

BCC Mtg. Date: May 19, 2020

**RESOLUTION
OF THE
BOARD OF COUNTY COMMISSIONERS
AMENDING AND RESTATING A
MUNICIPAL SERVICE BENEFIT UNIT
FOR STREETLIGHTING
FOR**

**Winding Bay Phase 1A and 1B
11/2020**

WHEREAS, Section 125.01 (1) (q), Florida Statutes, grants Orange County ("County") the power to establish Municipal Service Benefit Units ("MSBU") for any part of the unincorporated areas of Orange County, and

WHEREAS, Section 197.3632, Florida Statutes, authorizes the levy, collection, and enforcement of non-ad valorem assessments in the same manner as ad valorem taxes; and

WHEREAS, the Board of County Commissioners of Orange County, Florida, ("Board"), is the governing board of the County; and

WHEREAS, by the Resolution dated **May 21, 2019**, the Board established the **Winding Bay Phase 1A 11/2019** Municipal Service Benefit Unit ("MSBU") for streetlighting ("Resolution"), said Resolution being recorded in Official Records as Document Instrument Number **20190347546**, Pages **1 through 5**, Public Records of Orange County, Florida; and

WHEREAS, the County has now received a request, in writing, from Justin Allen ("Developer") of Khovnanian Homes for the amendment of such Resolution to combine and include the subdivision which are more fully described below in that portion of the unincorporated area of Orange County and to increase the existing streetlighting inventory from 5 - 70 watt LED (light emitting diode) sanibel decorative black with 5 - 22 foot sanibel single to 39 - 70 watt LED (light emitting diode) sanibel decorative black fixtures with 39 - 22 foot sanibel single poles; and

WHEREAS, this Board has determined that the amendment and restatement of the existing MSBU, the purpose of which is to combine and include the subdivision which are more fully described below and to increase the existing streetlighting inventory as requested by the Developer, together with the other information pertaining to the operation of the proposed MSBU submitted therewith, to be feasible, necessary to facilitate the services desired and in the public interest, and that the properties will be benefited, now and in the future, and that the existing MSBU should be amended and restated to combine said subdivision(s) and to increase the existing streetlighting inventory; and

THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA:

1. The foregoing "WHEREAS" clauses are presumed to be true and correct and are hereby incorporated into the text of the resolution.
2. The Resolution for streetlighting which is recorded in Official Records as Document Instrument Number **20190347546**, Pages **1 through 5**, Public Records of Orange County, Florida, is hereby amended as the **Winding Bay Phase 1A and 1B 11/2020** MSBU, subject to final adjustment and

RECORDING DEPARTMENT: RETURN TO FINANCE & ACCOUNTING SPECIAL ASSESSMENTS

approval as provided for in Section 197.3632, Florida Statutes. This MSBU is to combine and include said subdivision, the boundaries of which appear on the recorded plat of **Winding Bay Phase 1B** subdivision, Plat Book **100**, Pages **146 Through 151**, Sections **17 and 20**, Township **24**, Range **27**, and Lots **6 through 136**, Public Records of Orange County, Florida and to increase the streetlighting inventory which is more fully described below. The purpose of such MSBU is to provide for collection and disbursement by the County of such funds as may be necessary to pay the annual expense of standard operation and maintenance of streetlighting equipment within the MSBU, including energy charges, streetlighting fixtures, poles, wires, conduits, and all appurtenances necessary for such streetlighting, electrical services and current used in their operation, and for payment of administrative costs and appropriate reserves for cash balance. It is the understanding of the County that **Duke Energy Florida, Inc.** is to construct, or has constructed in accordance with standards approved by the Orange County Public Works Division, all necessary streetlighting equipment at no expense to the County, prior to or during construction of those portions of Winding Bay Phase 1A and Winding Bay Phase 1B subdivisions and that Duke Energy Florida, Inc. will assume standard maintenance and operation of such equipment, subsequent to such construction, including computation of the annual and monthly charges for such standard maintenance and operation. Such equipment is to include **39 - 70 watt LED (light emitting diode) sanibel decorative black** fixtures at **\$23.88** per fixture, per month and **39 - 22 foot sanibel single** poles at **\$16.03** per pole, per month for a yearly rate of **\$18,692.16**, which includes energy costs and excludes the cost of administering the district as set out below, or at a rate or rates as may be set by the properly constituted legal authorities who control, govern and set the rates for Duke Energy Florida, Inc. for the services described herein. It is further understood by the County that Duke Energy Florida, Inc. may construct such streetlighting equipment only in those portions of the MSBU as may be necessary concurrent with the development of Winding Bay Phase 1A and Winding Bay Phase 1B subdivisions and that the streetlighting district created herein will be operated only in such portions of the MSBU until such construction is completed in other portions of the MSBU; provided that if such construction is only to be in portions of such MSBU, a complete legal description of the portion or portions developed be filed with the Clerk of the Board. After presentation and approval by the Board, it is understood and agreed between the County and the Developer that (if applicable) as Winding Bay Phase 1A and Winding Bay Phase 1B subdivisions expands the additional Additions, Phases, Sections, Units and/or etc., as the case may be permitted to join into this Resolution under the same terms and conditions as represented herein, by presenting an appropriate amendatory resolution to the Board for consideration. **It is further understood that the revised contract between the County and Duke Energy Florida, Inc. for Winding Bay Phase 1A and Winding Bay Phase 1B subdivisions will not be effective until November 1, 2020.** Streetlights installed prior to this date are the responsibility of the developer and not the County. It is further understood that only 39 - 70 watt LED (light emitting diode) sanibel decorative black fixtures at \$23.88 per fixture, per month and 39 - 22 foot sanibel single poles at \$16.03 per pole, per month are approved for this MSBU. Any additional streetlighting will be the responsibility of the developer.

3. Upon completion of construction of such streetlighting equipment and the placement of such equipment into operation, the Board shall determine the estimated non-ad valorem assessment amount required to pay the standard expense of maintaining and operating the streetlighting equipment in the MSBU. This non-ad valorem assessment is levied for the first time as of **November 1, 2020** and will be levied each and every year thereafter until discontinued by the Board. The Board may increase or decrease the amount of the assessment by twenty percent (20%) each and every year thereafter to any affected property based on the benefit, which the Board will provide or has provided to the property with the revenue generated by the assessment. The property owners within Winding Bay Phase 1A and Winding Bay Phase 1B subdivisions shall pay any cost exceeding standard operating and maintenance expense as determined by the Board. It is the intent of the County that the Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments, as Section 197.3632, Florida Statutes, grants, shall be used for collecting the non-ad

valorem assessments. One and one half dollars (\$1.50) for each lot or parcel of land shall be added by the Board to cover the costs of administering the MSBU and the total amount so determined shall be specially assessed against the real property of the freeholders in the MSBU as provided hereafter. Additional amounts will be added to provide for reimbursement of necessary administrative costs incurred by the Property Appraiser and Tax Collector for the collection of non-ad valorem assessments subject to the provision of Section 197.3632, Florida Statutes, and for the establishment and maintenance of a reserve for cash balance for the purpose of paying expenses from October 1 of the ensuing fiscal year until the time when the revenue for that year are expected to be available. Administrative costs shall include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage, and programming. The County may spend from its general fund, such sums as may be necessary to operate, maintain, and administer the MSBU hereby created and the County will be reimbursed to such extent at such time as such assessments have been collected. The estimated annual cost of operating, maintaining, and administering such streetlighting equipment, including the establishment and maintenance of an appropriate reserve for cash balance, is **\$25,296.00** and the estimated annual charge to each individual freeholder is **\$186.00**. Proceeds of collection of such assessments as provided hereinafter put into a special revenue fund of the County to the credit of the MSBU, and are to be used only by the district as provided herein.

4. Upon completion of construction of such streetlighting equipment and the placement of such equipment into operation, and for each and every year thereafter, a non-ad valorem special assessment roll setting forth a description of each lot or parcel of land subject to the non-ad valorem special assessments in the MSBU as provided herein, including homesteads, shall be prepared by the Property Appraiser and delivered to the Board, which shall levy a non-ad valorem special assessment upon such lots or parcels as may be owned by individual freeholders, according to the recorded plats of Winding Bay Phase 1A, Plat Book 97 and Pages 141 through 142 and Winding Bay Phase 1B subdivisions, Plat Book 100, Pages 146 Through 151, such sums as shall be necessary to pay the estimated expense of the annual operation and maintenance of such streetlighting equipment and administration of the district and appropriate reserves for cash balance for paying expenses, provided that such sums shall be assessed against the real property of each individual freeholder on a pro rata basis, and not on an ad valorem basis, so that each freeholder shall, at all times, pay an equal amount towards such cost. After the adoption of the non-ad valorem special assessment by the Board, the Property Appraiser shall extend the assessment upon the non-ad valorem assessment roll, which roll shall be fully completed prior to the time said Board sits as the Board of Tax Adjustment, during which time such assessments may be protested, reviewed, equalized, and adjusted to conform to the provisions of Sections 197.3632 and 197.3635, Florida Statutes. After adjournment as the Board of Tax Adjustment, said Board shall certify the non-ad valorem special assessment roll in the same manner and at the same time as the County Tax Roll is certified and delivered to the Tax Collector, and the said non-ad valorem special assessments shall be collected in the same manner and shall have the same priority rights, discounts for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, and issuance and sale of tax certificates and tax deeds for non-payment, and be subject to the same delinquent interest and penalties, and be treated in all respects the same as County ad valorem taxes. Said non-ad valorem special assessments, when collected by the Tax Collector shall be remitted to the Board, who shall deposit the same in such depository as shall be designated by the Board who shall apply the same to monthly bills rendered by Duke Energy Florida, Inc., related administrative costs, and to the establishment and maintenance of an appropriate reserve for cash balance. From the proceeds of said non-ad valorem special assessments, the Board shall pay the costs for having a non-ad valorem special assessment roll made and extended. The Tax Collector's office shall receive all fees and costs of sale as provided by law for the collection of ad valorem taxes, advertising, sale of lands, and issuance and sale of

certificates. The Uniform Method for the levy, collection, and enforcement of non-ad valorem assessments, Section 197.3632, Florida Statutes, will be used.

5. The Board intends that non-ad valorem special assessments authorized by this resolution be collected pursuant to the Uniform Assessment Collection Act, Sections 197.3632 and 197.3635, Florida Statutes. The Board authorizes utilization of this Uniform Method of collection for all affected parcels. The non-ad valorem special assessment will be listed on the assessment roll for all affected parcels and will be included in the notice of proposed property taxes and the tax notice for each affected parcel. These non-ad valorem special assessments will be subject to all collection provisions applicable to ad valorem taxes, including discount for early payment, prepayment by installment method, deferred payment, penalty for delinquent payment, issuance of and sale of tax certificates and tax deeds for non-payment, and commissions of the Property Appraiser and the Tax Collector as provided by Florida Law.

6. In the event of division or splitting of any of the tax parcels or lots assessed herein, any such newly subdivided or split parcels shall be included in the MSBU assessments.

7. Each property owner affected by this resolution has been provided first class mail notice of the potential for loss of his or her title when the Uniform Method of collection is used and that all affected property owners have a right to appear at the hearing and to file written objections with the Board. Each property owner affected by this resolution has been provided first class mail notice of the time and place of the public hearing at which this resolution was adopted. However, under Section 119.07, Florida Statutes, certain records may be noted as exempt and confidential. This public record exemption may cause certain property owners not to receive the above first class mail notice, however, a public hearing notice conforming to the provisions of Section 197.3632, Florida Statutes, has been published in a newspaper of general circulation within Orange County.

8. The Board of County Commissioners shall be the governing board of said Municipal Service Benefit Unit.

9. This resolution which amends and restates the resolution recorded in Official Records as Document Instrument Number 20190347546, Pages 1 through 5, is controlling and supersedes the resolution recorded in Official Records as Document Instrument Number 20190347546, Pages 1 through 5, Public Records of Orange County, Florida.

ADOPTED THIS _____ DAY OF **MAY 19 2020**, 2020

ORANGE COUNTY, FLORIDA

BY: *Raymond B. Bivins*
for ORANGE COUNTY MAYOR

DATE: **MAY 19 2020**

ATTEST: Phil Diamond, County Comptroller
as Clerk of the Board of County Commissioners *Phil Diamond*

BY: _____
DEPUTY CLERK

