

ORDINANCE NO. O-2011-21

AN ORDINANCE OF THE CITY OF HOLLYWOOD, FLORIDA, GRANTING A PETITION FOR THE ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT FOR THE REAL PROPERTY LEGALLY DESCRIBED IN EXHIBIT "A"; APPROVING THE NAMING OF THE HOLLYWOOD BEACH COMMUNITY DEVELOPMENT DISTRICT I; MAKING FINDINGS OF FACT REGARDING THE DISTRICT; DESCRIBING THE BOUNDARIES OF THE DISTRICT; NAMING THE FIVE PERSONS DESIGNATED TO BE THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS; PROVIDING CONSENT FOR THE EXERCISE OF CERTAIN POWERS; PROVIDING FOR CONDITIONS; PROVIDING FOR CONFLICT, SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, the Florida Legislature created and amended Chapter 190, Florida Statutes, to provide an alternative method to finance and manage basic services for community development; and

WHEREAS, a Petition ("Petition") to establish the Hollywood Beach Community Development District I (the "District") pursuant to Chapter 190, Florida Statutes, was submitted to the City of Hollywood, Florida (the "City") by Margaritaville Hollywood Beach Resort, LLC (the "Developer") on March 30, 2011; and

WHEREAS, the proposed District comprises approximately five (5) acres, all located within the City; and

WHEREAS, title to such lands is in the City, and leased to the Developer pursuant to a Development Agreement and Ground Lease, dated as of February 9, 2011 (the "Ground Lease"), by and between the City and the Developer; and

WHEREAS, the initial term of the Ground Lease is 99 years; and

WHEREAS, pursuant to Section 190.005(1)(d), Florida Statutes, notice of the public hearing on the petition to establish the District was published in the Daily Business Review – Broward Edition newspaper once a week for four consecutive weeks prior to the hearing; and

WHEREAS, the City Commission held a public hearing on the Petition to establish the District on June 1, 2011; and

WHEREAS, the City, having considered the Petition and all information presented at the public hearing, and being fully advised and informed of the premises, has determined that it is in the best interests of the citizens of the City to approve the petition to establish the District;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY OF HOLLYWOOD COMMISSION:

Section 1: That the foregoing findings which are expressly set forth herein are hereby adopted and made a part hereof.

Section 2: That in accordance with Section 190.005(e), Florida Statutes, the City Commission hereby makes the following additional findings of fact:

1. The property proposed to comprise the District, which consists of approximately five (5) acres, more or less, lies entirely within the boundaries of the City; and is generally located adjacent to the intersection of Johnson Street and North Ocean Boulevard (State Road A1A), all as identified on the location map attached hereto as Exhibit "A". A metes and bounds description of the external boundaries of the proposed District is set forth in the legal description attached hereto as Exhibit "B". The proposed District lands are owned by the City and subject to the Ground Lease. The Developer is a "landowner" within the meaning of Section 190.003(13), Florida Statutes.
2. The City Commission has reviewed the Petition to establish the District and found all the statements therein to be true and correct.
3. The establishment of the District is not inconsistent with any applicable element or portion of the state comprehensive plan or the City's comprehensive plan.
4. The proposed District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional, interrelated community and as an independent special district.
5. The creation of the District is the best alternative available for delivering the community development services and facilities described in the Petition to the area that will be served by the District.
6. The community development services and facilities of the District will be compatible with the capacity and uses of existing City and regional community development services and facilities.
7. The area that will be served by the District is amenable to separate special district government.

Section 3: That the City Commission hereby grants the Petition to establish and create a community development district, which shall be known as "Hollywood Beach Community Development District I."

Section 4: That the external boundaries of the District shall be as depicted on Exhibit "A" attached hereto and described in Exhibit "B" attached hereto and incorporated herein by reference.

Section 5: That pursuant to Section 190.005(2)(d), Florida Statutes, the charter for the District shall consist of Sections 190.006 through 190.041, Florida Statutes, inclusive.

Section 6: That the five persons designated to be the initial members of the Board of Supervisors are as follows:

Name: Robert Auerbach  
Address: 1835 Harbor Pointe Circle  
Weston, Florida 33327

Name: Doug Sherron  
Address: 5801 S.W. 37<sup>th</sup> Terrace  
Fort Lauderdale, Florida 33312

Name: John Passalacqua  
Address: 4514 North Ocean Drive  
Hollywood, Florida 33019

Name: Cameron Benson  
Address: 2600 Hollywood Boulevard  
Hollywood, FL 33020

Name: Brian Foremny  
Address: 1 Financial Plaza, Suite 1400  
Fort Lauderdale, FL 33394

Section 7: As provided in Chapter 190, Florida Statutes, the District shall have, subject to the regulatory jurisdiction and permitting authority of all applicable governmental bodies, agencies and districts having authority with respect to any area included within the District, those special powers relating to public improvements and community facilities authorized by Section 190.012(1), Florida Statutes, and Section 190.012(3), Florida Statutes.

Section 8: That the District shall not impose ad valorem taxes without the prior written consent of the City Commission.

Section 9: That the establishment of the District approved by this Ordinance shall be null and void ab initio by operation of law unless, within ninety (90) calendar days following the effective date of this Ordinance, the District and the City have

executed an Interlocal Agreement incorporating the provisions contained in Exhibit "C" attached hereto and incorporated herein by reference.

Section 10: That in the event a court of competent jurisdiction shall hold or determine that any part of this Ordinance is invalid or unconstitutional, the remainder of the Ordinance shall not be affected thereby, and it will be presumed that the City Commission for the City of Hollywood did not intend to enact such invalid or unconstitutional provision. It shall further be assumed that the City Commission would have adopted the remainder of this Ordinance without said invalid and unconstitutional provision, thereby causing said remainder to remain in full force and effect.

Section 11: That if any word, phrase, clause, subsection or section of this Ordinance is for any reason held unconstitutional or invalid, the invalidity thereof shall not affect the validity of remaining parts of this Ordinance.

Section 12: That all sections or parts of sections of the Code of Ordinances, all ordinances or parts of ordinances, and all resolutions or parts of resolutions in conflict herewith be and the same are hereby repealed to the extent of such conflict.

Section 13: That this Ordinance shall be in full force and effect immediately upon its passage and adoption.

ADVERTISESD: May 20, 2011.

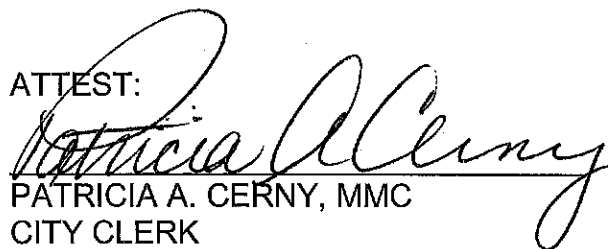
PASSED on first reading this 4 day of May, 2011.

PASSED AND ADOPTED on second reading this 1 day of June, 2011.



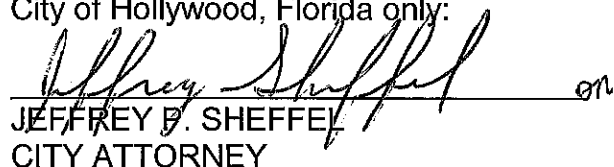
PETER BOBER, MAYOR

ATTEST:



PATRICIA A. CERNY, MMC  
CITY CLERK

APPROVED AS TO FORM & LEGALITY  
for the use and reliance of the  
City of Hollywood, Florida only:



JEFFREY P. SHEFFEL  
CITY ATTORNEY





**McLAUGHLIN ENGINEERING COMPANY**  
**LB#285**

ENGINEERING \* SURVEYING \* PLATTING \* LAND PLANNING  
 400 N.E. 3rd AVENUE FORT LAUDERDALE, FLORIDA  
 33301 PHONE (954) 763-7611 \* FAX (954) 763-7615

Legal Description

Lots 2, 3, 4, 5 and 6, LESS the East 12.50 feet thereof, of Block "A", "HOLLYWOOD BEACH", according to the plat thereof recorded in Plat Book 1, Page 27 of the Public Records of Broward County, Florida, more fully described as follows:

Beginning (1) at the intersection of the North line of said Lot 2, Block "A" and a line 12.50 feet West of and parallel with the East line of said Block "A", being a point on the West right-of-way line of Ocean Drive (State Road A-1-A); thence South 03°39'11" West, on said parallel line and West right-of-way line, a distance of 200.40 feet; thence South 88°02'41" West, on the South line of said Lot 6, a distance of 67.44 feet; thence North 03°39'11" East, on the East right-of-way line of the Intracoastal Waterway, a distance of 200.40 feet; thence North 88°02' 41" East, on the North line of said Lot 2, a distance of 67.44 feet to the Point of Beginning (1).

Subject to a right-of-way reserve area unto the owner across the West 10 feet of the East 22.5 feet of said Lots; and subject to a utility reserve area unto owner across all of said Lot 4 LESS the East 12.5 feet thereof:

TOGETHER WITH:

Block "F", LESS the West 12.5 feet and LESS the North 40.00 feet thereof, "HOLLYWOOD BEACH", according to the plat thereof as recorded in Plat Book 1, Page 27 of the Public Records of Broward County, Florida, more fully described as follows:

Beginning (2) at the Southeast corner of said Block "F"; thence South 88°06'30" West, on the South line of said Block "F", being the North right-of-way line of Michigan Street, a distance of 558.23 feet; thence North 03°39'11" East, on a line 12.50 feet East of and parallel with the west line of said Block "F", being the East right of way line of Ocean Drive (State Road A-1-A), a distance of 379.65 feet; thence North 88°02'41" East, on a line 40.00 feet South of and parallel with the North line of said Block "F", being the South right-of-way line of Johnson Street, a distance of 552.35 feet; thence South 02°45'38" West, on the East line of said Block "F", a distance of 379.74 feet to the Point of Beginning (2).

Subject to a right-of-way reserve area unto the owner across the East 10 feet of the West 22.5 feet of said Block "F"; and subject to a utility reserve area unto owner across the East 20 feet of the West 32.5 feet LESS the South 60 feet of the North 100 feet thereof, and the South 20 feet and the East 10.00 feet of said Block "F".

Uses within the utility and right-of-way reserve areas shall be subject to specific approval from the owner and generally shall be limited to walkways, landscaping, signage, lighting and other similar elements consistent with utility and right-of-way uses.

Said lands situate, lying and being in the City of Hollywood, Broward County, Florida and containing 223,439 square feet or 5.1295 acres more or less.

FIELD BOOK NO. \_\_\_\_\_

DRAWN BY: JMMjr

JOB ORDER NO. U-6390

CHECKED BY: \_\_\_\_\_

REF. DWG.: 08-3-009

## EXHIBIT C

### Provisions to be included in Interlocal Agreement between City and District

- a. The District will agree that it will not (i) refinance the special assessment bonds issued to finance the construction of the public parking portion of the Parking Garage, or (ii) issue any other bonds or debt instruments, without the prior written approval of the City, which may be granted or withheld by the City in its sole discretion.
- b. At all times during the existence of the District the chief administrative officer of the City, or his or her designee, shall serve on the Board of Supervisors of the District. The Developer as landowner and the Board of Supervisors of the District shall take all actions necessary to assure the election of at least one (1) supervisor meeting the requirements of this paragraph.
- c. The District shall submit its proposed annual budget to the chief administrative officer of the City for his or her approval prior to final adoption for the sole purpose of determining whether the projected revenues including special assessments and net parking revenues will be sufficient to pay the annual debt service due in the fiscal year for which the final budget is to be adopted.
- d. The limits of personal injury, property damage, and liability insurance to be procured by the District shall be subject to review and approval of the chief administrative officer of the City or his/her designee, which review and approval shall be exercised in his or her commercially reasonable judgment. If permitted by the issuers of such policies, the City shall be named as an additional insured.
- e. The Board of Supervisors shall establish parking rates for the public parking portion of the Parking Garage sufficient to cover the costs of operation, maintenance and debt service thereon. Subject to the requirements of the preceding sentence, the District will agree that such parking rates will reflect rates charged by parking facilities open to the public within the barrier island know as Hollywood Beach.
- f. The Board of Supervisors will adopt and implement the policies set forth in Exhibit G, entitled Parking Garage Standards, appended to that certain Development Agreement and Ground Lease between the Developer and the City dated as of February 9, 2011 that are applicable to the District with respect to the public portion of the Parking Garage, so long as such policies are consistent with the requirements of the Internal Revenue Code in order to preserve the tax exemption of the interest on the District's special assessment bonds.
- g. Once the District's special assessment bonds are paid in full, the District will agree that the City shall have the right to dissolve the District and have the District transfer the public portion of the Parking Garage to the City pursuant to the provisions and requirements of Section 190.046(4), (5), and (6), Florida Statutes.