

RESOLUTION NO. R2015 - 89

A RESOLUTION OF THE VILLAGE COUNCIL FOR THE VILLAGE OF WELLINGTON AUTHORIZING THE SADDLE TRAIL PARK (SOUTH) NEIGHBORHOOD IMPROVEMENT PROJECT; EQUALIZING, APPROVING, CONFIRMING, IMPOSING AND LEVYING CERTAIN NON-AD VALOREM SPECIAL ASSESSMENTS ON THE REAL PROPERTY SPECIALLY BENEFITTED BY SUCH IMPROVEMENT PROJECT TO PAY THE COST THEREOF; PROVIDING FOR THE PAYMENT AND COLLECTION OF SUCH SPECIAL ASSESSMENTS BY THE METHODS PROVIDED FOR HEREIN AND PURSUANT TO CHAPTER SECTION 3, AS AMENDED, OF THE VILLAGE OF WELLINGTON'S CODE OF ORDINANCES AND APPLICABLE PROVISIONS OF CHAPTERS 170 AND 197, FLORIDA STATUTES; PROVIDING FOR SEVERABILITY, CONFLICTS AND AN EFFECTIVE DATE

NOW THEREFORE, BE IT RESOLVED by the Village Council for the Village of Wellington as follows:

SECTION 1. AUTHORITY FOR THIS RESOLUTION. This Resolution is adopted pursuant to Chapter 3, as amended, of the Code of Ordinances for the Village of Wellington and applicable provisions of Chapters 170 and 197, Florida Statutes.

SECTION 2. FINDINGS, ASCERTAINMENTS AND DETERMINATIONS. The Village Council (the "Village Council") for the Village of Wellington hereby finds and determines as follows:

- (1) The Village of Wellington is a municipal corporation of the State of Florida that is organized and validly existing under and pursuant to its Charter;
- (2) The Village of Wellington is authorized to finance, fund, plan, design, establish, acquire, construct and reconstruct, enlarge or extend, equip, operate, and maintain those various public improvements, systems, facilities and services, together with their associated and related infrastructure, as so identified and described in Resolution R2015-70 (together the "Improvement Project") to benefit and serve the also therein specified and benefitted lands lying within the Village of Wellington;
- (3) The Village of Wellington has the power to levy non-ad valorem special assessments to pay all or any part of the cost of the Improvement Project;
- (4) The Village of Wellington is hereby authorized to provide the Improvement Project, the nature and location of which is identified in its Resolution No. R2015-70 and the plans and specifications on file in the offices of the Clerk of the Village of Wellington located within the Wellington Municipal Office Building at

12300 W. Forest Hill Blvd., Wellington, FL 33414 and to pay the cost of the Improvement Project by levying non-ad valorem assessments upon the lands specially benefitted (the "Assessable Property") by such Improvement Project;

- (5) The provision of the Improvement Project and the levying of such non-ad valorem special assessments upon the Assessable Property serves a proper, essential and valid public purpose;
- (6) By Resolution No. R2015-70, the Village Council determined that it would provide the Improvement Project and defray the cost thereof by levying non-ad valorem special assessments on the Assessable Property. Resolution No. R2015-70 was adopted in compliance with Chapter 3, as amended, of the Village of Wellington's Code of Ordinances and Section 170.03, Florida Statutes, and prior to the time said Resolution was adopted, the requirements of Section 170.04, Florida Statutes had been complied with;
- (7) As directed by Resolution No. R2015-70, said Resolution was published pursuant to Section 170.05, Florida Statutes, and a copy of the publisher's affidavit of publication is on file in the office of the Clerk of the Village of Wellington;
- (8) As directed by Resolution No. R2015-70, a preliminary assessment roll was prepared as required by Section 170.06, Florida Statutes;
- (9) In accordance with Section 170.07, Florida Statutes, and based upon completion of the preliminary assessment roll, the Village Council adopted Resolution No. R2015-71 which fixed a time and place for a public hearing at which owners of the Assessable Property and other persons interested therein may appear before the Village Council and be heard as to: (i) the propriety and advisability of implementing the Improvement Project; (ii) the cost thereof; (iii) the manner of payment therefore; (iv) the assessment methodology; and (v) the amount to be assessed against each lot and parcel of Assessable Property. Said Resolution further provided for the mailing of Notice to the owners of the Assessable Property by U.S. Mail and the publication of a Notice of said public hearing;
- (10) Notice of the aforesaid public hearing has been given by publication and by U. S. Mail as required by Section 170.07, Florida Statutes, and affidavits as to such publication and mailing are on file in the office of the Clerk of the Village of Wellington;
- (11) At the time and place specified in Resolution No. R2015-71 and the notice and mailings referred to in above subparagraphs 9 and 10, the Village Council met for the Public Hearing and as an "Equalization Board", conducted such public hearing and heard and considered all comments, complaints, answers to questions and information as to the matters described in subparagraph 9 above, and based thereon, made modifications to the preliminary assessment roll as it deemed desirable, with said preliminary assessment roll being affixed hereto, identified as

Exhibit “A” and hereinafter referred to as the Preliminary Assessment Roll;

- (12) Having considered the estimated cost of the Improvement Project, the estimate of associated financing and construction costs, the assessment methodology, and the comments, information, answers to questions and evidence presented at the public hearing referred to in above subparagraph 11, the Village Council specifically finds, ascertains and determines as follows:
- (a) the estimated cost of the financing and construction of the Improvement Project is as specified in the Assessment Methodology Report identified in Resolution No. R2015-70 (the “Assessment Methodology Report”) and the amount of such estimated cost is reasonable and proper;
 - (b) it is reasonable, proper, just and right to assess the cost of the Improvement Project against the Assessable Property specially benefitted thereby, using the method determined by the Village Council, which will result in non-ad valorem special assessments to be levied as set forth in the Preliminary Assessment Roll and herein adopted by the Village Council;
 - (c) the Improvement Project will constitute and result in special benefits peculiar to all lots and parcels of the Assessable Property listed on Preliminary Assessment Roll, since there is a logical relationship between the improvements, services and works comprising the Improvement Project and the Assessable Property itself, different in kind and degree than any general or community benefit, and that the amount of such special and peculiar benefit, and that the amount of such special and peculiar benefit, in the case of each such lot or parcel of Assessable Property will be in excess of the amount of the non-ad valorem special assessment to be levied thereon and that the sum of the special benefits determined for all of the lots will be in excess of the cost of the Improvement Project;
 - (d) the duty to pay such non-ad valorem special assessments is apportioned fairly and reasonably; and
 - (e) it is desirable that the non-ad valorem special assessments be paid and collected as herein provided.

SECTION 3. AUTHORIZATION OF THE IMPROVEMENT PROJECT. The Improvement Project described in Resolution No. R2015-70 and the plans and specifications on file in the office of the Clerk of the Village of Wellington is hereby authorized, and approved and in furtherance thereof the proper officers, employees, consultants and agents of the Village of Wellington are hereby authorized and directed to take such further action as may be necessary or desirable to cause the same to be made.

SECTION 4. ESTIMATED COST OF IMPROVEMENTS. The total estimated cost of the Improvement Project and that portion of such cost to be paid through the levy of non-ad valorem special assessments on the Assessable Property is as set forth in the Assessment Methodology Report.

SECTION 5. APPROVAL AND CONFIRMATION OF ASSESSMENT METHODOLOGY. The non-ad valorem special assessment methodology set forth in the Preliminary Assessment Roll and on file with the Clerk of the Village of Wellington together with the findings, ascertainments and determinations of Section 2 above are hereby approved and confirmed. The non-ad valorem special assessments against each lot or parcel of Assessable Property shown on such Preliminary Assessment Roll, including interest and penalties, if any, thereon and, as hereafter provided, shall be and shall remain a legal, valid and binding first lien on the Assessable Property and of equal priority as county, district, municipal or other governmental ad valorem taxes and superior in dignity to all other liens, titles and claims as provided in Chapter 3, as amended, of the Village of Wellington's Code of Ordinances and applicable Chapters 170 and 197, Florida Statutes.

SECTION 6. FINALIZATION OF NON-AD VALOREM SPECIAL ASSESSMENTS. When the Improvement Project has been constructed or otherwise provided for to the satisfaction of the Village Council, the Village Council shall adopt a resolution accepting the same and determining the actual costs (including financing costs) thereof, pursuant to its Code of Ordinances and Sections 170.08 and 170.09, Florida Statutes. The Village Council shall credit to each non-ad valorem special assessment for the Improvement Project, the difference, if any, between the non-ad valorem special assessments as were originally made, approved and confirmed and the proportionate part of the actual costs of the Improvement Project, as finally determined upon completion and its acceptance by the Village Council; but, in no event shall the final amount of any such non-ad valorem special assessments exceed the amount of benefits originally fixed, determined, ascertained, levied, imposed and assessed hereunder. Subject to the foregoing, such non-ad valorem special assessments shall be recorded by the Clerk in the "Improvement Lien Book." Once the final amount of the non-ad valorem special assessments for the Improvement Project has been determined, the terms "special assessment", "non-ad valorem assessment" or "non-ad valorem special assessment" shall, with respect to each lot or parcel of Assessable Property mean said lot or parcel's allocable share of the sum of the costs of the actual Improvement Project.

SECTION 7. PAYMENT OF NON-AD VALOREM SPECIAL ASSESSMENTS AND METHOD OF COLLECTION.

- (1) The non-ad valorem special assessments shall be payable in not less than 15 and not more than 20 yearly installments, with the number of installments to be determined by resolution of the Village Council adopted prior to the levy of the first installment and with the first installment levied following the earlier of (i) the issuance by the Village of Wellington of bonds to finance the Improvement Project (the "Bonds") or (ii) completion of the Improvement Project. The special assessments shall bear interest at the same rate of interest borne by the Bonds, commencing on the date on which the Bonds are issued. Notwithstanding the

provisions of Section 170.09, Florida Statutes, pursuant to the authority of Sections 170.11 and 166.021, Florida Statutes, Chapter Section 3, as amended, of the Code of Ordinances for the Village of Wellington and Article VIII, Section 2(b) of the Constitution of Florida, the Village Council determines that (i) the annual installments of the special assessments shall be in such amounts as shall provide available proceeds to pay the debt service on the Bonds as the same comes due and (ii) the special assessments may not be prepaid after the earliest of (a) the date on which the Bonds are issued, (b) the date the Village of Wellington enters into a contract for the sale of the Bonds to an underwriter which sets for the amount of the Bonds to be issued and the closing date and (c) the last date for prepayment specified in a notice mailed by the Village of Wellington to the property's owners not less than thirty days prior to such last date for prepayment.

- (2) The Village of Wellington shall levy the non-ad valorem assessments, and evidence and certify the same to the Tax Collector or shall cause the Property Appraiser to certify the same on the tax roll to the Tax Collector for collection by the Tax Collector and enforcement by the Tax Collector pursuant to the Chapter 197, Florida Statutes or if necessary, by the Village of Wellington pursuant to Chapter 170, Florida Statutes or any successor statutes, as applicable, to the extent and in an amount sufficient to pay the debt service when due on any bonds or notes issued to fund construction of the Improvement Project.
- (3) If any non-ad valorem assessment shall be either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Village of Wellington shall be satisfied that any such non-ad valorem assessment is so irregular or defective that the same cannot be enforced or collected, or if the Village of Wellington shall have omitted to make such non-ad valorem assessment when it might have done so, the Village of Wellington shall (i) take all necessary steps to cause a new non-ad valorem assessment to be made, or (ii) in its sole discretion, make up the amount of such non-ad valorem assessment from any legally available moneys. In case such new non-ad valorem assessment shall be annulled, the Village of Wellington shall thereupon obtain and make other non-ad valorem assessments until a valid non-ad valorem assessment shall be made.
- (4) As authorized by Chapter 3, as amended, of the Village of Wellington's Code of Ordinances and Section 197.3631, Florida Statutes, the Village of Wellington hereby elects at this time to use the method of collecting special assessments authorized by Sections 197.3632 and 197.3635, Florida Statutes. The Village of Wellington has heretofore timely taken, or will timely take, all necessary actions to comply with the provisions of said Sections 197.3632 and 197.3635, Florida Statutes, and applicable rules adopted pursuant thereto. In furtherance thereof, the Village of Wellington, if it has not done so previously, shall enter into and maintain in effect one or more written agreements with the Property Appraiser and the Tax Collector, either individually or jointly (together, the "Property Appraiser and Tax Collector Agreement") in order to effectuate the provisions of

this subsection. The Village of Wellington shall use its best efforts to ensure that any such Property Appraiser and Tax Collector Agreement remains in effect for at least as long as there are any outstanding bonds or notes that were issued for construction of the Improvement Project. Such non-ad valorem special assessments shall be subject to all of the collection provisions of chapter 197, Florida Statutes and applicable rules of the State of Florida.

- (5) Notwithstanding the foregoing, the Village of Wellington reserves the right under Chapter 3, as amended, of the Village of Wellington's Code of Ordinances and Section 197.3631, Florida Statutes, to collect its non-ad valorem special assessments pursuant to its Code of Ordinance or as authorized in Chapter 170, Florida Statutes, and to foreclose such non-ad valorem special assessment liens as provided for by law.

SECTION 8. SEVERABILITY. If any Section or part of a Section of this Resolution is declared invalid or unconstitutional by a court of competent jurisdiction, the validity, force and effect of any other Section or part of a Section of this Resolution shall not thereby be affected or impaired unless it clearly appears that such other Section or part of a Section of this Resolution is wholly or necessarily dependent upon the Section or part of a Section so held to be invalid or unconstitutional.

SECTION 9. CONFLICTS. All resolutions or parts thereof in conflict herewith are to the extent of such conflict hereby superseded, amended or repealed as the circumstances may require.

SECTION 10. EFFECTIVE DATE. This Resolution shall become effective immediately upon its adoption.

PASSED AND ADOPTED this ____ day of _____, 2015.

ATTEST:

VILLAGE OF WELLINGTON

By: _____
Awilda Rodriguez, Clerk

By: _____
Bob Margolis, Mayor

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

By: _____
Laurie Cohen, Village Attorney