



FLORIDA DEPARTMENT *of* STATE

RON DESANTIS
Governor

LAUREL M. LEE
Secretary of State

November 5, 2020

Honorable Karen E. Rushing
Clerk of the Circuit Court
Board Records Department
Sarasota County
1660 Ringling Boulevard, Suite 210
Sarasota, Florida 34236

Attention: Blanca Montoya

Dear Ms. Rushing:

Pursuant to the provisions of Section 125.66, Florida Statutes, this will acknowledge receipt of your electronic copy of Sarasota County Ordinance No. 2020-057, which was filed in this office on November 5, 2020.

Sincerely,

Ernest L. Reddick
Program Administrator

ELR/lb

BOARD RECORDS
FILED FOR THE RECORD
2020 NOV -5 PM 1:30
KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY, FL

ORDINANCE NO. 2020-057

AN ORDINANCE OF SARASOTA COUNTY, FLORIDA, ESTABLISHING THE MANASOTA KEY BEACH RESTORATION DISTRICT; CODIFIED AS A NEW ARTICLE XXIV OF CHAPTER 110 OF THE SARASOTA COUNTY CODE; PROVIDING FOR CODIFICATION AND A SHORT TITLE; PROVIDING FINDINGS OF FACT; PROVIDING DEFINITIONS; ESTABLISHING AND PROVIDING LEGAL BOUNDARIES OF THE DISTRICT; PROVIDING FOR A GOVERNING BODY; CONFERRING CERTAIN POWERS AND DUTIES UPON THE GOVERNING BODY; PROVIDING AUTHORITY TO LEVY AND COLLECT NON-AD VALOREM ASSESSMENTS; PROVIDING FOR PROPERTY APPRAISER AND TAX COLLECTOR SERVICES AND COMPENSATION; PROVIDING FOR AN ASSESSMENT PROCEDURE; PROVIDING FOR ADMINISTRATION OF FUNDS OF THE DISTRICT; PROVIDING FOR A TERM OF EXISTENCE; PROVIDING FOR CLAIMS AGAINST THE DISTRICT; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

KAREN E. RUSHING
CLERK OF THE CIRCUIT COURT
SARASOTA COUNTY
2020 NOV -4 PM 4:38
BOARD RECORDS
FILED FOR THE RECORD

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA:

Section 1. This Ordinance shall be codified as a new Article XXIV of Chapter 110 of the Sarasota County Code (the “Code”) and shall be known and cited as the “Manasota Key Beach Restoration District” Ordinance.

Section 2. A new Section 110-780 of the Code is hereby created to read as follows:

Sec. 110-780. Findings of fact.

- (a) Pursuant to Section 125.01(1)(q), Florida Statutes and Sarasota County’s constitutional home rule authority, to the extent not inconsistent with general or special law, the Board may establish municipal service taxing units (MSTU’s) and municipal service benefit units (MSBU’s) within which may be provided beach erosion control and other essential facilities and municipal services from funds derived from service charges, special assessments, or taxes within that unit.
- (b) Section 125.01, Florida Statutes, empowers the County to levy and collect taxes or special assessments within an MSTU or MSBU, respectively; and Section 125.01(2), Florida Statutes, provides that the Board shall be the governing body of any MSTU or MSBU.
- (c) Chapter 1 of *The Sarasota County Comprehensive Plan* incorporates policies and goals for the enhancement of access and use of the beaches within the unincorporated areas of the County, for the protection against flooding and storm damage, for enhancement of the natural environment and the improvement of the

quality of life in Sarasota County, and for the enhancement of the use and enjoyment of properties.

- (d) Pursuant to the statewide beach management mandate set forth in Chapter 161, Florida Statutes, the Florida Department of Environmental Protection ("FDEP") has conducted surveys and assembled data to determine which shoreline sections of Florida beaches are "critically eroded shoreline", as that term is defined in Rule 62B-36.002(5), Florida Administrative Code.
- (e) In its *Strategic Beach Management Plan* dated October 2, 2000, as referenced in *The Sarasota/Charlotte County Beach Restoration Study* dated July 22, 2003, the FDEP identified the Gulf shoreline encompassed within the District as "critically eroded." The designation persists in the FDEP report *Critically Eroded Beaches in Florida* dated July 2020.
- (f) The Manasota Key Beach Nourishment Project (the "Project") was authorized by the Board of County Commissioners on July 9, 2019, to provide a maintenance nourishment to the Gulf shoreline within the District with the goal of restoring the intended level of storm protection within the District's boundaries.
- (g) The properties located within the District will specially benefit as a result of the Project, by way of example and not limitation, protection against flooding and storm damage and enhanced access and use of the beach, thereby enhancing and/or preventing devaluation of property values.
- (h) The County is contributing funding directly to the Project that is in excess of the proportionate share of the publicly owned lands within the Project rather than including the public lands within the assessment District.

Section 3. A new Section 110-781 of the Code is hereby created to read:

Sec. 110-781 Definitions. When used in this Ordinance, terms shall be as defined below:

- (1) *Assessed Cost* shall mean the amount determined by the Governing Body to be assessed to fund all or any portion of the Project Costs within the District and may also include any costs related to creating, financing and administering the District, including but not limited to administrative costs of the Property Appraiser and Tax Collector and a reasonable amount for contingency and anticipated delinquencies and uncollectible District Assessments. The Assessed Cost shall exclude any amount to be paid from sources other than District Assessments, including but not limited to, grants, contributions, and other county funds, but may include costs related to reimbursement of funds advanced by county funds for the Project.
- (2) *Assessed Property* shall mean all parcels of land within the District that are included on the Assessment Roll.

- (3) *Assessment Period* means the number of years necessary for the County to recover the actual Project Costs.
- (4) *Assessment Roll* means the special assessment roll maintained by the Sarasota County Property Appraiser for the levy and collection of non ad-valorem special assessments.
- (5) *Beach Restoration* means the placement of sand on an eroded beach for the purposes of restoring it as a recreational beach and providing storm protection for upland properties.
- (6) *Board or governing body* means the Board of County Commissioners of Sarasota County, Florida.
- (7) *County* means Sarasota County, Florida.
- (8) *Direct Nearshore Benefit Area* means those Gulf-front properties that had sand directly placed onto and adjacent to their respective properties and are receiving a special benefit from the beach restoration Project.
- (9) *District* means the Manasota Key Beach Restoration District as established in this article and as may be expanded or modified from time to time.
- (10) *District Assessments* means non-ad valorem assessments imposed within the District to fund all or a portion of the Project Cost.
- (11) *Fiscal Year* means the period commencing on October 1 of each year and continuing through the next succeeding September 30 for the District, or such other period as may be prescribed by law as the Fiscal Year for the County for District Assessments.
- (12) *Indirect Nearshore Benefit Area* means those Gulf-front properties that did not have sand placed directly onto and adjacent to their respective property, but that are still receiving a special benefit from the beach restoration Project.
- (13) *Project* means Beach Restoration improvements to the Gulf Coast shoreline located within the Manasota Key Beach Restoration District.
- (14) *Project Costs* means the cost of all activities associated with the completion of specific Beach Restoration services and improvements, including, but not limited to, project feasibility study and cost estimate, permitting, specification/design/bid document development and physical completion of improvements in accordance with all applicable plans, specifications, design documents, permits and contracts/purchase orders; and post-restoration monitoring and reporting. Project Costs shall be funded, in part, by special assessments levied within the District.

- (15) *Property Appraiser* means the Sarasota County Property Appraiser.
- (16) *Recreation Benefit* means the special benefit to the property within the MSBU district boundary as a result of the property's proximity to the expanded and maintained beach area available for public recreation
- (17) *Nearshore Benefit* means the special benefit to the Assessed Properties in the Direct Nearshore Benefit Area and the Indirect Nearshore Benefit Area which includes, but is not limited to, enhanced protection from flooding and storm damage as a result of the Project, reduced risk of shoreline retreat, reduced risk of land loss and flooding, reduced need for emergency shoreline hardening structures, property value stability and improved sales, and accessibility and proximity benefits in the nearshore area.
- (18) *Uniform Assessment Collection Act* shall mean Sections. 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

Section 4. A new Section 110-782 of the Code is hereby created to read as follows:

Sec. 110-782. Establishment of District.

Pursuant to the authority of Section 125.01(1), Florida Statutes, and Sarasota County's constitutional home rule authority, the Board hereby establishes the Manasota Key Beach Restoration District (the "District"), as a municipal services benefit unit ("MSBU"), the boundaries of which are more particularly described in Exhibit "A", attached hereto and incorporated herein by reference, for purposes of funding Beach Restoration within the boundaries of the District.

Section 5. A new Section 110-783 of the Code is hereby created to read as follows:

Sec. 110-783. Governing Body.

The Governing Body of the District, shall be the Board of County Commissioners, which shall meet from time to time as it may determine. Notice of such meetings shall be published in a newspaper of general circulation as required by general law. The Governing Body may recess any meeting so called to a subsequent fixed time and date. The Clerk of the Board shall keep the minutes of all meetings of the Governing Body and shall keep all records of the District.

Section 6. A new Section 110-784 of the Code is hereby created to read as follows:

Sec. 110-784. Powers and Duties.

- (1) In order to provide for the Beach Restoration within the District, the Governing Body shall have all of the powers granted to the Board by the Sarasota County Charter, the general laws of the State of Florida, and the

Florida Constitution as may be necessary or proper to carry out the purpose and intent of this Ordinance. The Governing Body shall, in addition thereto, have the following specific powers and authority:

- (a) To pay all or any part of the Project Costs, including, but not limited to, costs incurred by the County for Beach Restoration within the District, and reimbursement of costs funded by County prior to or after establishment of the District, including but not limited to, costs related to financing, engineering, project management, construction, and monitoring.
- (b) To purchase, with or without bids, all property, facilities, and equipment necessary to carry out the purposes of the District and to purchase and carry standard insurance policies on all such property, facilities, and equipment.
- (c) To purchase all necessary real and personal property.
- (d) To sell surplus real and personal property in the same manner and subject to the same restrictions as provided for such sales by counties.
- (e) To acquire by gift, purchase, grant, dedication, lease, or condemnation, any lands or rights in land as may be necessary for the purposes of the District, including any property whether real or personal as may be necessary, desirable, or convenient for the providing of public improvement services within the District. The exercise of the power of eminent domain shall be in accordance with the provisions of Florida law, Florida Statutes, and the District is hereby specifically conferred with the authority to avail itself of all of the powers as set out in said chapters as same may be from time to time amended.
- (f) To acquire by gift, purchase, or lease, with or without bids, all facilities and equipment necessary to carry out the purposes of the District, and to contract with persons, firms, corporations, or municipal corporations for the acquisition of any other materials, supplies, labor or other things reasonably incidental thereto, including the construction or erection of such facilities or structures as are also reasonably necessary.
- (g) To employ and train such personnel as may be necessary to carry out the purposes of the District, to provide adequate insurance for said employees, and to enter into agreements with consultants, advisors, engineers, attorneys or fiscal, financial, or other experts. All personnel employed by the District shall be employees of Sarasota County.
- (h) To dispose of surplus property and unnecessary books and records of the District pursuant to state law, except that the Board shall

permanently maintain permanent records and payroll records. The fiscal year for the District shall be October 1 to September 30.

- (i) To enter into contracts with other municipal service taxing or benefit units, special districts, municipalities, and state and federal governmental units, as well as Sarasota County, Florida, for the purposes of obtaining financial aid, assistance or benefits, and for otherwise carrying out the purposes of the District.
- (j) To enter upon any lands, premises, or property within the District for any purpose necessary to carry out the purpose and intent of this Ordinance.
- (k) To hold such public meetings as the business of the District may require. A record shall be kept of all meetings of the Governing Body and concurrence of a majority of said commissioners shall be necessary for any affirmative action taken by the Governing Body.
- (l) To receive grants, gifts or other contributions and enter into contracts for the purpose of receiving same.
- (m) To exercise any other powers provided by ordinance supplemental or amendatory hereto adopted by the Board without referendum.

Section 7. A new Section 110-785 of the Code is hereby created to read as follows:

Sec. 110-785. Authority to Levy and Collect Non-Ad Valorem Assessments.

- (1) The Governing Body shall have the duty, right, power, and authority to levy and collect non-ad valorem assessments for the benefit of all non-governmental real property located within the District in order to reimburse the County for the actual Project Costs or some portion thereof. Subject to pre-payment, the Assessment Period shall be seven (7) years or until all Project Costs have been paid, whichever is later. The provision of Beach Restoration improvements to the District is hereby declared to be of special benefit to all properties located within the boundaries of the District in the form of a Nearshore Benefit and an enhanced Recreation Benefit.
- (2) The Governing Body shall by resolution determine the amount of the assessments per parcel located within the District for each fiscal year and shall levy assessments against all non-governmental taxable real property within the territorial bounds of the District in order to provide the required funds.

Section 8. A new Section 110-786 of the Code is hereby created to read as follows:

Sec. 110-786. Property Appraiser and Tax Collector services and compensation.

- (1) Each year, upon certifying to the Board the taxable value within the County, the County Property Appraiser shall also furnish the Governing Body of said District with a tax roll covering all non-governmental properties within the territorial limits of said District in accordance with said usage upon which roll the Governing Body will place the levy for each parcel of property shown thereon. In conjunction with said budget hearings, the Board of County Commissioners sitting as the Governing Body of the District shall hold public hearings to consider protests of the proposed assessments from any property owners, which protests shall be filed in writing on or before the date of the latter hearing.
- (2) Upon completion of said hearings, the Board of County Commissioners, sitting as the Governing Body, shall adopt a resolution fixing the rates of assessment and shall return the said tax roll to the County Tax Collector, having first noted thereon the levy against each parcel of property described thereon. The County Tax Collector shall then include in the Sarasota County tax roll the assessments thus made by the Governing Body of the District and the same shall be collected in the manner and form as is provided for the collection of County taxes and paid over by the County Tax Collector to said Board monthly. The County Tax Collector and the County Property Appraiser shall each receive compensation for their services regarding such assessments in accordance with Florida Statutes and such compensation is included in Project Costs.
- (3) Upon adoption of the Assessment Roll, the assessments authorized by this article shall become liens against the assessed property and shall be deemed perfected. Said assessments shall be collected in the same manner as County ad valorem property taxes. Said lien shall continue until the said assessments have been paid and, if same become delinquent, shall be considered a part of the County tax subject to the same penalties, charges, fees and remedies for enforcement and collection as provided for the collection of County ad valorem property taxes by the laws of the State of Florida. Except as otherwise provided by law, such liens shall be superior in dignity to all other liens, titles and claims, until paid.

Section 9. A new Section 110-787 of the Code is hereby created to read as follows:

Sec. 110-787. Assessment Procedure

(a) *Establish of assessment rate, roll and liens*

- (1) The Board expressly finds that the Beach Restoration improvements to the Gulf Coast shoreline located within the boundaries of the District provide a special benefit to the Assessed Properties in the form of a Recreation Benefit and Nearshore Benefit, which provide for enhanced property values.
- (2) The Board has resolved that the Project Costs will be funded by a combination of District Assessments, state grants and tourist development tax proceeds, and that the District Assessments will

fund only a portion of the costs of the Beach Restoration (the "Assessed Cost").

- (3) The Assessed Cost shall be allocated to each Assessed Property using a methodology which allocates approximately twenty percent (20%) of the Assessed Cost evenly to each Assessed Property for the Recreation Benefit received by each property and allocates approximately eighty percent (80%) of the Assessed Cost to the Assessed Property for the Nearshore Benefit received. Seventy-five percent (75%) of Assessed Costs attributed to Nearshore Benefit will be assessed to properties within the Direct Nearshore Benefit Area, and twenty-five percent (25%) will be assessed to properties within the Indirect Nearshore Benefit Area based on the proportion of linear shoreline frontage within each area. The assessment may be paid in full anytime.
- (4) This assessment methodology provides an equitable and reasonable method of financing the Assessed Costs and bears a logical relationship to the special benefits provided to the Assessed Properties.
- (5) The Assessed Cost is fairly and reasonably apportioned among the properties that received the special Recreation Benefit and Nearshore Benefits.
- (6) The District Assessments imposed pursuant to this article are imposed by the Board, not the Clerk, Property Appraiser or Tax Collector. Any activity of the Clerk, Property Appraiser or Tax Collector pursuant to this article shall be construed as ministerial.

b. *Revisions, irregularities and corrections.*

- (1) If any District Assessment made under the provisions of this article is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the Board is satisfied that any such District Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board has omitted to include any property on the District Assessment roll which property should been so included, the Board may take all necessary steps to impose a new District Assessment against any property benefited by the Project, following, as nearly as may be practicable, the provisions of this article, and in case such second District Assessment is annulled, the Board may obtain and impose other District Assessments until a valid District Assessment is imposed.
- (2) Any informality or irregularity in the proceedings in connection with the levy of any District Assessment under the provisions of this article shall not affect the validity of the same after the approval thereof, and any District Assessment as finally approved shall be competent and sufficient evidence that such District Assessment was duly made and adopted, and that all other proceedings adequate to such District Assessment were duly

had, taken and performed as required by this article, and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this subsection, any party objecting to this article must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

- (3) No act of error or omission on the part of the Property Appraiser, Tax Collector, Clerk, Board, or their deputies or employees shall operate to release or discharge any obligation for payment of any District Assessment imposed by the Board under the provisions of this article.
- (4) All costs, fees, and expenses, including reasonable attorneys' fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the County may be the purchaser to the same extent as an individual person or corporation. The County may join in one foreclosure action the collection of District Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the County and its agents, including reasonable attorneys' fees, in collection of such delinquent District Assessments, and any other costs incurred by the county as a resolution of such delinquent District Assessments, and the same shall be collectible as a part of or in addition to the costs of the action.
- (5) In lieu of foreclosure, any delinquent District Assessment, and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided, however, that notice is provided to the owner of the assessed property in the manner required by law and this article, and any existing lien of record on the affected parcel for the delinquent District Assessment is supplanted by the lien resulting from certification of the assessment roll, as applicable, to the Tax Collector.
- (6) Any County action required in the collection of District Assessments may be by resolution.
- (7) The funds provided by the imposition and collection of District Assessments shall be used to address Project Costs and may be used to reimburse funds advanced by the County for the Project.

Section 10. A new Section 110-788 of the Code is hereby created to read as follows:

Sec. 110-788. Funds of the District.

Funds of the District shall be accounted for separately from other funds of the County. No funds of the District shall be used for any purposes other than those authorized by this article and which the County may from time to time determine to be in the best interest of the District.

Section 11. A new Section 110-789 of the Code is hereby created to read as follows:

Sec. 110-789. Term of existence.

The District shall continue to exist until dissolved in accordance with law. Should any part of the lands included in the District established pursuant to this Ordinance be held not to be included therein, then the provisions of this Ordinance shall continue in effect as to the balance of said lands.

Section 12. A new Section 110-790 of the Code is hereby created to read as follows:

Sec. 110-790. Claims against the District.

No suit or action or proceeding shall be instituted or maintained in any court against the District or the Governing Body, or any member of the Governing Body, for or upon any claim, right, or demand, unless the claimant has complied with relevant state law and county ordinances.

Section 13. Severability. If any provision of this Ordinance is for any reason finally held invalid or unconstitutional by any court of competent jurisdiction, such provision shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining provisions.

Section 14. Effective Date. This Ordinance shall become effective upon filing with the Florida Department of State.

PASSED AND DULY ADOPTED BY THE BOARD OF COUNTY COMMISSIONERS OF SARASOTA COUNTY, FLORIDA, this 4th day of November, 2020.

ATTEST:
KAREN E. RUSHING,
Clerk of the Circuit Court and Ex-Officio
Clerk to the Board of County Commissioners
Of Sarasota County, Florida

By: Blanca Martinez
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF SARASOTA COUNTY, FLORIDA

By: _____
Chair

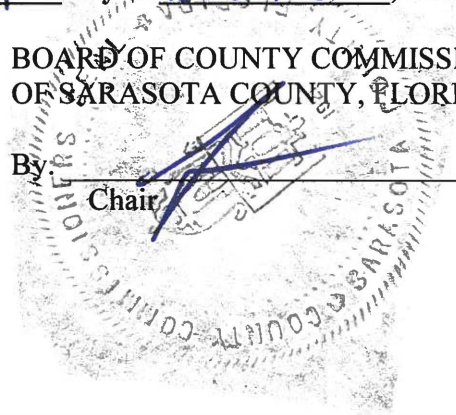


EXHIBIT "A"

TO SARASOTA COUNTY ORDINANCE NO. 2020-_____

LEGAL DESCRIPTION OF THE BOUNDARY OF THE MANASOTA KEY BEACH
RESTORATION DISTRICT

All of those lands lying between the Gulf of Mexico and Lemon Bay in Section 35, Township 40 South, Range 19 East, Sarasota County, Florida, LESS therefrom all private and public streets, roads and Right-of-Way and LESS therefrom all parcels deeded to Sarasota County, a Political Subdivision of the State of Florida.

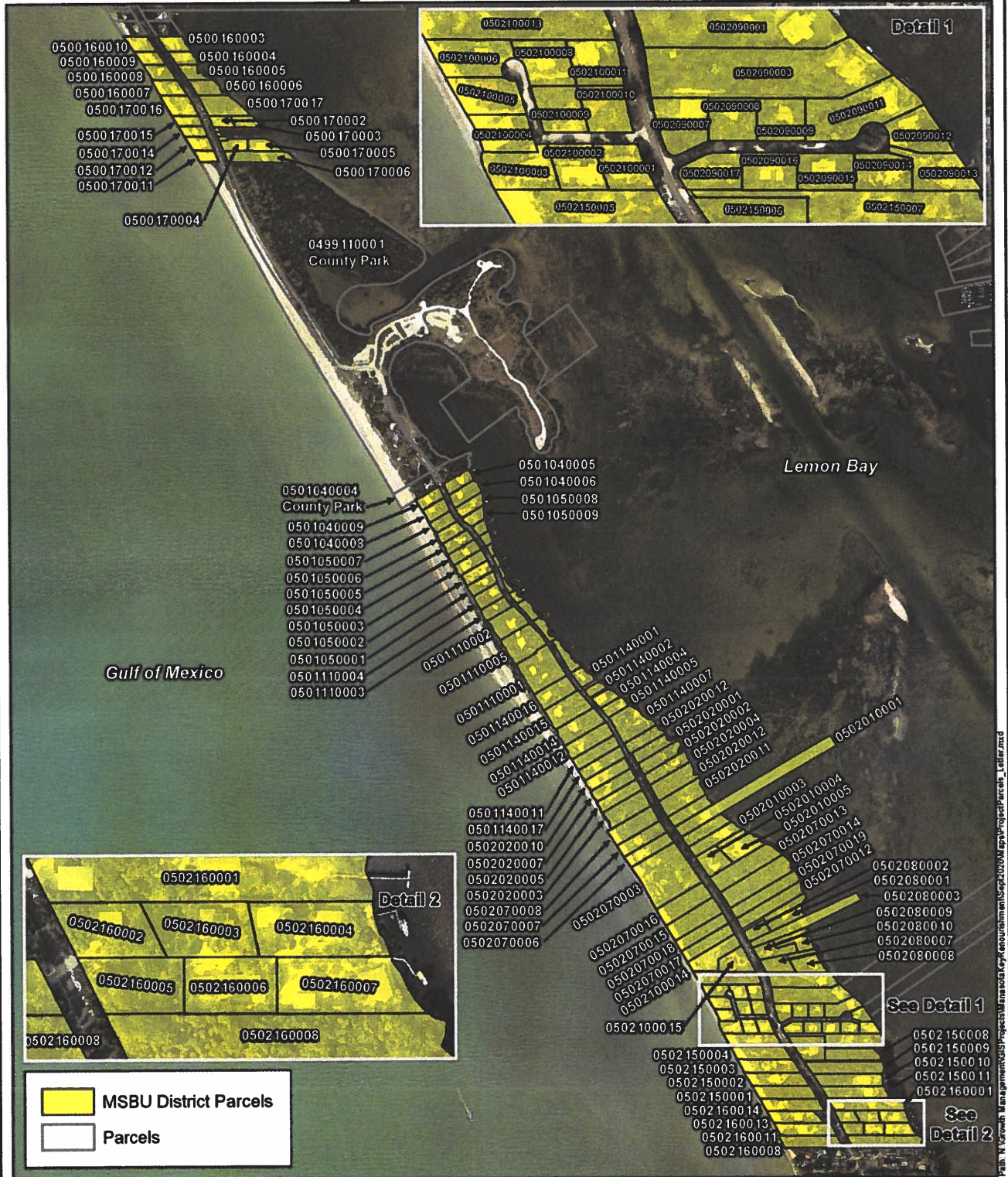
TOGETHER WITH all those lands lying between the Gulf of Mexico and Lemon Bay in Section 27, Township 40 South, Range 19 East, Sarasota County, Florida, lying South of a line that is 479.9 feet North of and parallel with the South line of US Government Lot 1 of said Section 27. LESS therefrom all private and public streets, roads and Right-of-Way and LESS therefrom all parcels deeded to Sarasota County, a Political Subdivision of the State of Florida.

LESS a 10 foot wide strip of land described in "Parcel II" of the deed recorded in Official Records Instrument Number 2011122177 of the Public Records of Sarasota County, Florida.

LESS those lands described in the Tax Deed recorded in Official Records Instrument Number 2019051614 of the Public Records of Sarasota County, Florida.

End of legal description

Manasota Key Beach Restoration District



Aerial Imagery Provided by Pictometry International:
Sarasota County, FL
January 2020
4" Resolution



0 245 490 980 Feet