

September 14, 2017

RESOLUTION NO. 17-120

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, RELATING TO THE DELIVERY, FUNDING AND PROVISION OF STORMWATER SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF PANAMA CITY BEACH, FLORIDA; MODIFYING, RATIFYING AND CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; IMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF PANAMA CITY BEACH; APPROVING THE RATE OF ASSESSMENT; CONFIRMING, APPROVING AND ADOPTING THE STORMWATER SERVICE ASSESSMENT ROLL FOR FISCAL YEAR 2017-18; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AS FOLLOWS:

SECTION 1. AUTHORITY. This Final Assessment Resolution is adopted pursuant to City Ordinance No. 947, as amended from time to time and codified in Chapter 28 of the Code of Ordinances of the City of Panama City Beach (the "Assessment Ordinance"), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. DEFINITIONS. This Resolution is the Final Assessment Resolution for stormwater non-ad valorem assessments to be imposed and collected in Fiscal Year 2017-2018. All capitalized terms in this Resolution not otherwise defined herein

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shall have the meanings defined in the Assessment Ordinance and Panama City Beach Resolution 17-119 (the "Initial Assessment Resolution") except as provided herein, and unless the context clearly requires otherwise.

SECTION 3. FINDINGS. It is hereby ascertained, determined and declared as follows:

(A) Except as modified herein, the findings provided in Section 1.04 of the Initial Assessment Resolution are hereby ratified, confirmed and incorporated as if set forth fully herein.

(B) On August 10, 2017, the City of Panama City Beach (the "City") adopted the Initial Assessment Resolution, providing for the continued imposition of Stormwater Service Assessments to fund certain stormwater related Essential Services (as described therein), describing the method of assessing the cost of such services against the real property that will be specifically benefitted thereby, establishing a public hearing to consider imposition of the proposed assessments, and directing preparation of the preliminary Assessment Roll and provision of the notices required by the Assessment Ordinance. The Initial Assessment Resolution updated the methodology and rate of assessments previously imposed by the City.

(C) Pursuant to Section 2.07 of the Assessment Ordinance, the City is required to repeal or confirm the Initial Assessment Resolution, with such amendments as the Council

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deems appropriate, after hearing concerns and receiving comments or objections of interested parties.

(D) The Fiscal Year 2017-18 Stormwater Service Assessment Roll (the "Assessment Roll") has heretofore been filed and made available for inspection by the public. The Assessment Roll has also been made available online at pcb.gov.com.

(E) As required by the terms of the Initial Assessment Resolution, notice of a public hearing has been published notifying property owners of the opportunity to be heard; the proof of publication is attached hereto as Appendix A.

(F) The Council considered this Final Assessment Resolution at a public hearing held at its regular meeting on September 14, 2017, and comments and objections of all interested persons have been heard and considered. The re-imposition of Stormwater Service Assessments for stormwater services, facilities, and programs each fiscal year is an equitable and efficient method of allocating and apportioning Stormwater Management Service Cost among parcels of assessed Property.

(G) The rate classification system proposed by the Rate Study is reasonable and equitable, and will continue to be so as properties within the City develop and change; and such rate classification system is also manageable and capable of being fairly implemented from year to year without wasteful or extraordinary consumption of resources which could better be expended to address stormwater related issues.

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(H) The apportionment method described in the Rate Study and adopted in the Initial Assessment Resolution bears a reasonable relationship to the cost of providing Stormwater Improvements and Stormwater Management Service, including stormwater generated by Government Property.

(I) The benefits derived from the Stormwater Management Services exceed the cost of the Stormwater Service Assessments imposed hereunder. The Stormwater Service Assessment for any tax parcel within the City does not exceed the proportional benefits that such tax parcel will receive compared to any other tax parcel within the City.

(J) The legislative determinations of special benefit and fair apportionment contained in Section 1.04 of the Initial Assessment Resolution are hereby readopted, ratified and confirmed.

(K) Each parcel of Assessed Property within the City will be specially benefited by the City's provision of stormwater services, facilities, and programs in an amount not less than the Stormwater Service Assessment for such parcel, computed in the manner set forth in the Initial Assessment Resolution.

(L) On December 14, 2006, the City adopted Resolution No. 06-84 (the "Intent Resolution") expressing its intent to collect assessments pursuant to the uniform collection method authorized by Section 197.3632, Florida Statutes. The City forwarded copies of the Intent Resolution to the Bay County Property Appraiser ("Property Appraiser"), the Bay

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County Tax Collector ("Tax Collector"), and the Florida Department of Revenue prior to January 10, 2007, as required by Section 197.3632(3)(a), Florida Statutes, and has entered into reimbursement agreements with the Property Appraiser and Tax Collector as required by Section 197.3632(2), Florida Statutes.

**SECTION 4. MODIFICATION, RATIFICATION AND CONFIRMATION
OF THE INITIAL ASSESSMENT RESOLUTION.**

(A) Except as may be modified or amended herein, all actions taken by the City Council at its meeting commenced on August 17, 2017, are hereby ratified and confirmed.

(B) After public hearing, comment from affected property owners, City staff, consultants and counsel, and deliberation by the City Council at its noticed public hearing, the City Council hereby directs and authorizes the following modifications to the findings and assessment methodology asserted in the Initial Assessment Resolution:

(1) With regard to the variable Program Cost component, the City finds that substantially all of the stormwater that is physically managed, controlled, and treated by the Stormwater System is generated by Developed Property; and the amount of stormwater generated by Undeveloped Property that is managed, controlled, and treated by the Stormwater System is inconsequential and not substantial. However, with regard to the fixed Capital Cost component, the City finds that both Developed and Undeveloped properties benefit equally from the essential planning, design, and construction services provided to administer and

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enhance the City's Stormwater System. (Cf. Section 1.04(I), Initial Resolution)

(2) The Program Cost for each Tax Parcel of Developed Property, excluding residential parcels, shall be calculated by multiplying the total impervious square footage/2850) times the imperviousness factor (total impervious sq. footage/lot size), then divided by .4. (Cf. Section 3.03(C)(4), Initial Resolution)

(3) Very Small residential properties, having less than 400 square feet of Impervious Area, shall be assigned an ERU value of zero (0), with the result that the Program Cost component of that parcel's Assessment shall also be zero. (Cf. Section 3.03(C)(2)(i), Initial Resolution)

(4) The Program Cost component for Very Large residential properties, having more than 5700 square feet of Impervious Area, shall be calculated in the same manner as commercial properties, such that each such parcel shall be assessed based on its actual Impervious Area and lot size as more particularly set forth in the updated Rate Study. (Cf. 3.03(C)(2)(v), Initial Resolution)

(5) Residential condominium units and commercial condominium units shall be assessed as set forth in Section 6(D) of this Final Assessment Resolution. (Cf. 3.03(C)(7)(iii), Initial Resolution)

(C) The apportionment method described in the Rate Study, as such Rate Study has been updated and revised on August 7, 2017 and September 7, 2017, and adopted in

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Section 3.03 hereof bears a reasonable relationship to the cost of providing Stormwater Improvements and Stormwater Management Service.

(D) The Initial Assessment Resolution, except as modified and supplemented by this Resolution, is hereby ratified and confirmed.

SECTION 5. APPROVAL OF ASSESSMENT ROLL.

The Assessment Roll, on file in the Office of the City Clerk and incorporated herein by this reference, is hereby approved, confirmed and adopted for Fiscal Year 2017-2018. The Assessment Roll shall be certified to the Tax Collector by September 15, 2017, pursuant to Section 197.3632(5), Florida Statutes.

SECTION 6. ASSESSMENTS METHODOLOGY.

(A) A special assessment computed in the manner described in the Initial Assessment Resolution, and as modified and supplemented herein, is hereby levied and imposed on all Tax Parcels described in the Assessment Roll in order to fund the Stormwater Management Service Cost for the Fiscal Year commencing October 1, 2017.

(B) The Assessment on Parcels that contribute runoff to the Stormwater System will include both the Program Cost and Capital Cost component. The Assessment on Parcels which do not contribute to the Stormwater System will include only the Capital Cost component.

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(C) The Parcels of Assessed Property described in the Assessment Roll are hereby found to be specially benefited by the provision of the stormwater services, facilities, based upon a fixed Capital Cost of \$35.00 and a variable Program Cost based on an ERU value of \$44.90.

(D) Based upon the Program Cost amount of \$44.90 per ERU (one ERU = 2850 square feet), the Program Cost component for the residential tiers described in Section 3.03 of the Initial Assessment Resolution is estimated as follows:

- i. Very Small residential: \$0
- ii. Small residential: \$22.45
- iii. Medium residential: \$44.90
- iv. Large residential: \$67.35
- v. Very Large residential: the Assessment shall be calculated in the same manner as commercial properties, such that each such parcel shall be assessed based on its actual Impervious Area and lot size as more particularly set forth in the updated Rate Study.
- vi. Residential Condominiums: the Assessment for each unit shall be calculated according to the aggregate impervious area of the greater condominium development, divided by the total number of residential units in the condominium development.

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vii. Commercial Condominiums: the Assessments for each unit shall be calculated according to the total Impervious Area of the greater condominium development divided by 2850, divided by imperviousness factor and then multiplied by .4. The resulting number from those calculations is then apportioned by each unit's square footage of the total Impervious Area.

(E) The determination of property impervious coverage shall be made using best available data prior to adoption of the Assessment Roll (e.g. Property Appraiser information, aerial images or data deemed reliable by the City or its consultants).

(F) The apportionment approach described in the updated Rate Study and summarized in Section 3.03 of the Initial Assessment Resolution, and as supplemented or modified by this Final Assessment Resolution, is hereby approved and adopted.

(G) Stormwater Service Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(H) The City shall use legally available funds, other than Assessment Proceeds, to pay Stormwater Service Assessments imposed upon homestead properties classified on the Tax Roll by the Property Appraiser under "exemption codes" VX, VP or V2 (veteran's

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partial to total disability), 13 (non-service connected total and permanent disability) and 14 (total and permanent service-connected disability).

(I) The following are Exempt Properties and not subject to the Stormwater Service Assessment: (1) Public Roads, (2) lakes, submerged land, and other naturally occurring water bodies with pervious soil bottoms, (3) Government Property and (4) condominium common areas.

SECTION 7. COLLECTION OF ASSESSMENTS. The Fiscal Year 2017-18 Stormwater Service Assessment for each individual Tax Parcel shall be in addition to an amount equal to delinquent assessments from prior Fiscal Years for such Tax Parcel, if any, and collected pursuant to the uniform collection method provided for in the Intent Resolution, Section 3.01 of the Assessment Ordinance, and Section 197.3632, Florida Statutes; provided, however, that any existing lien of record on the affected Tax Parcel for the delinquent Stormwater Service Assessment(s) is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

SECTION 8. EFFECT OF FINAL ASSESSMENT RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Stormwater Service

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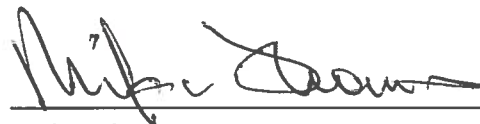
Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of rendering of this Final Assessment Resolution.

SECTION 9. REPEAL OF INCONSISTENT RESOLUTIONS. Any resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

SECTION 10. EFFECTIVE DATE. This Final Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED THIS 14th day of September, 2017.

CITY COUNCIL OF PANAMA CITY BEACH



Mike Thomas, Mayor

(SEAL)

Attest:

By:


Jo Smith, Deputy City Clerk