

RESOLUTION NO. 23-09

A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, AMENDING THE CITY'S REVENUE CERTIFICATE PROGRAM; INCREASING THE MAXIMUM FACILITY VALUE AMOUNT FOR THE 75% PROGRAM TO \$75,000; CLARIFYING ELIGIBILITY AND APPLICATION REQUIREMENTS; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, on September 11, 2008, the City Council ratified and confirmed an existing impact fee financing program for privately developed utilities extensions, and established a similar program for smaller projects, through the adoption of Resolution 0867; and

WHEREAS, on September 10, 2020, the Council amended the program to amend the facility value for the smaller program, and to clarify the eligibility and application requirements, through the adoption of Resolution 20-170; and

WHEREAS, staff recommends the Council consider further updates and refinements to the program and its administration.

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PANAMA CITY BEACH that from and after the effective date of this Resolution, the City's current utilities extension impact fee financing programs are updated and amended to read in their entirety as follows:

1. Revenue Certificate Program Generally.

A. Application.

- i. Prior to the start of construction of extended water or sewer facilities, but no later than 60 days prior to putting extended utilities facilities into service, interested persons may apply in writing to participate in an impact fee financing program, which request shall be timely reviewed by the Utilities Director or his or her designee, for a recommendation to the City Manager.
- ii. The financing programs shall not be applicable to facilities which have been placed into or released for service by the Florida Department of Environmental Protection prior to receipt of the initial application.
- iii. No person shall be entitled as a matter of right to participate in the City's revenue certificate program. Regardless of qualification, the City Manager shall have the discretion to deny in writing participation where, due to

the condition, the availability of service, the business needs or the planning objectives of either or both of the water or sewer enterprise systems, the public interest would not be served by purchasing facilities under the relevant program. Any party denied participation may appeal the City Manager's written denial to the City Council by written notice delivered to the City Clerk within 20 days after receipt of the denial. The City Council's decision shall be based upon competent, substantial evidence adduced at a hearing on the appeal and shall be sustained if supported by any such evidence.

- iv. To qualify for the program, the facilities to be transferred must not lie within the boundaries of the property or project owned or controlled by the developer, and in the judgment of the Utilities Director and City Manager must serve and provide a benefit of excess water or sewer capacity, or both, to the public and surrounding property not owned or controlled by the developer, which benefit is greater than the benefit of the facilities to the property owned or controlled by the developer.

B. Issuance and Payment of Revenue Certificate.

- i. Each transaction between the City and the developer shall be wholly evidenced by four documents: (i) a Utilities Permit confirming the facilities to be constructed and transferred to the City, together with the costs to be covered by the revenue certificate; (ii) a resolution reciting the description of the facilities and the City's limited obligation to pay for them; (iii) a bill of sale conveying the facilities to the City; and (iv) the revenue certificate itself.
- ii. The principal amount of the revenue certificate must not exceed the actual, out of pocket costs of labor, materials, surveying, engineering and permit application fees incurred by the developer to construct the extended facilities. No other costs, including by way of example and not limitation, real estate costs, landscaping costs, construction period interest, attorney's fees or any other costs associated with the facilities to be transferred shall be included.
- iii. The City may reject the bill of sale, and withhold or deny issuance of the Revenue Certificate, if the facilities are not constructed by a licensed contractor, do not meet industry and City standards or otherwise depart from the Utilities Permit approved by the City for such facilities.
- iv. In the judgment of the Utilities Director and City Manager, payment of the revenue certificate must not be likely to

divert impact fees needed or desired for other capital projects in the system.

- v. The facilities to be transferred must lie entirely within adequately-sized lands in which the City has a permanent and unrestricted right to access and maintain utility facilities.
- C. Forfeiture of Participation. Despite application approval, a Developer shall forfeit the right to participate in the City's Revenue Certificate Program, and no Revenue Certificate shall be issued, unless the following items are delivered to the City within 90 days after the extended utilities are placed into service:
- i. For water and sewer facilities only, evidence of FDEP release of the facilities for service;
 - ii. As built survey including sketch and legal description for any portion of the extended facilities lying outside of public right of way;
 - iii. Release of lien documents from contractor and materials suppliers used for the extended utilities;
 - iv. If extended facilities are located outside of public right of way, title reports indicating the owners and encumbrances of the easement areas to be conveyed to the City; and
 - v. Documentation regarding satisfaction of any issued right of way use permits.
- D. Extension of Facilities subject to unexpired Revenue Certificate. If a developer extends facilities constructed by a prior developer who holds an unexpired revenue certificate, water or sewer impact fees generated by connections to any portion of the extended facilities will be payable to the developer with the earliest issued revenue certificate for the facilities until such first revenue certificate is satisfied or expires, whichever occurs first.

2. **25% Program for Large Projects** (or "25% Program", also referred to in Resolutions 08-67 and 20-170 as the "Existing Program").
- A. The 25% Program is available only for facilities valued at seventy-five thousand dollars (\$75,000) or more.
 - B. The revenue certificate must be payable, without interest, exclusively from the respective (water or sewer) impact fees collected by the City through the facilities transferred at the rate of twenty five percent (25%) of such impact fees actually collected by the City including any impact fees previously paid by the developer, and shall expire twenty (20) years after date of issuance without payment of the balance of any principal remaining unpaid and not yet due.
3. **75% Program for Small Projects** (or "75% Program," also referred to in Resolutions 08-67 and 20-170 as the "New Program").

- A. The 75% Program is available only for facilities valued at less than seventy-five thousand dollars (\$75,000) but greater than ten thousand dollars (\$10,000).
- B. The revenue certificate must be payable, without interest, exclusively from the respective (water or sewer) impact fees collected by the City through the facilities transferred at the rate of seventy five percent (75%) of such impact fees actually collected by the City including any impact fees previously paid by the developer, and shall expire five (5) years after date of issuance without payment of the balance of any principal remaining unpaid and not yet due.

AND BE IT FURTHER RESOLVED THAT Resolutions 08-67, 20-170, and any other resolutions or parts of Resolutions in conflict herewith are hereby repealed.

THIS RESOLUTION shall be effective on January 1, 2023, and shall apply to applications received by the Utilities Department on or after that date. Applications received by the City prior to January 1, 2023 shall be considered and processed in accordance with Resolutions 08-67 and 20-170.

PASSED in regular session this 27th day of October, 2022.

CITY OF PANAMA CITY BEACH

By: _____

Mark Sheldon, Mayor

ATTEST:

Lynne Fasone
Lynne Fasone, City Clerk