

**LOXAHATCHEE GROVES WATER CONTROL DISTRICT  
RESOLUTION NO. 2023-DD03**

**A RESOLUTION OF THE BOARD OF SUPERVISORS OF THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT, A DEPENDENT DISTRICT OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA, RELATING TO THE PROVISION OF DISTRICT SERVICES, INCLUDING WATER CONTROL MAINTENANCE AND REPAIR OF DRAINAGE AND ROADWAYS WITHIN THE GEOGRAPHICAL BOUNDARIES OF THE DISTRICT; ESTABLISHING THE ESTIMATED ASSESSMENT RATE FOR DISTRICT SPECIAL ASSESSMENTS FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2023; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the Loxahatchee Groves Water Control District (“District”), a former Independent Special District, has become a Dependent District of the Town of Loxahatchee Groves; and

**WHEREAS**, the District has been authorized by the Florida Statutes to construct, improve, manage and maintain water control and drainage facilities, and by the Florida Legislature to construct, improve, maintain and repair roadways, within the geographical boundaries of the District; and

**WHEREAS**, the District is authorized to impose non-ad valorem special assessments pursuant to section 189.05, Florida Statutes, and the Special Act; and

**WHEREAS**, it is fair and reasonable to impose a non-ad valorem special assessment upon specially benefited property to fund the costs of the District Services; and

**WHEREAS**, the Board of Supervisors determines that such operations, repairs and maintenance of the District works are uniformly required within all Units of the District and properties receiving District Services, as each is connected and receive equal benefit through the operations and maintenance of the District’s Services; and

**WHEREAS**, the Board of Supervisors for the District finds that there are 7,801.48 Assessable Units (acres) that receive the benefits of District and being assessed for such services through this Resolution; and

**WHEREAS**, the Board of Supervisors finds it in the best interest of the landowners and the District to levy and collect the special assessment to fund District Services.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF SUPERVISORS OF THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT, THAT:**

**SECTION 1.** The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true and correct and are hereby made a specific part of this Resolution.

**SECTION 2. AUTHORITY.** This Resolution is adopted pursuant to the provisions of Chapter 2018-175, Laws of Florida, (the "Special Act"), Chapters 99-425 and 2004-410, Laws of Florida, which by virtue of the approval of the dependency referendum on June 25, 2018, became ordinances of the Town, Chapters 189 and 298, Florida Statutes, and other applicable provisions of law.

**SECTION 3. PURPOSE AND DEFINITIONS.**

- (a) Purpose. This Resolution constitutes the Preliminary Rate Resolution which initiates the annual process for imposing the annual special assessments, as authorized Chapter 189, Florida Statutes, creates the Assessment Roll and directs the imposition of Loxahatchee Groves Water Control District Special Assessments for the Fiscal Year beginning October 1, 2022.
- (b) Definitions. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Special Act and Chapters 189 and 197, Florida Statutes. Unless the context indicates otherwise, words imparting the singular number include the plural number, and vice versa.
  - 1. *Assessed Costs* shall include all costs of providing District Services to and for Assessed Properties that receive benefits from District Services, including water control and drainage services, and as well as road construction, improvement, repair and maintenance services associated with the District's responsibilities of providing water control and drainage services to Assessed Properties within the Town. These costs shall include, but not be limited to, the following components: (A) the cost of physical construction, reconstruction, or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands

and interest therein, leases, property rights, easements, and franchises of any nature whatsoever, (G) the cost of any indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the District, or the Town as authorized by the Interlocal Agreement between the Town and District, to provide District Services; (M) all costs associated with the structure, implementation, collection, and enforcement of the special assessment, including any service charges of the Tax Collector, or Property Appraiser and amounts necessary to off-set discounts received for early payment of special assessment pursuant to the Uniform Assessment Collection Act and Florida law; (N) all other costs and expenses necessary or incidental to the provision of District Service or construction of District facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the District Board of Supervisors by subsequent resolution; (O) a reasonable amount for contingency and anticipated delinquencies and uncollectible special assessments; and (P) reimbursement to the Town or any other Person for any moneys advanced for any costs incurred by the Town or such Person in connection with any of the foregoing components of Assessed Cost or the provision of District Services.

2. *Assessed Properties* shall mean all properties that are provided a special benefit by the District's provision of District Services.
3. *District Services* are all services (including those items described above in the definition of Assessed Costs) provided by the District relating to water control and drainage services, and road construction, improvement, repair and maintenance services associated with the District's responsibilities.

#### **SECTION 4. PROVISION AND FUNDING OF THE DISTRICT'S WATER MANAGEMENT SYSTEM.**

- (a) Upon the imposition of District Special Assessment, the District shall provide District Services to such Assessed Property.

- (b) It is hereby ascertained, determined and declared that each Assessed Property will be benefited by the District's provision of District Services in an amount not less than the special assessment imposed upon such Assessed Properties, computed in the manner set forth herein.

## **SECTION 5. IMPOSITION AND COMPUTATION OF WATER MANAGEMENT**

**SYSTEM ASSESSMENTS.** The special assessment for District Services shall be imposed upon all Assessable Units that receive District Services.

## **SECTION 6. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT, FAIR APPORTIONMENT, AND PARCEL APPORTIONMENT METHODOLOGIES.**

- (a) Special Benefit: The District is authorized to levy and collect the special assessment pursuant to the Special Act, Town Ordinances and Chapters 189 and 298, Florida Statutes. Assessed Properties are benefitted by the provision of District Services:

1. Water control and drainage services enable the use of lands, including the development thereof;
2. The unique nature of the roads and water control and drainage facilities, including the canal networks, has resulted in an interconnection of the two types of facilities, such that the proper repair and maintenance of one directly affects the use and functionality of the other. Roadway drainage facilities, including culverts, must be so constructed, improved, repaired and maintained so as not to damage or threaten the integrity of the water control system, including the canals. The canals and related drainage facilities must be so constructed, improved, repaired and maintained so as not to damage or threaten the integrity of the roadways, including avoidance of washouts and roadway collapses, which affects the usability and safety of roadways and impairs access to Assessed Properties.
3. The importance of roadway construction, improvement maintenance and repair to the ability of the District to provide water control and drainage services was recognized by the Florida Legislature in 1999, as evidenced by Chapter 99-425, Florida Statutes, which expressly provided the power to the previously independent water control district "to maintain roadways and roads necessary and convenient for the exercise of the powers and duties" of the district, and "to maintain roadways and roads necessary and convenient to provide access to and efficient development of areas made suitable and available for cultivation, settlement, and other beneficial use and development as a result of the

reclamation operations of the district.” The Florida Legislature, further recognizing the importance of roads and roadways to the ability of the District to provide water control and maintenance services, authorized the formerly independent special district to “construct, maintain, improve and repair roadways and roads necessary and convenient for the exercise of any of the powers or duties of the district or board of supervisors thereof.”

4. The special benefits provided by the District Services to Assessed Property include, but are not limited to: (A) the ability to use and develop property; (B) enhancing safety and access to Assessed Property; (C) improved appearance; (D) rendering Assessed Property more adaptable to a current or reasonably foreseeable use; (E) alleviation of the burdens caused by drainage and accumulation attendant with the use of Assessed Property; and (F) ensuring that the interaction between the drainage and roadway facilities is facilitated so that both functions work in a coordinated fashion to ensure proper water control and drainage, and safety of travel and use of roads and roadways within the Town.

These findings provide the requisite special benefit and logical relationship between the District Services and real property so as to permit the District Services to be funded by non-ad valorem special assessment.

- (b) Fair and Reasonable Apportionment: It is fair and reasonable to equally apportion the Assessed Costs of the Water Management System upon the assessed units, on a per acre basis, as the size of the Assessed Property corresponds with its impact with water control and drainage facilities, as well as the potential for use of roadways reliant on proper drainage, and the amount of the assessment on each of the assessed units does not exceed the benefits received by each assessed unit from the District’s Services.
- (c) Units: Assessable Units shall be calculated on a per acre basis. Each tract or parcel of land that is less than one acre shall be assessed as one full acre (one unit). Each tract or parcel of land of more than one (1) acre, which contains a fraction of an acre, shall be assessed at the actual number of acres rounded to a fraction of four digits.

**SECTION 7. DETERMINATION OF WATER MANAGEMENT SYSTEM ASSESSED COSTS; ESTABLISHMENT OF ANNUAL WATER MANAGEMENT SYSTEM ASSESSMENT RATES.**

- (a) The District Services Assessed Costs to be assessed and apportioned among Assessed Properties for the Fiscal Year commencing October 1, 2023, is preliminarily \$2 million. The Assessable Unit Apportionment for the Fiscal Year commencing October 1, 2023, is \$200 per Unit. The adoption of this Preliminary Rate Resolution determines the amount of the District Services Assessed Costs. The remainder of such Fiscal Year budget for District Services shall be funded from available District revenue other than assessment proceeds.
- (b) The estimated special assessment specified herein are hereby established to fund the costs of the District Services to be assessed in the Fiscal Year commencing October 1, 2023.
- (c) The estimated special assessment established in this Preliminary Rate Resolution shall be the estimated assessment rates applied by the Palm Beach County Property Appraiser in the preparation of the Assessment Roll for the Fiscal Year commencing October 1, 2023 as provided in this Preliminary Rate Resolution.

#### **SECTION 8. ANNUAL ASSESSMENT ROLL.**

- (a) The Palm Beach County Property Appraiser is hereby directed to prepare, or cause to be prepared, an Assessment Roll for the Fiscal Year commencing October 1, 2022, in the manner provided herein and Section 197.3632, Florida Statutes. The Assessment Roll shall include all units being assessed herein. The Palm Beach County Property Appraiser shall apportion the estimated Assessed Costs in the manner set forth in this Preliminary Rate Resolution. A copy of this Preliminary Rate Resolution, the Special Act, Town Ordinances, and the updated Assessment Roll shall be maintained on file in the office of the Secretary of the District and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll proposed for the Fiscal Year beginning October 1, 2023, be in printed form if the amount of the special assessment for each parcel of property can be determined by the use of a computer terminal available to the public.
- (b) It is hereby ascertained, determined, and declared that the method of determining the special assessments for District Services as set forth herein is a fair and reasonable method of apportioning the Assessed Cost among units of Assessed Property.

**SECTION 9. AUTHORIZATION OF PUBLIC HEARING.** There is hereby established a public hearing to be held on September 5, 2023, at 6:30 pm in the Loxahatchee Groves Town Hall, 155 F Road, Town of Loxahatchee Groves, Florida, at which time the Board of Supervisors of the

District will receive and consider any comments on the special assessment from the public and affected property owners and consider imposing District Services Assessments for the Fiscal Year beginning October 1, 2023, and collecting the assessments on the same bill as non-ad valorem taxes.

**SECTION 10. APPLICATION OF ASSESSMENT PROCEEDS.** Proceeds derived by the District from the special assessment will be utilized for the District Services. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund District Services.

**SECTION 11. CONFLICTS.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 12. SEVERABILITY.** If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

**SECTION 13. EFFECTIVE DATE.** This Preliminary Rate Resolution shall take effect immediately upon its passage and adoption.

Supervisor \_\_\_\_\_ offered the foregoing resolution. Supervisor \_\_\_\_\_ seconded the motion, and upon being put to a vote, the vote was as follows:

	<u>Aye</u>	<u>Nay</u>	<u>Absent</u>
Laura Danowski	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Robert Shorr	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marge Herzog	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Phillis Maniglia	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Marianne Miles	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

**ADOPTED BY THE LOXAHATCHEE GROVES WATER CONTROL DISTRICT, A  
DEPENDENT DISTRICT OF THE TOWN OF LOXAHATCHEE GROVES, FLORIDA,**

**THIS \_\_\_\_ DAY OF JUNE 2023.**

LOXAHATCHEE GROVES WATER  
CONTROL DISTRICT

ATTEST:

\_\_\_\_\_  
Chairperson/President Shorr

\_\_\_\_\_  
Clerk for the Loxahatchee Groves  
Water Control District

\_\_\_\_\_  
Supervisor/Treasurer Herzog

\_\_\_\_\_  
Supervisor Maniglia

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Supervisor Miles

\_\_\_\_\_  
Attorney for the Loxahatchee Groves Water  
Control District

\_\_\_\_\_  
Supervisor Danowski