

SECTION 22. BUDGET AND FISCAL MANAGEMENT**22.10 MUNICIPAL SERVICES BENEFIT UNIT PROGRAM****A. PURPOSE.**

(1) Non-Ad valorem assessment is an alternative funding source for improvement projects and/or services that meet the guidelines for essential public purposes as are defined by and consistent with Chapter 125, Florida Statutes. Through the establishment of non-ad valorem assessment districts – individually referred to as a Municipal Services Benefit Unit [MSBU] – property owners benefit from essential improvements to neighborhood common areas, public infrastructure and facilities. The purpose of the Municipal Service Benefit Unit [MSBU] Program of Seminole County Government is to provide a centralized entity through which non-ad valorem assessments are managed and coordinated for unincorporated Seminole County. The MSBU Program shall serve as the liaison for the County for community initiated requests for establishing MSBUs.

(2) The MSBU Program will be an independent program coordinated within and subject to the directorship of the Resource Management Department. Operational guidelines and procedures consistent with the Administrative Code will be developed and maintained within the Resource Management Department.

(3) The MSBU Program will provide support services to the Solid Waste Division for the Collection and Disposal Service Contract established with the franchised haulers servicing the properties located in unincorporated areas. Support services provided by the MSBU Program will include the activities associated with the financial aspects of calculating, billing and collecting the non-ad valorem assessments required to fund the collection and disposal improvements. The MSBU Program will provide customer service support and database maintenance of customer records such as service level options, billing units, assessment rates, and optional billing formats. The Solid Waste Division of the Environmental Services Department will be responsible for the administration and management of the Collection and Disposal Service Contract and customer service activities associated with the contracted haulers, collection and disposal, service problems, days of service and recycling.

B. ADMINISTRATIVE CODE REVISION. The revised MSBU Program Administrative Code document approved by the Board will supersede and replace all other Administrative Code provisions for MSBU Program Guidelines and Procedures. The Board of County Commissioners may address exceptions to any of the administrative provisions on a case-by-case basis. Exception review requests received from potential applicants will be coordinated through the MSBU Program and may be presented by the MSBU Program to the Board of County Commissioners following County Manager confirmation for granting exception consideration. Exception requests shall include justification for allowing exception processing and staff recommendations for response.

C. STATUTORY AUTHORITY. Chapter 125.01(q)1 of the Florida Statutes authorizes the Board of County Commissioners to provide for the establishment, merging or abolishment of municipal service benefit units (MSBUs) for any part or all of

the unincorporated area of the county. It also provides for a county MSBU to include all or part of a municipality subject to consent by ordinance of the governing body of the municipality. The law permits such MSBUs to be created for the purpose of providing and maintaining improvements which specifically benefit property in a particular area. The improvements must provide a public purpose. Chapter 197.3632 of the Florida Statutes provides for the levy, collection and enforcement of non-ad valorem assessments through the uniform method.

D. ESTABLISHING AN MSBU AND GOVERNING AUTHORITY. The Municipal Service Benefit Units authorized by the Board will be established by Ordinance. Governing expectations, regulations and range of authority for managing the improvement project and the MSBU will be included in the respective governing ordinance. The process of establishing an MSBU may be initiated by Board action absent a community based request or by community based request.

(1) When the MSBU establishment process is initiated by Board action, the following steps, consistent with statutory requirements, will be involved in the process:

(a) Resolution of Intent to use the uniform method for levy, collection and enforcement of non-ad valorem assessments (if so required by nature of project or proposed improvement) – By definition, the uniform method includes the imposition of non-ad valorem assessment, assessment billing and collecting by Tax Collector via property tax statement, with standard statutory enforcement criteria.

(b) Ordinance Adoption – establishment of MSBU and governing parameters; adoption of Ordinance to be given consideration at a public hearing.

(c) Preliminary Assessment Roll Adoption – identification of assessed property and assessment units, and approval of preliminary rate of assessment to be given consideration at a public hearing.

(2) When the MSBU establishment process is initiated by community based request, the following steps, as further defined in Section N, will be involved in the process:

(a) Application – community request to establish MSBU

(b) Petition – indicator of community support to establish MSBU

(c) Resolution of Intent to use the uniform method for levy, collection and enforcement of non-ad valorem assessments (if so required by nature of project or proposed improvement)

(d) Ordinance Adoption – establishment of MSBU and governing parameters; adoption of Ordinance to be given consideration at a public hearing

(e) Preliminary Assessment of Roll Adoption – identification of assessed property and assessment units, and approval of preliminary rate of assessment to be given consideration at a public hearing

(3) The Board reserves the right to amend, create, or dissolve MSBUs upon its own action, with or without the request or consent of the owners of the properties affected by such action.

E. ELIGIBLE & INELIGIBLE PROPERTY. Municipal Service Benefit Units may be created for the following types of areas and property categories in Seminole County:

- (1) Platted and unplatted (acreage) residential areas where the proposed improvement benefits property owners in a definable geographic area.
- (2) Commercial areas are considered on a case-by-case basis.
- (3) Apartment complexes and/or condominiums are not eligible for construction MSBUs.

F. ELIGIBLE IMPROVEMENTS. The Board will give approval consideration for the creation of an MSBU when the following criterion is met:

(1) All parcels [100%] to be included in the MSBU are located in Seminole County. All parcels shall be within the unincorporated taxing district of the county or shall be authorized for inclusion in the defined MSBU boundaries by the designated city taxing authority.

(2) The property upon which the improvement is to be made is publicly owned or legally secured for public purposes.

(3) Two or more parcels receive benefit and participate in the MSBU.

(4) Improvement is deemed essential for health, safety or welfare.

(5) The desired improvements are consistent with the four following categories of MSBUs:

- (a) Aquatic weed control;
- (b) Construction/Reconstruction;
 - (i) Neighborhood Walls - Reconstruction of sound/light/security barrier perimeter;
 - (ii) Road Paving & Drainage;
 - (iii) Lake Restoration
 - (iv) Retention pond renovation;
 - (v) Sidewalk Construction and/or Repair;
 - (vi) Sewer Lines;
 - (vii) Water Transmission Lines;
 - (viii) Other public purpose construction projects deemed essential to health, safety or welfare and consistent with Statutes.
- (c) Solid Waste Management - Collection & Disposal;
- (d) Street Lighting for residential areas.



G. INELIGIBLE IMPROVEMENTS. Ineligible improvements include projects, services or improvements not deemed essential for public health, safety, or welfare. Ineligible improvements include, but are not limited to maintenance related services such as associated with landscaping, private roads, retention pond treatments, and routine upkeep of community common areas.

The project criteria for neighborhood wall reconstruction are restricted to the criteria outlined in Section N. Replacement of fencing structures, defined as a barrier enclosing or bordering property usually made of posts and wire or wood used to define subdivision/community boundaries are not eligible for replacement via non-ad valorem assessment. The potential use of the MSBU funding format to provide a reconstruction upgrade from a community fence structure to a community wall structure, or from no prior community structure to a permitted community wall is excluded from consideration.

H. IMPROVEMENT COSTS. All direct cost components associated with obtaining and/or providing the improvement will be assessed to a MSBU. The costs included in an assessment calculation for a MSBU will vary according to the type of MSBU established. The cost may include, but is not limited to the expenditures associated with contracted services, construction, engineering, MSBU administration, tax collection, and financing. Expenses for variable rate MSBUs may also include contingency funds, utility charges and rental charges. Interest expense on funds borrowed during the engineering and construction phase and/or operating phase of an MSBU will be included in assessment calculation.

I. FUNDING.

(1) The funding format for MSBUs will be determined according to the nature of the improvement. A fixed term funding format will be used for improvements, such as construction projects, that typically consist of a one-time expenditure that will be funded through non-ad valorem assessment to be paid on an installment basis over a period of years. A variable rate funding format will be utilized for improvements that are on-going and for which operating costs will vary over time. The non-ad valorem assessment rate for variable rate MSBUs will be revised annually through Board Resolution.

(2) Separate accounts are maintained for each MSBU. The cost associated with improvements will be allocated equitably and assessed accordingly to the benefiting property. Final determination regarding the terms of repayment will be made by the Board. When deemed necessary by the Board, a financing option will be provided to expedite implementation of the improvements. Unless otherwise merited, assessments will be collected through the uniform method which includes placement of the assigned assessment on the annual property tax bill of the benefiting properties.

(3) Final Assessments for construction improvements that are paid within 30 days of the Final Public Hearing will be exempt from long-term interest fees. Repayment after that date will be billed according to the uniform method of billing and collecting non-ad valorem assessments. Early payoff is permissible and payoff calculations will include principal balance and accrued interest.

(4) Installation and construction costs for street lighting requested by developers must be paid prior to project implementation.



J. BENEFITING PROPERTY. All benefiting properties will be assessed an equitable cost share of improvements provided to the MSBU. The properties typically receiving benefit and included in assessment calculations for each type of MSBU are as identified below:

(1) Aquatic Weed Control and/or Lake Restoration: Properties on waterfront with direct access to waterbody. Includes all zoning and DOR classifications. Community/common area waterfront property may be included as assessable participating property when defining the boundaries of an aquatic weed control or lake restoration MSBU if deemed appropriate by the MSBU Program and Board. Statutory provisions applicable to assessment allocation for common land will apply.

(2) Street Lighting: Both vacated & occupied properties, with or without building structure(s) are eligible for assessment. Benefit is generally confined to a specific subdivision or geographic area for which the infrastructure (lighting equipment) was intended to benefit. Determination of benefit may be conducted on a case-by-case basis by the MSBU Program.

(3) Solid Waste Management: Both vacated and occupied residential properties with habitable residential structures. Builders and/or individuals issued permits for new residential dwellings in unincorporated Seminole County are assigned a solid waste management assessment at the time of permit issuance.

(4) Construction MSBU: Assessable properties are determined on a case-by-case basis due to variations in types of construction improvements and benefits derived from each type of improvement.

(5) For All MSBU Categories other than aquatic weed control and/or lake restoration: Community/subdivision common areas are not directly assessed a cost share. Cost allocation for such properties is assessed indirectly as a result of the assessments assigned to the properties benefiting from the common property.

(6) For All MSBU Categories: Properties that have taxable value less than \$100 will not be assessed, unless authorized as per above Section J(1).

(7) For All MSBU Categories: Parcels that are combined for consolidation of tax billing purposes will be assessed according to benefit definition for each sub-parcel unit included on consolidated billing statement.

K. SELECTION OF CONTRACTOR(S) AND/OR SERVICE PROVIDERS.

(1) Construction work is performed by independent contractors selected by the County. Bids for construction will be solicited by the Seminole County Purchasing and Contracts Division. The Award must be in conformance with Chapter 220 of the Seminole County Code.

(a) For community requested projects, when an approved project cost estimate is recalculated using information derived from final engineering or from responsive procurement bid(s), and the results represent a project cost increase of greater than 20% above the approved amount, an additional petition process reflecting the revised cost estimate will be conducted. When applicable, the secondary petition may include project scope alternatives for community consideration. The petition

response will be used to determine the continuation status of the project. Should the petition process demonstrate the standard level of required support, a secondary public hearing will be held to confirm project continuation. Should the petition fail to demonstrate the required support to continue the project, a public hearing will be held to consider dissolving the MSBU.

(b) All expenses incurred in support of the developing MSBU will be assessed against the MSBU properties whether or not the secondary petition provides the required support to move forward with the project.

(2) Service providers for street lighting MSBUs are subject to the utility franchise agreements set forth by the Public Service Commission. To accomplish the mission and purpose of providing street lighting to the MSBUs approved by the Board for inclusion in the Consolidated Street Lighting Ordinance, the MSBU Program is authorized to coordinate installation of the improvements with signature approval granted to the Resource Management Department Director or designee.

L. COORDINATION OF IMPROVEMENTS FOR ESTABLISHED MSBUS. The Board recognizes that the MSBU Program will be required to respond to administrative issues and customer requests for modification to the improvements provided to established MSBUs. To accomplish the mission and purpose of providing ongoing improvements for communities in which variable rate MSBUs are established the MSBU Program is authorized to accommodate administrative changes that are consistent with the intent of the MSBU Program Administrative Code. The MSBU Program is authorized to coordinate improvements for these MSBUs with signature approval granted to the Resource Management Department Director or designee. The range and/or limitations of this administrative authority shall be defined in the ordinance governing the MSBU(s).

M. MSBU DISSOLUTION. An MSBU established by Ordinance may be dissolved by a Resolution repealing the establishing Ordinance. The MSBU dissolution process is initiated when the services or improvements approved for provision through the MSBU process are canceled prior to being provided, or when the services or improvements are discontinued after having been provided for a period of time. The process of dissolution may be initiated by Board action or by community based request.

(1) When the MSBU dissolution process is initiated by Board action, the following steps will be involved in the process:

(a) Dissolution Request – the MSBU Program shall present dissolution request to Board with request to schedule public hearing to grant consideration for adopting a Resolution for such dissolution.

(b) Resolution of Intent to Dissolve MSBU – Resolution shall be considered at a public hearing. Resolution shall include details regarding any outstanding costs to be incurred and/or assessed as a result of or subsequent to dissolution.

(2) When the MSBU dissolution process is initiated by community based request, the following steps, as further defined in Section N, will be involved in the process:

(a) Application - community request to dissolve MSBU

(b) Petition - indicator of community support to dissolve MSBU. Petition shall include details regarding any outstanding costs to be incurred and/or assessed as a result of or subsequent to dissolution.

(c) Dissolution Request – the MSBU Program shall present dissolution request to Board with request to schedule public hearing to grant consideration for adopting a Resolution for such dissolution.

(d) Resolution of Intent to Dissolve MSBU – Resolution shall be considered at a public hearing. Resolution shall include details regarding any outstanding costs to be incurred and/or assessed as result of or subsequent to dissolution.

N. COMMUNITY BASED REQUESTS FOR MSBU CONSIDERATIONS. As specified in Section D, the process of establishing, modifying, or dissolving an MSBU may be initiated by community based requests. When requests are so initiated, the following steps are involved in the process:

(1) APPLICATION & PROCESSING FEE.

(a) A community initiated request for establishing an MSBU requires application. A completed application specific to the type of improvement requested and payment of the specified non-refundable application fee is required to initiate the MSBU process. The application documentation will include identification of a community liaison.

(b) Aquatic Weed Control and Construction MSBU projects are intended to assist established communities, and therefore, are not available during land development and/or new construction environments.

(b) Street Lighting MSBU applications may be submitted by interested property owner(s), homeowner associations, management companies or developers.

(d) Wall reconstruction projects are intended to assist established communities, and are therefore, not available during development and/or new/construction environments. In addition to the basic eligibility standards noted in Section F, the project specific criterion for wall reconstruction that must be met at time of application is as follows:

- Existence of a damaged, destroyed, and/or deteriorating community wall (brick, block, precast concrete)
- Community has no means to levy/enforce a private assessment for wall replacement
- Owner has signed Letter(s) of Intent for temporary easement/leasehold to be granted to the County from all owners of properties upon which the proposed wall will be located. **NO WALL PROJECT MAY PROCEED WITHOUT THE COUNTY RECEIVING TRANSFER OF OWNERSHIP/EASEMENT DOCUMENTS FROM 100% OF THE OWNERS OF PROPERTY UPON WHICH THE PROPOSED WALL WILL BE LOCATED.**
- Construction material requested is brick, block/stucco, or precast concrete
- Applicant: (1) will provide sealed design/engineering plans suitable for public bid/procurement, (2) will substantiate ability to fund preliminary engineering,



or (3) requests precast concrete construction that does not require design/engineering.

Community wall reconstruction projects may include provisions for:

- demolition and removal of existing wall
- receipt of wall design plans that are secured independent of County assistance via private funding or secured via wall design services that are: (1) County contracted and prepaid by the applicant or other community liaisons, and/or (2) obtained in conjunction with construction services base on preliminary drawings of desired design
- replacement construction

A community wall is defined as a permanent upright structure constructed of concrete block, brick, or precast concrete used to prevent entrance, provide sound barrier, provide light abatement, and/or to mark a subdivision or community boundary. Replacement of fencing structures, defined as a barrier enclosing or bordering property usually made of posts and wire or wood used to define subdivision/community boundaries are not eligible for replacement via non-ad valorem assessment. The potential use of the MSBU funding format to provide a reconstruction upgrade from a community fence structure to a community wall structure, or from no prior community structure to a permitted community wall is excluded from consideration.

(2) PRELIMINARY ENGINEERING & STATEMENT OF PROBABLE COST. Construction improvements require a preliminary engineering report or project analysis to obtain a valid "Opinion of Probable Cost" estimate. A Lake Analysis is required for MSBU aquatic weed control improvement requests. Preliminary Engineering Report fees and Lake Analysis fees must be received from the applicant(s) prior to these services being rendered. If the improvements are constructed or services performed, a credit against the assessment or a refund may be granted according to the amount and source of contribution(s) received for pre-funding the report/analysis fee. If the improvements are not constructed or the services are not performed, contributions toward the cost of preliminary lake/waterway analysis will not be refunded.

(3) PETITION FOR IMPROVEMENT.

(a) As a part of the application processing activities, a petition process is used for community requested MSBUs to ensure community awareness and involvement in the decision-making process, to increase recognition of the public nature of the improvements, and to highlight the property owner's responsibility for payment of the assessments. Property owners not responding to the petition either "Favorable" or "Opposed" will be counted in the final tally as "Opposed". The petition process may be waived when 100% of the properties to be included in a MSBU are owned by a single owner.

(b) All requests requiring petition approval, including MSBU dissolutions, are coordinated through the MSBU Program. A community liaison for the MSBU is authorized to assist in the petition collection activities for creating an MSBU.

(c) The minimum percentage required for petition acceptance is as follows:



(i) Street Lighting MSBU: At least 55% of the property owners representing 55% of the properties within the MSBU boundaries.

(ii) All Other MSBUs: At least 65% of the property owners representing 65% of the properties within the MSBU boundaries.

Note: Construction projects may also be subject to the requirements noted under Section M.

(d) Following the acceptance of the Petition and authorization by the Board to schedule and advertise a public hearing, the petition is no longer relevant to the final determination by the Board of County Commissioners to proceed (or not) with the project. The Board may waive the 55% or 65% property owner requirement, which remains consistent with Chapter 125.01(q)1, Florida Statutes.

(4) EASEMENTS, LEASEHOLD, DEED TRANSFERS. All MSBU projects that require the granting of easement, leasehold, and/or deed transfer are subject to mandatory agreement from 100% of the property owners from whom such easements, leaseholds, and/or deed transfers are required. The documents formalizing such agreement are required prior to scheduling a public hearing for Board consideration to establish the MSBU. Should the applicant/liaisons or designees fail to obtain 100% of the necessary signature agreements, the project will be rejected and/or subject to further petitioning if the resulting project parameters, due to limitations of documents received, deviate from parameters noted in qualifying petition.

(5) PUBLIC HEARING. The final determination of the scope and feasibility of an improvement will be made by the Board at a public hearing. The initial determination of property assessments proposed for the MSBU will be determined at the public hearing. Construction projects will be subject to a second public hearing following completion of the project. Property assessments will be determined at one of these two public hearings.

(6) DESIGN, ENGINEERING AND OTHER PROJECT RELATED EXPENDITURES. All direct costs incurred by the County on behalf of pursuing a Board authorized MSBU project will be recouped through non-ad valorem assessment assigned to the properties that are included in the assessment boundary of the MSBU. Direct costs are inclusive of, but not limited to project scope analysis, design and engineering, contracted services, project management, and financial administration. Such costs will be included in the final assessment calculation upon completion of the project, or shall be included in an assessment to be levied should the project continuation be withdrawn by the benefiting community, or by community based request for MSBU dissolution.

(7) DISSOLUTION PROCESS FOR MSBUS.

(a) A MSBU can only be dissolved after having first been created by ordinance at a public hearing. Community requested dissolution proceedings are initiated through the application process. The application process for dissolution includes, but is not limited to written application, payment of application fee, documented supportive response to the petition coordinated by the MSBU Program,



public hearing, confirmation by the Board that the MSBU may be dissolved, and determination of final assessments as a result of dissolution.

(b) A Petition for Dissolution of a street lighting MSBU must be signed by at least 55% of the current property owners representing 55% of the properties within the MSBU boundaries. Petition for Dissolution of all other MSBUs must be signed by at least 65% of the current property owners representing 65% of the properties within the MSBU boundaries.

(c) MSBUs having received supplemental funding from the County may be subject to dissolution restrictions.

- O. AUTHORITY.** Approved by the BCC June 27, 1989
Resolution 2007-R-140 adopted August 14, 2007
Resolution 2009-R-7 adopted January 13, 2009
Resolution 2009-R-215 adopted October 27, 2009
Resolution 2012-R-107 adopted June 12, 2012