

RESOLUTION 17-119

CITY OF PANAMA CITY BEACH, FLORIDA

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**STORMWATER SERVICE ASSESSMENT
INITIAL ASSESSMENT RESOLUTION**

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ADOPTED August 10 , 2017

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RESOLUTION NO. 17-119

A RESOLUTION OF THE CITY OF COUNCIL OF PANAMA CITY BEACH, FLORIDA, RELATING TO THE DELIVERY AND FUNDING OF STORMWATER RELATED ESSENTIAL SERVICES WITHIN THE CITY; PROVIDING FOR STORMWATER SERVICE ASSESSMENTS WITHIN THE ENTIRE AREA OF THE CITY; ESTIMATING THE SERVICE COST TO PROVIDE STORMWATER RELATED ESSENTIAL SERVICES AND CAPITAL EQUIPMENT AND FACILITIES; ESTABLISHING THE METHOD OF ASSESSING THE STORMWATER RELATED SERVICE COST AGAINST REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED; DIRECTING THE CITY MANAGER TO PREPARE A PRELIMINARY STORMWATER SERVICE ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED STORMWATER SERVICE ASSESSMENTS; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; 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 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 1.02. DEFINITIONS. This Resolution constitutes the Initial 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. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

“Assessment Ordinance” means City Ordinance No. 947, codified in Chapter 28 of the City Code, as may be amended from time to time, or its successor in function.

“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 program.

“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 3.03 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 3.03 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 3.06 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 3.06 hereof for properly maintained and functioning Mitigation Facilities which meet or exceed the requirements of Section 26-36 of the City Code or its successor in function.

“Quantity Credit” means a Mitigation Credit which may be awarded pursuant to Section 3.06 hereof for maintained and functioning Mitigation Facilities which meet or exceed the requirements of Section 26-37 of the City Code or its successor in function.

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

“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 2.02 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 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”, “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 that:

(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 established in 2006 by Resolution 06-41 and Resolution 06-53 has not been increased or modified since its initial imposition.

(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 Rate Study has been submitted to and considered by the City Council.

(I) 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.

(J) 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.

(K) 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.

(L) 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.

(M) 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.

(N) Accordingly, it is fair and reasonable that all Assessed Property pay an equal share of the Program 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 Program Cost.

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

(P) 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.

(Q) The apportionment method described in the Rate Study and adopted in Section 3.03 hereof bears a reasonable relationship to the cost of providing Stormwater

Improvements and Stormwater Management Service, including stormwater generated by Government Property as Developed Property.

ARTICLE I

NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED STORMWATER MANAGEMENT SERVICE COST.

(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 estimated Stormwater Service Assessments established in this Initial Assessment Resolution shall be the estimated assessment rates applied by the City Manager in the preparation of the preliminary Stormwater Service Assessment Roll for the Fiscal Year commencing October 1, 2017, as provided in Section 2.02 of this Initial Assessment Resolution.

SECTION 2.02. STORMWATER SERVICE ASSESSMENT ROLL. The City Manager is hereby directed to prepare, or cause to be prepared, a preliminary Stormwater Service Assessment Roll for the Fiscal Year commencing October 1, 2017, in the manner Provided in Section 2.04 of the Assessment Ordinance. The Stormwater Service Assessment Roll shall include all Tax Parcels within the City which are not otherwise

exempted from payment of the Stormwater Service Assessments hereunder. The City Manager shall apportion the estimated Stormwater Management Service Cost to be recovered through Stormwater Service Assessments in the manner set forth in this Initial Assessment Resolution. A copy of this Initial Assessment Resolution, the Rate Study which summarizes information and analysis related to the estimated amount of the Stormwater Assessed Cost to be recovered through the imposition of Stormwater Service Assessments, and the preliminary Stormwater Service Assessment Roll shall be maintained on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the preliminary Stormwater Service Assessment Roll be in printed form if the amount of the Stormwater Service Assessment for each parcel of property can be determined by the use of a computer terminal or internet access available to the public. Such information shall be available from a link on the City's website, www.pcbgov.com.

SECTION 2.03. PUBLIC HEARING. There is hereby established a public hearing to be held at 6:00 PM on September 14, 2017, in City Council Chambers, City Hall, 110 South Arnold Road, Panama City Beach, Florida, at which time the City Council will receive and consider any comments on the Stormwater Service Assessments from the public and affected property owners and consider imposing Stormwater Service Assessments and authorizing an alternative manner of collection.

SECTION 2.04. NOTICE BY PUBLICATION. The City Manager shall direct the publication of a notice of the public hearing authorized by Section 2.03 hereof in the manner and time provided in Section 2.05 of the Ordinance. The notice shall be published no later than August 18, 2017, in substantially the form attached hereto as Appendix A.

SECTION 2.05. NOTICE BY MAIL. The City Manager shall coordinate with the Bay County Property Appraiser the publication of notice of the public hearing authorized by Section 2.03 hereof on the TRIM notices sent to each Tax Parcel by the Property Appraiser.

ARTICLE III

ASSESSMENTS

SECTION 3.01 STORMWATER SERVICE ASSESSMENTS TO BE IMPOSED THOROUGHOUT THE CITY. Pursuant to Section 2.02 of the Assessment Ordinance, Stormwater Service Assessments are to be imposed throughout the entire area within the boundaries of the City.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Stormwater Service Assessments shall be imposed against property located within the City, the annual amount of which shall be computed for each Tax Parcel in accordance with this Article III. When imposed, the Assessment for each Fiscal Year shall constitute a lien upon the

Tax Parcels located within the City pursuant to the Assessment Ordinance.

SECTION 3.03. APPORTIONMENT APPROACH; DETERMINATION OF EQUIVALENT RESIDENTIAL UNITS.

(A) The rate structure described in the Rate Study, which contemplates the assessment determined by 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) is hereby approved and adopted as the apportionment approach for the Stormwater Service Assessments.

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

(C) The Program Cost component to be assessed on Developed Property shall be determined as follows:

(1) The typical single family Impervious Area identified in the Rate Study is 2,850 square feet, which shall constitute one ERU (one ERU = 2850 square feet).

(2) Residential properties shall be grouped in tiers as follows:

i. Residential properties with impervious area between 0 and 400 sq. ft. shall be in the "Very Small" tier.

ii. Residential properties with impervious area between 401 and 1424 sq. ft. shall be in the "Small" tier.

iii. Residential properties with impervious area between 1425 and 4274 sq. ft. shall be in the "Medium" tier.

iv. Residential properties with impervious area between 4275 and 5699 sq. ft. shall be in the "Large" tier.

v. Residential properties with impervious surfaces totaling 5700 sq. ft. or more shall be in the "Very Large" tier, the Assessment for which shall be calculated in the manner described in Section 3.03 of the Initial Assessment Resolution employing an impervious coverage ratio of one (1).

(3) The Assessment amount of \$44.90 per ERU shall be used in the calculation of the Program Cost component Stormwater Service Assessments.

(4) The Program Cost for each Tax Parcel of Developed Property shall be calculated by multiplying the number of factored ERU's by \$44.16.

(5) The number of factored ERU's shall be calculated as follows:

$$\frac{\text{property total Impervious Area (in sq. ft.)}}{\text{ERU (in sq. ft.)}} \times \frac{\text{property impervious coverage (\%)}}{\text{typical single-family impervious coverage (\%)}} = \text{factored ERU's}$$

(6) The calculations authorized by this Section are to be made using the following assumptions, all of which are described more fully in the Rate Study and approved and adopted herein:

i. Typical single-family lot size = 7,125 square feet.

ii. Typical single-family Impervious Area = 2,850 square feet (1 ERU).

- iii. Typical single-family impervious coverage equals typical single-family Impervious Area (2,850 square feet) divided by typical single-family lot size (7,125square feet) = 40%.

(7) Property impervious coverage equals:

- i. for single family residential properties: 40%;
- ii. for all other properties except condominiums, the property impervious coverage is parcel specific and equal to property Impervious Area divided by property lot size;
- iii. for condominiums, the property impervious coverage is parcel specific an equal to property Impervious Area divided by property lot size, divided by the number of condo units.

(D) 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.)

(E) It is hereby ascertained, determined, and declared that the method of determining the Stormwater Service Assessments as set forth in this Initial Assessment Resolution is a fair and reasonable method of apportioning the Stormwater Management Service Cost among parcels of Assessed Property located within the City.

SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the City from the Stormwater Service Assessments will be utilized for the provision of Stormwater related services, facilities, and programs including Stormwater Management Services and Stormwater Improvements. 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 stormwater related services, facilities, and programs.

SECTION 3.05. COLLECTION OF ASSESSMENTS. Collection of the Stormwater Service Assessments shall take place initially pursuant to the alternative method of collection described in Section 3.02 of the Assessment Ordinance. The City Council may subsequently elect by resolution to provide for collection of the Stormwater Service Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 3.06. MITIGATION CREDIT PROCEDURE. The procedure by which eligible landowners may apply for Mitigation Credit against the Stormwater Service Assessments for fiscal year 2017-2018 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 Program 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, 2018.** 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 26-36 of the City 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 26-37 of the City 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 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 3.07. EXEMPTION.

The following are Exempt Properties and not subject to the Stormwater Service Assessment: (1) public roads and right of ways, (2) lakes, submerged land, and other naturally occurring water bodies with pervious soil bottoms, and (3) Government Property.

SECTION 3.08. GOVERNMENT PROPERTY. Stormwater Service Assessments against Government Property, except for Government Property owned by the City, shall be imposed pursuant to Section 3.04 of the Assessment Ordinance.

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ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. CONFLICTS. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4.02. 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 4.03. EFFECTIVE DATE. This Initial Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED, ADOPTED AND APPROVED 10th day of August, 2017.



**CITY COUNCIL OF PANAMA CITY
BEACH, FLORIDA**

By: 
Mike Thomas, Mayor

By: 
Deputy City Clerk

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To be published on or before August 18, 2017.

(Map of Panama City Beach)

**NOTICE OF HEARING
TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS**

Notice is hereby given that the City Council of Panama City Beach, Florida, will conduct a public hearing to consider adoption of a final assessment resolution related to the City of Panama City Beach (the "City") and its stormwater system. The stormwater final assessment resolution will provide for the imposition of special assessments, sometimes characterized as non-ad valorem assessments, against property located within city limits and collection of the assessments by the direct billing method described in Section 3.02 of City Ordinance No. 947. The hearing will be held at 6:00 PM on September 14, 2017 at City Council Chambers of City Hall, City Hall, 110 South Arnold Road, Panama City Beach, Florida. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within twenty (20) days of this notice.

The assessments have been proposed to fund stormwater related essential services and stormwater improvements throughout the City. The assessment for each tax parcel within the city will be based upon a fixed Capital Cost and a variable Program Cost based on the Equivalent Residential Units or "ERUs" attributable to each tax parcel as of the date the assessments are imposed. A more specific description of the stormwater related services and stormwater improvements and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution adopted by the City Council on September 14, 2017. Copies of the Initial Assessment Resolution and the preliminary Stormwater Service Assessment Roll are available for inspection at the office of the City Secretary, located at City Hall, 110 South Arnold Road, Panama City Beach, Florida or on the internet at www.pcbgov.com.

If you have any questions, please contact the City Secretary's Office at (850) 233-5100.

ANY PERSON WISHING TO ENSURE THAT AN ADEQUATE RECORD OF THE PROCEEDINGS IS MAINTAINED FOR APPELLATE PURPOSES IS ADVISED TO MAKE THE NECESSARY ARRANGEMENTS FOR RECORDING AT HIS OR HER OWN EXPENSE.

PERSONS WITH DISABILITIES NEEDING ASSISTANCE TO PARTICIPATE IN ANY OF THESE PROCEEDINGS SHOULD CONTACT THE CITY CLERK AT LEAST 48 HOURS IN ADVANCE OF THE MEETING AT 850-233-5100.