

**RESOLUTION NO. 19-127**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, RELATING TO THE PROVISION OF STORMWATER SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF PANAMA CITY BEACH, FLORIDA; 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 2019-20; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM COLLECTION METHOD; PROVIDING THE PROCEDURE BY WHICH ELIGIBLE LANDOWNERS CAN PROSPECTIVELY APPLY FOR MITIGATION CREDIT FOR FISCAL YEAR 2020-2021; 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 Resolution of the City of Panama City Beach, Florida (the "City") 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 constitutes the Annual Assessment Resolution as defined in the Assessment Ordinance. All capitalized terms in

this Resolution not otherwise defined herein shall have the meanings defined in the Assessment Ordinance. The following terms shall have the following meanings:

**“Assessed Property”** means all parcels of real property included in the Stormwater Service Assessment Roll that receive a special benefit from Stormwater Management Service or Stormwater Improvements.

**“Capital Cost”** means that portion of the Stormwater Management Service Cost associated with planning, design and construction activities related to Stormwater Improvements and Stormwater Management Service including, by way of example but not limited to, the cost of stormwater master planning and stormwater programming.

**“City”** means the City of Panama City Beach, Florida.

**“City Clerk”** means the clerk of the City Council.

**“City Code”** means the City Code of Ordinances.

**“City Engineer”** means the person or firm designated by the City Council or City Manager to receive and process any applications for Mitigation Credit, more particularly described in Section 9 hereof.

**“City Manager”** means the chief administrative officer of the City, or such person's designee responsible for coordinating calculation and collection of Assessments as provided herein.

**“Council”** means the governing body of the City of Panama City Beach, Florida.

**“Developed Property”** means real property that is developed entirely or in part

with Impervious Area.

**“Development”** means the process or result of construction, reconstruction, site improvement, installation of improvements, establishment of a temporary or accessory use or structure, or other modification to land or a body of water.

**“Equivalent Residential Unit”** or **“ERU”** means the Assessment Unit described in Section 5 hereof. The ERU is the standard unit used to express the stormwater burden generated or benefit received by each Tax Parcel after taking into consideration any mitigation resulting from privately maintained Stormwater Mitigation Facilities and other factors affecting the quantity, quality, or rate of stormwater runoff.

**“Exempt Property”** means property expressly exempted from Stormwater Service Assessments by this Resolution.

**“Fiscal Year”** means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

**“Government Property”** means property owned by the United States of America, the State of Florida, a sovereign state or nation, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

**“Impervious Area”** means hard surfaced areas resulting from Development which either prevent or severely restrict the entry of water into the soil mantle and/or cause water to run off the surface in greater quantities or at an increased rate of flow from that present

under natural conditions prior to Development. Impervious Areas include, but are not limited to, rooftops, sidewalks, walkways, patio areas, driveways, parking lots, tennis courts, swimming pools with impervious bottoms, storage areas, and other surfaces which similarly affect the natural infiltration and runoff pattern which existed prior to Development.

**“Mitigation Credit”** means a credit against a Stormwater Service Assessment for qualified Developed Properties granted in accordance with Section 9 hereof.

**“Mitigation Facility”** means a manmade facility or structure legally servient to or located upon the site of a Developed Property which, by its design and function, retains stormwater and thus generates less volume of stormwater from the site or produces stormwater runoff at a lower rate or with less pollutants than would be the case in the absence of such facilities or structure.

**“NPDES”** means the National Pollution Discharge Elimination System.

**“Program Cost”** means that portion of the Stormwater Management Service Cost associated with the administration of the City’s Stormwater Service Assessment program and preparation of the annual assessment rolls, billing and collection of Stormwater Service Assessments, including customer information services and reserves for statutory discounts, record keeping and related activities, development and NPDES permit related activities, together with costs necessary for the operation and maintenance of the Stormwater System, including costs for legal and other consultants.

**“Quality Credit”** means a Mitigation Credit which may be awarded pursuant to Section 9 hereof for properly maintained and functioning Mitigation Facilities which meet or exceed the requirements of Section 3.05.00 of the City’s Land Development Code or its successor in function.

**“Quantity Credit”** means a Mitigation Credit which may be awarded pursuant to Section 9 hereof for maintained and functioning Mitigation Facilities which meet or exceed the requirements of Section 3.05.13 of the City’s Land Development Code or its successor in function.

**“Rate Study”** means the City of Panama City Beach Stormwater Rate Study Methodology Report prepared by Public Utility Management and Planning Services, Inc., and Ennead, LLC, dated September 7, 2017.

**“Stormwater”** means the flow of water which results from, and which occurs following, a rainfall event.

**“Stormwater Improvement”** means land, capital facilities, and improvements acquired or provided to detain, retain, convey, or treat stormwater.

**“Stormwater Management Service”** means (A) management and administration of the Stormwater System; (B) stormwater program engineering; (C) development, modification and implementation of any stormwater master plan; (D) Stormwater Improvements anticipated to be acquired or constructed during a single Fiscal Year; (E) operating and maintaining of the City's capital facilities and programs for stormwater

management, including extraordinary maintenance; (F) equipment and consumables; (G) permitting, inspecting, and reviewing of plans; and (H) legal, engineering, and other consultant services.

**“Stormwater Service Assessment”** or **“Assessment”** means a special assessment (sometimes characterized as a non-ad valorem assessment) levied by the Council to fund the Stormwater Management Service Cost.

**“Stormwater Service Assessment Roll”** means the roll created pursuant to Section 2.04 of the Assessment Ordinance and described in Section 6 hereof that includes a summary description of each Tax Parcel subject to the Stormwater Service Assessment, the name of the owner of each Tax Parcel as shown on the Tax Roll, and the number of Equivalent Residential Units attributable to each Tax Parcel.

**“Stormwater Management Service Cost”** means the estimated amount for any Fiscal Year of all expenditures, including but not limited to Capital and Program Costs, and reasonable reserves that are properly attributable to Stormwater Management Service provided under generally accepted accounting principles. In the event the City also imposes an impact fee upon new growth or development for stormwater related capital improvements, the Stormwater Management Service Cost shall not include costs attributable to capital improvements necessitated by new growth or development which were included in the computation of such impact fee or which are otherwise funded by such impact fee.

**“Stormwater System”** means the appurtenances, facilities, equipment, and services, including Stormwater Management Service and Stormwater Improvements, necessary for the collection, treatment, storage, and conveyance of storm and surface waters.

**“Tax Parcel”** means a parcel of property to which the Bay County Property Appraiser has assigned a distinct ad valorem property tax identification number.

**“Tax Roll”** means the real property ad valorem tax roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

**“Undeveloped Property”** means real property which contains no Impervious Area.

**“Uniform Assessment Collection Act”** means 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 3. INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms “hereof,” “hereby,” “herein,” “hereto,” “hereunder” and similar terms refer to this Resolution; and the term “hereafter” means after, and the term “heretofore” means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

**SECTION 4. FINDINGS.** It is hereby ascertained, determined and declared as follows:

(A) The Council desires to create an equitable means to fund the Stormwater

Improvements Cost and the Stormwater Management Service Cost, which are related, essential services and capital improvements needed throughout the City.

(B) The City is authorized by Article VIII, Section 2 of the State Constitution, Section 166.021, Florida Statutes, the Assessment Ordinance, the Uniform Assessment Collection Act, and other applicable provisions of law, to provide for the imposition and collection of charges in the form of special assessments; such impositions also being sometimes characterized as non-ad valorem assessments.

(C) The City is experiencing unprecedented growth and redevelopment. The intensity of recent development activity is placing a growing demand on all City services, including those related to stormwater management.

(D) Historically, stormwater management activities within the City have been limited to the construction and maintenance, or merely the existence, of a modest stormwater infrastructure system and roads built or allowed to convey runoff to natural water bodies.

(E) Prior to 2006, the primary source of funding for all stormwater management activities within the City have been in reliance upon legally available revenues through the City's general fund and the resultant funding of stormwater related expenditures by the Public Works Department.

(F) Since 2006, the City has annually levied Stormwater Service Assessments to fund Stormwater Management Service. The rate and methodology initially established in



2006 by Resolution 06-41 and Resolution 06-53 was not increased until 2017.

(G) Additional funding needs, such as the cost of National Pollution Discharge Elimination System (“NPDES”) permit compliance, increased maintenance and stormwater management demands, and anticipated redevelopment and capital improvement projects have led the City to authorize a new stormwater rate study to assess the sufficiency of this dedicated funding source to ensure it will provide dependable revenue to pay for all, or part of, the City’s stormwater management program and to update the methodology as appropriate specifically for the condominium rate class.

(H) The Council has previously carefully considered the Rate Study describing a special assessment apportionment methodology designed to fund all or some portion of the City’s annual budget expenditures corresponding to the operation and maintenance of its Stormwater System.

(I) Fixed costs can generally be described as those costs incurred in providing capital services, facilities or programs required to enhance the Stormwater System which do not necessarily vary from parcel to parcel based upon property classification or parcel-specific physical characteristics (improvements). Variable costs are those dependent upon or which more closely bear a direct relationship to property classification and/or parcel-specific physical characteristics such as the size of improvements or impervious areas, and therefore are more likely to vary from parcel to parcel.

(J) With regard to the variable cost component, 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. With regard to the fixed 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 enhance the City's Stormwater System.

(K) The Stormwater Management Services contemplated herein are Essential Services which possess a logical relationship to the use and enjoyment of, relieve a burden created by and provide a special benefit to, Developed Property by treating and controlling Stormwater generated or contaminated by improvements constructed on Developed Property, which resulted in the alteration of such property from its natural state.

(L) The relief of the burden created, or special benefit received, by Developed Property is the collection, storage, control, management, treatment, and conveyance of the stormwater burden generated by the improvements on Developed Property.

(M) Both Developed and Undeveloped Properties are benefited by compliance with nationally encouraged and in some cases mandated stormwater management planning and the development of an integrated and scalable stormwater management system which enhance the quality of development and redevelopment potential for property and responsibly advance the preservation and protection of natural resources.

(N) The City is an urban area essentially located on a barrier island. Although Undeveloped Property may itself provide a benefit to the Stormwater System by receiving Stormwater, the urban characteristics of the City require that the Council must nonetheless plan Stormwater Improvements and plan and provide Stormwater Management Service to serve all property capable of Development and the cost thereof should be borne by all properties benefited by the availability of such planning and related services.

(O) Accordingly, it is fair and reasonable that all Assessed Property pay an equal share of the Capital Cost, and that all Tax Parcels characterized as Undeveloped Property be subject to a minimum Assessment to fund only that portion of the Stormwater Management Service Cost described as the Capital Cost.

(P) It is fair and reasonable to impose Stormwater Service Assessments upon Developed Property to fund the Stormwater Management Service Cost.

(Q) The rate classification system proposed by the Rate Study and based upon "DOR" Codes" is reasonable and equitable, and will continue to be so as properties within the city develop and change; and it is also manageable and capable of being fairly implemented from year to year without consuming extraordinary and wasteful resources which could better be expended to address Stormwater issues.

(R) The apportionment method described in the Rate Study and adopted in Section 5 herein bears a reasonable relationship to the cost of providing Stormwater Improvements and Stormwater Management Services, including stormwater generated by

Government Property as Developed Property.

(S) The findings contained herein are premised upon information, input, analysis and review from City staff, officials and experts, and public comment, as well as careful consideration by the City Council. A combination of the foregoing yields a reasoned apportionment methodology premised upon two distinct categories of apportionment allocation: a fixed Capital Cost component (determined by capital project costs) applicable to all Tax Parcels, together with a variable Program Cost component (determined by a Tax Parcel's contribution of runoff to the City's Stormwater System). Although either of these two categories might be used singularly to address a significant portion of the budget for special assessment apportionment purposes, together they provide a simplified and powerful equity tool for the City to fairly and reasonably share assessable benefits, burdens and costs among all assessable Tax Parcels in the City.

(T) All Tax Parcels will benefit from the enhancement of the City Stormwater facilities constructed as a part of the Capital Projects initiative. Allocating a portion of these fixed costs on a Tax Parcel basis reasonably avoids cost inefficiencies and unnecessary administration, and is a fair, efficient and reasonable mechanism to allocate such costs among all Tax Parcels.

(U) It is fair, reasonable, effective, and efficient for all Tax Parcels, including statutorily defined parcels such as individual condominium or cooperative units with extraordinary alienability, to share equally in the core fixed costs represented by the special

assessments to be imposed hereby, particularly since such costs are not necessarily dependent upon or determined by physical characteristics.

(V) Staff has reviewed current and prior year budget information related to the provision of Stormwater Management Services and shared a reasoned analysis of fixed and variable cost budget components, resulting in the determination that all Tax Parcels benefit in a substantially uniform manner from services, facilities and programs characterized as fixed.

(W) The City is not required to fully fund any given essential service or capital cost through a special assessment. So long as the application of funds is for a public purpose and funds are legally available, the City may alternatively determine to fund all or some discrete portion of an essential service or capital cost, such as Stormwater Management Services with general fund or other legally available revenues. The determination as to whether to contribute other legally available revenues, and how much to contribute, lies solely in the discretion of the City Council.

(X) There is no requirement that the City impose an assessment for the maximum amount of the budget that can be funded by special assessments. Stated in the alternative, the City Council may annually determine as a tax equity tool to impose special assessments at a rate less than necessary to fund all or any specific portion of the costs which might otherwise be funded by special assessments associated with Stormwater Management Services. Costs incurred in providing Stormwater Management Services not otherwise

funded through Stormwater Service Assessments may be paid with general fund or other legally available revenues. Such legally available revenues as a matter of policy may be applied exclusively to any tier or class of budget allocation or expense otherwise funded by a special assessment, in part to one tier or class of any budget allocation or expense, or in any combination thereof, and maintain the validity of each apportionment approach used for the remaining portion of the budget attributed to the assessed costs. This flexibility is implemented through a policy and legislative determination employed through careful adherence to case law, statutory law, and the State Constitution, as well as the exercise of annual budget responsibility, discretion and equity vested in the City Council. However, in no event shall any annual rate of special assessment exceed that previously noticed to the affected land owners without further notice and public hearing pursuant to the Assessment Ordinance.

(Y) The City Council is cognizant that any system, metric or analytical view of appraising benefits or assessing costs will be open to some criticism or suggestion of alternative methods or approaches, and has labored to educate itself as to the facts, analysis, law and policy latitudes available to it in determining the assessed costs and the rate of the Stormwater Service Assessment in the process of approving the Stormwater Service Assessment Roll.

(Z) The benefits derived or burdens relieved from the provision of the Stormwater Management Services as to each Tax Parcel subjected to the Stormwater

Service Assessments equal or exceed the amount of the special assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the City in employing such an approach also does not exceed the proportional benefits (or corresponding relief of burdens) that such Tax Parcel will receive (or cause) compared to any other Tax Parcel so assessed within the City.

(AA) The foregoing findings and determinations are predicated on a substantially similar proposed budget and information for the upcoming Fiscal Year as last year; and, the Council determines it is reasonable to confirm and ratify same, and reimpose the Assessments at the same rates, fees and charges as last year.

(BB) The Council hereby finds and determines that the Stormwater Service Assessments to be imposed in accordance with this Resolution provide a proper and equitable method of funding associated the Stormwater Management Service Cost by fairly and reasonably allocating a portion of the cost thereof among specially benefited property.

(CC) In order to re-impose Stormwater Service Assessments for the Fiscal Year commencing October 1, 2019, the Assessment Ordinance requires the City Council to adopt an Annual Assessment Resolution which confirms or amends the assessment roll.

(DD) The Fiscal Year 2019-20 Stormwater Service Assessment Roll (the "Assessment Roll") has heretofore been made available for inspection by the public.

(EE) The Council considered the Resolution at its regular meeting on September 12, 2019, 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.

(FF) The Stormwater Management Services provided for in the Stormwater Resolution and contemplated herein are Essential Services which possess a logical relationship to the use and enjoyment of, and relieve a burden created by and provide a special benefit to Developed Property by acting to treat and control Stormwater generated or contaminated by improvements constructed on Developed Property which resulted in the alteration of such property from its natural state.

(GG) 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 Section 5.

(HH) Adoption of this Annual Assessment Resolution constitutes a legislative determination that all parcels assessed derive a special benefit in a manner consistent with the legislative declarations, determinations and findings as set forth in the Assessment Ordinance, the Stormwater Resolution and this Annual Assessment Resolution from the stormwater services, facilities, or programs to be provided and a legislative determination that the Stormwater Service Assessments are fairly and reasonably apportioned among the



properties that receive the special benefit.

(II) 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 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 5. ESTIMATED STORMWATER SERVICE ASSESSMENT COST, RATE OF ASSESSMENT.**

(A) The estimated Stormwater Service Assessment Cost to be recovered through Stormwater Service Assessments for the Fiscal Year commencing October 1, 2019 is \$1,733,948.88.

(B) The apportionment approach described in the Rate Study and summarized in this Section is hereby approved, confirmed and adopted.

(C) A special assessment computed in the manner described in the Rate Study and authorized in this Section 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, 2019.

(D) 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.

(E) The Capital Cost component to be assessed on each non-exempt Tax Parcel is \$35.00.

(F) Based upon the Program Cost amount of \$44.90 per ERU (one ERU = 2850 square feet), the Program Cost component for the residential tiers set forth below is estimated as follows:

- a. Very Small residential (Residential properties with impervious area between 0 and 400 sq. ft.) 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 (0): \$0
- b. Small residential (Residential properties with impervious area between 401 and 1424 sq. ft.): \$22.45
- c. Medium residential (Residential properties with impervious area between 1425 and 4274sq. ft.): \$44.90
- d. Large residential (Residential properties with impervious area between 4275 and 5699 sq. ft.): \$67.35

- e. Very Large residential (Residential properties with impervious surfaces totaling 5700 sq. ft or more): 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.
- f. 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.
- g. Commercial Condominiums: the Assessment 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.

(G) 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 square footage/lot size), then divided by .4.

(H) The determination of whether a Tax Parcel is Developed Property or Undeveloped Property shall be made using best available data prior to adoption of the

Annual Assessment Resolution (e.g. Property Appraiser information, aerial images or data deemed reliable by the City or its consultants.)

(I) 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.

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

(K) 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, and (3) Government Property. The legislative clarification contained in Section 8 of Resolution 07-15 related to exempt roads is hereby readopted, ratified and confirmed.

**SECTION 6. APPROVAL OF ASSESSMENT ROLL; IMPOSITION OF ASSESSMENTS.**

(A) 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 2019-

2020. The Assessment Roll shall be certified to the Tax Collector by September 15, 2019, pursuant to Section 197.3632(5), Florida Statutes.

(B) In the event the City also imposes or collects an impact fee upon new growth or development for capital improvements related to stormwater, the special assessments provided for hereunder shall not include costs attributable to capital improvements necessitated by new growth or development which were included in the computation of such impact fee or which are otherwise funded by such impact fee.

(C) Copies of the Assessment Ordinance, this Resolution and the preliminary Stormwater Service Assessment Roll have been made available in the City Clerk's office at City Hall Annex, George C. Cowgill Bldg., 110 South Arnold Road, Panama City Beach, Florida, 32413, or have been open to public inspection in a manner consistent with the Assessment Ordinance.

(D) In the event the Assessment Coordinator makes any corrections, exemptions, or other modifications to the Assessment Roll authorized by the Assessment Ordinance, this Resolution or otherwise, all funding for such changes to the Assessment Roll shall be funded by legally available funds other than direct proceeds of the Assessments. Such changes shall not require any recalculation or change in the rate or rates of assessment otherwise considered or adopted pursuant to the Assessment Ordinance or any Annual Assessment Resolution.

**SECTION 7. COLLECTION OF ASSESSMENTS.**

(A) The Fiscal Year 2019-2020 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.

(B) The amount of the Assessment imposed, levied, and billed to each owner of Assessed Property may additionally include a charge, calculated by and based upon the Assessment for each Tax Parcel, to cover the 4% statutory discount that may be taken for early payment together with the 2% fee that may be charged by the Tax Collector or Property Appraiser, or both of them (the "Uniform Method Charge"). The Fiscal Year 2018-2019 Uniform Method Charge shall be equivalent to 6% of the Stormwater Service Assessment for each Tax Parcel.

**SECTION 8. EFFECT OF ADOPTION OF RESOLUTION.** The adoption of this Annual 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

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 Annual Assessment Resolution.

**SECTION 9. MITIGATION CREDIT PROCEDURE.** The procedure by which eligible landowners may apply for Mitigation Credit against the Stormwater Service Assessments for fiscal year 2019-2020 was set forth in Resolution 18-126. The procedure by which eligible landowners may apply for Mitigation Credit against the Stormwater Service Assessments for fiscal year 2020-2021 is as follows:

(A) General Matters Applicable to All Applications for Mitigation Credit:

(1) Type of Credit. Mitigation Facilities may qualify for Quality Credit, Quantity Credit, or both. A Mitigation Credit shall not apply to the Capital Cost portion of the Stormwater Management Service Cost.

(2) Application for Mitigation Credit. In order to qualify for a Mitigation Credit, the owner of the property seeking Mitigation Credit shall submit to the City Engineer, along with the review fee described below, an application pursuant to the General Application Procedure (defined below) or, where applicable, pursuant to the Alternative Application Procedure (defined below). The application for Mitigation Credit shall be available from the City Engineer in such form as the City Manager may from time to time approve to achieve the purposes of this Section. **Applications must be submitted by May 30, 2020.** Only one application for Mitigation Credit shall be filed for each system

of Mitigation Facilities regardless of the number of Developed Properties served by it, and such application shall be filed by or on behalf of all owners of Developed Property served by the Mitigation Facilities which are the subject of the application.

(3) Fees. If an application pursuant to this Resolution is filed within two (2) years after the City shall have permitted all of the Mitigation Facilities which are the subject of that application, then there shall be no application fee. All other applications, depending upon the size of the site served by the Mitigation Facilities, shall be accompanied by the following application fee:

- (a) Less than one (1) acre - \$100.00
- (b) One (1) acre or more, but less than five (5) acres - \$300.00
- (c) Five (5) acres or more, but less than twenty (20) acres - \$750.00
- (d) Twenty (20) acres or more - to be determined by the City Manager or the City Council to defray the actual cost of processing.

(4) Common ownership. For Tax Parcels enveloped in a common scheme of ownership regime (e.g. condominium association or homeowners association), a single application may be submitted for all affected Tax Parcels by a duly authorized representative.

(5) Supplemental Information. Within thirty (30) days of filing the application, the City Engineer may request in writing that the applicant provide supplemental information reasonably required to evaluate the application.



(6) Action on Application. Based upon the information submitted and any additional information available to the City Engineer and disclosed to the applicant, the City Engineer shall administratively grant or deny the application in writing within sixty (60) days of its receipt or, if supplemental information is timely requested, within forty five (45) days of receipt of supplemental information. The City Engineer shall be authorized to extend all deadlines for responding to all applications by one or more extensions not to exceed a total of 90 days in the event that the number of applications received in a single, annual cycle exceed the capacity of his staff to process. No extension shall be longer than reasonably anticipated to be necessary and notice of each extension shall be furnished in writing to all applicants.

(7) Quality Credit. The City Engineer shall grant a Quality Credit of 10% of the Stormwater Service Assessment for Mitigation Facilities which demonstrate compliance with Section 3.05.12 of the City's Land Development Code or its successor in function.

(8) Quantity Credit. The City Engineer shall grant a Quantity Credit of 40% of the Stormwater Service Assessment for Mitigation Facilities which demonstrate compliance with Section 3.05.12 of the City's Land Development Code or its successor in function.

(9) Burden of Proof. The burden of establishing entitlement to a Mitigation Credit and compliance with the applicable City Code provisions shall fall on the

applicant. If it is determined by the City Engineer, using customary engineering standards, that the property is not in compliance with the applicable City Code provisions, the application shall be denied. The issuance of, or the pendency of an application for, a local development order, development permit or building permit shall have no bearing upon whether, at the time the Mitigation Credit application is made or renewed, the property meets the necessary standards.

(10) Appeal. In the event the application is denied, the owner shall receive a written explanation from the City Engineer describing the basis for the denial. The owner shall then have the right to appeal the City Engineer's decision to the City Council by written notice specifying the basis for the appeal delivered to the City Clerk within twenty (20) days after receipt of the denial. Within thirty (30) days after receipt of the notice of appeal, the City Council shall consider the appeal in a hearing between the owner and the City Engineer, at a time and place noticed to the owner at least seven (7) days in advance. The City Council shall affirm the determination of the City Engineer if it finds such determination to be based upon competent, substantial evidence provided by or disclosed to the applicant at the time the City Engineer denies any application for Mitigation Credit. It is the intent of this Section to require the applicant to provide in any application all information in support of the application that the applicant wishes the City Engineer to consider. Upon conclusion of such hearing, the City Council shall set forth the reasons for its decision based on the criteria contained in this Section.

(11) Obligation to Pay. A pending application for Mitigation Credit shall not relieve the owner of the obligation to make timely payment of the Stormwater Service Assessment. In the event a Mitigation Credit is granted which decreases the Stormwater Service Assessment paid while the application is pending, the owner shall be entitled to credit for the excess assessment. Any reduction, including a credit, which may be necessary after the Stormwater Service Assessment Roll has been adopted may, at the option of the City, be refunded to the property owner or credited to a subsequent Stormwater Service Assessment for the subject tax parcel.

(12) Time Limit and Renewal of Credit. All Mitigation Credit determinations shall only apply to two annual Assessment cycles. In order to renew a Mitigation Credit determination, the property owner shall, within sixty (60) days after adoption of the Annual Assessment Resolution for any period in which a Mitigation Credit determination is no longer applicable, submit to the City Engineer an application, along with the review fee, either (i) prepared, sealed, dated and signed by a professional engineer registered in the State of Florida certifying that the property for which application is made still meets the technical standards and requirements for the credit sought for the reasons demonstrated in the immediately preceding application (the General Application Procedure), or (ii) if applicable, requesting the City make the determinations required for a Mitigation Credit under the Alternative Application Procedure. The renewal application shall be processed, granted or denied with right of appeal in the same manner as an

original application. If circumstances upon which the original Mitigation Credit was determined have changed, a full application demonstrating entitlement in substantial conformance with this Section shall be required.

(B) General Application Procedure:

The application for a Mitigation Credit shall be prepared, sealed, dated and signed by a professional engineer registered in the State of Florida, demonstrating that the Tax Parcel for which application is made meets the technical standards and requirements for a Quality Credit, Quantity Credit, or both, and setting forth, in detail, a description and diagram of the Mitigation Facilities and the grounds upon which the credit is justified. A request by the City Engineer for additional information may include, but not be limited to, topographical survey data and drawings signed and sealed by a professional land surveyor registered in Florida. Failure to provide such information will result in the denial of the application.

(C) Alternative Application Procedure:

In addition to the General Application Procedure, the following, alternative procedure shall be available for Mitigation Credit applications based upon Mitigation Facilities which were permitted by the City on or before July 26, 2012, pursuant to City Code of Ordinances Chapter 26 (originally adopted September 10, 1998), or on or following July 27, 2012, pursuant to City Land Development Code Section 3.05.00 (originally adopted July 26, 2012):

(1) For purposes of the application, it shall be presumed that the Mitigation Facilities when originally permitted met the requirements of City Code Chapter 26 or City LDC Section 3.05.00, as applicable.

(2) The application may be prepared and submitted by the owner of the subject property or an authorized representative of such owner and need not be prepared and submitted by a professional engineer.

(3) The application shall request that the City inspect the subject Mitigation Facilities and determine whether the Mitigation Facilities have (i) not been altered in any material way and (ii) have been maintained so as to continue to function materially as originally designed. If both conditions are met, the application may be granted.

(4) In the event the City shall discover that the Mitigation Facilities as originally permitted did not meet the requirements of City Code Chapter 26 or City LDC Section 3.05.00, as applicable, when permitted, or do not at time of inspection meet all applicable City and State requirements, the application shall be denied and the City shall be entitled to undertake appropriate enforcement remedies. In any appeal of the City's denial on the basis that the facilities did not meet the requirements of City Code Chapter 26 or City LDC Section 3.05.00, as applicable, when permitted, the burden of proof on that sole issue shall be on the City. The burden of proof of all other issues shall be on the applicant.

**SECTION 10.**

**REPEAL OF INCONSISTENT RESOLUTIONS.** Any

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resolutions or parts thereof in conflict herewith are hereby superseded and repealed to the extent of such conflict.

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

PASSED, ADOPTED AND APPROVED THIS 12th day of September, 2019.



**CITY COUNCIL OF PANAMA CITY BEACH**

  
\_\_\_\_\_  
Mike Thomas, Mayor

Attest:

By:   
\_\_\_\_\_  
Mary Jan Bossert, City Clerk