

ORDINANCE NO. 2008-18

AN ORDINANCE OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA, GRANTING PETITION OF PORT ORANGE HOLDINGS II, LLC FOR ESTABLISHMENT OF A COMMUNITY DEVELOPMENT DISTRICT; CREATING AND ESTABLISHING CBL/BM PORT ORANGE WEST COMMUNITY DEVELOPMENT DISTRICT; PROVIDING FOR NAME, POWERS AND DUTIES; PROVIDING DESCRIPTION AND BOUNDARIES; PROVIDING INITIAL MEMBERS OF BOARD OF SUPERVISORS; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING 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, Port Orange Holdings II, LLC, a Florida limited liability company, has petitioned for the establishment of the CBL/BM Port Orange West Community Development District (the "District") and has paid the required fee of Fifteen Thousand and 00/100 Dollars (\$15,000.00) to the City of Port Orange, Florida; and

WHEREAS, a public hearing has been conducted by the City Council (the "Council") of the City of Port Orange, Florida (the "City") in accordance with the requirements and procedures of Section 190.005(2)(d), Florida Statutes, and the applicable requirements and procedures of the City's Charter and Code of Ordinances; and

WHEREAS, the District will constitute a timely, efficient, effective, responsive and economic way to deliver community development services in the area, thereby providing a solution to the City's management and financing needs for delivery of capital infrastructure therein without overburdening the City and its taxpayers; and

(ORD. NO. 2008-18)

WHEREAS, the Council finds that the statements contained in the Petition are true and correct; and

WHEREAS, 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; and

WHEREAS, the area of land within the District is of sufficient size, is sufficiently compact, and is sufficiently contiguous to be developable as one functional interrelated development; and

WHEREAS, the creation of the District is the best alternative available for delivering community development facilities and services to the area that will be served by the District; and

WHEREAS, the proposed facilities and services to be provided by the District will be compatible with the capacity and uses of existing local and regional community development facilities and services; and

WHEREAS, the area that will be served by the District is amenable to separate special district government; and

WHEREAS, the Council finds that the district shall have general and special powers authorized by Sections 190.011 and 190.012, Florida Statutes, and as set forth specifically herein, that it is in the public interest of all of the citizens of the City that the District have such powers.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF PORT ORANGE, VOLUSIA COUNTY, FLORIDA:

Section 1. The foregoing findings, which are expressly set forth herein, are hereby adopted and made a part hereof.

Section 2. The Petition to establish the CBL/BM Port Orange West Community Development District over the real property described in Exhibit 2 of the Petition, a copy of which is attached hereto, which was filed by the Petitioner, on April 18, 2008, and which Petition is on file at the Office of the Clerk of the Council, is hereby granted, in accordance with the terms of this Ordinance. A copy of the Petition is attached and incorporated herein Exhibit A.

Section 3. The external boundaries of the District are depicted on the location map attached hereto and incorporated herein as Exhibit B.

Section 4. The initial members of the Board of Supervisors shall be as follows:

Name: Wayne Bohl
Address: 1700 W. International Speedway Blvd.
Daytona Beach, FL 32114

Name: Bob Elliott
Address: 1700 W. International Speedway Blvd.
Daytona Beach, FL 32114

Name: Mandy York
Address: 1700 W. International Speedway Blvd.
Daytona Beach, FL 32114

Name: Sans Lassiter
Address: 123 Live Oak Avenue
Daytona Beach, FL 32114

Name: John Horency
Address: 9754 Sibley Circle
Orlando, FL 32836

Section 5. The name of the District shall be the "CBL/BM Port Orange West

Community Development District”.

Section 6. The CBL/BM Port Orange West Community Development District is created for the purposes set forth in Chapter 190, Florida Statutes.

Section 7. Pursuant to Section 190.005(2)(d), Florida Statutes, the charter for the CBL/BM Port Orange West Community Development District shall be Sections 190.006 through 190.041, Florida Statutes, as amended.

Section 8. The Council hereby grants to the CBL/BM Port Orange West Community Development District all powers authorized pursuant to Sections 190.011 and 190.012(1), (2)(a), (d), (e) and (3), Florida Statutes, and hereby finds that it is in the public interest of all citizens of the City to grant such general powers.

Section 9. All bonds issued by the CBL/BM Port Orange West Community Development District pursuant to the powers granted by this ordinance shall be validated pursuant to Chapter 75, Florida Statutes.

Section 10. No bond, debt or other obligation of the CBL/BM Port Orange West Community Development District, nor any default thereon, shall constitute a debt or obligation of the City.

Section 11. The District shall maintain on site stormwater facilities and associated fountains. In addition to any other maintenance obligations undertaken by the CBL/BM Port Orange West Community Development District, the District shall enter into interlocal agreements with the City or County of Volusia, as applicable, for the ongoing maintenance, or costs associated with maintenance, of the following:

1. The maintenance and operational expenses of the adjoining South

(ORD. NO. 2008-18)

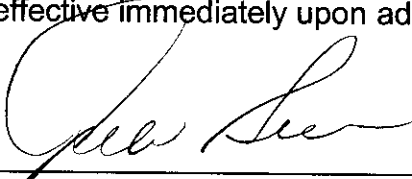
Williamson right of way and the Summer Trees Road right of way, including sidewalks, street lighting, walk lighting, landscape maintenance and mowing of the parkage, but excluding actual roadway paving and shoulder maintenance, adjacent to the CBL/BM Port Orange West Community Development District boundary with South Williamson.

2. The maintenance for any traffic signals required for this project.

Section 12. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed to the extent of such conflict.

Section 13. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 14. This ordinance shall become effective immediately upon adoption by the City Council.



Mayor Allen Green

ATTEST:



Kenneth W. Parker, City Manager

Passed on first reading on the 3rd day of June, 2008

Passed and adopted on second and final reading on the 24 day of June, 2008

Reviewed and Approved:



City Attorney

C:\Legal\ORD\cbl bm po west cdd establishment.wpd