

ORDINANCE 2022-114

AN ORDINANCE OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, ESTABLISHING THE MALABAR SPRINGS COMMUNITY DEVELOPMENT DISTRICT PURSUANT TO CHAPTER 190, FLORIDA STATUTES; PROVIDING FOR NAMING THE INITIAL MEMBERS OF THE BOARD OF SUPERVISORS OF THE DISTRICT; ESTABLISHING THE NAME OF THE DISTRICT; DESIGNATING THE PURPOSE OF THE DISTRICT; DESIGNATING THE POWERS AND SPECIAL POWERS OF THE DISTRICT; PROVIDING FOR A SEVERABILITY CLAUSE; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, CRE-KL Malabar Owner, LLC ("Petitioner"), has filed a Petition with the City of Palm Bay, Florida, requesting that the City Council of the City of Palm Bay, Florida ("City"), adopt an ordinance establishing the Malabar Springs Community Development District ("District") pursuant to Chapter 190, Florida Statutes, and designating the real property described in Exhibit "A", attached hereto, as the area of land for which the District is authorized to manage and finance basic service delivery, and

WHEREAS, the District will constitute a timely, efficient, effective, responsive and economic method of delivering community development services, in the area described in Exhibit "A", which the City is not able to provide at a level and quality needed to service the District, thereby providing a solution to the City's planning, management and financing needs for the delivery of capital infrastructure therein without overburdening the City and its taxpayers, and

WHEREAS, the City has held a public hearing on the Petition in accordance with the requirements and procedures of Section 190.005(1)(d), Florida Statutes, and

WHEREAS, the City has considered the record of the public hearing and the factors set forth in Section 190.005(1)(e), Florida Statutes.

NOW, THEREFORE, BE IT ENACTED BY THE CITY COUNCIL OF THE CITY OF PALM BAY, BREVARD COUNTY, FLORIDA, as follows:

SECTION 1. Finding of Fact. The City hereby finds and states that:

(A) The "WHEREAS" clauses stated above are adopted as findings of fact in support of this Ordinance;

(B) All statements contained in the Petition are true and correct;

(C) The creation of the District is not inconsistent with any applicable element or portion of the State Comprehensive Plan or the City's Comprehensive Plan;

(D) The area of land within the proposed District is of sufficient size, is sufficiently compact and is sufficiently contiguous to be developable as one functional interrelated community;

(E) The creation of the District is the best alternative available for delivering community development services and facilities to the area that will be served by the District;

(F) The proposed community development services and facilities to be provided by the District will not be incompatible with the capacity and uses of existing local and regional community development services and facilities; and

(G) The area that will be served by the District is amenable to separate, special-district government.

SECTION 2. Conclusions of Law.

(A) This proceeding is governed by Chapter 190, Florida Statutes;

(B) The City has jurisdiction pursuant to Section 190.005(2), Florida Statutes; and

(C) The granting of the Petition complies with the dictates of Chapter 190, Florida Statutes.

SECTION 3. Creation, Boundaries and Powers. There is hereby created the Malabar Springs Community Development District for the area of land described in Exhibit "A", attached hereto, which shall exercise the powers of Sections 190.011, and 190.012(1), (2)(a), (d) and (f), and (3), Florida Statutes, and which shall operate in accordance with the uniform community development district charter as set forth in Sections 190.006-190.041, Florida Statutes, including the special powers provided under Section 190.012(1), (2)(a), (d) and (f), and (3), Florida Statutes.

SECTION 4. Initial Board. The following five persons are designated as the initial members of the Board of Supervisors:

Timothy Smith
Michael Caputo
Justin Frye
Jon Seifel
Greg Meath

SECTION 5. Effective Date. The provisions within this ordinance shall be effective immediately upon the enactment date.

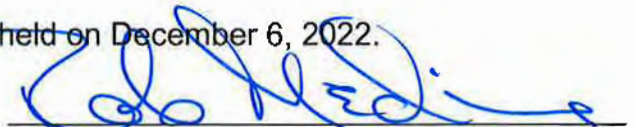
SECTION 6. Severability. If any section, subsection, sentence, clause, provision, or other part of this ordinance is held invalid for any reason, the remainder of this ordinance shall not be affected thereby but shall remain in full force and effect.

Read in title only at Meeting 2022-33, held on November 17, 2022; and read in title only and duly enacted at Meeting 2022-35, held on December 6, 2022.

ATTEST

Terese M. Jones, CITY CLERK




Rob Medina, MAYOR

City of Palm Bay, Florida
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Reviewed by CAO: PDS

Applicant: CRE-KL Malabar Owner, LLC

cc: 12-07-22 Applicant
Case File
Brevard County Recording

Exhibit “A”

**CYPRESS BAY WEST
COMMUNITY DEVELOPMENT DISTRICT
Legal Description**

DESCRIPTION FOR CDD:

PART OF THOSE CERTAIN PARCELS OF LAND DESCRIBED IN OFFICIAL RECORDS BOOK 3678, PAGE 2048 AND OFFICIAL RECORDS BOOK 3660, PAGE 1644, ALL RECORDED IN THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA AND BEING PART OF THE WEST 1/2 OF SECTION 32, TOWNSHIP 28 SOUTH, RANGE 36 EAST, BREVARD COUNTY, FLORIDA BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF THE WEST ONE-HALF OF SAID SECTION 32 AND RUN N00°44'16"E, ALONG THE EAST LINE OF SAID WEST ONE-HALF OF SAID SECTION 32, A DISTANCE OF 70.01 FEET; THENCE S89°44'45"W, PARALLEL TO AND 37.00 FEET NORTH OF, (AS MEASURED PERPENDICULARLY), THE NORTH RIGHT-OF-WAY LINE OF MALABAR ROAD, A DISTANCE OF 74.01 FEET TO THE WEST RIGHT-OF-WAY LINE OF MELBOURNE-TILLMAN WATER CONTROL DISTRICT CANAL NO. 6, A 148.00 FOOT WIDE RIGHT-OF-WAY AND THE POINT OF BEGINNING OF THE PARCEL OF LAND HEREIN DESCRIBED; THENCE CONTINUE S89°44'45"W, PARALLEL TO THE NORTH RIGHT-OF-WAY LINE OF SAID MALABAR ROAD, A DISTANCE OF 2446.08 FEET TO THE EAST LINE OF THAT CERTAIN ACCESS, CONSTRUCTION, OPERATION AND MAINTENANCE EASEMENT AS DESCRIBED IN OFFICIAL RECORDS BOOK 8442, PAGE 2936, PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA; THENCE ALONG THE BOUNDARY OF SAID EASEMENT, THE FOLLOWING FOUR (4) COURSES AND DISTANCES; 1) N00°44'59"E A DISTANCE OF 145.55 FEET; 2) THENCE N89°44'46"E A DISTANCE OF 365.06 FEET; 3) THENCE N00°47'19"E A DISTANCE OF 934.70 FEET; 4) THENCE S89°48'09"W A DISTANCE OF 420.69 FEET TO THE EAST RIGHT-OF-WAY LINE OF MELBOURNE-TILLMAN WATER CONTROL DISTRICT CANAL NO. 5; THENCE N00°45'00"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 3890.21 FEET; THENCE N32°05'43"E, CONTINUING ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 153.77 FEET TO THE SOUTH RIGHT-OF-WAY LINE OF MELBOURNE-TILLMAN WATER CONTROL DISTRICT CANAL NO. 1, A 225.00 FOOT WIDE RIGHT-OF-WAY; THENCE N89°48'04"E, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 2419.96 FEET TO THE WEST RIGHT-OF-WAY LINE OF SAID MELBOURNE-TILLMAN WATER CONTROL DISTRICT CANAL NO. 6; THENCE S00°44'16"W, ALONG SAID RIGHT-OF-WAY LINE, A DISTANCE OF 5098.43 FEET TO THE POINT OF BEGINNING. CONTAINING 283.37 ACRES, MORE OR LESS