

AGENDA



Special Council
Meeting
Thursday, November 4th, 2021
5:00 p.m.

SPECIAL COUNCIL MEETING

THURSDAY, NOVEMBER 4, 2021

5:00 P.M.

1. **CALL TO ORDER/ROLL CALL OF MEMBERS**
2. **PLEDGE OF ALLEGIANCE**
3. **PUBLIC COMMENTS:** *Any person wishing to address the Council, should state name, address, prior to making the statement, for the record.*
4. **ORDINANCE:** **TAB 1**

FIRST READING

A. AN ORDINANCE OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$19,000,000 OF THE VILLAGE OF INDIAN CREEK, FLORIDA ROADWAY IMPROVEMENT SPECIAL ASSESSMENT BONDS OR NOTES, SERIES 2021; PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS OR NOTES; PROVIDING FOR AN EFFECTIVE DATE.
5. **RESOLUTION:** **TAB 2**

A. A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA RELATING TO THE PROVISION OF ROADWAY IMPROVEMENTS WITHIN THE VILLAGE; DECLARING THE IMPOSITION OF A SPECIAL ASSESSMENT FOR SAID ROADWAY IMPROVEMENTS; ESTABLISHING THE METHOD BY WHICH THE PROPOSED SPECIAL ASSESSMENT SHALL BE MADE; DESIGNATING THE LANDS UPON WHICH THE PROPOSED ROADWAY ASSESSMENT SHALL BE LEVIED; STATING THE ESTIMATED COST OF THE ROADWAY IMPROVEMENTS AND THE INITIAL ROADWAY ASSESSMENT; DIRECTING THE PREPARATION OF A PRELIMINARY ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL ASSESSMENTS AND THE METHOD OF THEIR COLLECTION AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.
6. **ADJOURNMENT**

TAB 1

ORDINANCE NO. 228

AN ORDINANCE OF THE VILLAGE COUNCIL OF THE VILLAGE OF INDIAN CREEK, FLORIDA, AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$19,000,000 OF THE VILLAGE OF INDIAN CREEK, FLORIDA ROADWAY IMPROVEMENT SPECIAL ASSESSMENT BONDS OR NOTES, SERIES 2021; PROVIDING FOR A SUPPLEMENTAL RESOLUTION SETTING FORTH THE DETAILS OF SAID BONDS OR NOTES; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Village Council (the “Council”) of Indian Creek Village, Florida (the “Village”) desires to authorize the issuance of not exceeding \$19,000,000 of bonds or notes for the purpose of financing a portion of the costs of the design and complete rebuilding of the existing 1.6-mile long roadway, including, but is not limited to, the realignment of the existing roadway, all paving, drainage, storm-water, potable water and a new sanitary sewer grinded/system, lighting, landscaping and a pedestrian pathway as well as the relocation of utilities such as telecommunication lines (the “Roadway Redevelopment Project”), and paying costs of issuance of the bonds or notes; and

WHEREAS, the Council desires that the bonds or notes be on such terms and awarded to such purchasers and secured by special assessments imposed by the Village on the benefitted properties of the Village, as further specified by subsequent resolution of the Council.

NOW, THEREFORE, BE IT ORDAINED BY THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, AS FOLLOWS:

Section 1. In accordance with the provisions of the Charter of the Village, Chapter 20, Section 20-12 of the Code of Ordinances of the Village and Chapter 166, Florida Statutes, and other applicable provisions of law there are hereby authorized to be issued bonds or notes (the “Bonds”) of the Village, in an aggregate principal amount not to exceed \$19,000,000, in one or more series, for the purpose of financing a portion of the costs of the Roadway Reconstruction Project within the Village and paying costs of issuance of the Bonds. The Bonds shall be designated “Indian Creek Village, Florida Roadway Improvement Special Assessment Bonds or Note” (with appropriate series designation), or such other designation as may be approved by supplemental resolution, shall be dated such date, shall be in such denominations, shall be stated to mature no later than thirty years from their date of issuance or two years after the last installment of special assessments levied to pay

the bonds or notes, shall bear interest from their dated date at a rate or rates not exceeding the maximum rate permitted by law at the time of issuance of the Bonds, shall be subject to redemption at the option of the Village at such times and prices, and shall have such other details, all as shall hereafter be determined by the Council by supplemental resolution. The supplemental resolution may be adopted, and the Bonds may be issued, at any time after the effective date of this Ordinance.

Section 2. The Village Manager is hereby authorized to negotiate with banks or other financial institutions for the purchase of the Bonds and with respect to the terms of the Bonds. The Village Attorney and Bond Counsel to the Village are hereby authorized to draft documents and to do all other things necessary to accomplish the issuance and sale of the Bonds.

Section 3. This Ordinance will become effective immediately upon adoption on second reading.

PASSED AND ADOPTED on first reading this 4th day of November, 2021.

PASSED AND ADOPTED on second reading this _____ day of November, 2021.

BERNARD KLEPACH, MAYOR

ATTEST:

VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

TAB 2

RESOLUTION NO. 2021-827

A RESOLUTION OF THE VILLAGE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, RELATING TO THE PROVISION OF ROADWAY IMPROVEMENTS WITHIN THE VILLAGE; DECLARING THE IMPOSITION OF A SPECIAL ASSESSMENT FOR SAID ROADWAY IMPROVEMENTS; ESTABLISHING THE METHOD BY WHICH THE PROPOSED SPECIAL ASSESSMENT SHALL BE MADE; DESIGNATING THE LANDS UPON WHICH THE ROADWAY ASSESSMENT SHALL BE LEVIED; STATING THE ESTIMATED COST OF THE ROADWAY IMPROVEMENTS AND THE INITIAL ROADWAY ASSESSMENT; DIRECTING THE PREPARATION OF A PRELIMINARY ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL ASSESSMENTS AND THE METHOD OF THEIR COLLECTION AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING FOR SEVERABILITY AND AN EFFECTIVE DATE.

WHEREAS, Indian Creek Village, Florida (the “Village”) is a municipality located along Biscayne Bay in Miami-Dade County, Florida; and

WHEREAS, within the jurisdictional boundaries of the Village is Indian Creek Island (the “Island”), a single-family island neighborhood solely accessible via an entry road and a bridge publicly owned and maintained by the Village; and;

WHEREAS, the Island consists of thirty-nine (39) single-family residential waterfront homesites almost all of which are improved with multi-million dollar estate homes (the “Residential Properties”), and several unplatted tracts of land together developed with an exclusive private membership country club, including an 18 hole golf course, pool, tennis courts, an elaborate clubhouse with dining rooms, multifunction party rooms and other amenities owned by the Indian Creek Country Club (the “Club Property”); and

WHEREAS, the Residential Properties and the Club Property front directly on and are solely accessible via a privately dedicated seventy-foot wide “U” shaped roadway designated as Indian Creek Island Road, a/k/a Indian Creek Island Drive (the “Roadway”), which is the only means of ingress and egress to and from the all properties on the Island; and

WHEREAS, the Roadway and all the infrastructure and components of the Roadway have reached the end of their useful life and are in an unsafe and hazardous condition; and

WHEREAS, the Residential Properties are currently using inadequate septic systems and the Village finds it in the best interests for the health, safety and welfare of the residents to abandon the existing septic tanks and provide sanitary sewer mains to connect to a sanitary sewer system; and

WHEREAS, under various agreements, the Village is responsible for the reconstruction, maintenance and ongoing repairs to the Roadway, including all infrastructure and utilities within the Roadway; and

WHEREAS, the Village has determined that it is in the best interest of the residents and property owners that the Roadway and all of the components of the Roadway be reconstructed and replaced as part of a redevelopment project more specifically described below (the “Roadway Redevelopment Project”); and

WHEREAS, the Roadway Redevelopment Project consists of the design and complete rebuilding of the existing 1.6-mile long Roadway, including, but is not limited to, the realignment of the existing Roadway, all paving, drainage, storm-water, potable water and a new sanitary sewer grinder/system, lighting, landscaping and a pedestrian pathway as well as the relocation of utilities such as telecommunication lines; and

WHEREAS, on May 18, 2020 the Village Council of the Village (the “Village Council”) approved Resolution No. 804, which provided for a professional services agreement with Stantec Consulting Services, Inc. for the design of the Roadway Redevelopment Project; and

WHEREAS, the Village has hired a general contractor to perform the work which has commenced; and

WHEREAS, the Village Council has determined that the Village will finance the Roadway Redevelopment Project by issuing a bond(s) or bank note(s) to be repaid with the proceeds from a special assessment imposed upon the Residential Properties; and

WHEREAS, the Village engaged SCS Engineers, Inc. (“SCS”), a firm specializing in the evaluation and establishment of local government special assessments, to undertake a complete analysis of alternative funding mechanisms for the Village and in particular a study of the Roadway Redevelopment Project costs in order to quantify the benefits provided to the Residential Properties and the Club Property and the feasibility of establishing a special assessment to finance the cost of the Roadway Redevelopment Project through the issuance of a municipal bond(s) or note(s); and

WHEREAS, after extensive study and analysis, SCS has prepared a comprehensive Roadway Redevelopment Project Technical Memorandum dated October 25, 2021 (the “Technical Memorandum”), which is attached hereto and made a part hereof as Exhibit “A”, and in which it is determined that the Assessed Properties (defined below) directly and specially benefit from the Roadway Redevelopment Project and recommends the development and implementation of a special assessment program to fund the cost of the Roadway Redevelopment Project. These costs include, but are not limited to, all of the hard and soft costs identified in the Technical Memorandum which are approximately \$17,158,017 (the “Roadway Cost”); and

WHEREAS, based upon the findings of SCS and the professional recommendation contained within its Technical Memorandum as well as other competent evidence, the Village Council finds a direct and special benefit to the Assessed Properties, including but not limited to, providing the only means of access on the Island for the Assessed Properties; an increase in and the enhancement of property values of the Assessed Properties; and the enhanced safety, use and enjoyment of the Assessed Properties. Additionally, the Roadway Redevelopment Project provides an essential means of access for emergency first responders, including police and fire, which directly benefit all Assessed Properties. These and other special benefits outlined in the Technical Memorandum are referred to in this Resolution as the “Special Benefits”. In the Technical Memorandum, SCS also determines that the Assessed Property, defined below, directly and specially benefits from the Roadway Redevelopment Project and recommends the development and implementation of an annual special assessment program to fund the Village’s cost of financing the Roadway Redevelopment Project (the “Roadway Assessment”); and

WHEREAS, the Residential Properties are hereinafter collectively referred to as the “Assessed Property or Assessed Properties,” and are identified in Composite Exhibit “B” attached hereto and made a part hereof; and

WHEREAS, the Club Property has off-set the cost of the Roadway Redevelopment Project by providing for a payment in the amount of \$465,000, (the “Club Contribution”) and installation of a new stormwater system to the Club Property, which will provide for its fair and reasonable portion of the cost of the Roadway Redevelopment Project, as described herein, and as such the Club Property will not be assessed pursuant to this Resolution; and

WHEREAS, the Village Council desires to finance the Roadway Cost, as set forth herein and in the Technical Report, and to spread the overall Roadway Cost over 15 years by issuing a bond

or note for a term of 15 years to be amortized over 25 year period (the “15 Year Note”), commencing with a “Fiscal Year” which commences on October 1, each year and ends on September 30 of the following year (Fiscal Year 2022-2023), with collection on the property tax bill authorized by Section 197.3632, Florida Statutes (the “Uniform Method”), commencing with the tax bill issued in November 2022; and

WHEREAS, it is the intent of the Village, upon the final maturity date of the 15 Year Note, to impose a one-time lump-sum assessment for all unpaid principal and interest (the “Lump Sum Assessment”); and

WHEREAS, the annual Roadway Assessment and Lump Sum Assessment would lawfully impose against the Assessed Property the proportional cost of financing the design and construction costs of the Roadway Redevelopment Project providing a special benefit to the Assessed Property, as a consequence of possessing a logical relationship to the value, use or characteristics of the Assessed Property; and

WHEREAS, the amount necessary to fund the Roadway Cost allocable to Assessed Property during a Fiscal Year shall include, but not be limited to: (A) the annual debt service payment, which includes, principal, interest, reasonable reserves and cost of issuance of the bond or note in connection with the financing of the Roadway Cost (the “Financing Cost”), which cost also includes in the final Fiscal Year, the Lump Sum Assessment; (B) the cost of financial, legal or other professional services in connection with the implementation of the Roadway Assessment (the “Transaction Cost”); (C) all costs associated with the collection and enforcement of the Roadway Assessment using the Uniform Method on the tax bill, including any service charges of the Miami-Dade County Tax Collector or Property Appraiser, and the discount for early payment of taxes (the “Collection Cost”); and (D) reimbursement to the Village or any other person for any monies

advanced for any costs incurred by the Village or such person in connection with any of the foregoing items of (collectively, the “Annual Assessment Cost”), and the final Annual Assessment Cost being the Lump Sum Assessment Cost, an estimate of each which are set forth in the Technical Report; and

WHEREAS, the Village Council wishes to establish a fair, equitable and reasonable method of apportionment of the Annual Assessment Cost and the Lump Sum Assessment Cost among all the Assessed Property within the Island that will receive a special benefit from the Roadway Redevelopment Project; and

WHEREAS, the Village Council finds that the Residential Properties within the Island do now and will continue to receive a direct and special benefit from the Roadway Redevelopment Project based upon the actual lineal frontage of such Assessed Property abutting the Roadway Redevelopment Project (the “Front Footage”), and therefore (1) the “Annual Assessment Rate” for each Assessed Property is determined by the apportionment based on the Annual Assessment Cost per linear foot, with actual Front Footage of each Assessed Property divided by the total Front Footage of all the Assessed Properties and (2) the “Lump Sum Assessment Rate” for each Assessed Property is determined by the apportionment based on the Lump Sum Assessment Cost per linear foot, with actual Front Footage of each Assessed Property divided by the total Front Footage of all the Assessed Properties; and

WHEREAS, the Village Council directs that an initial preliminary assessment roll, relating to the Annual Assessment Rate and the Lump Sum Assessment Rate for each of the Assessed Properties, should be prepared and should show each of the Assessed Properties and the amount of the Roadway Assessment against each of the Assessed Properties utilizing the Maximum Annual Assessment Rate determined herein (the “Preliminary Assessment Roll”); and

WHEREAS, the Roadway Assessment shall be made in the manner described within the Technical Memorandum and will fund (99.973%) of the amount of the Roadway Cost after applying the Club Contribution, and paid in annual installments over a period of fourteen (14) years with a final lump sum payment in year fifteen (15); and

WHEREAS, the Village Council further directs that upon the completion of the initial Preliminary Assessment Roll and mailing of notice thereof to property owners of the Assessed Properties and the publication of such notice, that a public hearing be held at which time the owners of the Assessed Property or any other persons interested therein may appear before the Village Council and be heard as to the propriety and advisability of the Roadway Assessment for the cost of the Roadway Redevelopment Project and the Village Council shall act as an equalizing board to hear and consider the apportionment of such Roadway Assessments among the Assessed Property;

NOW, THEREFORE, BE IT RESOLVED BY THE COUNCIL OF INDIAN CREEK VILLAGE, FLORIDA, AS FOLLOWS:

SECTION 1. RECITALS INCORPORATED. That each of the above-stated recitals is hereby adopted and confirmed.

SECTION 2. AUTHORITY. This Resolution is adopted pursuant to the provisions of Village Ordinance No. 194 (the “Ordinance”), Sections 166.021 and 166.041, Florida Statutes, Section 197.3632, Florida Statutes, (the “Uniform Collection Act”) and other applicable provisions of law.

SECTION 3. PURPOSE AND DEFINITIONS. This Resolution constitutes the initial resolution required in the Ordinance to declare a special assessment, as further set forth in the Ordinance and the Uniform Collection Act. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance or the Uniform Collection Act.

SECTION 4. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. It is hereby ascertained, declared and determined that the Roadway Redevelopment Project provides a special benefit to the Assessed Property based upon the following legislative determinations:

General

4.1 Upon the adoption of this Initial Assessment Resolution determining the Roadway Costs and identifying the Assessed Property to be included in the Preliminary Assessment Roll, the legislative determinations of special benefit ascertained and declared in the Ordinance are hereby ratified and confirmed.

4.2 The Village has the jurisdiction to provide for the Roadway Redevelopment Project within its boundaries and is otherwise authorized to do so.

4.3 The conditions of the existing Roadway, the need for sanitary sewers, improved drainage and stormwater system and the relocation of the potable water mains and other utilities including telecommunication lines on the Island results in the need for the construction of the Roadway Redevelopment Project.

4.4 The imposition of an annual Roadway Assessment with a final lump sum Roadway Assessment is an alternative, equitable and efficient method to fairly and reasonably apportion and recover the Roadway Costs incurred by the Village among the parcels located within the Island.

Special Benefit

4.5 The Roadway Redevelopment Project possess a logical relationship to the use and enjoyment of property located within the Island by providing: (1) a safe roadway for ingress and egress and increase in safety for pedestrians by providing sidewalks and street lighting, and increase in the health and welfare by providing new sanitary sewers to the Assessed Property; (2) a rise in and the

enhancement of property values and increase in the demand for the ownership, use and enjoyment of the Assessed Property; (3) a reduction in homeowners' insurance and other insurance premiums for Assessed Property located within the Island; and (4) the protection of property values resulting from increase in safety, health and aesthetics, in connection with the Roadway Redevelopment Project.

Apportionment

4.6 The size, principally the more linear Front Footage of the Assessed Property, which abuts the Road Redevelopment Project tends to benefit more from the Roadway Redevelopment Project than do parcels with lesser Front Footage, and it is fair and reasonable to apportion a greater proportional share of the costs to such parcels.

4.8 Apportioning the Annual Assessment Cost and the Lump Sum Assessment Cost (including the Financing Cost, Transaction Cost and Collection Cost) allocable to the Assessed Property within the Island based on the frontage of the real property abutting the Roadway Redevelopment Project is also compatible with the use of the data base used for property taxes (the "Tax Roll") and is required to avoid cost inefficiency and unnecessary administration, and is a fair and reasonable and historically well established and statutorily sanctioned method of apportioning special assessments. Moreover, the establishment of a linear Front Footage methodology together with rate per linear foot structure is a highly equitable manner of assuring that properties are assessed in a comparable manner.

SECTION 5. DETERMINATION OF ROADWAY COST; ESTABLISHMENT OF INITIAL ROADWAY ASSESSMENTS, THE INITIAL ANNUAL ASSESSMENT COST, LUMP SUM ASSESSMENT COST AND THE MAXIMUM ANNUAL ASSESSMENT RATE.

5.1 The total estimated Roadway Cost (after applying the Club Contribution) to be assessed and apportioned among the Assessed Property is \$16,693,017 (excluding the Financing Cost,

Transaction Cost and Collection Cost) and the Annual Assessment Cost (including the Financing Cost, Transaction Cost and Collection Cost) for Fiscal Year 2022-2023 is \$1,003,100.00. The Lump Sum Assessment Cost is \$10,085,627.00. The approval of this Initial Assessment Resolution determines the amount of each initial Annual Assessment Rate and Lump Sum Assessment Rate for such Assessed Property and the Maximum Annual Assessment Rate (as determined herein) per linear Front Footage and Maximum Lump Sum Assessment Rate. All of the Roadway Costs after applying the Club Contribution shall be paid from the Roadway Assessments.

5.2 For each Fiscal Year in which Roadway Assessments are imposed, the Annual Assessment Cost and the Lump Sum Assessment Cost shall be allocated among all parcels of Assessed Property within the Island, based upon each of the Assessed Properties Front Footage applying the Annual Assessment Cost per linear foot, which shall not be in excess of the Maximum Annual Assessment Rate and with respect to the Lump Sum Assessment Cost per linear foot, which shall not be in excess of the Maximum Lump Sum Assessment Rate. A Maximum Annual Assessment Rate per linear foot equal to \$132.65 per linear Front Footage for each of the Assessed Properties is hereby approved. A Maximum Lump Sum Assessment Rate per linear foot equal to \$1,333.71 per linear Front Footage for each of the Assessed Properties is hereby approved. The maximum Annual Assessment Rate and the maximum Lump Sum Assessment Rate for each Assessed Property is set forth on composite Exhibit "B" to this Resolution and is hereby approved.

5.3 The maximum rate for the Annual Assessment Rates shall be the rates applied by the Village Manager in the Preliminary Assessment Roll for the Fiscal Year 2022-2023, and the maximum rate for the Lump Sum Assessment Rate shall be the rates applied by the Village Manager in the Preliminary Assessment Roll for the Fiscal Year 2022-2023 as set forth in Section 6 of this Initial Assessment Resolution.

SECTION 6. PRELIMINARY ASSESSMENT ROLL.

6.1 The Village Manager is hereby directed to prepare, or cause to be prepared, a Preliminary Assessment Roll for the Fiscal Year 2022-2023, in the manner provided in the Ordinance and Uniform Collection Act. Such Preliminary Assessment Roll shall contain the following: (1) a summary description of all Assessed Property within the Island conforming to the description contained on the most recent Miami-Dade County Tax Roll, (2) the name and address of the owner of record of Assessed Property as shown on the most recent Miami-Dade County Tax Roll, (3) the amount of the total Annual Assessment Cost assessed against all the Assessed Properties, (4) the unit of measurement to be applied to determine the Annual Assessment Rate for each Assessed Property (5) the Annual Assessment Rate for each Assessed Property and (6) the Lump Sum Assessment Rate for each Assessed Property. The Preliminary Assessment Roll shall be open to public inspection. The foregoing shall not be construed to require that the initial Preliminary Assessment Roll be in printed form if the amount of the Annual Assessment Rate for each Assessed Property can be determined by use of a computer terminal available to the public. Such Roadway Assessments for the Assessed Property shall be computed based upon the linear Front Footage of each Assessed Property divided by the total linear Front Footage for all the Assessed Properties combined.

6.2 It is hereby ascertained, determined, and declared that the foregoing method of determining the Roadway Assessments for the Roadway is a fair and reasonable method of apportioning the Annual Assessment Cost and the Lump Sum Assessment Cost among parcels of Assessed Property, and the use of the Uniform Method for collection is an efficient mechanism to address payment delinquencies and recover Roadway Assessments which are allocable to specific parcels of Assessed Property.

SECTION 7. AUTHORIZATION OF PUBLIC HEARING; NOTICE. The Village Council hereby finds and determines that a public hearing is to be held by the Village Council at 5:00 p.m. on December 8, 2021, or as soon as practicable thereafter, at Village Hall at 9080 Bay Drive, Indian Creek, Florida, 33154, to be set forth in the notice of meeting, to consider: (A) the propriety and advisability of the Roadway Redevelopment Project, the estimated Roadway Costs, the Annual Assessment Cost and the Lump Sum Assessment Cost, (B) imposition and apportionment of the Roadway Assessments to the Assessed Property, and (C) collection of the Roadway Assessments pursuant to the Uniform Collection Act commencing with the tax bill to be mailed in November 2022.

SECTION 8. NOTICE BY MAIL.

8.1 As required by the Ordinance, the Village Clerk shall provide notice of or a copy of this Resolution to be mailed to the property owner of each parcel within the Assessed Property whose land may be subject to the Roadway Assessment at his or her last known address, the names and addresses of such property owners to be obtained from the records of the Miami-Dade County Property Appraiser or from such other sources as the Village Clerk or Village Manager deem reliable.

8.2 Upon completion of the Preliminary Assessment Roll, the Village Manager shall, at the time and in the manner specified in Section 197.3632(4)(b), Florida Statutes, direct the provision of first class United States mailed notice of the public hearing authorized by Section 7 hereof by the Village Clerk to each property owner of the Assessed Properties at the address indicated on the Tax Roll. Such notice shall contain the information required for mailed notice set forth in Section 197.3632(4)(b), Florida Statutes.

8.3 Proof of such mailings shall be made by affidavit of the Village Clerk and said proof to be filed with the Village Clerk.

SECTION 9. NOTICE BY PUBLICATION.

9.1 Upon completion of the Preliminary Assessment Roll, the Village Manager shall direct the Village Clerk to publish a notice of the public hearing authorized by Section 7 hereof in the manner and the time provided in Section 197.3632(4)(b), Florida Statutes. Such notice shall contain the information required by Section 197.3632(4)(b), Florida Statutes for published notice.

9.2 In addition, the Village Clerk shall also publish notice of the Village's intent to use the Uniform Method for collection of the Roadway Assessments weekly in a newspaper of general circulation for four (4) consecutive weeks preceding the public hearing provided in Section 7 hereof.

SECTION 10. REVISIONS TO ASSESSMENTS. If any Roadway Assessment made under the provisions of this Initial Assessment Resolution is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the Village Council is satisfied that any such Roadway Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Village Council has failed to include or omitted any Assessment Property on the Preliminary Assessment Roll which property should have been so included, the Village Council may take all necessary steps to impose a new Roadway Assessment against any such property benefitted by the Roadway Redevelopment Project, following as nearly as may be practicable, the provisions of the Ordinance and the Uniform Method Act and in case such second Roadway Assessment is annulled, vacated, or set aside, the Village Council may obtain and impose other Roadway Assessments until a valid Roadway Assessment is imposed.

SECTION 11. EFFECTIVE DATE. This Initial Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED THIS 4th day of November 2021.

BERNARD KLEPACH, MAYOR

ATTEST:

VILLAGE CLERK

APPROVED AS TO FORM AND LEGAL SUFFICIENCY:

WEISS SEROTA HELFMAN COLE & BIERMAN, P.L.
VILLAGE ATTORNEY

EXHIBIT A

TECHNICAL MEMORANDUM

October 25, 2021
File No. 09221121.00

REVISED DRAFT TECHNICAL MEMORANDUM

TO: Indian Creek Village, Florida
FROM: Vita Quinn, SCS Engineers
SUBJECT: Road Capital Non-Ad Valorem Special Assessment Study

**BACKGROUND**

Indian Creek Village (Village), a small municipality along Biscayne Bay, has a total land area of approximately 294 acres. Connected by a bridge over Indian Creek waterway, the bulk of the Village is an island (Island) containing 39 platted waterfront residential home sites, the Island roadway, and the Indian Creek Country Club (ICCC or Golf Course Properties), which contains a clubhouse, golf course, dockage, and other facilities. There are two off-Island parcels, one owned by ICCC and another that houses Village government and operations.

There is one dedicated 70-foot wide road (Roadway) within the residential subdivision serving the home sites. That Roadway is also used to access ICCC. The Village is undertaking a large capital project (Roadway Project) that will include improvements to the asphalt roadway and crosswalks, as well as to the retaining wall, lighting, and irrigation along the Roadway. Additionally, gutters and other stormwater improvements as part of the Roadway Project will reduce roadway flooding.

The Village intends to issue a bond for the majority of the project costs. Roadway Project costs will be recovered through a special assessment against each of the residential home sites.¹

Special assessments, sometimes referred to as non-ad valorem special assessments, are a local government revenue source that can be used to fund all or a portion of the costs associated with some capital projects. The amount levied to recover these costs (Roadway Capital Assessments or Assessments) is apportioned among the benefitting properties. The Village has retained SCS Engineers to establish a program and associated methodology to fund costs associated with the Roadway Project and to assist in developing the property roll that will be delivered to the Miami-Dade County Property Appraiser (MDCPA).

¹ The Roadway Project costs will be offset by a voluntary contribution from ICCC in the amount of \$465,000.



ASSESSMENT AREA

The Assessment Area consists of 39 platted waterfront residential home sites, all zoned O100 – Single Family – General by the MDCPA. Additionally, while the Roadway itself is a separate dedicated tract of land, it is not included in the Assessment Area.

Therefore, *it was determined that the Assessment Area should be only the 39 home site parcels in the Village located on the Island.*



METHODOLOGY

Florida Law Regarding Special Assessments

Florida law governing special assessments sets forth two basic requirements:

1. The improvements paid for by the assessment must convey a **special benefit** to the real property subject to the assessment,
2. The total amount imposed must be **fairly and reasonably apportioned** among the benefitting properties.

Determination of Special Benefit

In considering special benefit, it is important to consider whether the special benefit is derived from the improvements by all of the properties in the Assessment Area.

All parcels in the Assessment Area are benefited by the proposed improvements, regardless of whether or not the property is developed. The benefits include:

- Access to the property.
- Enhanced property and rental value.
- Ability to develop and/or market the property.
- Increased use and enjoyment derived from access and reduced flooding to the property.
- Enhanced marketability and value of the parcel when compared to a similarly situated parcel for which adequate road access and draining is not available.
- Protection of the health and safety of the owners and occupants of assessed parcels due to reduced roadway flooding and improved lighting along the roadway.

In the case of Indian Creek Village, all of the parcels on the Island will benefit from the Roadway Project. However, ICCC has already made a capital contribution toward the project and completed stormwater system improvements to reduce roadway flooding, and one of the parcels is the Roadway itself, as described in the previous subsection.

Therefore, it is determined that all of the Village parcels located on the Island derive special benefit from the proposed project, but that ICCC and the Roadway should not be assessed. Thus, all parcels on the island, with the exception of parcels comprising the ICCC and the Roadway parcel, can be assessed.

The first prong of the two-pronged test (the property burdened by the assessment must derive a special benefit from the service provided by the assessment) is met for the proposed Assessment Area, because each parcel will receive a special benefit from the Roadway Project.

Fair and Reasonable Apportionment of Costs

The second prong of the two-pronged test requires that the costs of the Assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. The apportionment methodology is based on front footage, and is described on the following page.

Working with our internal GIS staff, we mapped the frontage feet (Front Footage) for each parcel. This is defined as the portion of the parcel's perimeter that faces the area to be improved, the Roadway. The revenue requirement was then divided by the total assessable Front Footage to get an annual Assessment amount per Front Foot.

This methodology is often used to apportion costs for improvements such as sidewalks and roads, and represents a *fair and reasonable method of allocating costs and benefits among the properties to be assessed*.

Therefore, the second prong of the two-pronged test is met by the recommended fair apportionment of costs based upon benefit.

ANALYSIS

The Village and its engineers provided the anticipated project costs of \$17,158,017. From the anticipated project cost the amount of \$465,000, contributed by the Golf Course Properties, was subtracted. The remaining project costs total approximately \$16,693,017.

The total amount to be assessed at 100% cost recovery is the Net Revenue Requirement (NRR). The NRR is based upon the anticipated maximum annual debt service provided by the Village and its Financial Advisor at the time of this analysis (shown in the table on the next page), and the costs of administering the assessment.

The annual debt service for this project assumes that the debt issued will be a bank loan with the following terms:

Bank Loan Assumptions	
Term:	15 Years
Rate:	2.25%
Debt Service Reserve:	1 Year of Maximum Annual Debt Service
Cost of Issuance:	\$200,000
Lump Sum Balloon Payment:	Year 15

The calculation of annual assessments in Years 1-14 and the lump sum payment in Year 15 are detailed on the following pages using information provided by the Village's Financial Advisor, shown in the table below.

BOND DEBT SERVICE					
Indian Creek, Florida					
2021 Bank Loan 15 Year Term -- Bullet in 2037					
Period Ending	Principal	Coupon	Interest	Debt Service	Annual Debt Service
06/15/2022			205,208.75	205,208.75	
12/15/2022			204,075.00	204,075.00	
12/31/2022					409,283.75
06/15/2023	540,000	2.250%	204,075.00	744,075.00	
12/15/2023			198,000.00	198,000.00	
12/31/2023					942,075.00
06/15/2024	550,000	2.250%	198,000.00	748,000.00	
12/15/2024			191,812.50	191,812.50	
12/31/2024					939,812.50
06/15/2025	565,000	2.250%	191,812.50	756,812.50	
12/15/2025			185,456.25	185,456.25	
12/31/2025					942,268.75
06/15/2026	575,000	2.250%	185,456.25	760,456.25	
12/15/2026			178,987.50	178,987.50	
12/31/2026					939,443.75
06/15/2027	590,000	2.250%	178,987.50	768,987.50	
12/15/2027			172,350.00	172,350.00	
12/31/2027					941,337.50
06/15/2028	605,000	2.250%	172,350.00	777,350.00	
12/15/2028			165,543.75	165,543.75	
12/31/2028					942,893.75
06/15/2029	615,000	2.250%	165,543.75	780,543.75	
12/15/2029			158,625.00	158,625.00	
12/31/2029					939,168.75
06/15/2030	630,000	2.250%	158,625.00	788,625.00	
12/15/2030			151,537.50	151,537.50	
12/31/2030					940,162.50
06/15/2031	645,000	2.250%	151,537.50	796,537.50	
12/15/2031			144,281.25	144,281.25	
12/31/2031					940,818.75
06/15/2032	660,000	2.250%	144,281.25	804,281.25	
12/15/2032			136,856.25	136,856.25	
12/31/2032					941,137.50
06/15/2033	675,000	2.250%	136,856.25	811,856.25	
12/15/2033			129,262.50	129,262.50	
12/31/2033					941,118.75
06/15/2034	690,000	2.250%	129,262.50	819,262.50	
12/15/2034			121,500.00	121,500.00	
12/31/2034					940,762.50
06/15/2035	705,000	2.250%	121,500.00	826,500.00	
12/15/2035			113,568.75	113,568.75	
12/31/2035					940,068.75
06/15/2036	720,000	2.250%	113,568.75	833,568.75	
12/15/2036			105,468.75	105,468.75	
12/31/2036					939,037.50
06/15/2037	9,375,000	2.250%	105,468.75	9,480,468.75	
12/31/2037					9,480,468.75
	18,140,000		4,919,858.75	23,059,858.75	23,059,858.75

Maximum Annual Debt Service in Years 1-14

Lump Sum Debt Service in Year 15

Net Revenue Requirement - Years 1-14

		FY 2022	
Financed Capital Costs		\$	16,693,017
Cost of Issuance		\$	200,000
Debt Service Reserve	1	\$	942,894
Project Costs		\$	17,835,911
Cost Recovery			100%
Total Costs to Be Recovered in Assessment		\$	17,835,911
Maximum Annual Debt Service - Years 1-14		\$	942,894
Plus: Property Appraiser Expense	1.0%	\$	10,031
Plus: Tax Collector Expense	1.0%	\$	10,031
Plus: Prepayment Discount	4.0%	\$	40,124
Plus: Costs of Mailing		\$	21
Net Revenue Requirement		\$	1,003,100
% Cost Recovery			100%
Amount to be Assessed		\$	1,003,100
Less: Prepayments and Costs of Administration		\$	(60,207)
Estimated Net Collected Revenue		\$	942,894
Total Assessable Front Footage			7,562
Annual Assessment per Front Foot		\$	132.65

Net Revenue Requirement - Year 15

Lump Sum Balloon Payment		\$	9,480,469
Plus: Property Appraiser Expense	1.0%	\$	100,856
Plus: Tax Collector Expense	1.0%	\$	100,856
Plus: Prepayment Discount	4.0%	\$	403,425
Plus: Costs of Mailing		\$	21
Net Revenue Requirement		\$	10,085,627
% Cost Recovery			100%
Amount to be Assessed		\$	10,085,627
Less: Prepayments and Costs of Administration		\$	(605,158)
Estimated Net Collected Revenue		\$	9,480,469
Total Assessable Front Footage			7,562
Lump Sum Assessment per Front Foot		\$	1,333.71

EXHIBIT B

[insert map and legal description including all the assessed property]

<u>Parcel ID</u>	<u>Owner</u>	<u>Linear Footage</u>	<u>Maximum Annual Assessment Rate per Linear Foot</u>	<u>Maximum Annual Assessment Rate</u>	<u>Maximum Lump Sum Assessment Rate per Linear Foot</u>	<u>Maximum Lump Sum Assessment Rate</u>
2122340020010	Norman Braman & W Irma	248.03	\$ 132.65	\$32,901.18	\$1,333.71	\$330,800.09
2122340020020	212A LLC	193.48	132.65	25,665.12	1,333.71	258,046.21
2122340020025	LTSC ICGCI LLC TRS	168.34	132.65	22,330.30	1,333.71	224,516.74
2122340020030	Somerville II Corporation	193.51	132.65	25,669.10	1,333.71	258,086.22
2122340020040	Somerville Corporation NV	199.39	132.65	26,449.08	1,333.71	265,928.44
2122340020050	Somerville Corporation NV	192.27	132.65	26,167.87	1,333.71	256,432.42
2122340020060	Miracreek LTD	192.17	132.65	25,491.35	1,333.71	256,432.42
2122340020070	Robert Diener	299.90	132.65	39,781.74	1,333.71	399,979.63
2122340020080	SMM Sunny Holding LLC	195.56	132.65	25,941.03	1,333.71	260,820.33
2122340020091	MTM Star International Corp.	89.18	132.65	11,829.72	1,333.71	118,940.26
2122340020100	MTM Star International Corp.	203.09	132.65	26,939.89	1,333.71	270,863.16
2122340020110	Indian Creek #1 LLC	198.21	132.65	26,292.56	1,333.71	264,354.66
2122340020120	Edward Scott Lampert	551.52	132.65	73,159.13	1,333.71	735,567.74
2122340020130	Penguin Estates LLC (FEE HLDR)	137.10	132.65	18,186.32	1,333.71	182,851.64
2122340020150	Mary A Stephens Shula &	147.79	132.65	19,064.34	1,333.71	197,109.00
2122340020160	Rakesh Gangwal	140.27	132.65	18,606.82	1,333.71	187,079.50
2122340020170	JGDB LTD	152.89	132.65	20,280.86	1,333.71	203,910.92
2122340020180	JGDB LTD	191.44	132.65	25,394.52	1,333.71	255,325.44
2122340020190	Elad Invest Holding Corp.	188.18	132.65	24,962.08	1,333.71	250,977.55
2122340020200	Elad Invest Holding Corp.	191.77	132.65	25,438.29	1,333.71	255,765.57
2122340020210	Francois M Chateau TRS	182.79	132.65	24,247.09	1,333.71	243,788.85
2122340020220	Rajendra Singh &W Neera	204.89	132.65	27,178.66	1,333.71	273,263.84
2122340020300	Carl C Icahn TRS	187.32	132.65	24,848.00	1,333.71	249,830.55
2122340020400	Itzhak Ezratti	182.00	132.65	24,142.30	1,333.71	242,735.22
2122340020250	Jacquelyn Soffer TRS	174.30	132.65	23,120.90	1,333.71	232,465.65
2122340020260	Jeffery Soffer	194.49	132.65	25,799.10	1,333.71	259,393.26
2122340020270	Javier J Holtz &W Andria A	178.27	132.65	23,647.52	1,333.71	237,760.48
2122340020280	Gary N Siegler	133.43	132.65	17,699.49	1,333.71	177,956.93
2122340020290	Four Palms Of Indian Creek LLC	119.06	132.65	15,793.31	1,333.71	158,791.51
2122340020300	Mirasong LTD	118.37	132.65	15,701.78	1,333.71	157,871.25
2122340020310	Desarrollo Inmobiliario PT	355.79	132.65	47,195.54	1,333.71	474,520.68
2122340020330	Bernard Klepach &W Juliet	359.82	132.65	47,730.12	1,333.71	479,895.53
2122340020350	Porpoise Investment Limited	178.23	132.65	23,642.21	1,333.71	237,707.13
2122340020360	Alex Meruelo &W Liset	132.32	132.65	17,552.25	1,333.71	176,476.51
2122340020370	Mario L Kreutzberger &W	146.60	132.65	19,446.49	1,333.71	195,521.89
2122340020380	Richard A Pitino TRS	148.98	132.65	19,762.20	1,333.71	198,696.12
2122340020390	Alicia Ziegert	147.57	132.65	19,575.16	1,333.71	196,815.59
2122340020401	Gerardus Johannes A Bakker TRS	153.82	132.65	20,404.22	1,333.71	205,151.27
2122340020410	Martin Silver &W Constance	189.96	132.65	25,198.19	1,333.71	253,351.55