll, with such amendment as it deems just and right. A Final Maintenance Assessment Resolution may be combined with a Final Capital Assessment Resolution. The Maintenance Assessments so approved shall be in proportion to the special benefits. All objections to the Final Maintenance Assessment Resolution shall be made in writing, and filed with the Clerk at or before the time or adjourned time of such hearing. The Final Maintenance Assessment Resolution shall constitute the Annual Maintenance Rate Resolution for the initial fiscal year Maintenance Assessments are imposed hereunder. If the Board has elected to include as an additional element of Maintenance Cost a contingency amount to offset any errors in the Maintenance Assessment Roll, the Final Maintenance Assessment Resolution may provide (i) a brief description of the characteristics of specific parcels of property which may be entitled to relief, (ii) the period in which the owners of such property may petition for relief, and (iii) any other provisions reasonably related to such contingency amount.

7. **Effect of Final Maintenance Resolution.** The Maximum Maintenance Assessment Rate and the Maintenance Assessments for the initial fiscal year shall be established upon adoption of the Final Maintenance Assessment Resolution. The adoption of the Final Maintenance Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of assessment, the Maximum Maintenance Assessment Rate, the initial Maintenance Assessment Roll, and the levy and lien of the

Maintenance Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Board action on the Final Maintenance Assessment Resolution. The initial Maintenance Assessment Roll, as approved by the Final Maintenance Assessment Resolution, shall be delivered to the Tax Collector, or such other official as the Board, by resolution, deems appropriate. Notwithstanding the foregoing, if the Board has elected to include as an additional element of Maintenance Cost a contingency amount to offset any errors in the Maintenance Assessment Roll, the owners of property having the characteristics described in the Final Maintenance Assessment Resolution may petition for relief within one year of the date such Final Maintenance Assessment Resolution is adopted.

8. **Adoption of Annual Maintenance Rate Resolution.** The Board shall adopt an Annual Maintenance Rate Resolution during its budget adoption process for each fiscal year following the initial fiscal year for which Maintenance Assessments are imposed hereunder. The Annual Maintenance Rate Resolution shall approve the Maintenance Assessment Roll for such fiscal year. The Maintenance Assessment Roll shall be prepared in accordance with the method of assessment set forth in the Final Maintenance Assessment Resolution and shall be based upon a rate not in excess of the Maximum Maintenance Assessment Rate. The Maintenance Assessment Roll, as approved by the Annual Maintenance Rate Resolution, shall be delivered to the Tax Collector, or such other official as the Board, by resolution, deems appropriate. If the

Maintenance Assessment against any property shall be sustained or reduced or abated by the court, that fact shall be noted on the Maintenance Assessment Roll opposite the description of the property affected thereby.

9. **Payment of Maintenance Assessments.** Unless specifically authorized and approved by the Tax Collector, no prepayments of Maintenance Assessments shall be accepted. Maintenance Assessments shall be collected in the manner set forth herein.

10. **Lien of Maintenance Assessments.** All Maintenance Assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims, until paid.

11. **Procedural Irregularities.** Any informality or irregularity in the proceedings in connection with the levy of any Maintenance Assessment under the provisions of this ordinance shall not affect the validity of the same after the approval thereof, and any Maintenance Assessment as finally approved shall be competent and sufficient evidence that such Maintenance Assessment was duly levied, that the Maintenance Assessment was duly made and adopted, and that all other proceedings adequate to such Maintenance Assessment were duly had, taken and performed as required by this ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting

was materially injured thereby. Notwithstanding the provisions of this paragraph, any party objecting to a Maintenance Assessment imposed pursuant to this ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

12. **Correction of Errors and Omissions.**

A. No act of error or omission on the part of the Property Appraiser, Tax Collector, County Administrator, Clerk, Public Works Director, Board or their deputies or employees, shall operate to release or discharge any obligation for payment of a Maintenance Assessment imposed by the Board under the provision of this ordinance. Any errors or omissions may be corrected at any time by the Board, or its designee, and when so corrected shall be considered valid ab initio and shall in no way affect the enforcement of the Maintenance Assessment imposed under the provisions of this ordinance.

B. When it shall appear that any Maintenance Assessment should have been imposed under this ordinance against a lot or parcel of property specially benefited by the maintenance of roads or drainage facilities within the Benefit Unit, but that such property was omitted from the Maintenance Assessment Roll, the Board may, upon provision of appropriate notice as set forth in this section, impose the applicable Maintenance Assessment for the fiscal year in which such error is discovered, in addition to the applicable Maintenance Assessments due for the prior two fiscal years. Such total Maintenance Assessments shall become delinquent

if not fully paid upon the expiration of 90 days from the date of the adoption of said resolution. The Maintenance Assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and may be recorded as provided herein and collected as provided herein.

C. The Board shall have the authority at any time, upon its own initiative or in response to a timely filed petition from the owner of any property subject to a Maintenance Assessment, to correct any error or omission in the adoption of any Maintenance Assessment Roll, or in the implementation of this ordinance, including, but not limited to, an error in inclusion or exclusion of any property.

SECTION 9. COLLECTION OF NON-AD VALOREM ASSESSMENTS.

1. **Method of Collection.** The Capital Project Assessments and Maintenance Assessments will be collected pursuant to the uniform method provided in Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes.

2. **Compliance with Applicable Law.** The Board shall comply with all applicable provisions of law relating to such uniform method, including Sections 197.363, 197.3631 and 197.3632, Florida Statutes, and any successor provisions thereto. Any

hearing or notice required by this ordinance may be combined with any other hearing or notice required to collect the Capital Project Assessments and Maintenance Assessments on the same bill as ad valorem taxes.

SECTION 10. ISSUANCE OF DEBT OBLIGATIONS.

1. **General Authority.** Upon adoption of the Final Maintenance Assessment Resolution or at any time thereafter, the Board shall have the power and it is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of bonds of the County for the purpose of paying all or part of the project. The principal of and interest on each series of bonds shall be payable from pledged revenues. At the option of the Board, the County may covenant to budget and appropriate from non-ad valorem revenue sources identified by the County by resolution or from general non-ad valorem revenues of the County an amount necessary to make up any deficiency in the payment of the bonds.

2. **Terms of the Bonds.** The bonds shall be dated, shall bear interest at such rate or rates, shall mature at such times, as may be determined by resolution of the Board, and may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the Board. Said bonds shall mature not later than two years after the last installment in which said Maintenance Assessments may be paid, as provided herein, and shall bear interest at a rate not exceeding the maximum rate provided by law. The bonds may, at

OR BOOK 1248 PAGE 0985

the option of the Board, bear interest at a variable rate. The Board shall determine by resolution the form of the bonds, the manner of executing such bonds, and shall fix the denomination or denominations of such bonds, the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the State of Florida, and such other terms and provisions of the bonds as it deems appropriate. The bonds may be sold at public or private sale for such price or prices as the Board shall determine by resolution. The bonds may be delivered to any contractor for payment for his work or may be sold in such manner and for such price as the Board may determine by resolution to be for the best interests of the County.

3. **Variable Rate Bonds.** The County may, at its option, issue bonds bearing a variable rate of interest, whereupon the interest rate and installment payments applicable to the assessments shall be subject to adjustment as provided by resolution of the Board. In such event, the County may impose on such annual installment payments such rate of interest as shall not exceed the maximum amount permitted as shall be determined on the 15th day prior to the date the Assessment Roll is certified to the Tax Collector. If amounts of interest collected by the County exceed, in the aggregate, the amount of interest that would have been collected if interest was imposed at the maximum rate permitted to be charged on the Assessment as provided herein, the excess amounts shall be credited to the next installment of the Maintenance Assessment, or be returned to the property owners who

paid such amounts, as provided by resolution of the Board. If the amounts of interest collected by the County are less, in the aggregate, than the amount of interest that would have been collected if interest was imposed at the maximum rate permitted to be charged on Assessments as provided herein, such deficiency may be imposed as a surcharge on the next installment.

4. **Temporary Bonds.** Prior to the preparation of definitive bonds of any series, the Board may, under like restrictions, issue interim receipts, interim certificates, or temporary bonds, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The Board may also provide for the replacement of any bonds which shall become mutilated, or be destroyed or lost. Bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this ordinance.

5. **Bond Anticipation Notes.** In anticipation of the sale of bonds, the County may, by resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the bonds, the proceeds of the Maintenance Assessments, the proceeds of the notes and such other legally available monies as the Board deems appropriate. Said notes shall mature within five years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The Board may issue bonds or renewal notes to repay the notes. The proceeds of the bonds and notes, unless otherwise used to refund bonds or notes,

shall be used to pay the costs of the project. The notes shall be issued in the same manner as the bonds.

6. **Negotiable Instruments.** Bonds and notes shall be, and shall be deemed to be, for all purposes, negotiable instruments, subject only to the provisions of the bonds and notes for registration.

7. **Taxing Power not Pledged.** Bonds issued under the provisions of this ordinance shall not be deemed to constitute a pledge of the faith and credit of the County or any Benefit Unit, but such bonds shall be payable only from pledged revenues in the manner provided herein and by the resolution authorizing the bonds. The issuance of bonds under the provisions of this ordinance shall not directly or indirectly obligate the County or any Benefit Unit to levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any such bonds shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the County or any Benefit Unit to pay any such bonds or the interest thereon or to enforce payment of such bonds or the interest thereon against any property of the County or any Benefit Unit, nor shall such bonds constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County or any Benefit Unit, except the pledged revenues.

8. **Security for Bonds.** During any period in which bonds are outstanding, the pledged revenues shall be deemed to be funds held for the benefit of bondholders, to be held and applied

solely as provided in this ordinance and in the resolution authorizing the bonds.

9. **Remedies of Bondholders.** Any holder of bonds, except to the extent the rights herein given may be restricted by the resolution authorizing issuance of the bonds, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the County.

10. **No Referendum Required.** No referendum or election in the County or any Benefit Unit shall be required for the exercise of any of the provisions of this ordinance, unless such referendum or election is required by the Constitution of the State of Florida.

11. **Refunding Bonds.** The County may, by resolution of the Board, issue bonds to refund any bonds issued pursuant to this ordinance and provide for the rights of the holders hereof. Such refunding bonds may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding bonds to be refunded. In the event the principal amount of the refunding bonds shall be greater than the outstanding principal amount of the bonds to be refunded, the Board may increase the non-ad valorem assessments which secure such refunding bonds up to an amount not to exceed the difference between the respective principal amounts of the refunding bonds and

the outstanding refunded bonds, provided notice to the affected property owners is given in accordance with the notice provisions of this ordinance and a public hearing is held by the Board.

SECTION 11. SEVERABILITY. In the event this ordinance conflicts with any other Charlotte County Code or other applicable law, the more restrictive shall apply. If any subsection, sentence, clause, phrase, or portion of these sections is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remainder of the chapter.

SECTION 12. INCLUSION IN THE CHARLOTTE COUNTY CODE. It is the intent of the Board of County Commissioners and it is hereby ordained that the provisions of this ordinance shall become and be made a part of the Code of Laws and Ordinances, Charlotte County, Florida, and the sections of this ordinance may be renumbered to accomplish such intent.

SECTION 13. EFFECTIVE DATE. This ordinance shall take effect upon receipt of the acknowledgment of its filing in the Office of the Secretary of State, State of Florida.

PASSED AND DULY ADOPTED this 5th day of November, 1992.

BOARD OF COUNTY COMMISSIONERS
OF CHARLOTTE COUNTY, FLORIDA

By _____
Jack Lota, Vice-Chairman

ATTEST:
Barbara T. Scott, Clerk of Circuit Court and Ex-officio Clerk to the Board of County Commissioners

By _____
Deputy Clerk

APPROVED AS TO FORM
AND LEGAL SUFFICIENCY:

_____
Wm. Charles L. Jamison
Assistant County Attorney

a:\ord\sgcww
November 2, 1992 mj

FLORIDA DEPARTMENT OF STATE
Jim Smith
Secretary of State
DIVISION OF ELECTIONS
Room 2002, The Capitol, Tallahassee, Florida 32399-0250
(904) 488-8427

November 16, 1992

Honorable Barbara T. Scott
Clerk of the Circuit Court
Charlotte County Courthouse
Post Office Box 1687
Punta Gorda, Florida 33951-1687

Attention: Linda Angelo, Deputy Clerk

Dear Ms. Scott:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge your letter of November 16, 1992 and certified copy of Charlotte County Ordinance No. 92-101, which was filed in this office on November 16, 1992.

Sincerely,

Liz Cloud

Liz Cloud, Chief
Bureau of Administrative Code

LC/mb