MEMORANDUM

TO: Joseph Polzak, City Attorney, City of Sarasota

FROM: Christopher B. Roe, Bryant Miller Olive P.A.

DATE: September 17, 2026

RE: City of Sarasota Parks and Recreation District: Process and Timing for Creation, Annual Millage Levy, Relationship to the Ten Mill Limitation, Effect of Amendment 3, and Special Assessment Authority

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I. <u>Introduction and Summary</u>

You asked me to prepare a memorandum to accompany the draft ordinance creating the City of Sarasota Parks and Recreation District (the "Parks District") as a dependent special district under chapter 189, Florida Statutes. This memorandum covers the process and timing for establishing the Parks District, how the annual millage levy would work, how the Parks District millage relates to the City's ten mill limit, what happens to the Parks District if Amendment 3 passes on November 3, and, in summary form, whether the City or the Parks District could use special assessments to fund parks operations or facilities.

In summary, the Parks District is created by an ordinance that contains the items listed in section 189.02(4), adopted under the City's normal ordinance procedure. Under section 200.066, a newly created special district may not impose ad valorem taxes before the January 1 following its creation, so the ordinance must be adopted and effective before January 1, 2027 for the Parks District to levy for fiscal year 2027-28; a handful of routine filings follow adoption. The City Commission, sitting as the governing board of the Parks District, would set the Parks District millage each year at the City's own TRIM hearings, and the first levy would require the vote of all five Commissioners or approval by referendum. The Parks District millage counts as City millage for purposes of the ten mill cap, so the Parks District does not create any new taxing capacity; it sets aside and earmarks capacity the City already has.

If Amendment 3 passes, it takes effect January 1, 2027, which is the first tax roll the Parks District could levy on. It would reduce the tax base, cap growth on non-homestead property and put a purpose restriction on non-school property taxes in the Constitution. Parks spending approved by the Commission appears to fit within the restriction's catch-all clause, but the Parks District does not shelter the parks levy from any of these effects. Finally, on special assessments, I remain skeptical that a citywide assessment could fund parks operations or facilities without being treated as a tax, but a smaller assessment for a neighborhood park or facility that specially benefits the surrounding properties may be a viable option. We would be glad to take that analysis further at your direction.

II. Process and Timing for Establishing the Parks District

Section 189.02(1) provides that the charter of a dependent special district may be adopted only by ordinance of the county or municipality having jurisdiction over the area, and section 189.02(3) authorizes a municipality to create dependent districts within its boundaries. Section 189.02(4) lists what the ordinance must contain: the purpose, powers, functions and duties of the district; its geographic boundaries; its authority; an explanation of why the district is the best alternative; the membership, organization, compensation and administrative duties of the governing body; the applicable financial disclosure, noticing and reporting requirements; the methods for financing the district; and a declaration that the district is consistent with the comprehensive plan. The draft covers each of these in sections 22-40 through 22-46 of Exhibit A and section 5 of the ordinance. The Parks District qualifies as dependent under section 189.012(2) because its governing body is the City Commission. Chapter 22 of the City Code currently ends at section 22-38, so the new Article V and section numbers are open.

Chapter 189 does not add any notice or hearing requirement for a municipal dependent district beyond the ordinance itself, so the City's normal procedure applies. Under section 166.041(3)(a), the ordinance is read by title on at least two separate days and noticed once in a newspaper of general circulation at least ten days before adoption, with the notice giving the date, time and place of the meeting, the title of the ordinance and where it can be inspected. The draft also recites Article IV, Section 2 of the City Charter for first reading by title after posting at City Hall for three days.

We previously discussed adoption of the ordinance before the end of 2026 so the Parks District is in place for the fiscal year 2027-28 budget cycle. That timing is required by section 200.066 which provides that ad valorem taxes of newly created special districts "shall be initially imposed no earlier than the January 1 subsequent to the creation or establishment of the . . . district." The section's exception for units created before July 1 applies only to county municipal service taxing units under section 125.01 and does not reach a municipal dependent district, and "special district" in chapter 200 carries the section 189.012 definition (section 200.001(8)(c)), which includes dependent districts. The ordinance therefore must be adopted and effective before January 1, 2027 for the Parks District to levy on the 2027 roll; adoption in early 2027 would push the first possible levy to the 2028 roll and fiscal year 2028-29. After adoption, the creation documents should be filed with the Department of Commerce and delivered to the Property Appraiser and Tax Collector promptly so the Parks District is set up as a taxing authority well before the July 1, 2027 certification of taxable value under section 200.065(1). Adopting in December satisfies section

200.066 and lets the Commission act knowing the outcome of the November 3 referendum. Creating the Parks District does not commit the City to levy anything. The decision whether to levy, and how much, would be made at the September 2027 budget hearings. The following items come after adoption.

Item	Timing	Authority
File the ordinance with the Department of Commerce, with a written statement that the Parks District is dependent and why, and a map of the Parks District	Within 30 days after adoption	Section 189.016(1); section 189.012(1) (the department is now the Department of Commerce, not the Department of Economic Opportunity named in the draft)
Certified copies to the Property Appraiser and Tax Collector; get the Parks District set up as a taxing authority for the 2027 TRIM cycle	Promptly after adoption, well before July 1, 2027	Draft section 6; section 200.065(1), (2)
Designate a registered office and agent and file with the City and the Department of Commerce	Within 30 days after the board's first meeting	Section 189.014(1)
File and publish the schedule of regular meetings	Quarterly, semiannually or annually	Section 189.015(1)
Show the Parks District on the City's website home page with links to the required special district information	By the end of the first full fiscal year after creation	Section 189.069
Annual special district fee (capped at $175)	Annually	Section 189.018
Adopt the budget by resolution; post the tentative and adopted budgets; carry the Parks District budget, clearly identified, within the City budget unless the City agrees to a separate budget	Annually with the City budget	Section 189.016(3), (4), (5)
Annual financial report and audit compliance	Annually	Section 189.016(9); sections 218.32, 218.39

III. <u>The Annual Millage Levy</u>

Section 200.001(2)(d) and (5) treat "municipal dependent special district millage" as a category of municipal millage, set by the governing body of the municipality, ex officio or otherwise. That is how the draft is set up: the Commission, sitting as the Parks District's board, adopts the Parks District millage and budget by resolution. The Parks District is a separate taxing authority for TRIM purposes, but under section 200.065(2)(e)2. the levies and budgets of dependent districts are adopted at the hearings of the taxing authority they depend on, after that authority adopts its own levy and budget. Assuming the Parks District is created this year, the first levy would run on the following schedule, counting July 1 as day one under section 200.065(12).

Step	Date	Authority
Property Appraiser delivers taxable value estimate; City Manager and Finance Director present the Parks District budget request	June 1, 2027	Section 200.065(8); draft section 22-46
Property Appraiser certifies taxable value to each taxing authority, including the Parks District	July 1, 2027	Section 200.065(1)
City and Parks District each advise the Property Appraiser of proposed millage, rolled-back rate and hearing date (DR-420 series)	Within 35 days after certification (August 4, 2027)	Section 200.065(2)(b)
Property Appraiser mails notice of proposed property taxes	By 55 days after certification, or 10 days after roll approval if later	Sections 200.065(2)(b), 200.069
Tentative budget and millage hearing; Parks District levy and budget taken up after the City's; millage adopted before budget	65 to 80 days after certification (September 3 to 18, 2027)	Section 200.065(2)(c), (e)
Newspaper advertisement; final hearing; millage and budget adopted by separate votes; first Parks District levy requires unanimous vote of the Commission's membership	Advertisement within 15 days after the tentative hearing; final hearing 2 to 5 days after the advertisement	Section 200.065(2)(d), (3), (5)(a)3.
Millage resolution to Property Appraiser and Tax Collector; TRIM compliance certification to the Department of Revenue	Within 3 days after adoption; within 30 days after adoption	Sections 200.065(4), 200.068

Step	Date	Authority
Fiscal year begins; tax bills mailed	October 1, 2027; November 2027	Chapter 197

The first time levy of millage for the Parks District is subject to a unanimous vote requirement under section 200.065(5)(a)3., added by section 23 of chapter 2026-239, Laws of Florida. It provides that any rate for a dependent special district or municipal service taxing unit, "if no rate was levied by such entity in the prior year, must be adopted by a unanimous vote of the membership of the governing body of the county or municipality," or by three-fourths of a nine-member body, "or be approved by a referendum," and that after that the maximum millage is figured under the ordinary rules. Section 24 of the act says the amendment is remedial and clarifying. A few things to note. The vote is of the membership of the Commission, not of the members present, so the first levy needs five yes votes and an absence or vacancy defeats it. The requirement is tied to the prior year, so it applies to the first levy and would apply again in any year following a year in which the Parks District did not levy. And the statute allows a referendum as an alternative if unanimity looks doubtful.

Because the Parks District will not have levied in 2026, it has no rolled-back rate in 2027 and its levy is a new tax for TRIM purposes; section 200.065(3)(k) has specific advertisement language for a taxing authority proposing to "impose a new property tax levy." At the same time, section 200.065(3)(j) bases the advertised percentage increase on aggregate millage rates, which under section 200.001(8)(g) include the taxes of all districts dependent to the City, and section 200.065(5)(b) lets the City and its dependent districts exceed their individual maximum millages so long as total municipal ad valorem taxes, defined in section 200.001(8)(k) to include dependent districts, stay within the aggregate maximum. The practical result is that if the Commission funds the Parks District by moving a portion of the City's existing operating millage into it rather than adding new millage, the aggregate numbers would show little or no increase. How the City's advertisement should read in that first year is something we should confirm with the Department of Revenue's TRIM staff before August 2027.

There are two things I would confirm with the Property Appraiser sooner rather than later. The TRIM notice form in section 200.069(3) lists the county, the school levies, the municipality or municipal service taxing units, the water management district, independent special districts and voted debt; it does not specifically list municipal dependent districts. If having a separate Parks District line on the TRIM notice and the tax bill is one of the City's goals, we should find out how the Property Appraiser and Tax Collector will show it rather than assume. I would also ask whether they will charge the Parks District anything for administration as a separate taxing authority.

IV. <u>Relationship to the City's Ten Mill Limit</u>

Article VII, section 9(b) of the Florida Constitution limits ad valorem taxes for municipal purposes to ten mills, other than taxes for the payment of bonds and taxes for up to two years approved by the voters. Sections 166.211(1) and 200.081 address that limit in statutes, and section 200.001(8)(d) applies it to dependent districts: "Dependent special district millage, when added to the millage of the governing body to which it is dependent, shall not exceed the maximum millage applicable to such governing body." The Parks District millage is part of the City's ten mills, not in addition to them.

As a legal matter there is plenty of room. The City's operating millage is 3.2730 mills for fiscal year 2025-26, and the Commission set the same rate as its preliminary maximum for fiscal year 2026-27. The point the Commission should understand is that the Parks District does not give the City any taxing power it does not already have. What it does is set aside a stated portion of that capacity for parks, give it a separate budget and a separate annual vote, and make the parks levy visible to taxpayers. The same dollars could be raised through the City's general millage without a district. Creating the Parks District is a decision about governance and transparency, not about revenue capacity. Note any bonds payable from Parks District ad valorem taxes maturing more than twelve months after issuance would require a referendum under Article VII, section 12, which section 22-46(C) of the draft already provides.

V. <u>Effect of Amendment 3 if Approved by Referendum</u>

Amendment 3 started as CS/HJR 1F in the June 2026 Special Session F. In early August the Leon County Circuit Court (Judge David Frank) found the Legislature's ballot title and summary misleading and ordered the Attorney General to rewrite them, and the Attorney General released revised language on August 14. As of today the measure remains on the November 3 ballot under the revised language. It needs 60 percent to pass and would take effect January 1, 2027.

Based on the enrolled joint resolution and the House final bill analysis, the amendment would: create a homestead exemption from all non-school levies of $150,000 of assessed value starting January 1, 2027 and $250,000 starting January 1, 2028, indexed for inflation beginning in 2029, with a five-year residency requirement for new residents; cut the annual assessment cap on non-homestead property from ten percent to five percent for non-school levies; direct the Legislature to set up a uniform procedure for counties, municipalities and school districts to increase exemption amounts; and add a new Article VII, section 9(a)(2) limiting county and municipal ad valorem taxes to listed purposes (public safety, education, infrastructure, natural resource projects, bonds and debt service, and employee retirement obligations) plus a catch-all in clause g. for "the operations and administration of county officers and commissioners established under Article VIII and municipalities, and the expenditures approved by such county officers or county or municipal governing bodies, except those expenditures prohibited by general law." The ballot summary also refers to a general-law schedule for full elimination of non-school homestead taxes, which based on the text of the joint resolution would give discretion to local governments to further increase, as a matter of local discretion, the amount of the homestead exemption above $250,000 all the way to full exemption.

For the Parks District, this means three things. First, the base shrinks. The first levy would be on the 2027 roll with the $150,000 exemption and the second on the 2028 roll with $250,000, so a given millage would produce noticeably less than it would today. The Commission should have finance staff run the numbers under both outcomes before settling on a target. Second, parks are not one of the listed purposes, so the levy would have to fit under the clause g catchall. Because section 200.001(5) treats dependent district millage as set by the municipal governing body and section 200.001(2)(d) classifies it as municipal millage, I would treat the Parks District levy as covered by the restriction and as fitting under clause g., and I would not count on the district structure as a way around it. Clause g. can also be narrowed by general law, and parks and recreation is the kind of discretionary spending a Legislature focused on property tax relief might single out. The draft's provision for user fees, grants and City transfers hedges against that. Third, the Parks District does not protect the parks levy from any of this. It would make the levy a separate, visible line to be adopted by unanimous vote in the same year the City is absorbing the revenue loss from the amendment. That may be exactly what the Commission wants if the goal is to make the City's commitment to parks explicit, but they should understand that going in. If the amendment fails, none of this applies.

The Commission has options that are not mutually exclusive. It can adopt the ordinance in December with the referendum result in hand and without committing to a levy. It can put off the levy decision to summer 2027, when the 2027 roll and any implementing legislation will be known. And if it does levy, it can structure the first Parks District millage as a shift of existing operating millage rather than an increase, which presents best under the aggregate TRIM rules and is least open to the argument that the City is raising taxes in response to the amendment.

VI. <u>Special Assessments</u>

You also asked whether the City or the Parks District could use special assessments to fund parks operations or facilities. The basic framework is this. A special assessment is not a tax and is not subject to the ten mill cap, the homestead exemption or referendum approval. The City's authority to levy special assessments comes from its home rule powers under Article VIII, section 2(b) of the Florida Constitution and section 166.021, which the Florida Supreme Court confirmed in <u>City of Boca Raton v. State</u>, 595 So. 2d 25 (Fla. 1992). Chapter 170, by its own terms a supplemental and alternative method, is not the sole source of assessment authority and cities are not required to proceed under it. I mention that chapter only because it illustrates that the Legislature regards parks and recreational facilities as a proper subject of special assessments (section 170.01(1)(e)) and because it states the governing standard in statutory form: the benefit must be "different in type or degree from benefits provided to the community as a whole" (section 170.01(2)). The limit on any assessment, however imposed, is the two-part test the Supreme Court has applied for years: the assessed property must receive a special benefit from the improvement or service, and the assessment must be fairly and reasonably apportioned among the benefited properties. Lake County v. Water Oak Management Corp., 695 So. 2d 667 (Fla. 1997); Morris v. City of Cape Coral, 163 So. 3d 1174 (Fla. 2015). If the assessment is to be collected on the tax bill, the City would also follow the uniform method in section 197.3632, the requirements of which are set forth in the City's existing home rule assessment procedure ordinance currently codified in Chapter 2, Article IX of the City Code of Ordinances.

As I mentioned when we spoke, I am skeptical of a citywide assessment for parks, and the case law bears that out. If the assessed area is the entire City and the service is a park system open to everyone, the benefit to any given parcel is the same as the benefit to the community as a whole. The Supreme Court has held that general governmental services such as law enforcement, the courts and emergency medical services do not specially benefit real property and cannot be assessed, and in Collier County v. State, 733 So. 2d 1012 (Fla. 1999), it held that a county "interim governmental services fee" funding a list of general services that included parks and recreation was an invalid tax, in part because it was designed to recover ad valorem revenue the county could not otherwise collect. A citywide parks assessment adopted after Amendment 3 would look similar to a court.

A smaller assessment is on much better footing. An assessment imposed under home rule and limited to a defined neighborhood, funding capital improvements to a particular park or facility that mainly serves the surrounding properties, fits the cases. The Supreme Court has upheld assessments for landscaping, lighting and similar improvements within a single development based on findings that they enhanced the value of the properties there, even though the general public also used them. City of Winter Springs v. State, 776 So. 2d 255 (Fla. 2001). To do it right, the City would adopt implementing resolutions pursuant to Chapter 2, Article IX of the City Code, with an objectively defined benefit area, a benefit and apportionment study to support the Commission's findings, an apportionment method with a logical relationship to the benefit, and notice and hearing procedures that satisfy section 197.3632 so the assessment can be collected on the tax bill. For a 2027 bill that means a resolution of intent to use the uniform method adopted before January 1, 2027, or before March 1, 2027 if the Property Appraiser and Tax Collector agree. The City, not the Parks District, should be the levying body, which is how the draft ordinance already handles it in section 22-40(p). We would be glad to develop this further, or look at a specific project, whenever you would like.

VII. Next Steps

1. Finalize the ordinance. I will send a redline with any revisions we discuss, including changing the reporting agency to the Department of Commerce and possibly adding language in section 22-46 on the TRIM mechanics and the unanimous vote requirement for the first levy.

2. Schedule first reading at a regular meeting after November 3 and second reading and adoption in December, with the section 166.041(3)(a) newspaper notice at least ten days before adoption. Adoption must occur, and the ordinance must take effect, before January 1, 2027 to preserve a fiscal year 2027-28 levy under section 200.066, so the December meeting date should be treated as firm.

3. Assign the post-adoption filings in Part II and send certified copies to the Property Appraiser and Tax Collector.

4. Talk to the Property Appraiser now about set-up lead time, how the Parks District will appear on the TRIM notice and tax bill, and any administrative charges.

5. Have finance staff model the Parks District yield at candidate millage rates on the 2027 roll under both Amendment 3 outcomes, and consider framing the first levy as a shift of existing operating millage.

6. Brief the Commission on the unanimous vote requirement and the referendum alternative before adoption so there are no surprises in September 2027.