

RESOLUTION NO. 2023-007

RESOLUTION OF THE BOARD OF SUPERVISORS OF THE SAN CARLOS ESTATES WATER CONTROL DISTRICT (“DISTRICT”) APPROVING, LEVYING AND REIMPOSING A MAINTENANCE ASSESSMENT AND AN ASSESSMENT TO PAY THE ANNUAL PRINCIPAL AND INTEREST FOR THE SERIES 2003 BONDS FOR THE PHASE I CAPITAL IMPROVEMENT PROJECT FOR THE DISTRICT’S FISCAL YEAR 2023/2024, COMMENCING ON OCTOBER 1, 2023, AND ENDING ON SEPTEMBER 30, 2024, AGAINST ASSESSED PROPERTY LOCATED WITHIN THE DISTRICT; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AND PROVIDING FOR SCRIVENER’S ERRORS, SEVERABILITY, RESCISSION, CONSTRUCTION AND AN EFFECTIVE DATE.

WHEREAS, pursuant to Chapter 298 Florida Statutes, the Judicial Decree by the Circuit Court of the Twelfth Judicial Circuit in and for Lee County, Florida, Case No. 69-105, dated April 3, 1969, and other applicable provisions of law, the San Carlos Estates Water Control District (“District”) is responsible for operating a system of perimeter canals, dikes, roadside swales, roadbeds, basins and outfall canals to provide drainage and stormwater flow control and other reclamation of the lands located within the District's geographical boundary; and

WHEREAS, the District has previously determined that each parcel of assessable land in the District receives a special benefit from the District’s operation and maintenance of the District’s works and that the District’s assessments are fairly apportioned among each parcel of assessable land; and

WHEREAS, the District has previously levied and imposed a maintenance assessment on each assessable tract of land in the District to operate and maintain the District’s works and activities and to defray the current expenses of the District; and

WHEREAS, the District desires to reimpose the maintenance assessment against each assessable tract of land in the District to operate and maintain the District works and activities and to defray the current expenses of the District for the fiscal year 2023/2024; and,

WHEREAS, the District acquired a judicial validation of special assessment bonds (hereinafter sometimes referred to as the “Series 2003 Bonds”), by Final Judgment entered in Case No. 03-CA-5140 I in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida, for the District’s Phase I Capital Improvement Project; and,

WHEREAS, the District is authorized by Florida law, especially Chapter 298, Florida Statutes, and the Final Judgment in Case No. 03-CA-5140I to levy and impose an annual assessment on each assessable tract of land in the District to pay the annual principal and interest on the Series 2003 Bonds issued by the District for each fiscal year; and,

WHEREAS, the District has previously levied and imposed an assessment on each assessable tract of land in the District to pay the annual principal and interest on the Series 2003 Bonds on an annual fiscal year basis; and,

WHEREAS, the District desires to reimpose the assessment against each assessable tract of land in the District to pay the annual principal and interest on the Series 2003 Bonds for the fiscal year 2023/2024 of the District.

NOW THEREFORE BE IT RESOLVED by the Board of Supervisors of the San Carlos Estates Water Control District:

SECTION 1. AUTHORITY

This Resolution is adopted pursuant to the provisions of Florida law, especially Chapter 298, Florida Statutes, and the District's enabling judicial decree entered by the Circuit Court of the Twelfth Judicial Circuit in and for Lee County, Florida, in Case No. 69-105, dated April 3, 1969, and the District's judicial validation of the District's Series 2003 Bonds approved by the final judgment entered by the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida, in Case No. 03-CA-5140 I, and other applicable provisions of law.

SECTION 2. INCORPORATION OF RECITALS

The recitals set forth above are true and correct and form a part of this Resolution.

SECTION 3. IMPOSITION OF MAINTENANCE ASSESSMENT

- A. Pursuant to Chapter 298, Florida Statutes, especially Section 298.305 and Section 298.54, Florida Statutes, the Board of Supervisors hereby approves, imposes (reimposes) and levies a maintenance assessment on all lands in the District (assessable tracts of land) to operate and maintain the District works and activities and to defray the current expenses of the District.

- B. The maintenance assessment of the District to be levied and imposed for the 2023/2024 fiscal year beginning October 1, 2023, and ending September 30, 2024, shall be ~~\$570.53~~ per acre on 1,081.16 acres as calculated using the Lee County Property Appraiser units of measure (in acres) said acreage not including the acreage in Parcel 15-47-25-B4-0020H.0000, which is owned by the District, or the acreage in Parcel 15-47-25-B1-00201.0000, which is owned by Gerald L. Izell, Trustee of the Izell Family Trust, and Parcel 15-47-25-B1-00201.0010, which is owned by Manuel Monteiro and Elisabetta Monteiro, both of which were removed from the District by the Final Judgment entered in Case No. 03-CA-5140 I, in the Circuit Court of the Twentieth Judicial Circuit in and for Lee County, Florida on August 30, 2004.

- C. The maintenance assessment to be assessed and apportioned among the assessable tracts of land in the District are hereby levied and imposed (reimposed) on all assessable tracts of land in the District to fund the District's maintenance/operating expenditures, budget, and reserves for the 2023/2024 fiscal year of the District in the total estimated maintenance assessment revenue amount of \$ 616,834.21
- D. The District's maintenance assessment for the 2023/2024 fiscal year that is imposed and levied against each assessable tract of land in the District shall constitute a lien upon each assessable tract of land in the District so assessed that is equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such liens shall be superior in dignity to all other liens, titles and claims, until paid.
- E. The annual maintenance assessment, as herein approved, on each assessable tract of land in the District shall be delivered to the Tax Collector for collection using the Uniform Tax Bill Collection Method in the manner prescribed by Florida law. In particular, the District staff is hereby directed to prepare, or cause to be prepared, an updated Maintenance Assessment Roll for the fiscal year commencing October 1, 2023, which includes all assessable parcels of land in the District, to be delivered to the Tax Collector.

SECTION 4. IMPOSITION OF ASSESSMENT TO PAY ANNUAL PRINCIPAL AND INTEREST OF SERIES 2003 BONDS

- A. Pursuant to Chapter 298, Florida Statutes, especially Section 298.50, Florida Statutes, the Board of Supervisors hereby approves, imposes (reimposes) and levies an assessment on all lands in the District (assessable tracts of land) to pay the annual principal and interest (with a reserve) on the District's Series 2003 Bonds.
- B. The Series 2003 Bonds repayment assessment of the District for the 2023/2024 fiscal year beginning October 1, 2023, and ending September 30, 2024, to pay the annual principal and interest (with a reserve) on the District's Series 2003 Bonds shall be levied and imposed in the amounts per unit described on the attached Series 2003 Bonds Assessment Roll for the District. The Unit 1 assessment shall be levied and imposed at an assessment rate of \$349.01 per acre. The Unit 2 assessment shall be levied and imposed at an assessment rate of \$209.40 per acre. The Unit 3 assessment shall be levied and imposed at an assessment rate of \$523.51 per acre.
- C. The assessment for the District's Series 2003 Bonds repayment for the 2023/2024 fiscal year to be assessed and apportioned among the assessable tracts of land in the District are hereby levied and imposed (reimposed) on all assessable tracts of land in the District to fund the District's expenditures, budget, and reserves for the payment of annual principal and interest (with a reserve) for the Series 2003 Bonds for the 2023/2024 fiscal year of the District in the total estimated revenue amount of \$338,037.99.

- D. The District's assessment for the payment of the annual principal and interest on the District's Series 2003 Bonds for the 2023/2024 fiscal year that is imposed and levied against each assessable tract of land in the District shall constitute a lien upon each assessable tract of land in the District so assessed that is equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such liens shall be superior in dignity to all other liens, titles and claims, until paid.
- E. The assessment to pay the annual principal and interest on the District's Series 2003 Bonds for the 2023/2024 fiscal year, as herein approved, on each assessable tract of land in the District shall be delivered to the Tax Collector for collection using the Uniform Tax Bill Collection Method in the manner prescribed by Florida law. In particular, the District staff is hereby directed to prepare, or cause to be prepared, an updated 2003 Series Bonds Assessment Roll for the fiscal year commencing October 1, 2023, which includes all assessable parcels of land in the District, to be delivered to the Tax Collector.

SECTION 5. SCRIVENER'S ERRORS

Sections of this Resolution may be renumbered or re-lettered and corrections of typographical errors which do not affect the intent may be authorized by the President (Chair) of the Board of Supervisors without need of a public meeting or Board decision making action, by the President of the Board of Supervisors filing a corrected or re-codified copy of same with the District's records custodian.

SECTION 6. SEVERABILITY

If any section, subsection, sentence, clause or other provision of this Resolution is held unconstitutional, inoperative or void by a court of competent jurisdiction, such holding shall be deemed a separate provision and eliminated from this Resolution and shall not affect the remainder of this Resolution.

SECTION 7. RESCISSION.

The Board of Supervisors hereby rescinds all prior resolutions and other official action of the Board of Supervisors to the extent of any conflict with any part of this Resolution.

SECTION 8. CONSTRUCTION AND EFFECTIVE DATE

This Resolution shall be liberally construed to effect the purposes hereof and shall take effect immediately upon its adoption.

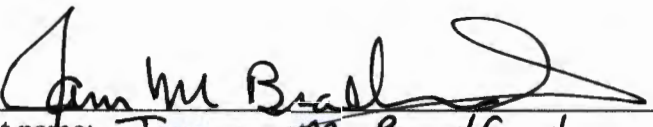
THE FOREGOING RESOLUTION WAS OFFERED BY SUPERVISOR Bradford
WHO MOVED THE RESOLUTION'S ADOPTION. THE MOTION WAS SECONDED BY

SUPERVISOR Cellucci AND, UPON BEING PUT TO A VOTE, THE VOTE WAS AS FOLLOWS:


<u>NAME</u>	<u>YES</u>	<u>NO</u>
Jim Bradford	<u>X</u>	<u> </u>
John Cellucci	<u>X</u>	<u> </u>
Jennifer Finazzo	<u>X</u>	<u> </u>

Duly passed and adopted on this 2nd day of August, 2023.

**BOARD OF SUPERVISORS OF THE
SAN CARLOS ESTATES WATER CONTROL DISTRICT**

By: 
Print name: James M Bradford
President/Chair of the Board of Supervisors

ATTEST:

By: 
Chris Lawson, Secretary-Treasurer for the District