

LEE COUNTY ORDINANCE NO. 21-11

AN ORDINANCE CREATING A MUNICIPAL SERVICE BENEFIT UNIT (MSBU) FOR THE HERITAGE FARMS OPERATION AND MAINTENANCE MUNICIPAL SERVICE BENEFIT UNIT; SETTING FORTH THE PURPOSE AND DEFINING THE BOUNDARIES; ESTABLISHING THE BOARD OF COUNTY COMMISSIONERS AS THE GOVERNING BODY OF THE MSBU; PROVIDING FOR THE GENERAL POWERS FOR THE MSBU; NAMING AND CREATION OF A FUND; PROVIDING FOR THE POWER TO LEVY SPECIAL ASSESSMENTS, LIENS AND COLLECTIONS; USE OF NON-AD VALOREM ASSESSMENTS; ESTABLISHING A REVERTER, PROVIDING FOR SEVERABILITY; ALTERNATIVE OR SUPPLEMENTAL AUTHORITY; PROVIDING FOR MODIFICATIONS THAT MAY ARISE FROM CONSIDERATION AT PUBLIC HEARING; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, residents within the boundaries described below presented to the Board of County Commissioners of Lee County, a petition expressing their desire to form a municipal service taxing or benefit unit; and

WHEREAS, requisite notice and publication have been provided to permit the Board of County Commissioners to conduct a public hearing to consider the adoption of this ordinance; and

WHEREAS, the Board of County Commissioners of Lee County held a public hearing to establish this Municipal Service Benefit Unit (MSBU); and

WHEREAS, all persons having an interest in the MSBU, and the public at large, were given an opportunity to be heard at such hearing.

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

SECTION 1.  
CREATION OF THE UNIT, PURPOSE AND BOUNDARIES

Pursuant to the powers granted to the Board of County Commissioners of Lee County, Florida, hereinafter referred to as the "Board", by the Constitution of the State of Florida and the Florida Statutes, in particular, §125.01, Florida Statute, the Board hereby creates a Municipal Service Benefit Unit to be known as the Heritage Farms Operation and Maintenance Municipal Service Benefit Unit. Unless expressly mandated by State Statute, any and all procedures, administrative or otherwise, which were required to be followed prior to the enactment of this Ordinance, will be waived or considered directory in nature and noncompliance with the procedure will have no effect upon the validity of this Ordinance, constitutional or otherwise.

The purpose of the Heritage Farms Operation and Maintenance Municipal Service Benefit Unit will be to provide road maintenance, drainage maintenance, landscape maintenance of common areas, and signage maintenance within the following areas located within the boundaries of the Unit as provided by funding from the annual budget of the MSBU: (1) Portions of Heritage Farms Road located South of Brandenburg Lane; (2) Heritage Lane; (3) Liberty Lane; (4) Liberty Square; (5) Northern 275± linear feet of Cindy Court; and (6) Entry Signs located on Heritage Farms Road. The boundaries of the Unit will be as follows:

SEE ATTACHED EXHIBIT "A" FOR THE ASSESSMENT ROLL, BEING INCORPORATED HEREIN BY REFERENCE.

## SECTION 2. THE GOVERNING BODY

The Board of County Commissioners will be the governing body of the Heritage Farms Operation and Maintenance Municipal Service Benefit Unit created pursuant to this Ordinance. The Board of County Commissioners may appoint an Advisory Committee, composed of five property owners from within the boundaries of the MSBU. The method of appointment and term of office will be set by the Board of County Commissioners.

## SECTION 3. THE GENERAL POWERS

The governing body will have all the powers necessary or convenient to carry out the purpose of this Ordinance and such additional rights and powers as are provided by the Constitution of the State of Florida and the laws of the State of Florida as granted to counties. The governing body will also have all powers not otherwise prohibited by law and these powers will include, but are not limited to, the power to:

1. Sue or be sued, complain or defend in the name of the County in any and all courts or administrative agencies;
2. Acquire by grant, purchase, gift, devise, exchange or in any other lawful manner any property, real or personal, or any estate or interest therein upon such terms and conditions as the governing body may determine;
3. Enter into contracts with any public, private or municipal firm, person or corporation for the furnishing of the improvements within the boundaries of this Unit;
4. Levy and collect special charges, special assessments, or taxes within the Unit;

5. Borrow and expend money and issue bonds, revenue certificates, and other obligations of indebtedness in such manner and subject to such limitations as may be provided by law;
6. Levy and collect without referendum non-ad valorem taxes for the providing of municipal services within the Unit; and
7. Adopt rules and regulations governing the Unit.

SECTION 4.  
NAMING AND CREATION OF A FUND

There is hereby created a fund to be known as the "*Heritage Farms Operation and Maintenance Municipal Service Benefit Unit*" from which the costs of specified municipal service may be paid, either in whole or in part. This fund will contain all special charges, special assessments, taxes, interest and other monies collected or otherwise obtained pursuant to this Ordinance or any subsequent resolution thereto.

SECTION 5.  
LEVYING SPECIAL ASSESSMENTS, LIENS AN COLLECTIONS

- A) Any special assessment levied pursuant to this Ordinance will be levied only after of Notice of Intent to Adopt a proposed Resolution to Assess will be published in a newspaper of general circulation within Lee County at least Twenty (20) days prior to the public hearing on the proposed Ordinance.

The method of apportioning the special assessment among the parcels of land within the MSBU will be based upon a finding by the Board that the chosen method of apportionment is a fair and reasonable distribution of the cost of the municipal service improvements in proportion to the special benefit received by each parcel of land. The assessment roll may be amended at the public hearing.

- B) The special assessment will be due and payable, and interest and penalties for late payment will accrue thereon from such date as the Board may provide.
- C) An assessment roll will be prepared and will be attached to the proposed Ordinance. This assessment roll will consist of all record legal titleholders of parcels of land within the boundaries of the MSBU and will state the apportioned assessment for that parcel of land. A copy of this assessment roll is attached hereto and labeled as Exhibit "A."

D) The assessment made by the Board as provided for herein will constitute a lien against all parcels of land so assessed. Upon failure of any property owner to pay any apportioned assessment when due and payable, the Board may cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred including reasonable attorney's fees, to be assessed as part of the cost. In that event of a default on payment of any assessment when due and payable, or any accrued interest on the assessment, the entire assessment with interest and penalties will immediately become due and payable and subject to foreclosure. The foreclosure proceedings may be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law and suits to foreclose mortgages; or, in the alternative, said proceedings may be instituted and prosecuted by any other lawful process or procedure then available for the enforcement of the lien pursuant to any general law of the State relative to the enforcement of the municipal lien. Enforcement of this lien through foreclosure proceedings or otherwise will not be construed as the Board's exclusive remedy.

The Board may prosecute any claim, legal or equitable, which it may have against the owner of the special assessed parcel of land who has defaulted on his payment of the assessment.

- E) The property owner, whose property has been assessed, will have the right to petition the Board for correction of any inaccuracy in the assessment or its apportionment within Twenty (20) days of the adoption of the Resolution to Assess. After the lapse of Twenty (20) days from the date of the adoption of the Resolution to Assess, including amendments thereto, all assessments made will be deemed conclusive unless the property owner has filed the petition for administrative review. Failure to exercise this right for an administrative remedy within the time permitted will be deemed a waiver of the property owner's right to object to the assessment or its apportionment
- F) At the Board's direction, the Uniform Collection for Non-Ad Valorem Special Assessments will be used for the collection of the above-described special assessment.

#### SECTION 6. USE OF NON-AD VALOREM ASSESSMENTS

Non-ad Valorem Assessments levied pursuant to this Ordinance will be levied and a budget prepared and adopted by this Board in the same manner as the Board prepares and adopts annual County budgets and levied taxes as provided by law.

SECTION 7.  
REVERTER

By the creation of this MSBU, the Heritage Farms Operation and Maintenance Municipal Service Benefit Unit, consisting of the affected properties within the unit, will be the entity responsible to provide road maintenance, landscape maintenance of common areas, signage, street lighting, and drainage maintenance.

If the MSBU created under the provisions of this Ordinance is ever terminated or ceased for any reason, the responsibility to provide road maintenance, landscape maintenance of common areas, signage, street lighting, and drainage maintenance will automatically revert to the individual property owners within the Heritage Farms Operation and Maintenance Municipal Service Benefit Unit in the same form and manner as existed prior to the creation of the MSBU pursuant to this Ordinance.

SECTION 8.  
SEVERABILITY

The provisions of this Ordinance are severable and it is the intention to confer the whole or any part of the powers herein provided for. If any of the provisions of this Ordinance are held to be unconstitutional by any court or competent jurisdiction, the decision of such court will not affect or impair any remaining provisions of this Ordinance. It is hereby declared to be the legislative intent that this Ordinance would have been adopted had such unconstitutional provision not been included therein.

SECTION 9.  
ALTERNATIVE OR SUPPLEMENTAL AUTHORITY

This Ordinance will not be construed as repealing or superseding any other ordinance or law and is to be construed as alternative or supplemental authority for the exercise of powers provided for herein.

SECTION 10.  
MODIFICATION

It is the intent of the Board of County Commissioners that the provisions of this Ordinance may be modified as a result of consideration that may arise during Public Hearing(s). Such modifications will be incorporated into the final version.

SECTION 11.  
EFFECTIVE DATE

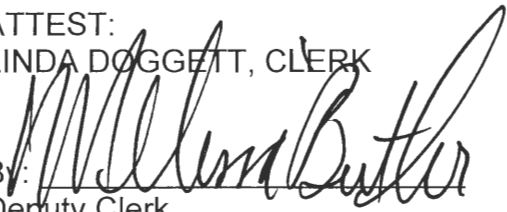
This Ordinance will take effect upon filing in the Office of the Secretary of State, State of Florida.

Commissioner Sandelli made a motion to adopt the foregoing Ordinance, seconded by Commissioner Hamman. The vote was as follows:

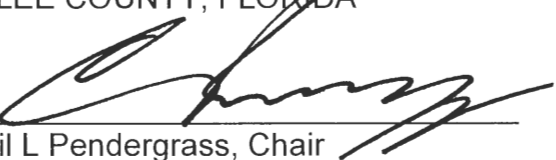
Cecil L Pendergrass	Aye
Ray Sandelli	Aye
Kevin Ruane	Aye
Brian Hamman	Aye
Frank Mann	Nay

DULY PASSED AND ADOPTED this 16<sup>th</sup> day of November 2021.

ATTEST:  
LINDA DOGGETT, CLERK

By:   
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By:   
Cecil L Pendergrass, Chair

Commissioner Cecil L Pendergrass, Chairman  
Lee County Board of County Commissioners  
District 2



Approved as to form for the  
Reliance of Lee County Only:

By:   
Lee County Attorney's Office

Attachment

Exhibit "A" – Assessment Roll, including map

# HERITAGE FARM ASSESSMENT ROLL

## Exhibit A

STRAP	SITE ADDRESS	SITECITY	O&M MSBU EAUs	O&M MSBU ASSESSMENT
45243401000000010	3636 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000020	3628 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000050	3622 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000060	3616 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000070	3612 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000080	3608 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000100	3600 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000110	3578 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000120	3558 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000130	3534 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000140	3520 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000150	3511 HERITAGE LN	FORT MYERS	1	\$950.00
Redacted pursuant to FS §119.071			1	\$950.00
45243401000000180	3571 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000190	3597 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000200	3621 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000210	3627 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000220	3631 HERITAGE LN	FORT MYERS	1	\$950.00
45243401000000230	3635 HERITAGE LN	FORT MYERS	1	\$950.00
45243402000000010	3723 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000020	3715 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000030	3699 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000040	3689 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000050	3667 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000060	3655 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000070	3649 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000080	3643 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000090	3635 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000100	3805 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000110	3799 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000120	3795 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000130	3779 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000140	3773 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000150	3767 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000160	3759 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000170	3755 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000180	3751 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000190	3747 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000200	3743 LIBERTY SQ	FORT MYERS	1	\$950.00

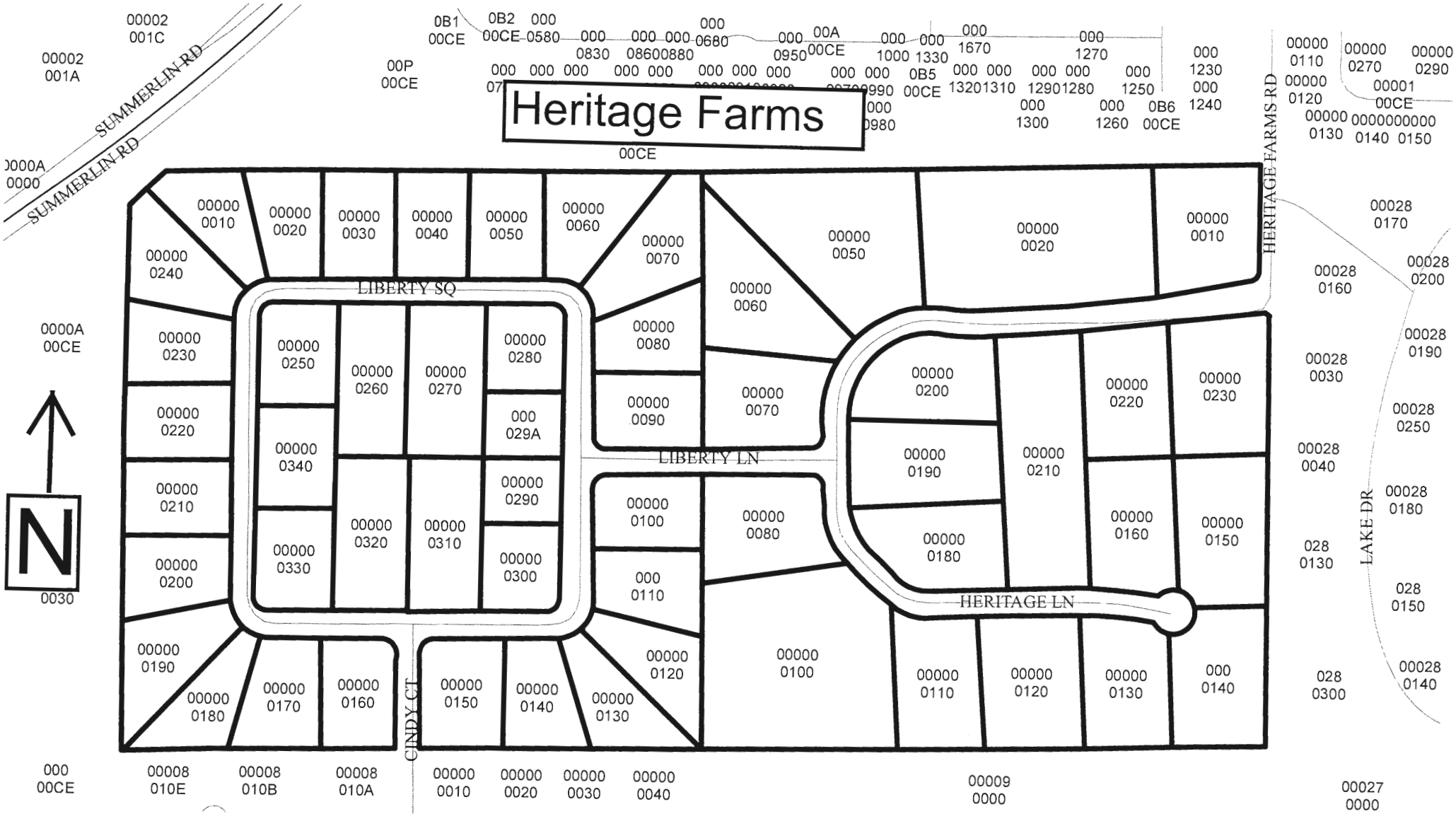
## HERITAGE FARM ASSESSMENT ROLL

### Exhibit A

45243402000000210	3739 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000220	3735 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000230	3731 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000240	3729 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000250	3714 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000260	3696 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000270	3682 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000280	3646 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000290	3804 LIBERTY SQ	FORT MYERS	1	\$950.00
4524340200000029A	3640 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000300	3790 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000310	3768 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000320	3760 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000330	3754 LIBERTY SQ	FORT MYERS	1	\$950.00
45243402000000340	3736 LIBERTY SQ	FORT MYERS	1	\$950.00
Total Assessment		First Year		\$51,300.00



# Heritage Farms





FLORIDA DEPARTMENT *of* STATE

**RON DESANTIS**  
Governor

**LAUREL M. LEE**  
Secretary of State

November 19, 2021

Honorable Linda Doggett  
Clerk of the Circuit Courts  
Lee County  
Post Office Box 2469  
Fort Myers, Florida 33902-2469

Attn: Melissa Butler

Dear Ms. Doggett:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Lee County Ordinance No. 21-11, which was filed in this office on November 19, 2021.

Sincerely,

Anya Owens  
Program Administrator

AO/lb

**RECEIVED**

*By Chris Jagodzinski at 9:04 am, Nov 19, 2021*