


TO: The Honorable Chairman and Members of the
Board of County Commissioners

FROM: James L. Bennett, County Attorney 

SUBJECT: Adoption of a Master Surface Water Utility Ordinance Establishing a Procedural
Process to Implement a Surface Water Utility in the Unincorporated Area of
Pinellas County

DATE: June 18, 2013

RECOMMENDATION: I RECOMMEND THAT THE BOARD OF COUNTY COMMISSIONERS ("BOARD") TAKE PUBLIC COMMENT AND ADOPT THE ATTACHED MASTER SURFACE WATER UTILITY ORDINANCE, WHICH ESTABLISHES A PROCEDURAL PROCESS TO IMPLEMENT A SURFACE WATER UTILITY IN THE UNINCORPORATED AREA OF PINELLAS COUNTY.

DISCUSSION: On April 30, 2013, the Board participated in a work session regarding the establishment of a Surface Water Utility. At that meeting staff provided an extensive review of the surface water conditions existing in Pinellas County and the need for additional funding to improve those conditions. The staff recommended the establishment of a Surface Water Utility to create a source for the funding for the improvement of existing conditions. The Board requested that an ordinance be brought forward at an advertised public hearing that establishes a procedural process to implement a Surface Water Utility.

The attached Master Surface Water Utility Ordinance ("Master Ordinance") outlines the procedural process by which special assessments and fees for surface water management services and improvements can be imposed and collected. It provides definitions, and establishes a Surface Water Utility to be the operational means of implementing and carrying out the functional requirements of the County's surface water management system. It provides the annual process for the implementation of special assessments against non-government property to provide both surface water services and improvements and further establishes the annual process for the implementation of a surface fee against government property for both services and capital improvements. Given the various legal issues associated with collection of these charges from government property, the Master Ordinance does not mandate that government property be charged but does establish the necessary framework should the legal constraints be relaxed. The Master Ordinance provides for the collection of assessments pursuant to the Uniform Method of Collection authorizing the collection of special assessments on the local tax bill; however, it does not prohibit the collection of assessments by other methods if necessary. Because fees against government property cannot be collected pursuant to the Uniform Method of Collection, the Master Ordinance establishes a separate collection process for these charges.

The Master Ordinance is a procedural document that merely proscribes the process for imposing surface water assessments and fee by subsequent resolutions. It does not mandate that the county impose any surface water charges nor does it set any rates. The Master Ordinance covers the

range of authorizations that may be possible under a Surface Water Utility so it is much more expansive than the Water Rate Resolution, which details what is being done in a given year. The Master Ordinance in its present form is only applicable to the unincorporated County.

Upon the adoption of the Master Ordinance, the Board will be presented with a proposed Initial Surface Water Rate Resolution to begin the implementation process for a surface water service assessment for the fiscal year beginning October 1, 2013.

JLB:DWM:sme

Attachment

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PINELLAS COUNTY, FLORIDA

MASTER SURFACE WATER UTILITY ORDINANCE

ADOPTED _____, 2013

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ORDINANCE NO. _____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PINELLAS COUNTY, FLORIDA, RELATING TO THE PROVISION OF SERVICES AND CAPITAL FACILITIES FOR SURFACE WATER MANAGEMENT AND THE IMPOSITION OF SURFACE WATER ASSESSMENTS AND FEES RELATED TO THOSE SERVICES AND FACILITIES THROUGHOUT THE COUNTY; PROVIDING DEFINITIONS AND FINDINGS; ESTABLISHING A SURFACE WATER UTILITY AND PROVIDING ITS RESPONSIBILITIES; ESTABLISHING A SURFACE WATER UTILITY FUND; AUTHORIZING THE IMPOSITION AND COLLECTION OF SURFACE WATER ASSESSMENTS AND FEES TO FUND THE COST OF PROVIDING SERVICES AND CAPITAL FACILITIES FOR SURFACE WATER MANAGEMENT; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF SURFACE WATER ROLLS AND FOR CORRECTING ERRORS AND OMISSIONS; AUTHORIZING INTERIM CHARGES; AUTHORIZING EXEMPTIONS AND HARDSHIP ASSISTANCE; PROVIDING THAT SURFACE WATER ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE SURFACE WATER ASSESSMENT ROLLS; ESTABLISHING PROCEDURES AND METHODS FOR THE COLLECTION OF SURFACE WATER ASSESSMENTS AND FEES; ESTABLISHING THE PRIORITY OF THE SURFACE WATER LIEN OVER PRIOR RECORDED LIENS OR MORTGAGES; PROVIDING ADMINISTRATION PROCEDURES; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE; AND PROVIDING FOR OTHER MODIFICATIONS THAT MAY ARISE FROM REVIEW OF THE ORDINANCE AT THE PUBLIC HEARING AND WITH RESPONSIBLE AUTHORITIES.

WHEREAS, pursuant to Article VIII, section 1(g), Florida Constitution, sections 125.01 and 125.66, Florida Statutes, and the Pinellas County Charter, the County has all powers of local self-government to perform county functions and render county services

except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of County ordinances; and

WHEREAS, pursuant to these home rule powers, this Ordinance (1) provides procedures and standards for the imposition of Surface Water Assessments and Surface Water Fees under the constitutional and statutory power of the County; (2) authorizes a procedure for the funding of Surface Water Management Services, facilities, or programs providing special benefit and reasonably related to Assessed Property within the Surface Water Service Area; (3) authorizes a procedure for the funding of Surface Water Improvements providing special benefit and reasonably related to Assessed Property within a Surface Water Improvement Area; (4) legislatively determines the special benefit provided to Assessed Property from the Surface Water Utility; and (5) provides procedures and standards to determine the fair, equitable, and reasonable charge for the Surface Water Fees charged to Government Property to fund the regulation of Surface Water Management Services provided to such properties and Surface Water Improvements serving such properties.

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

ARTICLE I

INTRODUCTION

SECTION 1.01. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly requires otherwise:

"Annual Surface Water Rate Resolution" means the resolution described in Section 4.06 hereof, approving a Surface Water Roll for a specific Fiscal Year.

"Assessed Property" means all parcels of real property included on the Surface Water Roll that receive a benefit from the Surface Water Improvements and Surface Water Management Services.

"Board" means the Board of County Commissioners of Pinellas County, Florida.

"Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, construction, design, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of Surface Water Improvements under generally accepted accounting principles and including reimbursement to the County for any moneys advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"Clerk" means the Clerk of the Circuit Court for Pinellas County, Florida or the ex-officio Clerk of the Board.

"Comprehensive Plan" means the most recent version of the comprehensive plan adopted by the Board pursuant to Chapter 163, Part II, Florida Statutes.

"County" means Pinellas County, Florida.

"County Administrator" means the chief administrative officer of the County or such person's designee.

"Developed Property" means property that has been developed with impervious or semi-impervious area including, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, storage areas and other surfaces which similarly impact the natural infiltration or runoff patterns which existed prior to development.

"Drainage Basin" means a part of the earth's surface that contributes Stormwater runoff to a drainage system, which consists of diffuse surface waters, together with all natural or artificial tributary surface streams and/or bodies of impounded surface water.

"ERU" means **"equivalent residential unit,"** the standard unit used to express the Stormwater burden expected to be generated by each parcel of property.

"Final Surface Water Rate Resolution" means the resolution described in Section 4.05 hereof, which shall confirm, modify or repeal the Initial Surface Water Rate Resolution and which shall be the final proceeding for the imposition of the initial Surface Water Assessment and Surface Water Fee.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the County.

"Government Property" means 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.

"Initial Surface Water Rate Resolution" means the resolution described in Section 4.01 hereof, which shall be the initial proceeding for the imposition of the Surface Water Assessment and Surface Water Fee.

"Maximum Rate" means the maximum rate of the assessment or fee established by the Final Surface Water Rate Resolution or any subsequent Annual Surface Water Rate Resolution.

"Mitigation Credit" means a credit applied to a Surface Water Assessment or Surface Water Fee for a Developed Property in consideration of the on-site management of the Stormwater burden as a consequence of the location of a Mitigation Facility or in consideration of discharge to a private stormwater system or for the conveyance and/or treatment of Stormwater or as otherwise required by law.

"Mitigation Facility" means a manmade facility or structure on the site of a Developed Property which, by its design and function, retains or detains Stormwater on-site and thus generates less volume of Stormwater from the site or produces Stormwater runoff at a lower rate and/or with less pollutants than would be the case in the absence of such facilities or structure.

"Obligations" mean a series of bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligations of the County issued or incurred to finance any portion of the Capital Cost of a Surface Water Improvement and secured, in whole or in part, by proceeds of the Surface Water Improvement Assessments or Surface Water Fee.

"Ordinance" means this Surface Water Utility Ordinance as amended from time to time.

"Pledged Revenue" means, as to any series of Obligations, (A) the proceeds of such Obligations, including investment earnings, (B) proceeds of the Surface Water Improvement Assessments and Surface Water Fees pledged to secure the payment of such Obligations, and (C) any other legally available non-ad valorem revenue pledged to

secure the payment of such Obligations, as specified by the resolution authorizing such Obligations.

"Preliminary Surface Water Rate Resolution" means the resolution described in Section 4.06 hereof initiating the annual process for updating the annual Surface Water Roll and directing the reimposition of Surface Water Assessments and Surface Water Fees.

"Project Cost" means (A) the Capital Cost of a Surface Water Improvement, (B) the Transaction Cost associated with the Obligations to finance the Surface Water Improvement, (C) interest accruing on such Obligations for such period of time as the Board deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations which financed the Surface Water Improvement, and (E) any other costs or expenses related thereto.

"Property Appraiser" means the Pinellas County Property Appraiser.

"Stormwater" means any surface runoff and drainage of water from land surfaces, including the surfaces of Buildings and other hardened surfaces on the land.

"Surface Water" means waters on the surface of the Earth, contained in bounds created naturally or artificially, including the Gulf of Mexico, bays, bayous, sounds, estuaries, lagoons, lakes, ponds, impoundments, rivers, streams, springs, creeks, branches, sloughs, tributaries, and other watercourses.

"Surface Water Assessment" means either a Surface Water Improvement Assessment, a Surface Water Service Assessment, or both.

"Surface Water Fee" means a fee reasonably related to service provided by the County to Government Property to fund all or any portion of the Surface Water Service Cost for Government Property at a just, fair, reasonable, and equitable rate based upon such property's Stormwater burden, the reasonable relationship to benefits received, and the reasonable cost of providing Surface Water Management Services or Surface Water Improvements to such property. The Surface Water Fee imposed against Government Property is not a special assessment; it is a regulatory fee imposed for the Surface Water Management Service provided to Government Property as Developed Property by the County's Surface Water Utility.

"Surface Water Improvement" means land, capital facilities and improvements acquired or provided to detain, retain, convey or treat Stormwater and other surface waters within the County that have been impacted by Stormwater from Developed Property.

"Surface Water Improvement Area" means one or more Drainage Basins, or any portion or portions thereof, as identified in the Initial Surface Water Rate Resolution or a subsequent Preliminary Surface Water Rate Resolution, encompassing those parcels of property specially benefited by the construction, reconstruction or installation of all or any portion of a Surface Water Improvement that removes, detains, retains or treats, in whole or in part, the Stormwater burden expected to be generated by the physical characteristics and use of the Assessed Property. Each Surface Water Improvement Area will include either (A) the property which is hydrologically connected, directly or indirectly, to the Surface Water Improvement, or (B) all property located within a

hydrologically defined area in which the County constructs one or more Surface Water Improvements pursuant to a Watershed Management Plan to correct existing deficiencies with respect to a specific level of service and provide a consistent level of Surface Water management.

"Surface Water Improvement Assessment" means a special assessment imposed by the Board within a Surface Water Improvement Area to fund the Capital Cost or the debt service and related cost of Obligations issued to finance the Project Cost of a Surface Water Improvement.

"Surface Water Management Service" means (A) management and administration of the County's Surface Water Utility; (B) Surface Water program engineering; (C) Drainage Basin planning; (D) Surface Water Improvements to be acquired or constructed within a reasonable time horizon without the issuance of any debt or borrowing; (E) operating and maintaining the County's capital facilities for Surface Water management, including extraordinary maintenance; (F) billing and collection of Surface Water Assessments and Surface Water Fees, including customer information and educational services and reserves for statutory discounts; and (G) legal, engineering and other consultant services.

"Surface Water Master Plan" means a combination of policy documents adopted by the Board which identifies the levels of service for water quality and quantity management in the County, based upon the criteria in the Comprehensive Plan and applicable state and federal law, and the methods for prioritizing expenditures within the

County. The Surface Water Master Plan includes, but is not limited to, the Surface Water Element of the Comprehensive Plan and the related provisions of the County code.

"Surface Water Roll" means the property roll relating to Surface Water Improvements or Surface Water Management Services approved by a Final Surface Water Rate Resolution or an Annual Surface Water Rate Resolution pursuant to Section 4.02 hereof.

"Surface Water Service Area" means the geographic area described in the Initial Surface Water Rate Resolution or a subsequent Preliminary Surface Water Rate Resolution that encompasses all parcels within the County which specially benefit from the Surface Water Management Service.

"Surface Water Service Assessment" means a special assessment imposed by the County within the Surface Water Service Area to fund the Surface Water Service Cost.

"Surface Water Service Cost" means the estimated amount for any Fiscal Year of all expenditures and reasonable reserves that are properly attributable to the Surface Water Management Service provided within the Surface Water Service Area under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the County for any moneys advanced for the Surface Water Management Service, and interest on any interfund or intrafund loan for such purpose.

"Surface Water Utility" means the entity established by Section 2.01 hereof to implement the Surface Water management program of the County.

"Surface Water Utility Coordinator" means the County's Surface Water Utility manager or such other person as designated by the County Administrator.

"Tax Collector" means the Pinellas County Tax Collector.

"Tax Roll" means 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.

"Transaction Cost" means the costs, fees and expenses incurred by the County in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel; (C) the underwriters' discount; (D) the fees and disbursements of the County's financial advisor; (E) the costs of preparing or printing the Obligations and the documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; and (G) any other costs of a similar nature incurred in connection with issuance of such Obligations.

"Uniform Assessment Collection Act" means 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.

"Watershed Management Plan" means a plan that is developed by the County for each Drainage Basin or hydrologic subarea thereof in which Surface Water Improvements are proposed and that provides for implementation of the Surface Water Master Plan.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the context indicates otherwise.

SECTION 1.03. GENERAL FINDINGS. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 1(g), Florida Constitution, sections 125.01 and 125.66, Florida Statutes, and the Pinellas County Charter, the County has all powers of local self-government to perform county functions and render county services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of County ordinances.

(B) Pursuant to Section 2.04(g) of the Pinellas County Home Rule Charter, the County has the special and necessary power to provide for the design, construction, and maintenance of major drainage systems in both the unincorporated and all incorporated areas of the County.

(C) Section 403.0893, Florida Statutes, specifically authorizes and encourages the County to provide Surface Water Management Services and create Stormwater programs and adopt Surface Water charges sufficient to plan, construct, operate and maintain Stormwater and Surface Water management systems.

(D) The purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Surface Water Assessments and Surface Water Fees under the constitutional and statutory power of the County; (2) authorize a procedure for the funding of Surface Water Management Services, facilities, or programs providing special benefit and reasonably related to Assessed Property within the Surface Water Service Area; (3) authorize a procedure for the funding of Surface Water Improvements providing special benefit and reasonably related to Assessed Property within a Surface Water Improvement Area; (4) legislatively determine the special benefit provided to Assessed Property from the Surface Water Utility; and (5) provide procedures and standards to determine the fair, equitable, and reasonable charge for the Surface Water Fees charged to Government Property to fund the regulation of Surface Water Management Services provided to such properties and Surface Water Improvements serving such properties.

(E) The Florida Legislature has mandated that local governments in the State of Florida, including the County, have the responsibility for developing mutually compatible stormwater management programs consistent with the rules and regulations of the Florida Department of Environmental Protection and the water management districts and the stormwater management programs established and maintained by other local governments.

(F) The County is responsible for the management and maintenance of the County's Surface Water management system which has been developed for the purpose of collection, storage, treatment, and conveyance of Stormwater and the management and treatment of associated Surface Waters. The County has, pursuant to Chapter 163,

Florida Statutes, adopted the Surface Water Management Element of the Pinellas County Comprehensive Plan which sets forth goals that make it necessary and essential to construct improvements and extensions to the existing Stormwater system so the collection, storage, treatment, and conveyance of Stormwater and associated Surface Waters within the County adequately protects the health, safety, and welfare of the citizens. The creation and maintenance of the Surface Water Utility is designed to implement the Surface Water Management Element and other municipal, federal and state policies mandating Stormwater management programs by local governments.

(G) Through the National Pollutant Discharge Elimination System Stormwater permitting program, the U. S. Environmental Protection Agency, as implemented by the Florida Department of Environmental Protection, has mandated the County to implement and fund a comprehensive Surface Water management program to reduce the contamination to Surface Waters of stormwater runoff and prohibit illicit discharges.

(H) The Surface Water Assessments and Surface Water Fees authorized herein are consistent with the authority granted in section 403.0893, Florida Statutes. That statutory provision is additional and supplemental authority to the constitutional and statutory power of self-government granted to the County.

(I) The County maintains a system of Stormwater and Surface Water management facilities, including but not limited to inlets, conduits, manholes, channels, ditches, drainage easements, retention and detention basins, infiltration facilities, and other components as well as natural waterways. Those elements of the County Stormwater and Surface Water management system that provide for the collection,

storage, treatment, and conveyance of Stormwater and the treatment and conveyance of associated Surface Waters are of benefit and provide services to all Developed Property within the County.

(J) The public health, safety, and welfare are adversely affected by poor water quality and flooding resulting from inadequate Stormwater and Surface Water management practices. All Developed Property either uses the Stormwater management system or benefits from the provision and operation of the Surface Water Management Services.

(K) The cost of operating and maintaining the Stormwater and Surface Water management system and providing Surface Water Management Services in accordance with existing permits and the financing of existing and future repairs, replacements, improvements, and extensions thereof should, to the extent practicable, be allocated in relationship to the benefits enjoyed, services received, or burden caused therefrom.

(L) Property owners within the County are eligible for flood insurance through the National Flood Insurance Program (NFIP), which enables these property owners to acquire federally backed flood insurance protection. To ensure that this coverage is available, the County is required to meet the minimum FEMA requirements for participation in the NFIP and failure to meet these requirements could result in flood insurance being either unavailable or prohibitively expensive to property owners within the County.

(M) New and dedicated funding for the Stormwater and Surface Water management program of the County is needed to maintain compliance with state and

federal requirements, for participation in the NFIP, and the levy of Surface Water Assessments and Surface Water Fees is the most equitable method of providing this funding.

SECTION 1.04. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND REASONABLE APPORTIONMENT. It is hereby ascertained and declared that the Surface Water Utility, the Surface Water Management Services and the Surface Water Improvements provide a special benefit to the Assessed Property based upon the following legislative determinations:

(A) The Surface Water Utility and the services and facilities provided thereby possess a logical relationship to the use and enjoyment of Developed Property by treating and controlling contaminated Stormwater generated by improvements constructed on Developed Property.

(B) Substantially all of the Stormwater burden managed, controlled and treated by the Surface Water Utility is generated by Developed Property and the amount of Stormwater generated by property in its natural state that is managed, controlled and treated by the Surface Water Utility is inconsequential.

(C) The creation and maintenance of the Surface Water Utility is designed to implement federal and state policies mandating Stormwater and Surface Water management programs by the County and to ensure that County property owners can participate in the NFIP.

(D) The special benefits provided by the Surface Water Management Services and Surface Water Improvements to all Developed Property include, but are not limited

to: (1) the provision of Surface Water Management Services and the availability and use of Surface Water Improvements by the owners and occupants of Developed Property to properly and safely detain, retain, convey and treat Stormwater discharged from Developed Property; (2) stabilization of or the increase of Developed Property values; (3) increased safety and better access to Developed Property; (4) rendering Developed Property more adaptable to a current or reasonably foreseeable new and higher use; (5) alleviation of the burdens caused by Stormwater runoff and accumulation attendant with the use of Developed Property; and (6) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the Surface Water Service Area and Surface Water Improvement Area.

(E) The Surface Water Fee as authorized to be calculated herein and charged to Assessed Property bears a reasonable relationship to the cost of providing Surface Water Management Services, including the Stormwater generated by Government Property as Developed Property.

ARTICLE II

SURFACE WATER UTILITY

SECTION 2.01. SURFACE WATER UTILITY. There is hereby established a Surface Water Utility, which shall be the operational means of implementing the Surface Water Master Plan and otherwise carrying out the functional requirements of the County's Surface Water management system, to construct, acquire, and maintain Surface Water Improvements and provide Surface Water Management Services. The Surface Water Utility shall provide administration and management services in the operation and maintenance of the County's capital facilities for Stormwater and Surface Water management; the implementation of the County's comprehensive Surface Water management system; the preparation of Watershed Management Plans and the implementation of the Surface Water Utility; and the repair, replacement, improvement and extension, of the County's capital facilities for Stormwater and Surface Water management. The Surface Water Utility shall place emphasis on the achievement of maximum efficiency through identifying programs and funding sources which are complementary to other regional, state and federal programs. The Surface Water Utility Coordinator shall be responsible for administration of the Surface Water Utility.

SECTION 2.02. SURFACE WATER UTILITY FUND. The Board intends to fund the cost of providing services and capital facilities for Surface Water management through Surface Water Assessments and Surface Water Fees. The Board has further concluded that periodic determination of revenues earned and expenses incurred in connection with the provision of services and capital facilities for Surface Water

management will enhance accountability and management control of the County's Surface Water Utility and will facilitate implementation of the Board's funding policy for Surface Water management. Accordingly, there shall be established a Surface Water Utility Fund. From an accounting perspective, the Surface Water Utility Fund shall be established as a "special revenue fund." Proceeds of the Surface Water Service Assessment and Surface Water Fees associated therewith shall be used for payment of the Surface Water Service Cost. Proceeds of the Surface Water Improvement Assessments and Surface Water Fees associated therewith shall be used for payment of the Capital Cost of Surface Water Improvements and the payment of debt service on Obligations issued to finance Surface Water Improvements.

ARTICLE III

SURFACE WATER CHARGES

SECTION 3.01. SURFACE WATER SERVICE CHARGES.

(A) The Board is hereby authorized to impose Surface Water Service Assessments and Surface Water Fees against property located within a Surface Water Service Area, as subsequently created in an Initial Surface Water Rate Resolution or Preliminary Surface Water Rate Resolution.

(B) The Surface Water Service Cost may be assessed against Developed Property located within a Surface Water Service Area at a rate based upon the benefit accruing to such property from the Surface Water Management Service provided by the County, measured by the number of ERUs attributable to each parcel or classification of property.

(C) Notwithstanding the foregoing, if the Board specifically determines that any portion of a Surface Water Service Area receives a distinct special benefit from any component of the Surface Water Management Service that is materially different in kind or degree from the special benefit received by other portions of a Surface Water Service Area, the Surface Water Service Cost related to such component shall be assessed against the portion of the Surface Water Service Area receiving the distinct special benefit.

SECTION 3.02. SURFACE WATER IMPROVEMENT CHARGES.

(A) The Board is hereby authorized to impose Surface Water Improvement Assessments and Surface Water Fees against property located within a Surface Water

Improvement Area, as subsequently created in an Initial Surface Water Rate Resolution or Preliminary Surface Water Rate Resolution, to fund all or any portion of the Capital Cost or the debt service and related cost of Obligations issued to finance the Project Cost of a Surface Water Improvement identified in any Watershed Management Plan.

(B) Surface Water Improvement Assessments to fund the Capital Cost or the debt service and related cost of Obligations issued to finance the Project Cost of each Surface Water Improvement may be imposed against all parcels of property within a Surface Water Improvement Area at a rate based upon the benefit accruing to such property from the Surface Water Improvement, measured by the number of ERUs attributable to each parcel or classification of property.

(C) If Surface Water Improvement Assessments are imposed to fund the debt service and related cost of Obligations issued to finance the Project Cost of a Surface Water Improvement, the Surface Water Improvement Assessment may include the amount required to fund any amounts withdrawn during the prior Fiscal Year from any debt service reserve account established for Obligations and the amount of any principal of and interest on Obligations that has become due and remains unpaid.

ARTICLE IV

IMPLEMENTATION PROCEDURES

SECTION 4.01. INITIAL SURFACE WATER RATE RESOLUTION.

(A) The initial proceeding for imposition of a Surface Water Assessment and Surface Water Fee shall be the Board's adoption of an Initial Surface Water Rate Resolution.

(B) The Initial Surface Water Rate Resolution shall (1) describe the Surface Water Improvement or Surface Water Management Service proposed for funding; (2) estimate the Capital/Project Cost or Surface Water Service Cost; (3) describe with particularity the proposed method of apportioning the Capital/Project Cost or Surface Water Service Cost among the parcels of property located within the Surface Water Improvement Area or Surface Water Service Area, as applicable, such that the owner of any parcel of property can objectively determine the amount of the charge; and (4) include specific legislative findings that recognize the equity provided by the apportionment methodology and specific legislative findings that recognize the special benefit provided by the Surface Water Improvement or Surface Water Management Service.

(C) At its option, the Board may adopt separate Initial Surface Water Rate Resolutions for the Surface Water Service Assessment and each Surface Water Improvement Assessment.

SECTION 4.02. SURFACE WATER ROLL.

(A) The Surface Water Utility Coordinator shall prepare, or direct the preparation of, a preliminary Surface Water Roll that contains the following information:

(1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Surface Water Assessment or Surface Water Fee;

(2) the name of the owner of record of each parcel as shown on the Tax Roll, if available;

(3) the number of ERUs attributable to each parcel;

(4) the estimated maximum Surface Water Improvement Assessment to become due in any Fiscal Year for each ERU and each Tax Parcel;

(5) the estimated maximum annual Surface Water Service Assessment to become due in any Fiscal Year for each ERU and each Tax Parcel; and

(6) the estimated maximum Surface Water Fee to become due in any Fiscal Year for each ERU and each Tax Parcel.

(B) Copies of the Initial Surface Water Rate Resolution and the preliminary Surface Water Roll shall be on file in the office of the Surface Water Utility Coordinator and open to public inspection. The foregoing shall not be construed to require that the Surface Water Roll be in printed form if the amount of the Surface Water Assessment for each parcel of property can be determined by use of a computer terminal available for use by the public.

(C) In the event a Surface Water Fee is imposed against Government Property, the Surface Water Utility Coordinator shall prepare a separate Surface Water Roll for Government Property in conformance with Section 4.02(A) above.

SECTION 4.03. NOTICE BY PUBLICATION.

(A) Upon completion of the Surface Water Roll, the Surface Water Utility Coordinator shall publish, or direct the publication of, once in a newspaper of general circulation within 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 Surface Water Rate Resolution which shall establish the rate of assessment and approve the aforementioned Surface Water Roll.

(B) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (1) a geographic depiction of the property subject to the Surface Water Assessment and Surface Water Fee; (2) a brief and general description of the services, facilities, or programs to be provided; (3) the rate of assessment including a Maximum Rate in the event one was adopted in the Initial Surface Water Rate Resolution; (4) the procedure for objecting provided in Section 4.05 hereof; (5) the method by which the Surface Water Assessment and Surface Water Fee will be collected; and (6) a statement that the Surface Water Roll is available for inspection at the office of the Surface Water Utility Coordinator and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the Surface Water Utility Coordinator.

SECTION 4.04. NOTICE BY MAIL.

(A) In addition to the published notice required by Section 4.03, the Surface Water Utility Coordinator shall provide notice, or direct the provision of notice, of the proposed Surface Water Assessment and Surface Water Fee by first class mail to the Owner of each parcel of property subject to the Surface Water Assessment and Surface Water Fee.

(B) Such notice shall include (1) the purpose of the Surface Water Assessment and Surface Water Fee; (2) the rate to be levied against each parcel of property, including a Maximum Rate in the event one was adopted; (3) the number of ERUs applied to determine the Surface Water Assessment and Surface Water Fee; (4) the number of such ERUs contained in each parcel of property; (5) the total revenue to be collected by the County from the Surface Water Assessment and Surface Water Fee; (6) a statement that failure to pay the Surface Water Assessment or Surface Water Fee will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the Board within 20 days of the notice; and (8) the date, time, and place of the hearing.

(C) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The Surface Water Utility Coordinator may provide proof of such notice by

affidavit. Failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Surface Water Roll nor release or discharge any obligation for payment of a Surface Water Assessment or Surface Water Fee imposed by the Board pursuant to this Ordinance.

SECTION 4.05 ADOPTION OF FINAL SURFACE WATER RATE RESOLUTION.

(A) At the time named in such notice or to such time as 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 Surface Water Rate Resolution which shall (1) create any Surface Water Improvement or Service Areas; (2) confirm, modify, or repeal the Initial Surface Water Rate Resolution with such amendments, if any, as may be deemed appropriate by the Board; (3) establish the Maximum Rate, if desired by the Board and set the rate to be imposed in the upcoming fiscal year; (4) approve the initial Surface Water Roll, with such amendments as it deems just and right; and (5) determine the method of collection.

(B) The adoption of the Final Surface Water Rate Resolution by the Board shall constitute a legislative determination that all parcels assessed derive a special benefit from the services, facilities, or programs to be provided or constructed and a legislative determination that the Surface Water Assessments and Surface Water Fees are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the Final Surface Water Rate Resolution shall be filed with the Surface Water Utility Coordinator at or before the time or adjourned time of such

hearing. The Final Surface Water Rate Resolution shall constitute the Annual Surface Water Rate Resolution for the initial Fiscal Year in which Surface Water Assessments and Surface Water Fees are imposed or reimposed hereunder.

SECTION 4.06. ANNUAL ADOPTION PROCEDURES.

(A) Annually, during the budget adoption process, the Board shall determine whether to reimpose a Surface Water Assessment and Surface Water Fee for each Fiscal Year following the initial Fiscal Year. If the Board elects to reimpose a Surface Water Assessment and Surface Water Fee, the procedures in this Section 4.06 shall be followed.

(B) The initial proceedings for the reimposition of an annual Surface Water Assessment and Surface Water Fee shall be the adoption of a Preliminary Rate Resolution by the Board (1) containing a brief and general description of the services, facilities, or programs to be provided; (2) determining the Surface Water Service Cost or Capital/Project Cost to be assessed for the upcoming Fiscal Year; (3) establishing the estimated rate for the upcoming Fiscal Year; (4) establishing or increasing a Maximum Rate, if desired by the Board; (5) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Surface Water Rate Resolution for the upcoming Fiscal Year; and (6) directing the Surface Water Utility Coordinator to (a) update the Surface Water Roll, (b) provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and (c) directing and authorizing

any supplemental or additional notice deemed proper, necessary or convenient by the County.

(C) At the public hearing established in the Preliminary Surface Water Rate Resolution or to which an adjournment or continuance may be taken by the Board, the Board shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Board, adopt the Annual Surface Water Rate Resolution, which shall (1) establish the rate to be imposed in the upcoming Fiscal Year and (2) approve the Surface Water Roll for the upcoming Fiscal Year with such adjustments as the Board deems just and right. The Surface Water Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Surface Water Rate Resolution, or any subsequent Preliminary Surface Water Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Surface Water Rate Resolution or any subsequent Annual Surface Water Rate Resolution.

(D) Nothing herein shall preclude the Board from providing annual notification to all Owners of Assessed Property in the manner provided in Sections 4.03 and 4.04 hereof or any other method as provided by law.

(E) The Board may establish or increase a Maximum Rate in an Initial Surface Water Rate Resolution or Preliminary Surface Water Rate Resolution and confirm such Maximum Rate in the Annual Surface Water Rate Resolution in the event notice of such Maximum Rate has been included in the notices required by Section 4.03 and 4.04 hereof.

(F) In the event (1) the proposed Surface Water Assessment or Surface Water Fee for any Fiscal Year exceeds the rates adopted by the Board, including a Maximum Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property pursuant to Sections 4.03 and 4.04 hereof, (2) the purpose for which the Surface Water Assessment or Surface Water Fee is imposed or the use of the revenue from the Surface Water Assessment or Surface Water Fee is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 4.03 and 4.04 hereof, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Surface Water Assessment or Surface Water Fee from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 4.03 and 4.04 hereof, or (4) a Surface Water Roll contains Assessed Property that was not included on the Surface Water Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 4.03 and 4.04 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Surface Water Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Surface Water Roll nor release or discharge any obligation for payment of a Surface Water Assessment or Surface Water Fee imposed by the Board pursuant to this Ordinance.

(G) As to any Assessed Property not included on a Surface Water Roll approved by the adoption of the Final Surface Water Rate Resolution or a prior year's

Annual Surface Water Rate Resolution, the adoption of the succeeding Annual Surface Water Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate, the establishment or increase of a Maximum Rate, the Surface Water Roll, and the levy and lien of the Surface Water Assessments and Fees), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Board action on the Annual Surface Water Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Surface Water Assessment or Surface Water Fee not challenged within the required 20-day period for those charges previously imposed against Assessed Property by the inclusion of the Assessed Property on a Surface Water Roll approved in the Final Surface Water Rate Resolution or any subsequent Annual Surface Water Rate Resolution.

(H) The Surface Water Roll, as approved by the Annual Surface Water Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Sections 6.02 or 6.04 hereof is used to collect the Surface Water Assessments or Surface Water Fees, such other official as the Board by resolution shall designate. If the Surface Water Assessment or Surface Water Fee against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Surface Water Roll.

SECTION 4.07. EFFECT OF SURFACE WATER ASSESSMENT RESOLUTIONS. The adoption of the Final Surface Water Rate Resolution or Annual

Surface Water Rate Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate, the adoption of the Surface Water Roll and the levy and lien of the Surface Water Assessments and Surface Water Fees), 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 Final Surface Water Rate Resolution. The Surface Water Assessments and Surface Water Fees for each Fiscal Year shall be established upon adoption of the Annual Surface Water Rate Resolution. The Surface Water Roll, as approved by the Final Surface Water Rate Resolution or Annual Surface Water Rate Resolution, shall be delivered to the Tax Collector, or such other official as the Board, by resolution, deems appropriate.

ARTICLE V
ADMINISTRATION

SECTION 5.01. LIEN OF SURFACE WATER ASSESSMENTS.

(A) Upon adoption of the Annual Surface Water Rate Resolution for each Fiscal Year, Surface Water Assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against Assessed 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 prior liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the Board of the Annual Surface Water Rate Resolution and shall attach to the property included on the Surface Water Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) Upon adoption of the Final Surface Water Rate Resolution, Surface Water Assessments to be collected under the alternative method of collection provided in Section 6.02 hereof shall constitute a lien against Assessed 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 prior liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the Official Records of Pinellas County, Florida.

SECTION 5.02. REVISIONS TO SURFACE WATER CHARGES. If any Surface Water Assessment or Surface Water Fee made under the provisions of this

Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Board is satisfied that any such Surface Water Assessment or Surface Water Fee is so irregular or defective that the same cannot be enforced or collected, or if the Board has failed to include any property on the Surface Water Roll that should have been so included, the Board may take all necessary steps to impose a new Surface Water Assessment or Surface Water Fee against any such property, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Surface Water Assessment or Surface Water Fee is annulled, the Board may obtain and impose other Surface Water Assessments or Surface Water Fee until a valid Surface Water Assessment or Surface Water Fee is imposed.

SECTION 5.03. PROCEDURAL IRREGULARITIES. Any irregularity in the proceedings in connection with the levy of any Surface Water Assessment or Surface Water Fee under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Surface Water Assessment or Surface Water Fee as finally approved shall be competent and sufficient evidence that such Surface Water Assessment or Surface Water Fee was duly levied, that the Surface Water Assessment or Surface Water Fee was duly made and adopted, and that all other proceedings adequate to such Surface Water Assessment or Surface Water Fee 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 5.03, any party objecting to an Surface Water Assessment or Surface Water Fee imposed pursuant to

this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed in Section 4.07 of this Ordinance.

SECTION 5.04. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Board, Surface Water Utility Coordinator, Property Appraiser, Tax Collector, Clerk, or their respective deputies, employees or designees, shall operate to release or discharge any obligation for payment of any Surface Water Assessment or Surface Water Fee imposed by the Board under the provisions of this Ordinance.

(B) The number of ERUs attributed to a parcel of property may be corrected at any time by the Surface Water Utility Coordinator. Any such correction which reduces a Surface Water Assessment or Surface Water Fee shall be considered valid from the date on which the Surface Water Assessment or Surface Water Fee was imposed and shall in no way affect the enforcement of the Surface Water Assessment or Surface Water Fee imposed under the provisions of this Ordinance. Any such correction which increases a Surface Water Assessment or Surface Water Fee or imposes a Surface Water Assessment or Surface Water Fee on omitted property shall first require notice to the affected owner in the manner described in Section 4.04 hereof, providing the date, time and place that the Board will consider confirming the correction and offering the owner an opportunity to be heard.

(C) After the Surface Water Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or

corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

SECTION 5.05. INTERIM SURFACE WATER CHARGES.

(A) An interim Surface Water Assessment or Surface Water Fee may be imposed against all property, for which a mobile home tie-down permit or Building Permit is issued after adoption of the Annual Surface Water Rate Resolution. If imposed, the amount of the interim Surface Water Assessment or Surface Water Fee shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Surface Water Rate Resolution for the Fiscal Year for which the interim Surface Water Assessment or Surface Water Fee is being imposed. Such monthly rate shall be imposed for each partial and full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Surface Water Assessment or Surface Water Fee shall also include an estimate of the subsequent Fiscal Year's Surface Water Assessment or Surface Water Fee if the Tax Parcel will not be assessed as Developed Property on the Tax Roll for that year.

(B) No mobile home tie-down permit or Building Permit shall be issued until full payment of the interim Surface Water Assessment or Surface Water Fee is received by the County if an interim charge is imposed. Issuance of the mobile home tie-down permit or Building Permit without the payment in full of the interim Surface Water Assessment or Surface Water Fee shall not relieve the Owner of such property of the obligation of full payment. Any interim Surface Water Assessment or Surface Water Fee not collected prior to the issuance of the mobile home tie-down permit or Building Permit may be

collected pursuant to the Uniform Assessment Collection Act as provided in Section 6.01 of this Ordinance or by any other method authorized by law.

(C) If imposed, any interim Surface Water Assessment shall be deemed due and payable on the date the mobile home tie-down permit or Building Permit was issued and shall constitute a lien against such property as of that date. Said lien shall be 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 shall be deemed perfected upon the issuance of the mobile home tie-down permit or Building Permit.

(D) In the event a Building Permit expires prior to the substantial commencement of the construction activities for which it was issued, and the applicant paid the interim Surface Water Assessment or Surface Water Fee at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Surface Water Assessment or Surface Water Fee. Failure to timely apply for a refund of the interim Surface Water Assessment or Surface Water Fee shall waive any right to a refund.

(E) The application for refund shall be filed with the Surface Water Utility Coordinator and contain the following:

- (1) The name and address of the applicant;
- (2) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;

(3) The date the interim Surface Water Assessment or Surface Water Fee was paid;

(4) A copy of the receipt of payment for the interim Surface Water Assessment or Surface Water Fee; and

(5) The date the Building Permit was issued and the date of expiration.

(F) After verifying that the Building Permit has expired and that the construction has not been substantially commenced, the County shall refund the applicable portion of the interim Surface Water Assessment or Surface Water Fee paid.

(G) A Building Permit which is subsequently issued for a Building on the same property which was subject of a refund shall pay the interim Surface Water Assessment or Surface Water Fee as required by this Section 5.05.

SECTION 5.06. AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE.

(A) The Board, in its sole discretion, shall determine whether to provide exemptions from payment of a Surface Water Assessment or Surface Water Fee for Government Property or property whose use is wholly or partially exempt from ad valorem taxation under Florida law.

(B) The Board, in its sole discretion, shall determine whether to provide a program of hardship assistance to County residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of a Surface Water Assessment or Surface Water Fee.

(C) The Board shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the Board. Any funds designated for exemptions or hardship assistance shall be paid by the County from funds other than those generated by the Surface Water Assessment or Surface Water Fee.

(D) Any shortfall in the expected Surface Water Assessment or Surface Water Fee proceeds due to any hardship assistance or exemption from payment of the Surface Water Assessments or Surface Water Fees required by 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 charges. In the event a court of competent jurisdiction determines any exemption or reduction by the Board is improper or otherwise adversely affects the validity of the Surface Water Assessment or Surface Water Fee imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of an assessment or fee upon each affected property in the amount of the Surface Water Assessment or Surface Water Fee that would have been otherwise imposed save for such reduction or exemption afforded to such property by the Board.

ARTICLE VI
COLLECTION

SECTION 6.01. METHOD OF COLLECTION OF SURFACE WATER ASSESSMENTS. Unless directed otherwise by the Board, Surface Water Assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the County shall comply with all applicable provisions thereof. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

SECTION 6.02. ALTERNATIVE METHOD OF COLLECTION OF SURFACE WATER ASSESSMENTS. In lieu of using the Uniform Assessment Collection Act, the County may elect to collect the Surface Water Assessment by any other method which is authorized by law or under an alternative collection method provided by this Section.

(A) The County shall provide Surface Water Assessment bills by first class mail to the owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Surface Water Assessment, (2) a description of the ERU calculation used to determine the amount of the Assessment, (3) the number of ERUs attributed to the parcel, (4) the total amount of the parcel's Surface Water Assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Surface Water Assessment is due, and (7) a statement that the Surface Water Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.

(B) A general notice of the lien resulting from imposition of the Surface Water Assessments shall be recorded in the Official Records of Pinellas County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The County shall have the right to appoint or retain an agent to foreclose and collect all delinquent Surface Water Assessments in the manner provided by law. A Surface Water Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The County or its agent shall notify any property owner who is delinquent in payment of his or her Surface Water Assessment within 60 days from the date the Surface Water Assessment was due. Such notice shall state in effect that the County or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Surface Water Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the County may be the purchaser to the same extent as an individual person or corporation. The County may join in one foreclosure action the collection of Surface Water Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the

County and its agents, including reasonable attorney fees, in collection of such delinquent Surface Water Assessments and any other costs incurred by the County as a result of such delinquent Surface Water Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Surface Water Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Surface Water Assessment is supplanted by the lien resulting from certification of the Surface Water Roll to the Tax Collector.

SECTION 6.03. RESPONSIBILITY FOR ENFORCEMENT. The County and its agent, if any, shall maintain the duty to enforce the prompt collection of Surface Water Assessments and Surface Water Fees by the means provided herein. The duties related to collection of Surface Water Assessments and Surface Water Fees may be enforced at the suit of any holder of Obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

SECTION 6.04. COLLECTION OF SURFACE WATER FEES.

(A) If Surface Water Fees are imposed against Government Property, the County shall provide Surface Water Fee bills by first class mail to the owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Surface Water Fee, (2) a description of the

ERUs used to determine the amount of the Surface Water Fee, (3) the number of ERUs attributed to the parcel, (4) the total amount of the parcel's Surface Water Fee for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Surface Water Fee is due.

(B) Surface Water Fees imposed against Government Property shall be due on the same date as all Surface Water Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Surface Water Fee shall become delinquent if it is not paid within 30 days from the date any installment is due. The County shall notify the owner of any Government Property that is delinquent in payment of its Surface Water Fee within 60 days from the date the Surface Water Fee was due. Such notice shall state in effect that the County will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the County, including reasonable attorney fees, in collection of such delinquent Surface Water Fees and any other costs incurred by the County as a result of such delinquent Surface Water Fees including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

ARTICLE VII

GENERAL PROVISIONS

SECTION 7.01. APPLICABILITY. This Ordinance and the County's authority to impose Surface Water Assessments and Surface Water Fees pursuant hereto shall be effective in the unincorporated areas of the County.

SECTION 7.02. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence.

SECTION 7.03. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

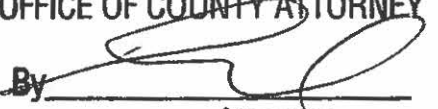
SECTION 7.04. INCLUSION IN THE PINELLAS COUNTY CODE. The provisions of this Ordinance shall be included and incorporated in the Pinellas County Code, as an addition or amendment thereto, and shall be appropriately renumbered to conform to the uniform numbering system of the Pinellas County Code.

SECTION 7.05. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed in the Department of State by the Clerk of the Board within ten (10) days after enactment by the Board and the Ordinance shall take effect as provided by law.

(E) As an alternative to the foregoing, a Surface Water Fee imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The Board may contract for such billing services with any utility not owned by the County.

SECTION 7.06. AMENDMENT OF PROPOSED ORDINANCE AT PUBLIC HEARING. Any section, subsection, sentence, clause, phrase, or provision of this Ordinance as proposed be amended, added, or deleted by majority vote of the Board of County Commissioners as a result of matters raised at the public hearing or in consultation with responsible authorities, and in such event, the amendments, additions or deletions shall be validly adopted without additional advertisement or hearing.

APPROVED AS TO FORM
OFFICE OF COUNTY ATTORNEY

By 
Attorney