

**ORDINANCE NO. 23 -**

**AN ORDINANCE CREATING THE CENTRAL INWOOD STREET LIGHTING MUNICIPAL SERVICE BENEFIT UNIT (MSBU); PROVIDING FOR DEFINITIONS; PROVIDING FOR FINDINGS; PROVIDING FOR THE CREATION OF THE MSBU; DESCRIBING THE LEGAL BOUNDARIES OF THE MSBU; SPECIFYING LIGHTING SERVICES TO BE PROVIDED; PROVIDING A MEANS FOR ASSESSMENT AND COLLECTION OF SPECIAL ASSESSMENTS FOR THE MSBU; PROVIDING FOR ADJUSTMENT OF THE LIGHTING SERVICES AND ASSESSMENTS; PROVIDING FOR LIENS UPON LANDS IN THE MSBU; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS** pursuant to Article VIII, Section 1 of the Constitution of the State of Florida and Chapter 125, Florida Statutes, the Board of County Commissioners of Polk County, Florida (hereinafter sometimes called the "County"), has all the power of local government to perform county functions and to render county services in a manner not inconsistent with general or special law and such power may be exercised by the enactment of county ordinances; and

**WHEREAS** Florida Statutes 125.01(q) allows the County to establish municipal service benefit units; and

**WHEREAS** it is consistent with the Florida Supreme Court case of City of Winter Springs v. State, 776 So. 2d 255 (Fla. 2001), that street lighting provides a special benefit to property by enhancing the aesthetics, safety, value and the use and enjoyment of property; and

**WHEREAS** approximately 71 streetlights shall be initially installed within the MSBU; and

**WHEREAS** a lighted area enhances the aesthetics, value, use and enjoyment of the properties within the MSBU; and

**WHEREAS** it is consistent with City of Winter Springs v. State that the benefit received by non-MSBU residents en route to other parts of the county is incidental to the benefits received by the properties within the MSBU; and

**WHEREAS**, the estimated Capital Improvement Costs for the MSBU is \$33,500; and

**WHEREAS**, the Capital Improvement Costs will be collected over a 10-year period;

and

**WHEREAS**, this Ordinance provides that after the first ten years the assessment for the Amortized Capital Improvement Costs for the MSBU will no longer be imposed.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF POLK COUNTY, FLORIDA:**

**SECTION 1. SHORT TITLE.** This Ordinance shall be identified by and may be cited as the “Central Inwood Street Lighting MSBU Ordinance.”

**SECTION 2. DEFINITIONS.** For the purpose of this Ordinance, the definitions contained in this Section shall apply unless otherwise specifically stated. When not inconsistent with the context, words used in the present tense include the future, words in the plural include the singular, and words in the singular include the plural. Use of the masculine gender shall include the feminine gender and vice versa. The word “shall” is always mandatory and not merely discretionary. The word “may” is discretionary.

A. **“Addendum to Annual Assessment Roll”** or the word **“Addendum”** shall mean the list confirmed by the Board containing the same information as the Annual Assessment Roll for Parcels not incorporated on the corresponding Annual Assessment Roll confirmed for such Fiscal Year because of error or omission or incorporating any changes in the information specified for any Parcel of Assessed Property on the corresponding Assessment Roll.

B. **“Amortized Capital Improvement Costs”** shall mean the amount of the Capital Improvement Costs amortized over a ten (10) year period.

C. **“Annual Assessment Roll”** shall mean a list confirmed by the Board each Fiscal Year of all Parcels of Assessed Property in the County within the boundaries of the MSBU containing the following information: **(1)** a summary description of each Parcel conforming to the description contained on the Tax Roll; **(2)** the name and address of the Owner of each Parcel as reflected on the Tax Roll; and **(3)** the Assessment imposed on each Parcel as established in by resolution of the Board.

D. **"Annual Street Lighting Assessment Resolution"** shall mean the resolution adopted by the Board levying an Assessment for a specific Fiscal Year.

E. **"Assessed Property"** shall mean such Parcels as may be designated by the Board on the Annual Assessment Roll against which the Assessment is imposed.

F. **"Assessment"** shall mean the annual special assessment imposed upon a Parcel of real property in the MSBU to reimburse the County for the Amortized Capital Improvement Costs and the Operating Costs.

G. **"Assessment Date"** shall mean October 1 of each year, or such other date as may be designated by the Board, which date shall constitute the date on which the Assessment is imposed as a lien against Assessed Property listed on the Annual Assessment Roll or on the Addendum, if any.

H. **"Board"** shall mean the Board of County Commissioners of Polk County, Florida.

I. **"Capital Improvement Costs"** shall mean all costs incurred by the County for the tree trimming and other costs necessary for the installation and maintenance of streetlights and poles within the MSBU.

J. **"Clerk"** shall mean the Clerk to the Board.

K. **"County"** shall mean Polk County, Florida.

L. **"County Manager"** shall mean the chief administrative officer of the County appointed by the Board, or his/her designee.

M. **"Developed Property"** shall mean real property within the County on which improvements have been made to foster residential or non-residential use.

N. **"Division"** shall mean the Polk County Real Estate Services Unit, its successor or other division designated by the County Manager to carry out the provisions of this Ordinance.

O. **"Equivalent Residential Unit ("ERU")"** shall mean the standardized unit to express the average size of a single-family structure located in the MSBU.

P. **"Fiscal Year"** shall mean that period beginning on the first day of October of each year and ending on the thirtieth day of September of the subsequent year.

Q. **"Government Property"** shall mean property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

R. **"MSBU"** shall mean the Central Inwood Street Lighting Municipal Service Benefit Unit as created by this Ordinance to consist of the of real property located in the area described in Exhibit "A" and depicted in Exhibit "B".

S. **"Multi-family Property"** shall mean all residential development not classified as Single-family Property.

T. **"Non-residential Property"** shall mean all Developed Property not used as a Single-family Property or Multi-family Property as defined in this Ordinance.

U. **"Operating Costs"** shall mean all costs incurred by the County for continuance operation and maintenance of the streetlights installed within the MSBU including, without limitation, electric and maintenance charges from the electric provider, all costs associated with the structure, implementation, collection, and enforcement of the Assessments, including any service charges of the Clerk, Tax Collector, or Property Appraiser, consultant and study costs, other administrative costs, amounts necessary to off-set discounts received for early payment of the Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Assessments.

V. **"Parcel"** shall mean any tract of land as on record with the Property Appraiser which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

W. **"Property Appraiser"** shall mean the Property Appraiser of Polk County, Florida.

X. **"Single-family Property"** shall mean all single-family detached residential dwelling structures. All other residential development shall be classified as Multi-family Property.

Y. **"Tax Collector"** shall mean the Tax Collector of Polk County, Florida.

Z. **"Tax Roll"** shall mean the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

AA. **"Undeveloped Property"** shall mean all real property which does not meet the definition of Developed Property.

BB. **"Uniform Assessment Collection Act"** shall mean 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, and any applicable regulations promulgated thereunder.

### **SECTION 3. FINDINGS.**

- A. Recitals stated above are hereby incorporated herein and made part hereof.
- B. The streetlights being placed within the MSBU serve a public purpose.
- C. The properties within the MSBU receive special benefits from the streetlights placed within the MSBU which includes, without limitation, enhance aesthetics, value, safety and use and enjoyment of the properties within the MSBU.
- D. The imposition and levy of an Assessment is the most equitable and efficient method of allocating and apportioning the Capital Improvement Costs and Operating Costs of the streetlights within the MSBU.
- E. The Assessment imposed under this Ordinance is a non-ad valorem assessment within the meaning and intent of Section 197.3632, Florida Statutes, or its successor in function.
- F. The average single-family structure within the MSBU is 1,423 square feet.
- G. It is the intent of the Board that the non-ad valorem assessment for the Capital Improvement Costs for the streetlights within the MSBU shall be amortized over a period of ten (10) years and shall be collected pursuant to the Uniform Assessment Collection Act for a period of ten (10) years with intent to begin with the 2024 tax bill. The failure to collect the Assessment starting with the 2024 tax bill or for ten (10) consecutive years shall not invalidate the Assessments and the time period shall be adjusted accordingly.
- H. The Tax Collector shall receive a collection fee for the administrative costs associated with the MSBU, as allowed under Chapter 197, Florida Statutes.

**SECTION 4. CREATION OF THE MSBU AND LEGAL BOUNDARIES OF MSBU.**

Pursuant to Chapter 125, Florida Statutes, there is hereby established the Central Inwood Street Lighting Municipal Service Benefit Unit. The MSBU shall consist of real property located within the area described in "Exhibit A" which is depicted on the attached "Exhibit B", an Assessment Area Map.

**SECTION 5: LIGHTING SERVICES.** The MSBU shall consist of the approximately 71 streetlights within the MSBU with the necessary poles which have been or will be installed, operated and maintained by TECO. The number and types of streetlights installed in the MSBU may be adjusted upon approval of the County Manager without amending this Ordinance. The Assessment shall be adjusted in accordance with Section 6.

**SECTION 6: MEANS FOR ASSESSMENT AND COLLECTION**

A. **Method of apportionment.** Apportioning the Operating Costs and the Amortized Capital Improvement Costs based on ERU is fair and reasonable method. Property within the MSBU shall be categorized as follow:

- i. Single-family Property: Single-family Property shall be considered 1 ERU.
- ii. Undeveloped Property: Undeveloped Property shall be considered 1 ERU
- iii. Multi-family Property: The ERU for Multi-family Property shall be calculated in accordance with the following formula:
  - i. Number of ERUs=total square footage of structures/ 1,423.
- iv. Non-residential Property: The ERU for Non-residential Property shall be calculated in accordance with the following formula:
  - i. Number of ERUs=total square footage of structures/ 1,423.

**B. Apportionment Methodology for the First Ten (10) Years.** For the first ten years, the Assessment to be levied each year against all Assessment Property located within the MSBU shall be the total Operating Costs along with the Amortized Capital Improvement Costs. The Assessments shall be levied on an ERU basis upon each Parcel as shown on the Tax Roll, including homesteads, and shall be computed by dividing the sum of the Operating Costs and the Amortized Capital Improvement Costs by the total number of ERU's within the MSBU. It is hereby ascertained, determined and declared that the street lighting provided in Section 5 of this Ordinance provides a special benefit to each Parcel within the MSBU and that the apportionment of the cost of operation for the MSBU in accordance with this Section 6 of this Ordinance on an ERU basis is fair and reasonable. Nothing herein shall prevent the County to collect additional Operating Costs incurred after the expiration of the first ten years. Such Operating Costs may be collected as determined by the Board through the adoption of an Annual Street Lighting Assessment Resolution.

**C. Apportionment Methodology after the First Ten (10) Years.** After the first ten years the Assessment to be levied each year all Assessment Property located within the MSBU shall be the total Operating Costs and any Capital Improvement Costs not collected in the first ten years. The Assessments shall be levied on an ERU basis upon each Parcel as shown on the Tax Roll, including homesteads, and shall be computed by dividing the sum of Operating Costs and any unpaid Capital Improvement Costs, as may be amortized by the Board, by the total number of ERU's within the MSBU. It is hereby ascertained, determined and declared that the street lighting provided in Section 5 of this Ordinance provides a special benefit to each Parcel within the MSBU and that the apportionment of the cost of operation for the MSBU in accordance with this Section 6 of this Ordinance on an ERU basis is fair and reasonable.

**D. The Estimated Initial Assessment.** The initial total estimated Amortized Capital Improvement Costs and Operation Costs is \$42,509 per year. However, this amount may vary according to duly authorized rate modifications. The initial assessment will not exceed \$71.34 per ERU. Each year after the initial assessment period, the Board

of County Commissioners, through the adoption of an Annual Street Lighting Assessment Resolution, shall determine the Assessment required for the following fiscal year, according to the procedure set forth in this Section 6.

**E. Adoption of Assessment Roll.** An Annual Assessment Roll setting forth description of each Parcel as shown on the Property Appraiser's tax roll subject to an Assessment in the MSBU as provided by this Ordinance, including homesteads, shall be prepared by the Division. The foregoing shall not be construed to require that the Annual Assessment Roll to be in printed form if the amount of the Assessment can be determined by the use of a computer terminal available to the public. Thereupon the Board of County Commissioners shall adopt an Annual Street Lighting Assessment Resolution to levy an Assessment upon all Parcels subject to an Assessment under this Ordinance within the MSBU, including homesteads, to provide such funds as are necessary for the Operation Costs of the MSBU for the ensuing fiscal year and the payment of the Amortized Capital Improvement Costs or any other unpaid Capital Improvement Costs.

**F. Method of Collection.** Unless otherwise directed by the Board, the Assessment will be collected using the annual tax bill in accordance with the Uniform Assessment Collection Act.

**G. Alternate Method Collection.** The Board may authorize an alternate method of collection of the Assessment by resolution of the Board.

**H. Revisions of Annual Assessment Roll.** The Board shall have the authority to revise and amend the Annual Assessment Roll upon a determination that amendment or revision of the established Assessments or charges is appropriate and necessary. The Annual Assessment Roll may be amended and revised at any public hearing required by law to adopt the County budget or at any other special or regular meeting of the Board. In the event such revision or amendment increases the Assessment, the revision or amendment of the Annual Assessment Roll shall become effective only if confirmed by the Board at a public hearing; the notice of such public hearing in the event of such revision shall be only required to be published once at least five (5) days prior to the public hearing, excluding Sundays and legal holidays established



by Florida law.

**I. Adoption of Addendum.**

- i. The Board may adopt an Addendum to the Annual Assessment Roll at any regular or special meeting in the event the Board determines: (1) that Parcels of real property were not included on the Annual Assessment Roll because of error or omission; (2) that the Annual Assessment Roll should be amended or revised or (3) that the legal description of any Parcel has been altered on the Tax Roll from that reflected on the adopted Annual Assessment Roll. The Addendum shall supplement the Annual Assessment Roll by incorporating any omitted or altered Parcels or by revising the Annual Assessment Roll.
- ii. Notwithstanding any other provision of this Ordinance, the Addendum may be adopted at any regular or special meeting of the Board without the necessity of a public hearing to (1) incorporate omitted Parcels or Parcel alterations or (2) to reduce the Assessment imposed on any Parcel.
- iii. Upon adoption, the Addendum shall be certified by the Chairman or the Chairman's designee in a compatible electronic medium no later than September 15<sup>th</sup> of each year to the Tax Collector for collection, unless a subsequent date is approved by the Tax Collector.

**J. Correction of Errors and Omissions.** No act of error or omission on the part of the Property Appraiser, Tax Collector, County Manager, Clerk, Board or their deputies or employees, shall operate to release or discharge the obligation of the owner of a Parcel in the MSBU from payment of the Assessment imposed and levied by the Board pursuant to 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 Assessment imposed and levied pursuant to this Ordinance.

K. **Effect of an Annual Street Lighting Assessment Resolution.** The adoption of an Annual Street Lighting Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the Annual Assessment Roll and the levy and lien of the Assessments, unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Board adoption of the Annual Street Lighting Assessment Resolution. The Assessments for each Fiscal Year shall be established upon adoption of the Annual Street Lighting Assessment Resolution. The Annual Assessment Roll, as approved by the Annual Street Lighting Assessment Resolution shall be delivered to the Tax Collector, or such other official as the Board deems appropriate.

**SECTION 7: EXEMPT PROPERTY.** No Assessment shall be imposed upon Government Property; *provided, however*, any Government Property that is owned by federal mortgage entities, including, without limitation, the VA or HUD, shall not be exempted from the Assessment. In addition, the Board may provide for exemptions through the adoption of an Annual Street Lighting Assessment Roll. Any shortfall in the expected Assessment proceeds due to any exemption from the payment of the Assessment required by this Ordinance, law, or authorized by the Board shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Assessment.

**SECTION 8: LIENS LEVIED AGAINST ASSESSED PROPERTY.** Upon adoption of the Annual Assessment Roll levying assessments within the MSBU, the assessments shall constitute a lien against the Assessed Property equal in rank and dignity with the liens of all state, county, MSBU 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. The lien shall be deemed perfected upon

adoption by the Board of the annual assessments and shall attach to the property as of the prior January 1, the lien date for ad valorem taxes.

**SECTION 9: EFFECTIVE DATE.** This Ordinance shall become effective upon receipt of the official acknowledgment from the Office of the Secretary of State of Florida that this Ordinance has been filed with said office.

Exhibit "A"  
(Legal Description of MSBU)

Project Name: Inwood Street Lighting District Quadrant 4

Project Number: 8524E23-1

**DESCRIPTION**

A parcel of land being a portion of Section 24, Township 28 South, Range 25 East, and a portion of Section 19, Township 28 South, Range 26 East, all in Polk County, Florida, being more particularly described as follows:

**Commence** at the southwest corner of the Northeast 1/4 of said Section 24, thence North along the west line of said Northeast 1/4, a distance of 160.00 feet to the **POINT OF BEGINNING**; thence continue North, along said west line, to the centerline of Avenue "O" Northwest; thence easterly, along said centerline of Avenue "O" N.W., to the East right-of-way line of Lake Cannon Drive West; thence southerly, along said East right-of-way line, to the easterly extension of the North line of Lot 183, INWOOD UNIT NO. 1, as recorded in Plat Book 8, Pages 40A, 40B, and 40C, Public Records of Polk County, Florida; thence easterly, along said easterly extension, to the waters edge of Lake Cannon; thence southerly, along said waters edge; to the south line of Lot 167 of said INWOOD UNIT NO. 1; thence southwesterly, along said south line, to said east right-of-way of Lake Cannon Drive West; thence northerly, along said east right-of-way line, to its intersection with the easterly extension of the centerline of Avenue "J" N.W.; thence westerly, along said centerline, and its westerly extension, to the centerline of Avenue "K" N.W.; thence continue westerly, along the centerlines of Avenue "K" N.W., and Woodhill Road, to said west line of the Northeast 1/4 of Section 24, and the **POINT OF BEGINNING**.

Exhibit "B"  
(Assessment Area Map)

[attached hereto]



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