

**RESOLUTION NO. 22-175**

**A RESOLUTION OF THE CITY COUNCIL OF PANAMA CITY BEACH, FLORIDA, RELATING TO THE AVAILABILITY AND FUNDING OF FIRE PROTECTION AND RELATED ESSENTIAL SERVICES, FACILITIES AND PROGRAMS WITHIN THE CITY; PROVIDING FOR THE IMPOSITION OF SPECIAL ASSESSMENTS WITHIN THE CITY TO FUND, IN PART, THE SERVICES, FACILITIES AND PROGRAMS ASSOCIATED WITH THE CONTINUAL READINESS TO PROVIDE FIRE PROTECTION; IDENTIFYING BENEFITS, BURDENS AND COSTS TO BE ASSESSED; ESTABLISHING THE METHOD OF APPORTIONING BENEFITS, BURDENS AND COSTS AMONG SPECIALLY BENEFITED PROPERTY; ADOPTING AN ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; PROVIDING FOR ASSOCIATED POLICY DIRECTION; AND PROVIDING AN EFFECTIVE DATE.**

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

**ARTICLE I**

**INTRODUCTION**

**SECTION 1.01. AUTHORITY.** This Resolution of Panama City Beach, Florida (the "City") is adopted pursuant to Ordinance No. 1444, as amended by Ordinance 1499 (the "Assessment Ordinance"), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

**SECTION 1.02. DEFINITIONS.** This Resolution constitutes the Annual Assessment Resolution as defined in the Assessment Ordinance. All capitalized words

and terms not otherwise defined herein shall have the meaning set forth in the Assessment Ordinance, unless the context hereof otherwise requires.

**SECTION 1.03. 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 1.04. FINDINGS.** It is hereby ascertained, determined and declared as follows:

(A) The constant and continued preparedness to provide fire protection services, facilities and programs possesses a logical relationship to the value, use and enjoyment of real property by: (1) protecting the value of the improvements and structures through the continual availability of fire control and provision of fire protection and associated rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of real property; (3) lowering or stabilizing the cost of casualty or liability insurance by the presence of a professional municipal fire protection and associated rescue program within the City; (4) providing protection for uninsured or underinsured property and property owners; and (5) containing the spread of fire incidents, sometimes occurring on vacant or undeveloped property, with

the potential to spread and endanger the structures and occupants of nearby improved property, thereby limiting liability.

(B) The sharing of benefits, burdens and costs for fire protection services and facilities based upon the relative value of improvements for each Tax Parcel in the City as compared to the value of improvements for all Tax Parcels in the City could conceivably serve alone as a fair and reasonable means to apportion entirely the Fire Service Assessed Cost. Such approach substantially removes the underlying land values from consideration and reasonably focuses upon the built, improved, or husbanded environment on the land protected by fire services, facilities and programs. This is a direct and logically related means to share benefits, burdens and costs of fire protection services, facilities and programs.

(C) It is also clear that the relative improvement value of improvements to land may be utilized as one factor among others considered in a given formula or calculus since the resulting Assessments are formed from a reasoned or logical base against which the special benefits, burdens and costs may be multiplied or determined.

(D) Apportionment on the basis of relative improvement value (as determined by data derived from the Tax Roll prepared by the Property Appraiser) recognizes and fairly shares the relatively higher benefit accruing to properties which face greater financial loss in the event of fire incident.

(E) Besides the advantage of relying upon data prepared by the Property Appraiser in the normal conduct of such person's responsibilities, an approach based in whole or in part upon relative improvement value is also advantageous because it is self-correcting. Relative value of improvements may change from year to year in accordance with market conditions and other factors and such variation will be adjusted automatically each subsequent year in accordance with the updated improvement value determined by the Property Appraiser. If the improvements on a given Tax Parcel were to increase or decrease in value with the passage of time relative to the updated improvement value city-wide, that Tax Parcel's relative percentage to the total amount assessed for that Tax Parcel and all Tax Parcels would also increase or decrease proportionately.

(F) The mere availability of fire protection services and facilities benefits each Tax Parcel of real property in the City in a substantially uniform fashion by relieving the common burden placed upon City services and facilities collectively created by individual Tax Parcels whether a fire event occurs or not. Fundamentally, the presence of each Tax Parcel within the City creates a comparable and similar requirement to stand ready to serve and continually maintain a preparedness to provide fire protection and associated services and facilities for all Tax Parcels.

(G) The City's core preparedness costs are generally those necessary to maintain the readiness of fire personnel, equipment and facilities to respond in the

event of random emergency calls and to assure an effective network of coverage, a metric used by insurance ratings organizations for calculation of basic insurance ratings. Such preparedness is continual and predominantly lies in wait for the emergency of a fire incident.

(H) The Council has previously carefully considered the report prepared by GAI Consultants, Inc. describing a special assessment apportionment methodology designed to fund all or some portion of the City's annual budget expenditures corresponding to fixed (as opposed to more variable) costs incurred in maintaining common or similar continual readiness to provide fire protection to all parcels.

(I) These core preparedness costs of lying in wait are largely recurring, almost fixed over the course of a budgetary period, because they are strongly associated with wages, salaries, administration, and overhead which support the constant availability of fire protection related services and facilities. Such core costs must be absorbed even when firefighting capabilities remain exclusively in standby mode.

(J) Fixed costs can generally be described as those costs incurred in providing services, facilities or programs required for readiness to provide fire protection which do not necessarily vary from parcel to parcel based upon property classification, parcel-specific physical characteristics (improvements) or actual demand in the event of deployment. 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 value of improvements, and therefore are more likely to vary from parcel to parcel.

(K) The constant potential for the outbreak of a fire represents the predominant requirement for service. When and where a fire incident occurs is essentially an unknown and difficult variable to accurately predict. The scale of this potential defines the basic underlying cost of being prepared to limit fire loss and to protect property values. From a policy and public purpose standpoint, preparedness is the predominant activity of the City's fire services and facilities. The City, in this state of readiness, must consider the committable personnel, necessary equipment and facilities, and the time likely required to extinguish a fire (planning or preparing for the potential incident or event) prior to the emergency allocation of direct resources enabling a fire to be extinguished as quickly as possible (deploying to or intervening in the incident or event itself). The amount of resources for fire protection service, facilities and programs made available in such a continual preparedness exercise each year is a public administration and policy decision which necessarily focuses in the aggregate on all property within the City.

(L) In developing a recurring revenue source to fund a portion of the core fixed cost component of the City's annual budget associated with a continued readiness to provide fire protection services, facilities and programs, it is not necessary to solely focus on the size, value or physical characteristics of individual Tax Parcels for fire

protection. Instead, in this context, each individual Tax Parcel contributes similarly to the required state of readiness, and similarly and substantially shares the same benefits from such core fixed cost component; and, therefore it is fair and reasonable to ask the owner of each Tax Parcel to contribute equally toward funding all or a portion of the core fixed costs associated with such continual readiness to provide fire protection services and facilities.

(M) 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 tiers or classes of apportionment allocation: Tier 1 – a sharing of benefits, burdens and costs for fire protection services and facilities based upon the relative value of improvements for each Tax Parcel in the City as compared to the value of improvements for all Tax Parcels in the City; and, Tier 2 – a sharing of benefits, burdens and costs for fire protection services and facilities on a per Tax Parcel allocation premised upon maintaining a continual state of preparedness and readiness to serve whether or not a request for actual assistance is ever received. Although either of these two tiers 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.

(N) Allocating a portion of the fixed costs attributable to the City's continual readiness to provide fire protection services and facilities 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.

(O) The use of data derived from the Tax Roll (both in form and content), which is a statutorily required and uniformly maintained database of all Tax Parcels employed by the Property Appraiser and Tax Collector, represents a reasonably accurate, fair and efficient means to allocate or distribute Fire Service Assessed Cost associated with standing ready to provide fire protection and associated services and facilities.

(P) 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 or demand in the event of deployment.

(Q) It is also fair and reasonable that some portion of fixed costs and variable costs be shared and distributed among Tax Parcels, including statutorily defined parcels



such as individual condominium or cooperative units with extraordinary alienability, using apportionment methods which are weighted more heavily on the Fire Assessment Roll (using data from the Tax Roll) toward physical characteristics, such as those represented by the relative value of improvements.

(R) City staff and consultants have reviewed current and prior year budget information related to the provision of fire protection services, which reveals the City advanced life support services ("ALS") fall almost exclusively to emergency medical units operated by parties other than the City. Nevertheless, the budgetary review and analysis considered by the Council conservatively excluded even the appearance of funding any advanced life support services by eliminating costs associated with ALS training, certifications or special pay from the Fire Service Assessed Cost. Because the City's Fire Department does not endeavor to provide, and the exemplary budget conservatively excludes any cross-over costs of, ALS services separately funded through the county government, the City's exemplary budget used to determine the Fire Service Assessed Cost, on its face, avoids any question that the Fire Service Assessed Cost improperly includes emergency medical services other than first response medical services routinely delivered by fire fighters. This factually serves to isolate such advanced life support medical services from fire service-related responses and avoids debate as to case law validity of the resulting Fire Service Assessment.

(S) GAI Consultants, Inc. and Ennead, LLC reviewed current and prior year budget information related to the provision of fire protection services and facilities 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 and otherwise necessary to provide a continual readiness to provide fire protection. In light of how the community handles ALS and emergency medical services, neither (i) such core fixed cost expenditures incurred in maintaining readiness to provide fire protection and associated services and facilities (Tier 2) nor (ii) variable cost expenditures based upon the relative value of improvements associated with each Tax Parcel (Tier 1). Additionally, the remainder of the exemplary budget evidences significant anticipated other revenue to otherwise provide for fire services to be provided for (1) isolated capital earmarked for payment from limited impact fees, and (2) capital for new construction and reconstruction of fire stations, and significant training facilities, using legally available funds other than Fire Service Assessment revenue.

(T) It is fair and reasonable to fund all or a portion of the Fire Service Assessed Cost on the basis of the relative value of improvements associated with each Tax Parcel compared to the total value of all improvements in the City in order to recognize the proportional benefit accruing to properties which face greater financial loss in the event of fire incident.

(U) It is fair and reasonable to multiply the estimated budget for fire protection services, facilities and programs by an identified proportion of the core fixed costs associated with the continual readiness to provide fire protection, in order to determine a proportional amount of the estimated budget allocable to such core fixed costs; and, then divide such amount by a reasonable estimate of the total number of Tax Parcels within the City in order to determine the proposed annual rate of assessment per Tax Parcel in an attempt to uniformly and proportionally fund such core fixed costs.

(V) 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 fire protection services, facilities and programs, 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.

(W) 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 fire protection services and facilities. Costs incurred in providing fire protection services,

facilities and programs not otherwise funded through Fire Service Assessments in any given year 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 Fire Service Assessed Cost. 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 landowners without further notice and public hearing pursuant to the Assessment Ordinance.

(X) 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 Fire Service Assessed Cost and the rate of the Fire Service Assessment in the process of approving the Fire Service Assessment Roll.

(Y) The apportionment among Tax Parcels of a portion of the City's annual budget for fire protection services, facilities and programs represented by the assessment rates and Fire Service Assessments hereby adopted (using the concept and method sometimes called "Simplified Fire"™), are reasonably characterized as necessary for providing the continual readiness to provide fire protection, notwithstanding whether fire incidents or fire calls materialize or not; and, is hereby determined to be a fair and reasonable means to annually allocate and share such benefits, burdens and costs.

(Z) The benefits derived or burdens relieved from the continual readiness to provide fire protection services, facilities and programs as to each Tax Parcel subjected to the Fire 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 dollar amount budget and information for the Assessed Cost in upcoming Fiscal Year as last year; and, the Council determines it is reasonable and lawful to confirm and ratify same with adjustment using a cognizable indexing

feature as provided by ordinance, and impose the Fire Service Assessments using the rates, fees and charges as provided for herein.

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

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## ARTICLE II

### NOTICE AND PUBLIC HEARING

#### SECTION 2.01. ESTIMATED FIRE SERVICE ASSESSED COST; RATE OF ASSESSMENT.

(A) The estimated Fire Service Assessed Cost to be recovered through Fire Service Assessments for the Fiscal Year commencing October 1, 2022, is \$4,948,768 consisting of \$3,197,443 for Tier 1 – relative value of improvement for each Tax Parcel for variable cost and \$1,751,325 for Tier 2 – per Tax Parcel for fixed, readiness to serve cost.

(B) The Fire Service Assessments established in this Annual Assessment Resolution are determined by the assessment rates prepared for consideration by the public and City Council in the preparation of the Fire Service Assessment Roll for the Fiscal Year commencing October 1, 2022.

(C) As provided for in the Assessment Ordinance, the rate of Fire Service Assessment for the Fiscal Year beginning October 1, 2022, has been considered in the context of the *average annual growth rate in Florida personal income over the previous 5 years* from 2016 to 2021, which is 4.62%, as determined by the City Council upon recommendation of City staff and consultants, using information from the Bureau of Economic Analysis, affiliated with the United States Department of Commerce. The notice and intent to employ such approach was previously noticed by mailed and

published notice along with and in the context of maximum rates established in the Summer of 2020, and has since been judicially validated by the City for use in financing capital borrowing by the local circuit court, and in addition has been further noticed by publication again this year in the context of increasing the annual rate of Fire Service Assessments by using such a cognizable indexing feature in the manner provided for in the Assessment Ordinance. The rate of Fire Service Assessment for the fiscal year commencing October 1, 2022, accordingly, is directed to include such adjustment.

(D) The rate of Fire Service Assessment is therefore (1) \$0.70 per thousand dollars of improvements, or fraction thereof, for each Tax Parcel as reflected in the Tax Roll (Tier 1), plus (2) \$86.20 per Tax Parcel (Tier 2).

**SECTION 2.02. FIRE SERVICE ASSESSMENT ROLL**

(A) The Assessment Coordinator has prepared a preliminary Fire Service Assessment Roll that contains the following information:

(1) a summary description of each Tax Parcel (conforming to the description contained on the Tax Roll maintained by the Property Appraiser for the purpose of levying and collecting ad valorem taxes) which is intended to be subject to the Fire Service Assessment;

(2) the name of the owner of record of each Tax Parcel, as shown on the Tax Roll; and



(3) the proposed amount of the total Fire Service Assessment for each affected Tax Parcel for the fiscal year commencing October 1, 2022, exclusive of anticipated costs of collection and administration.

(B) In the event the City also imposes or collects an impact fee upon new growth or development for capital improvements related to fire protection, 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 Fire Service Assessment Roll have been made available in the City Clerk's office at City Hall Bldg., 17007 Panama City Beach Parkway, Panama City Beach, Florida, 32413, or have been open to public inspection in a manner consistent with the Assessment Ordinance. The proposed approach and amount of Assessment for each Tax Parcel has been noticed at or through the City's website and accessible through the internet at [www.pcbfl.gov](http://www.pcbfl.gov) and at the City Clerk's office located at City Hall Bldg., 17007 Panama City Beach Parkway, Panama City Beach, Florida. In the event the Assessment Coordinator makes any corrections, exemptions, administrative hardship deferrals 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 2.03. NOTICE BY PUBLICATION.**

(A) The Assessment Coordinator has directed and caused the publication of notice of a public hearing in the manner and time provided in the Assessment Ordinance. Proof of timely and compliant publication of the notice is attached hereto as Appendix A.

(B) No applicable circumstances in Section 197.3632 (4) (a), Florida Statutes, or the Assessment Ordinance, requires further individually mailed notice of the public hearing.

**SECTION 2.04. PUBLIC HEARING.** A public hearing was held on June 23, 2022, commencing at or about 9:00 a.m. in City Hall Council Chambers, 17007 Panama City Beach Parkway, Panama City Beach, Florida 32413, at which time the Council received and considered information and comments on the Fire Service Assessments from City officials, staff, experts and advisors, as well as the public and affected property owners, and considered imposing Fire Service Assessments and the method of collection thereof as required by the Assessment Ordinance.

**ARTICLE III**

**ASSESSMENTS**

**SECTION 3.01. IMPOSITION THROUGHOUT CITY.** Upon adoption hereof, Fire Service Assessments are to be levied and imposed throughout the entire area within the boundaries of the City and this Resolution shall be deemed to be adopted and confirmed for all purposes.

**SECTION 3.02. IMPOSITION OF ASSESSMENTS.** Fire Service Assessments shall be imposed against Tax Parcels located within the City, the annual amount of which shall be computed for each Tax Parcel in accordance with this Resolution and shall include all administration and collection costs, fees and adjustments provided for in Section 2.01(B) of the Ordinance. When imposed, the Fire Service Assessment for each Fiscal Year shall constitute a lien upon Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments as provided in the Assessment Ordinance.

**SECTION 3.03. APPORTIONMENT APPROACH.**

(A) As provided for herein, the Fire Service Assessed Cost shall be apportioned among all Tax Parcels within the City, not otherwise exempted hereunder, and including any statutorily defined parcels such as individual condominium or cooperative units with extraordinary alienability. The estimated Fire Service Assessed Cost and rate of Fire Service Assessment shall be that described in Section 2.01 hereof.

(B) It is hereby ascertained, determined, and declared that the method of determining the Fire Service Assessments as set forth in this Annual Assessment Resolution is a fair and reasonable method of paying for, recovering and apportioning the Fire Service Assessed Cost among Tax Parcels of Assessed Property located within the City.

(C) The Fire Service Assessment Roll is hereby approved.

**SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS.**

Proceeds derived by the City from the Fire Service Assessments, after payment of costs and expenses associated with collection and administration of the Assessments, shall be utilized for the provision of fire protection related services, facilities, and programs associated with maintaining continual readiness to serve. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund costs associated with fire protection related services, facilities, and programs.

**SECTION 3.05. COLLECTION OF ASSESSMENTS; COVENANT TO ADOPT ANNUAL RESOLUTION.**

(A) Unless otherwise determined by the Council, collection of the Fire Service Assessments shall take place pursuant to the uniform method of collection described in Article III of the Assessment Ordinance.

(B) The amount of the Assessment imposed, levied, and billed to each owner of Assessed Property shall additionally include a charge for a pro rata share of the City's costs and expenses associated with development, implementation, notice, collection and administration of the Assessments, but not to exceed five dollars (\$5.00) per Tax Parcel to defray such City costs.

(C) Capital equipment and facilities are fundamental components to the preparedness necessary to continually stand ready to provide fire protection services, facilities and programs. Following the initial Fire Service Assessment adoption for FY 2018-19, counsel for the City as directed successfully instituted proceedings pursuant to Chapter 75, Florida Statutes, which judicially confirmed the validity of the Assessments and use of proceeds of the Assessments to secure Obligations as provided for in the Assessment Ordinance. Any Obligations issued by the City shall contain a covenant by the City to adopt an Annual Assessment Resolution imposing Assessments for each Fiscal Year until any Obligations which include Assessments as pledged revenues have been paid in full.

**SECTION 3.06. DIRECTION CONCERNING ANY EXEMPTION.**

(A) Tax Parcels which are statutorily exempted from the payment of ad valorem taxes are in most circumstances subject to the Fire Service Assessments contemplated hereunder. Tax Parcels classified or described by the Property Appraiser as institutionally tax exempt, have been previously included in other non-ad valorem

assessments imposed by the City, and are subject to the Fire Service Assessments contemplated hereunder.

(B) Tax parcels comprising Government Property are not subject to the Fire Service Assessments contemplated hereunder. Such Tax Parcels include those classified or described by the Property Appraiser as government-owned, including the following: (1) military, (2) forest, parks, recreational, (3) public county schools, (4) public colleges, (5) public hospitals, (6) other county-owned property, (7) other state-owned property, (8) other federal-owned property, and (9) other municipal-owned property. Provided, however, each such Government Property owner may be approached by the Mayor, or such person's designee, and asked to pay as a fee or service availability charge in an amount comparable to the Assessment for each such Government Property. Said amount may be invoiced annually, quarterly or monthly in accord with Section 3.04 of the Assessment Ordinance.

(C) The following Tax Parcel classifications are special designations used by the Property Appraiser for recordkeeping purposes and do not represent actual or assessable Tax Parcels and are not subject to the Fire Service Assessments contemplated hereunder: (1) common element, (2) header record, and (3) notes parcel.

(D) Certain Tax Parcels associated with the following classifications used by the Property Appraiser typically do not receive a special benefit from the provision of fire protection services and facilities or are infeasible or impractical to assess, and

therefore are not subject to the Fire Service Assessments contemplated hereunder: (1) right-of-way (including beach access), (2) rivers, lakes & submerged land, (3) sewage disposal & waste lands, and (4) (governmentally owned) outdoor recreation or parkland.

(E) Tax Parcels associated with the following classifications used by the Property Appraiser in fact receive a special benefit from the provision of fire protection services and facilities and are subject to the Fire Service Assessments contemplated hereunder: (1) cropland, (2) timberland, (3) grazing land, (4) orchards and groves, (5) apiary, aquaculture, fowl, horse, and other animals, and (6) nursery, floriculture, sod production, and hydroponics. As the assessments contemplated hereunder are not imposed pursuant to chapter 170, Florida Statutes, the otherwise unfunded exemption from assessment for certain agricultural lands described therein does not apply. In the event a court of competent jurisdiction determines that such agricultural lands are not subject to the Fire Service Assessments, the imposition of the Fire Service Assessments on such properties or portions of properties not subject to the Fire Service Assessments shall be severed from this Resolution and an amount equivalent to that which would have been raised by such levy shall be paid from other legally available funds.

(F) The classifications of properties in this Section which are or may be exempted, in whole or in part, are reasonably determined to be inappropriate, infeasible or impracticable to assess, and either benefit marginally or create a lesser or nominal

demand or burden on the City's costs associated with readiness to serve, do not merit the expenditure of public funds to impose or collect the Fire Service Assessments, are exempt and/or otherwise generally serve in some respect to promote the public health, safety, morals, general welfare, security, prosperity and contentment of the inhabitants or residents of the City. The Assessment Coordinator, or such person's designee, is authorized and directed to use sound judgment in extending such determinations and guidance as the Fire Service Assessment Roll is collected. The foregoing classifications of properties not to be assessed do not include Government Property that is leased for private use.

(G) Based upon the foregoing, there are relatively few exempt properties within the City. Using legally available funds other than the proceeds of the Fire Service Assessments, the City shall otherwise fund or contribute an amount equal to the Fire Service Assessments that would have been otherwise derived, in whole or in part, from such exempt properties.

(H) Provided, however, the City Council reserves the right and ability in the future to impose Fire Service Assessments against Tax Parcels determined to be exempt, in whole or in part, hereunder to the extent permitted by law, for any reason including lack of reasonable cooperation or willingness to pay for a share of the Fire Service Assessed Cost, or otherwise in the event required or directed to do so by a court of competent jurisdiction.



**SECTION 3.07. EFFECT OF ANNUAL ASSESSMENT RESOLUTION.**

The adoption of this Annual Assessment Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the legal sufficiency of this Resolution, the method of apportionment and assessment, the approach and notice procedures and maximum rates associated with future assessments or use of the indexing features employed by the City, the legality and validity of the Assessment Ordinance, as amended, in all respects, the rate or rates of assessment, the Assessment Roll, the levy and lien of the Assessments, and the means and method of notice, collection and enforcement), unless proper steps are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of City Council's adoption of this Annual Assessment Resolution.

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**ARTICLE IV**

**GENERAL PROVISIONS**

**SECTION 4.01. AUTHORIZATIONS.** The Mayor and any member of the City Council, the City Attorney, the City Manager, the Clerk, the Fire Chief and such other officials, employees or agents of the City as may be designated by the City Council are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the City that are necessary or desirable in connection with the imposition and collection of the Fire Service Assessments contemplated hereunder (including timely notice and indexing in ensuing years and budget periods), and which are directed, authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 4.02. CONFLICTS.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4.03. SEVERABILITY.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.

**SECTION 4.04. EFFECTIVE DATE.** This Annual Assessment Resolution shall take effect immediately upon its passage and adoption.

**PASSED and ADOPTED** at a meeting of the City Council of the City of Panama City Beach, Florida, this 23<sup>rd</sup> day of June 2022.

**PANAMA CITY BEACH CITY COUNCIL**

(SEAL)

By:   
Mark Sheldon, Mayor

ATTEST:

  
Lynne Fasone, City Clerk

**APPENDIX A  
PROOF OF PUBLICATION**

# LOCALiQ

The Gainesville Sun | The Ledger  
Daily Commercial | Ocala StarBanner  
News Chief | Herald-Tribune | News Herald  
Northwest Florida Daily News

PO Box 631244 Cincinnati, OH 45263-1244

## **PROOF OF PUBLICATION**

Attn: Accounts Payable  
Hand Arendall Harrison  
304 Magnolia AVE  
Panama City FL 32401-3125

STATE OF FLORIDA, COUNTY OF BAY

The Panama City News Herald, a newspaper printed and published in the city of Panama City, and of general circulation in the County of Bay, State of Florida, and personal knowledge of the facts herein state and that the notice hereto annexed was Published in said newspapers in the issue dated or by publication on the newspaper's website, if authorized, on:

06/02/2022

and that the fees charged are legal.  
Sworn to and subscribed before on 06/02/2022

*Mariah Verhagen*

Legal Clerk

*Sarah Bertelsen*  
Notary, State of WI, County of Brown

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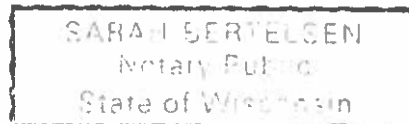
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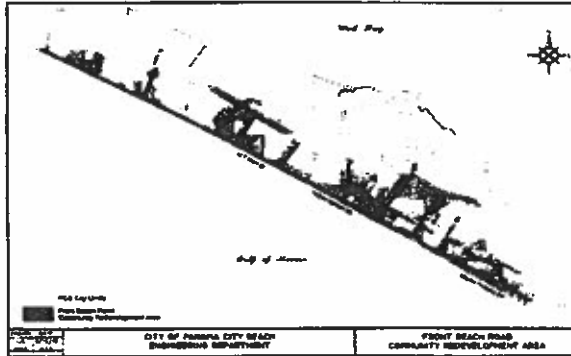
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**COMBINED ANNUAL NOTICE OF PUBLIC HEARINGS CONCERNING NON-AD VALOREM ASSESSMENTS IMPOSED WITHIN PANAMA CITY BEACH, FLORIDA, TO FUND IN PART THE COSTS OF BENEFITS RELATED TO:**

- (1) FIRE SERVICE ASSESSMENTS (CITY-WIDE);**
- (2) STORMWATER MANAGEMENT ASSESSMENTS (CITY-WIDE);**
- (3) COMMUNITY REDEVELOPMENT RELATED ASSESSMENTS (ONLY WITHIN THE FRONT BEACH ROAD COMMUNITY REDEVELOPMENT AREA).**



The property subject to the assessments lies within the City of Panama City Beach, Florida.

**PUBLIC HEARING**

Notice is hereby given that the City Council of the City of Panama City Beach, Florida, will hold a public hearing to consider adoption of resolutions related to its Fire Service, Stormwater Management, and Community Redevelopment non-ad valorem assessment programs on June 23, 2022, at 9:00 a.m. in the City Council Chambers at City Hall, 17887 Panama City Beach Parkway, Panama City Beach, Florida.

You are invited to attend or appear at the public hearing, and/or to file written comments or objections with the City Clerk, indicating the particular assessment, if applicable, and addressed to the City Council within 20 days of this Notice. Please send your written comments in care of the City Clerk by email to [PY2022assessments@pcbl.gov](mailto:PY2022assessments@pcbl.gov). If you decide to appeal any decision made by the City Council with respect to any matter considered at or after the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

**FIRE SERVICE ASSESSMENT**

The City's annual non-ad valorem Fire Service Assessment defrays a large portion of the annual operating and capital costs associated with the Panama City Beach fire department. If approved by City Council after the hearing, the rate of assessment for each tax parcel is proposed to be the sum of (1) seventy (\$0.70) per \$1,000 of the value of improvements attributed to the tax parcel identified by the Bay County Property Appraiser (Tier 1), plus (2) \$86.20 per tax parcel (Tier 2).

**STORMWATER ASSESSMENT**

The City's annual non-ad valorem Stormwater Assessment defrays a large portion of the annual operating and capital costs associated with the City's public works department's stormwater management responsibilities. If approved by City Council after the hearing, the rate of assessment for each tax parcel is proposed to be the sum of (1) the sum of forty-seven cents (\$0.47) per \$1,000 of the value of improvements attributed to the tax parcel identified by the Bay County Property Appraiser (Tier 1), plus (2) \$46.44 per tax parcel (Tier 2).

**FRONT BEACH ROAD COMMUNITY REDEVELOPMENT AREA ASSESSMENT**

This annual non-ad valorem assessment, unlike the Fire Service Assessment and Stormwater Assessment above, is only imposed within the Front Beach Road community redevelopment area (or "Front Beach Road CRA"). This special assessment benefits all lands within the Front Beach Road CRA by supporting the organized and focused expenditure of tax increment revenue (properly diverted by Florida law from the County property taxes that property owners within the CRA pay each year to the County) to separately fund the vast majority of the multi-year capital improvement program for this CRA (see graphic above). This annual non-ad valorem assessment is expressly directed by the associated community redevelopment plan, and defrays a significant portion of administrative, operational and maintenance expense of overseeing extraordinary community redevelopment activities related to this CRA by combining two (2) categories of charges for this special assessment. If approved by the City Council after the hearing, the rate of assessment for each tax parcel identified by the Bay County Property Appraiser is proposed to be the combination of the following:

Category A: Budgeted costs of a portion of administrative and minimal activities shared within this CRA equally per parcel among all parcels will be the sum of \$37.45 per tax parcel, plus:

Category B: Budgeted costs of a portion of continued maintenance, upkeep and capital equipment for this CRA weighted and shared based upon a combination of three (3) relative attributes or factors:

- (1) the heated or air-conditioned square footage reported in the public records of the local property appraiser (approximately 56% weight) will be eight-hundredths of one cent (\$0.008) per square foot;
- (2) the improvement value for each parcel, which is the result of the reported just value minus the reported land value in the public records of the local property appraiser (approximately 32% weight) will be three cents (\$0.03) per \$1,000 of improvement value; and,
- (3) the land value for each parcel reported in the public records of the local property appraiser (approximately 12% weight) will be five cents (\$0.05) per \$1,000 of land value.

**ADDITIONAL INFORMATION**

The City currently DOES NOT impose ad valorem property taxes, and these non ad valorem special assessments are dedicated to funding essential City services. Because these funds are dedicated to the purposes for which they are collected, the City's general fund revenues may be diverted to other essential services and projects for which these funds may not be used.

The individual dollar amount attributed to the proposed rate of assessment for each affected tax parcel in the City and other information concerning all three (3) assessment programs is also being made available online at the City's website or accessible by computer terminal upon inquiry at the office of the City Clerk, at City Hall. Please go to <http://www.pcbl.gov> for more information.

As provided by law, this published Notice informs of maximum rates that may be set by the City Council for all three (3) of these non-ad valorem assessments. Maximum rates were established at the time of initial imposition of these assessments, and as also set forth in the 2021 mailed notice from the City. Accordingly, the rates of these non-ad valorem assessments for the Fiscal Year beginning October 1, 2022, will be considered in the context of not exceeding the average annual growth rate in Florida personal income over the previous 5 years from 2016 to 2021, which has been determined to be 4.62%, and terms a cognizable indexing feature judicially approved as fair and reasoned in the manner provided for by law and the City's ordinances. Please note that all of the three (3) assessment program rates noticed above have ultimately been increased by only 4.62% over those assessment rates adopted for FY 2021-22, rather than the 6.34% rate authorized by law and City ordinances.

The amount of revenue the City expects to collect using the specific assessment rates described in this Notice, net of costs for statutory discount for early payment necessarily associated with the use of the uniform method of collection (by law up to 4%), and commissions and fees charged by the County or its Constitutional Tax Collector and Property Appraiser Offices (by law actual costs), the City's charge to defray associated program development, advertising, implementation and administrative costs (\$5 per tax parcel for each assessment), for each of the three (3) programs is estimated to be (1) \$4,959,666 for the Fire Service Assessment, (2) \$3,096,666 for the Stormwater Management Assessment, and (3) \$770,880 for the Front Beach Road Community Redevelopment Area Assessment; and, in each instance such revenues must be used exclusively to respectively fund the associated budget for each of these respective programs in our City.

Payment of the assessments will be due and collected as special assessments on the same bill as taxes to be mailed around November 1, 2022. Affected property owners are reminded that, until paid, each of the Fire Service Assessment, the Stormwater Management Assessment, and the Front Beach Road Community Redevelopment Area Assessment will constitute liens against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Assessments become delinquent in the same manner as for unpaid taxes, and failure to pay the upcoming assessment will cause a tax certificate to be issued against the property which may result in loss of title.

Please visit <http://www.pcbl.gov> for more information, including interactive assessment rates (searchable by owner name, location and parcel number), to view how any property assessed in the City is expected to be affected by these assessments.

ANY PERSON REQUIRING A SPECIAL ACCOMMODATION TO PARTICIPATE IN THE HEARINGS DUE TO A DISABILITY OR PHYSICAL IMPAIRMENT SHOULD CONTACT THE CITY CLERK AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT (850) 233-5100. 1P-2022-0045

June 13, 2022

Honorable Mayor Sheldon and City Council,  
City of Panama City Beach, Florida  
17007 Panama City Beach Parkway  
Panama City Beach, Florida 32413

**2022-23 Annual Update  
Simplified Fire Service Assessment  
City of Panama City Beach, Florida**

Dear Mayor and City Council Members,

This brief letter summarizes your community's estimated 2022-2023 Fire Service Assessment revenue using rates adjusted to the approved indexing feature. This information, shown in terms of its relationship to the emerging fire budget, allows for a determination the appropriate assessment for any specific tax parcel in the entire community, whether developed or undeveloped, and will assist you with incorporating this potential assessment revenues in your upcoming budget.

**INTRODUCTION AND PURPOSE**

The City of Panama City Beach, Florida ("City") in Bay County adopted a special assessment in 2018 to defray at least some part of the annual operating and capital costs associated with the Panama City Beach Fire Department ("PCBFD"). Special assessments comprise a levy made against certain real property to recover all or part of the cost of a specific service or capital improvement deemed to benefit those real properties.

When the assessment program was adopted, it was understood that the reasoning and use of the simplified funding strategy and apportionment methodology (sometimes called "Simplified Fire"<sup>TM</sup>) underlying the program could remain unaltered or evergreen. Then each year the Simplified Fire methodology would be applied to other statutorily standardized and publicly maintained data certified to the Florida Department of Revenue. This approach creates a sturdy, verifiable and self-correcting process year after year although the annual budget and conditions attributed to each tax parcel might change from year to year.

We understand that in accordance with applicable City ordinance(s), the City has previously provided individually mailed notice regarding the use of maximum annual rates and indexing in forming its assessment rates from year to year. The index is *based upon a statutory process that considers the average annual growth rate in Florida personal income over the previous five years*. As you are likely aware, this indexing approach is similar to that authorized by general law for independent fire districts. Applying such an index and after consultation with City staff, we have determined the indexing factor to be 0.0462 or 4.62% applying

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recent data and information developed by the Bureau of Economic Analysis, U.S. Department of Commerce.<sup>1</sup>

In brief, the methodology for calculating the assessment in Panama City Beach stems from a series of considerations associated with the relative value of all improvements in the City, the number of tax parcels in the City subject to the assessment, an allocation of the anticipated fire department budget reflecting two defined tiers of costs, and the adopted indexing provision. As described in the detailed initial report prepared by GAI Consultants, Inc, the costs allocated to Tier 1 are those which are largely, but not exclusively, variable and indeterminate. The costs allocated to Tier 2 are largely recurring based on an expected staffing level necessary to maintain a certain standard of departmental readiness or preparedness. These latter costs are primarily labor costs and largely, but not altogether, fixed. The combination of both tiers in the adopted assessment program has logical and identified relationships to the benefits, burdens and costs associated with availability of service to the affected tax parcels, creating a strong, rational, and proportionate funding vehicle that can be further linked to, or supplemented by, other legally available resources.

This letter reminds and comments on relevant legislation or case law associated with assessments generally, comments on the fire department budget generally, and provides parameters for the upcoming assessment FY 2022-23, assuring the methodology and procedures developed in the original Simplified Fire analysis and previously implemented by the City are maintained.

## LEGAL CONTEXT

**Special Assessments in General, Florida Law.** Special assessments are a dedicated revenue source available to general purpose local governments to fund capital improvements or essential services. While discussion of the law governing special assessments included herein should not be construed as a legal opinion, there are legal guidelines to draw upon in laying out an assessment methodology which conforms to accepted principles and practices necessary to

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<sup>1</sup> As directed, the rates for FY 2022-23 have been accordingly noticed substantially as follows: If approved by City Commission after the annual hearing, the rate of assessment for each tax parcel is proposed to be slightly increased premised on this indexed annual increase which will be added to the respective rates from last year, resulting in the assessment rates for this year, as follows: (i) the sum of \$0.67 plus \$0.03 (rounded to the nearest cent), or \$0.70 per \$1,000 of the value of improvements attributed to each tax parcel (using data determined by the Bay County Property Appraiser for other purposes) (Tier 1), plus (ii) the sum of \$82.39 plus \$3.81, or \$86.20 (rounded to the nearest cent) per tax parcel (Tier 2). The foregoing informs of the maximum rate of assessment for this Fiscal Year beginning October 1, 2022, which by law may also be anticipated to be annually indexed in subsequent years. This indexing process addresses growth, inflation, the change in purchasing value of money, or similar purchasing or cost increase variables. The total proposed non-ad valorem assessment revenue to be collected by the City for this Fire Service Assessment, exclusive of the minor charges by the City to defray or offset annual City program administration cost, and the variable amounts and adjustments associated the use of uniform method of collection, has been noticed and is estimated to be \$4,948,768 million for the upcoming Fiscal Year 2022-23.



achieve legal validity. As established by Florida case law, two requirements exist for the imposition of a valid special assessment.

- The property assessed must derive a *special benefit* from the improvement or service provided; and
- The assessment must be *fairly and reasonably apportioned* among the properties receiving the special benefit.

Under both Florida's case law and certain statutory components, it is well settled that the benefit required for a valid special assessment may be measured or benchmarked against something other than simply an increase in real property market value. The concept of benefit also includes the relief of a burden or demand created by property as well as added use and enjoyment of the real property. The benefits, then, can be conceptual, but they must be capable of being evaluated by some metric and being apportioned in some reasonable manner. It is not necessary that the benefits be direct or immediate, but they must be substantial, certain, and capable of being realized within a reasonable time.

The benefits must be distinguishable or different from those of non-assessed properties but they may coincidentally extend to non-assessed properties. Specifically, Florida's case law, as well as its statutory regime relating to special assessments, supports substantial latitude both in the means by which *benefit to or relief of burden created by* real property is identified and determined and the subsequent manner by which an assessment itself is *calculated or apportioned*. Though Florida law requires that special assessments funding improvements or services must be fairly and reasonably apportioned, the State's Supreme Court has held that the method of apportionment is immaterial and may vary provided the amount of the assessment for each property *does not exceed the proportional benefits it receives compared to other properties*. All of these relevant legal issues were addressed by the City before the local court in 2018 and by law remain binding as to the use of assessment proceeds pledged to capital financing.

***Judicial Approval of Simplified Fire in the City of Panama City Beach.*** In this matter, the City Council has obtained a favorable ruling from the Circuit Court without appeal. The Circuit Court validated proposed revenue bonds based on the imposition of fire protection assessments using the Simplified Fire method made available for the City's use and detailed in the original GAI report. This validation entailed a detailed and well-reasoned judicial approval of the assessments and the Simplified Fire apportionment methodology associated with them. The validation serves the function of, among other things, providing political repose as to the legality of the City's chosen assessment regime. This same Simplified Fire approach is the subject of this brief update memorandum.

The Fire Service Assessments, by law, are imposed by the City Council, not the Property Appraiser or Tax Collector. Florida case law clearly provides that any collection activity of the Property Appraiser or Tax Collector provided for as a result of the City council imposing the Fire Service Assessments under the

provisions of the City's Ordinance or Annual Assessment Resolution shall be construed solely as ministerial.

The Final Judgment expressly provides that "[t]he Fire Service Assessments are not imposed by the County Property Appraiser or the County Tax Collector. The statutory duties of the property appraiser and the tax collector are unaffected by the City's use of information produced by such entities. Any duties of the property appraiser or the tax collector in regard to the collection of the Fire Service Assessments under section 197.3632 [Florida Statutes,] are wholly ministerial and the property appraiser and the tax collector are without any discretion with regard to the collection of Fire Service Assessments on the tax notice once the City elects to use this method and complies with the requirements of "[the foregoing statute].

### **OVERVIEW OF SIMPLIFIED FIRE APPORTIONMENT METHOD, RECENT DEVELOPMENTS**

That local governments are afforded great latitude under Florida law with respect to legislative determinations concerning special benefit and reasonable apportionment is well settled law. No single apportionment methodology has emerged as preferable in the governing case law for a given service or improvement. So long as the apportionment is reasonable and not arbitrary, the assessment is generally capable of withstanding legal challenge.

Beginning in 2012, the reasoned Simplified Fire assessment methodology described in this letter and GAI's prior work has been expressly focused upon and judicially validated in circuit court by Mr. Lawson, including Hernando County (Brooksville), Pinellas County (St. Petersburg), Polk County (Haines City), Putnam County (City of Palatka), Bay County (City of Springfield, City of Panama City Beach, and City of Panama City), and Lee County (Lehigh Acres Fire Control and Rescue District).

The concept was subsequently subjected to a challenge and upheld by the Florida Supreme Court. The Florida Supreme Court has now also expressly confirmed the use of the two-tiered approach and legal construct (relative improvement value and per tax parcel) upon which Simplified Fire is premised. In *Morris v. City of Cape Coral*, 163 So. 2d 1174 (Fla. 2015), the Supreme Court addressed a line of reasoning from prior cases, reiterating that the determination of whether a special assessment confers a special benefit on property is not based on whether the benefit is "unique" to that property, but instead whether there is a logical relationship between the assessment on a property and the benefit conferred upon that property. Decisions that seemed to indicate the contrary, including *St. Lucie County-Ft. Pierce Fire Prevention & Control District v. Higgs*, 141 So. 2d 744 (Fla. 1962), turned solely on invalid apportionment, not on inadequate benefit to property. This holding is similar to the argument made by Springfield and Haines City in their validations and in an *amicus curiae* brief filed in *Morris* by Haines City and Springfield (the "Municipalities").

The Municipalities filed an *amicus* brief because the Cape Coral methodology in *Morris* had been taken, almost verbatim in some instances, from the methodology in reports and work previously delivered to Haines City and Springfield and had been represented by Cape Coral in the circuit court as almost identical work and approach provided to other cities by Mr. Lawson, GAI, and Ennead LLC. In fact, Cape Coral's expert testified at the trial level hearing that the methodology of the four cities where Mr. Lawson, GAI and Ennead LLC had previously developed each of those programs (including Brooksville and St. Petersburg alongside Springfield and Haines City) and validated the Simplified Fire™ methodology was "*almost exactly the same*" as the Cape Coral methodology. The Supreme Court opinion in *Morris* noted significant calculation errors made by Cape Coral (affecting some 8% of parcels), but determined that it could validate Cape Coral's bonds and the fire assessment methodology despite such errors. In doing so the Supreme Court also adopted the logic and analysis in the *amicus* brief filed by Mark G. Lawson, P.A., for the Municipalities.

The wider impact of *Morris* is that the legal and conceptual use of a two-tiered Simplified Fire methodology presented in this report, and the '*almost exactly the same*' method used in Cape Coral, has been determined legally sufficient, valid and approved by the Supreme Court on appeal as compliant with case law and thus not arbitrary nor invalid.

*Morris* should not be construed to mean that local governments considering the use of special assessments should adopt a particular apportionment methodology solely on the basis of its use elsewhere. The failure to perform a factual and reasoned analysis specific to a set of circumstances in each community can expose another community to legal and political challenges based upon factual differences and/or well-intentioned, but unnecessary use of raw public data. Florida's local governments vary in their needs, composition, and policies. The well settled implication is local governments are free to select an apportionment methodology which provides competent and substantial means to share the benefits, burdens, and costs of the fire protection budget and represents the best fit in terms of cost, ease of implementation, and political acceptance not only with respect to affected landowners, but also in consideration of the staff required and resources involved with maintenance of the assessment program from year to year.

The parcel identification and classification system required by law to be maintained by the local property appraiser and tax collector will always be sustained and updated over the years as properties within Panama City Beach develop and change. The use of such classification and statutorily required end product of each community's mass appraisal system and description of tax parcels is publicly prepared, stable, readily accessible, reasonably consistent and accurate, maintained without cost to the City and capable of being used from year to year without extraordinary consumption of resources better expended to address other fire protection related issues. Accordingly, the assessment approach again contemplated by the City relies upon such system as a stable, reasoned and standardized resource. Attempts by other methods to focus on

demand characteristics, call data, or timing of working data used by the Property Appraiser create complexities that Simplified Fire simply avoids.

Importantly, the City's use of its Simplified Fire strategy and method should not create friction with the local Property Appraiser because it only uses data for tax parcel identification and valuation purposes in a context that is not foreign to that for which it was prepared. Smart and effective use of technology and processes already available industry-wide have made this process quite effective since the inception of the uniform method of collection authorized by general law in the late 1980's.

### **PARCEL DATA REVIEW**

The assignment of assessment values is based on data certified by the Bay County Property Appraiser to the Florida Department of Revenue each year. This year's analysis is provided by Ennead, LLC.<sup>2</sup>

### **BUDGET REVIEW**

Our original report indicated that only a modest and almost immeasurable level of costs were to be excluded from total assessable costs. These costs were excluded as an extremely conservative measure to assure they were not associated with expenditures stemming from Emergency Medical Services ("EMS"), deemed typically to *not* be assessable costs. With transport provided by the County, there appear to be no direct manner in which these or related costs might impact the budget.

Nonetheless, as explained in GAI's original report, we have simply elected to exclude even the appearance of funding EMS services by eliminating any costs associated with related items, primarily those associated with aspects of Advanced Life Support ("ALS") often provided by first responders. To ensure compliance with Florida case law regarding the funding of EMS, those costs would be funded instead by other legally available means and the balance of the budget would comprise legally assessable costs and be absorbed through the combination of Tier 1 and Tier 2 assessment revenues.

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<sup>2</sup> Research reveals there are approximately 20,922 tax parcels (this includes 26 parcels deemed "confidential" by the Property Appraiser) within the boundaries of the City. Among the 20,922 parcels, 497 are excluded by resolution due to either their "just value" being less than \$5,000 or such parcels are excluded due to their classification as right-of-way or other use that is not appropriate for development. After removing those parcels from the roll, the "assessable" tax parcel count is 20,425. Of these, 108 are parcels owned by governmental entities which must be excluded since "governmentally-owned" parcels which are used by the government for public purposes cannot be assessed. It is noted that 15 tax parcels are designated as "agricultural" by the Bay County Property Appraiser. Based upon the home-rule imposition authority employed by the City and presented to the circuit court in 2018, these parcels have been assessed. With the adjustments for parcels removed from the roll, the total number of tax parcels used for analysis is 20,317.

Although we might engage in a more granular analysis in the alternative, the use of the adjusted PCBFD budget as introduced in GAI's original report, presents a conservative approach with exclusion of costs that might be construed to be in support of EMS excluded from the assessed cost associated with the Fire Service Assessment, avoiding debate as to compliance with case law.

Given the local government's decision to recover only a fraction of the PCBFD budget through assessments, a share well below the percentage originally allowed by the original analysis, it can be reasoned plausibly and realistically that the assessed costs in the emerging and proposed PCBFD budget remain appropriate for recovery through special assessments in the manner described in this analysis.

The total 2021-2022 and 2022-2023 proposed budgets are quite different primarily because of the emphasis on various capital items for stations and other major improvements. See Table 1. *infra*. Although total costs are materially different, the 2022-2023 budgeted personnel and operating expenses are similar to those of the prior year. Total costs of about \$18,000,000 compare with estimated assessable costs of approximately \$5,830,000 and \$7,092,000 which could be allocated to Tier 1 and Tier 2 respectively. In terms of percentages these figures equate to approximate 45% for Tier 1 and 55% for Tier 2. Stated differently, at the proposed indexed rates for this year, the City is assessing far less than it could otherwise within the parameters of the Simplified Method and the approved authority of the City's 2018 Final Judgment.

We understand that in accordance with applicable law, the City has previously provided in its local government role individually mailed notice of the intent to use indexing in forming assessment rates from year to year, *based upon the average annual growth rate in Florida personal income over the previous five years*. Applying such an index as directed<sup>3</sup> we have determined the indexing factor to be 0.0462 or 4.62% drawing upon recent data and information developed by the Bureau of Economic Analysis, U.S. Department of Commerce Bureau of Economic Analysis, U.S. Department of Commerce. We also understand that published notice of this proposed adjustment has been recently published in a timely matter as required. This indexing approach is similar to that authorized by general law for independent fire districts, and its use has also been expressly addressed favorably in municipal circumstances by your local Circuit Court. The rates using the above factor have been incorporated into this year's efforts for FY 2022-23. As directed, going forward, the rates applicable to each of the tiers will be adjusted based on data from the U.S. Department of Commerce from year to year.

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<sup>3</sup> The factor was developed and noticed using 2016 dollars this year; which effectively reduced it from 0.0634 or 6.34% on all three of the City's non-ad valorem assessment programs' use in determining the maximum rates.

## GUIDELINES FOR CURRENT ASSESSMENTS

It is well-settled in Florida case law that local governments, should they impose an assessment, are not required to *fully* fund that service or improvement through the special assessment itself. The local government may determine, entirely in its own discretion, to fund some portion of the overall cost with general fund or other legally available revenues. Please see Tables 1 and 2 as follows for more details about the emerging PCBFD budget and the relationship to other receipts.

Table 1: Approximate Fire Department Budget Funding Sources

	Assessment	Other Legally Available Funds	Total Budgeted costs
<b>Distribution</b>	<b>26%</b>	<b>74%</b>	<b>100%</b>
<b>Dollar</b>	<b>\$4,948,768</b>	<b>\$13,938,832</b>	<b>\$18,887,600</b>

Table 2: Approximate Tier Allocation

	Tier 1	Tier 2	Total
<b>Dollar</b>	<b>\$3,197,443</b>	<b>\$1,751,325</b>	<b>\$4,948,768</b>

Clearly, 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 fire protection services and facilities. Costs incurred in providing fire protection services, facilities and programs not otherwise funded through Fire 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 fire department budget allocation or expense, or in any combination thereof, and maintain the validity of the Simplified Fire apportionment approach used for the remaining portion of the budget attributed to the fire service assessed cost. 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.

To be clear, please keep in mind that a local government should not impose an assessment to a parcel *for the same portion of capital items* purchased with impact fees charged to new development thereon. For this reason, the City must be ever careful and verify that Panama City Beach does not collect associated impact fees from new development for capital expenditures used to form the proposed Fire Service Assessment.

It is recognized that in the ongoing budget process the indicated sums may be modified. Insubstantial modifications to the budget used will not materially affect this analysis. Due to statutory notice requirements involved with the imposition of assessments, a substantial increase in the budget used will also not have a material effect on this analysis as all increases must be funded with other legally available funds. However, a large and substantial decrease in the budget provided by the City for our use may impact our analysis.

### **ASSESSMENT ROLL**

Upon consultation with City management using available certified data, Ennead, LLC has accordingly prepared the proposed annual assessment roll which can be accessed world-wide at either <http://quicksearch.ennead-data.com/pcbfire/> or [www.pcbfl.gov](http://www.pcbfl.gov). Those links allow for convenient interactive search and transparent public inquiry concerning parcels to be assessed by: owner name, location address, or parcel identification number. The values and information shown provide subtotals, generally explain adjustments for expenses of administration and collection using the same bill as for taxes and show the total amount of non-ad valorem assessment proposed to be certified for collection in November for each parcel. This provides extraordinary public transparency and assists the City Council in decision-making based upon the nominally indexed rates, in the manner provided for in the City's ordinance, using the assumed budget at this point in the annual budget cycle, and a convenient means to review of the array of tax parcels affected.

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## CONNECTION WITH PRIOR WORK

This annual analysis and information incorporate by reference GAI's prior report and analysis placed in the record before the City Council at its previous public hearings on this matter. Consistent with that record, the content of this summary provides a reasoned review and analysis of information, facts and circumstances associated only with the City of Panama City Beach and is exclusively for the use by the City Council of Panama City Beach.<sup>4</sup>

Sincerely,  
GAI Consultants, Inc.



Owen M Beitsch, PhD, FAICP, CRE  
Senior Director

CC: Drew R. Whitman, City Manager; Holly White, Asst. City Manager; Ray Morgan, Fire Chief; Amy Myers, City Attorney; Mark G. Lawson, MGLPA; Erin Pomeroy, Ennead LLC

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<sup>4</sup> This information presents intellectual property made available for the exclusive use of the City, is copyrighted, and reproduction or use for any other purpose is prohibited.