
CITY OF COCOA, FLORIDA

**STORMWATER ASSESSMENT
FINAL ASSESSMENT RESOLUTION**

RESOLUTION NO. 2021-083

ADOPTED September 14, 2021

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RESOLUTION No. 2021-083

A RESOLUTION OF THE CITY COUNCIL OF COCOA, FLORIDA, RELATING TO STORMWATER SERVICES, FACILITIES AND PROGRAMS; PROVIDING FOR THE IMPOSITION OF NON-AD VALOREM SPECIAL ASSESSMENTS PURSUANT TO ORDINANCE 10-2019 WITHIN THE ENTIRE AREA OF THE CITY TO FUND STORMWATER SERVICES, FACILITIES AND PROGRAMS; ESTABLISHING STORMWATER ASSESSMENT RATES FOR CITY FISCAL YEAR 2021/2022; DIRECTING THE CITY MANAGER TO PREPARE A PRELIMINARY ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED SPECIAL 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 COCOA, FLORIDA, AS FOLLOWS:

ARTICLE I

INTRODUCTION

SECTION 1.01. AUTHORITY. This Resolution of the City of Cocoa, Florida is adopted pursuant to City Ordinance No. 10-2019, Sections 166.021, 166.041, 197.3632, and 403.0893, Florida Statutes, and other applicable provisions of law.

SECTION 1.02. DEFINITIONS. This Resolution constitutes the Final 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.

“Assessed Property” means all Parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the stormwater services, programs or facilities identified or contemplated in this Resolution and included in the Assessment Roll.

“Assessment Study” means the City of Cocoa Stormwater Rate Study – Final Report prepared by Stantec Consulting Services, Inc., dated August 26, 2019, as updated by Stantec Consulting Services, Inc. on August 20, 2020 and September 8, 2021.

“Assessment Ordinance” means City Ordinance No. 10-2019, as may be amended from time to time, or its successor in function.

“City” means the City of Cocoa, Florida.

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

“City Manager” means the chief administrative officer of the City, designated by the City Council to be responsible for coordinating Stormwater Assessments or such person’s designee.

“City Council” means the governing body of the City of Cocoa, Florida.

“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.

“Tax Parcel” or “Parcel” means a parcel of property to which the Brevard 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.

“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,” “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. CONFIRMATION OF PRELIMINARY ASSESSMENT RESOLUTION; FINDINGS. The Preliminary Assessment Resolution No. 2021-072 is hereby ratified and confirmed. In addition and supplemental to the findings adopted by the City Council in Ordinance No. 10-2019, it is hereby ascertained, determined and declared as follows:

(A) Inadequate management of runoff from development in a watershed increases stormwater peak flows, volumes, and velocities, erodes and/or silts stream channels, pollutes water, overloads existing drainage facilities, undermines floodplain management in downstream communities, reduces groundwater recharge, and threatens public health and safety. More specifically, stormwater runoff can convey pollutants into and cause higher velocities in receiving waters such as the Indian River Lagoon. The potential impacts of these pollutants and higher velocities include: (1) Changing natural ecosystems through sediment and pollutant deposits which affect the quantity and quality of flowing water, destruction of habitats, and loss of plant and animal life; (2) Posing significant health risks through increased bacteria; (3) Accelerating eutrophication of receiving waters by introducing excessive nutrient loads; (4) Increasing metal deposits creating toxicity for aquatic life; (5) Reducing oxygen levels because of oil, grease and organic matter; and (6) Affecting animal and plant life, adversely, due to changing temperatures of receiving waters.

(B) Uncontrolled stormwater runoff can increase the incidence of flooding and of floods that occur, endangering roads, aboveground and underground utility infrastructure, and other public and private property and human life.

(C) Altered land surfaces can change the rate and volume of runoff. These changes may result in the following: (1) increased urban runoff and pollutants to the natural environment; (2) increased flooding of private property; (3) degradation of safety

and welfare of the residents and visitors of the City, including negatively impacting emergency response capabilities as a result of stormwater flooding; (4) decreased use and enjoyment of property; and (5) decreased property and rental value, marketability, and integrity of property.

(D) Every parcel of real property, both public and private, either uses or benefits from the maintenance of the City's stormwater system; and receives a special benefit from the City's stormwater system including the following: (1) reduced urban runoff and pollutants to the natural environment; (2) reduced flooding of private property; (3) improved safety and welfare of the residents and visitors of the City, including negatively impacting emergency response capabilities as a result of stormwater flooding; (4) enhanced use and enjoyment of property; and (5) enhanced property and rental value, marketability, and integrity of property.

(E) The City Council has carefully considered the Assessment Study which describes an apportionment methodology based upon the benefit received from the City's stormwater services, facilities and programs by all developed parcels with impervious surface, and has considered the applicable court decisions including Sarasota County v. Sarasota Church of Christ, Inc., 667 So. 2d 180 (Fla. 1995) (upholding stormwater special assessment on developed real property with impervious surfaces to fund stormwater utility services); State v. Sarasota County, 693 So. 2d 546 (Fla. 1997)(upholding stormwater special assessment on all developed property, with or

without impervious surface); and Boca Raton v. State, 595 So. 2d 25 (Fla. 1992)(local governments are afforded deference in fairly apportioning costs under a special assessment as long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on other tracts).

(F) The conversion of natural land to developed land with impervious area results in increased stormwater runoff and numerous engineering and hydrologic studies have demonstrated that impervious area is the single most important factor contributing to the quantity and quality of stormwater runoff from a property. Thus, the use of impervious area has been demonstrated to be a simple, easy to understand approach that is a highly defensible basis to fairly and equitably apportion the costs of a municipal stormwater system to benefitting parcels for the stormwater assessment.

(G) The City expends substantial and measurable resources each year in providing stormwater services, facilities and programs to the public within the jurisdictional limits of the City.

(H) The City must generate and receive sufficient stormwater revenues to meet projected operating and capital expenditures of the City's stormwater utility, and the City Council has determined based on the recommendations contained in the Assessment Study, that the City should use a non- ad valorem assessment process as the primary method of funding the City's stormwater utility system.

(I) The City is not required to fully fund any given essential service or improvement 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 determine to fund all or a portion of an essential service or improvement, such as stormwater services, facilities or programs, with general fund or other legally available revenues. The determination as to whether to contribute such other legally available revenues, and how much to contribute, lies solely in the discretion of the City Council.

(J) Stated in the alternative, there is no requirement that the City impose an assessment for the maximum amount of the budget which can be funded by special assessments. The City Council may annually determine as a matter of public policy and tax equity to impose Stormwater Assessments at a rate less than necessary to fund all or any specific portion of the Stormwater Assessed Costs. Costs incurred in providing stormwater services, facilities and programs not otherwise funded through Stormwater Service Assessments may be paid with general fund or other legally available revenues. Such legally available revenues as a matter of policy may be applied exclusively to any tier or class of properties, and the City may adjust and appropriate any budget allocation or expense otherwise funded by a special assessment, or in any combination thereof, and maintain the validity of the apportionment. The flexibility described above 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 Stormwater Assessment exceed the maximum assessment rate previously noticed to the affected land owners without further notice and public hearing pursuant to the Assessment Ordinance.

(K) The findings and legislative determinations 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 the distinct tiers or classes of apportionment allocation described herein. The tiers and classes, when used together, provide a legal, flexible and equitable means for the City to fairly and reasonably allocate assessable benefits and costs among Assessed Property in the City.

(L) The apportionment among Tax Parcels of a portion of the City's annual budget for stormwater services, facilities and programs necessary for providing the stormwater protection is hereby determined to be a fair and reasonable means to annually allocate and share the benefits and costs associated therewith.

(M) The benefits derived from the stormwater services, facilities and programs as to each Tax Parcel subject to the Stormwater 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 that such Tax Parcel will receive compared to any other Tax Parcel so assessed within the City.

(N) The City Council hereby finds and determines that the Stormwater Assessments to be imposed in accordance with this Resolution provide a proper and equitable method of funding stormwater services, facilities and programs by fairly and reasonably allocating a portion of the costs associated therewith among specially benefited property.

ARTICLE II

NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED STORMWATER ASSESSED COST.

(A) The estimated Stormwater Assessed Cost to be recovered through Stormwater Assessments for the Fiscal Year commencing October 1, 2021, is approximately \$1.83 million. The Stormwater Assessed Cost will be funded through the imposition of Stormwater Assessments, as provided herein.

(B) The City Manager shall utilize the assessment rates associated with the single family residential Tier 1, Tier 2 and Tier 3, and non-single family residential Stormwater Assessments as described in this Final Assessment Resolution in the preparation of the Final Assessment Roll as provided in Section 2.02 of this Final Assessment Resolution.

SECTION 2.02. ASSESSMENT ROLL. The Preliminary Assessment Roll, which was approved by Resolution No. 2021-072, and which is currently on file with the City Clerk and incorporated herein by this reference, is hereby approved, as may have been expressly directed by the City Council to be modified during the hearing at which this Resolution was adopted by the City Council. The Assessment Roll shall include all Tax Parcels within the City which are not otherwise exempted from payment of the Stormwater Assessments hereunder.

ARTICLE III

ASSESSMENTS

SECTION 3.01. STORMWATER ASSESSMENTS TO BE IMPOSED THROUGHOUT CITY. Stormwater Assessments are to be imposed throughout the entire area contained within the boundaries of the City in accordance with the Assessment Ordinance and the Final Assessment Resolution to be adopted by the City Council at the public hearing to be held pursuant to this Article III.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Stormwater 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 Stormwater 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 until paid, as provided in the Assessment Ordinance and in accordance with Florida law.

SECTION 3.03. APPORTIONMENT.

(A) The Assessment Study is hereby ratified and incorporated herein in its entirety. The apportionment method set forth therein is hereby ratified as the apportionment method for the Stormwater Assessments authorized by this Resolution. The Final Assessment Rates for Fiscal Year 2021-2022, which are set forth in the following rate schedule, are hereby levied and imposed on all Tax Parcels described in the Assessment Role as follows:

FY 2021 Assessment Rates for Single Family Parcels (up to three units)			FY 2021 Assessment Rate for Non- Single Family Parcels
Tier 1: 400 – 2,300 sq. ft. of impervious area	Tier 2: 2,400 – 4,400 sq. ft. of impervious area	Tier 3: Greater than 4,400 sq. ft. of impervious area	
\$81.96	\$126.10	\$219.42	\$126.10 Per ERU

Note that parcels with less than 400 sq. ft. will not be assessed as the impact upon the City's stormwater system is di minimus. The amount of the annual stormwater assessment imposed against each property is based on an impervious area apportionment method whereby a portion of the City's annual stormwater budget is allocated to properties based upon the total impervious area of each individual parcel.

For single family residential parcels (including up to three dwelling units), parcels will be placed into one of three tiers mentioned herein based on the amount of impervious area measured on the individual parcel rounded down to the nearest hundred sq. ft. Tier 1 ranges from 400 - 2,300 sq. ft., Tier 2 ranges from 2,400 - 4,400 sq. ft., and Tier 3 is greater than 4,400 sq. ft. The assessment for each tier is presented in the table above. For non-single-family parcels, each parcel is assigned a number of Equivalent Residential Units (ERUs) that is calculated based on the measured amount of impervious area on the parcel rounded down to the nearest hundred sq. ft. divided by the ERU definition of 3,100 sq. ft. (which is the average impervious area of a single-family parcel). The annual fee assessed to each parcel is then determined by multiplying \$126.10 (as presented in the table above), which represents the stormwater assessment per ERU, by the number of ERUs for each non single-family parcel.

(B) Based upon the projections concerning net revenue requirements set forth in the Assessment Study, the Assessment Roll for subsequent Fiscal Years may reflect increases in the assessment rates up to and including the maximum rates presented in the rate schedule in Section 3.03.(A). More specifically, the annual assessment will be increased by 4.5% in Fiscal Year 2022, 4.5% in Fiscal Year 2023 and 3.0% each year thereafter that the assessment is levied up to a maximum assessment rate of \$102.09 for Tier 1, \$157.06 for Tier 2, \$273.29 for Tier 3 and \$157.06 per ERU, and a maximum assessment rate of \$157.06 per ERU for non-single family parcels that are not subject to the tiered assessment.

(C) The amount of the annual Stormwater Assessment imposed against Assessed Property may include a pro rata share of the costs and expenses associated with the collection and administration of the Stormwater Assessments each year.

(D) It is hereby ascertained, determined, and declared that the method of determining the Stormwater Assessments as set forth in this Final Assessment Resolution is a fair and reasonable method of apportioning the Stormwater Assessed Cost among Assessed Property.

SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS. Proceeds derived by the City from the Stormwater Assessments shall be utilized for the provision of stormwater services, facilities and programs. In the event there is any fund balance remaining at the end of the 2021-22 Fiscal Year, such balance shall be carried forward and thereafter used only to fund stormwater related services, facilities, and programs.

SECTION 3.05. COLLECTION OF ASSESSMENTS. Stormwater Assessments for the 2021-22 Fiscal Year shall be collected pursuant to the direct billing method provided for in the Assessment Ordinance, and each year thereafter pursuant to the Uniform Assessment Collection Act as provided for in the Assessment Ordinance, unless otherwise determined by the City Council.

SECTION 3.06. EXEMPTION.

(A) Tax Parcels assigned the following Florida Department of Revenue property use codes (DOR codes) by the Property Appraiser are not subject to the

Stormwater Assessment contemplated hereunder; provided, however, that the costs associated with the exemption of such Tax Parcels shall be funded through other legally available revenues of the City and not through Stormwater Assessments imposed hereunder.

DOR Code	DOR Description	Parcel Count
465	CONDOMINIUM - MISCELLANEOUS (NOT COVERED	59
499	NON-TAXABLE CONDOMINIUM COMMON AREA	60
8010	SCHOOL (PUBLICLY OWNED) - VACANT	1
8020	COUNTY OWNED LAND - VACANT (THAT DOES	5
8040	HOUSING AUTHORITY - VACANT	13
8060	STATE OWNED LAND - VACANT (THAT DOES NOT	15
8080	MUNICIPALLY OWNED LAND - VACANT (THAT	78
8300	SCHOOL (PUBLICLY OWNED) - IMPROVED	7
8400	COLLEGE	1
8610	COUNTY OWNED LAND - IMPROVED (THAT DOES	6
8640	BREVARD COUNTY-OWNED (AGENCY OTHER THAN	1
8660	HOUSING AUTHORITY - IMPROVED	37
8710	STATE OWNED LAND - IMPROVED (THAT DOES	4
8810	FEDERALLY OWNED LAND - IMPROVED (THAT	1
8910	MUNICIPALLY OWNED LAND - IMPROVED (THAT	33
9105	LOCALLY-ASSESSED RAILROAD PROPERTY	14
9170	WATER & SEWER SERVICE	3
9400	RIGHT OF WAY STREET, ROAD, ETC - PUBLIC	-
9410	RIGHT OF WAY STREET, ROAD, ETC - PRIVATE	1
9499	ASSESSMENT ARREARS	-
9500	RIVERS AND LAKES	1
9510	SUBMERGED LANDS	2

In addition, parcels that are undeveloped land with no impervious surface are not assessed for the portion of the parcels that are undeveloped as those portions do not receive material benefit from City stormwater services, facilities and programs and those portions are considered to be exempt from the Stormwater Assessments. However, one

parcel with a 9105 land use code will be assessed because of impervious surface related to a building on the parcel.

(B) Tax Parcel classifications indicative of special designations used by the Property Appraiser for recordkeeping purposes which do not represent actual or assessable Tax Parcels are not subject to the Stormwater Assessments contemplated hereunder (e.g. header records).

(C) Notwithstanding anything herein to the contrary, the City Council reserves the right and ability in the future to impose Stormwater Assessments against Tax Parcels determined to be exempt hereunder to the extent permitted by law or otherwise in the event required or directed to do so by a court of competent jurisdiction.

SECTION 3.07 CREDITS.

(A) Parcels that engage in onsite stormwater management may receive a credit on their Stormwater Assessment in order to recognize the benefit of the activity to reduce the volume of stormwater leaving the properties, or enhance the quality of the runoff, thereby, reducing the burden on the City's stormwater system. The intent and purpose of the credit is to maintain equity for property owners with onsite stormwater management because such property owners have invested in measures to reduce stormwater runoff from their property and therefore reducing the effort required by the City to manage their stormwater runoff.

(B) In order for a property owner to obtain a credit, the property owner must demonstrate a specified reduction of stormwater to the City's stormwater system from the property by providing onsite attenuation for a minimum storm event required by the St. Johns River Water Management District, pursuant to applicable law.

(C) Application and eligibility requirements to obtain a credit shall be determined by written administrative policy approved by the City Manager, provided such policy shall be consistent and not in conflict with this Resolution, and supported by a written technical memorandum prepared by the City's stormwater assessment consultant evidencing a fair and equitable method of determining the applicable credit.

3.08 EFFECT OF FINAL RESOLUTION. The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Preliminary Assessment Resolution including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the preliminary rate of assessment; the levy and lien of the stormwater assessment; the method by which the assessments will be computed, the Assessment Roll, and the Maximum Assessment Rate unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action on this Final Assessment Resolution. Nothing contained in this Section shall be construed as prohibiting the City from presenting any legal arguments that actions filed against the validity or effectiveness of the City's stormwater assessment have

been waived, estopped, forfeited or bared by the actions or inactions of any plaintiff, previous legal actions or the passage of time.

3.09 DELIVERY TO TAX COLLECTOR. The Assessment Roll, as approved by this Final Assessment Resolution, shall be delivered to the Tax Collector by the City Manager or his designee, as required by the Uniform Assessment Collection Act.

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 Resolution shall take effect immediately upon its passage and adoption.

[Adoption and Signature Page Follows]

PASSED, ADOPTED AND APPROVED this 14th day of September, 2021.

**CITY COUNCIL OF
COCOA, FLORIDA**

By: _____
Michael C. Blake, Mayor

Attest:

By: _____
Carie Shealy, MMC, City Clerk

Appendix A

PROOF OF PUBLICATION

Appendix B

AFFIDAVIT OF MAILING