

RESOLUTION NO. 2016-23

A RESOLUTION OF THE CITY COUNCIL OF THE CITY NEW PORT RICHEY, FLORIDA, RELATING TO THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS TO FUND A PORTION OF THE ANNUAL COSTS ASSOCIATED WITH ADMINISTRATION OF THE CITY'S PAVEMENT MANAGEMENT PLAN; PROVIDING AUTHORITY AND DEFINITIONS; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS PURSUANT TO THE UNIFORM ASSESSMENT COLLECTION ACT; PROVIDING FOR THE EFFECT OF THIS RESOLUTION; PROVIDING SEVERABILITY AND AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF NEW PORT RICHEY, FLORIDA, AS FOLLOWS:

**SECTION 1. AUTHORITY.** This Resolution is adopted pursuant to Article VIII, Section 2, Florida Constitution, Chapter 166, Florida Statutes, Section 197.3632, Florida Statutes, City Ordinance No. 2012-1985, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** As used in this Resolution, capitalized terms not otherwise defined herein shall have the meanings set forth in the Assessment Ordinance. In addition, the following terms shall have the following meanings, unless the context hereof otherwise requires.

**"Assessed Property"** means Tax Parcels included in the Assessment Roll and subject to the Paving Assessments contemplated hereunder.

**"Assessment"** or **"Paving Assessment"** means an annual special assessment, sometimes referred to as a non-ad valorem assessment, imposed against Tax Parcels included on the Assessment Roll to fund a portion of the costs incurred by the City in administering the Paving Management Plan.

**"Assessment Coordinator"** means the person designated by the City Manager to administer and coordinate Assessments, or such person's designee.

**"Assessment Ordinance"** means City Ordinance No. 2012-1985.

**"Assessment Report"** means the Street Paving Assessment Methodology Report

prepared by Genesis, including any drafts thereof and supplements thereto.

**"Assessment Roll"** means a non-ad valorem assessment roll relating to the City of New Port Richey and related expenses.

**"Council"** means the City Council of the City of New Port Richey, Florida.

**"City"** means the City of New Port Richey, Florida.

**"City Manager"** means the chief executive officer of the City or such person's designee.

**"Collection Cost"** means the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments which may include but are not limited to fees imposed by the Tax Collector and Property Appraiser, expenses associated with public notice and such amounts as may be necessary to account for any early payment discounts associated with collection of the Assessments pursuant to the Uniform Assessment Collection Act.

**"Equivalent Assessment Unit" or "EAU"** means one of the two Assessment Units utilized by the City to apportion the Paving Assessments among Tax Parcels specially benefitted by the paving services and improvements contemplated hereunder. The EAU unit of measurement is based on the size of Tax Parcels as measured by acreage. One EAU is .185 acres, the average lot size for a single family residence in the City.

**"Equivalent Residential Unit" or "ERU"** means one of the two Assessment Units utilized by the City to apportion the Paving Assessments among Tax Parcels specially benefitted by the paving services and improvements contemplated hereunder. The ERU unit of measurement is based on the number of vehicular trips generated by each Tax Parcel. One ERU is equal to 9.52 average daily trips.

**"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 Tax Parcels 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.

**"Pavement Management Plan"** means the City plan providing for street and right of way maintenance services and related paving improvements as described in the Assessment Report.

**"Paving Assessed Cost"** means the portion of the costs associated with administering the Pavement Management Plan to be funded through imposition of the Paving Assessments contemplated hereunder.

**"Property Appraiser"** means the Pasco County Property Appraiser.

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

**"Tax Roll"** means the real property ad valorem tax assessment 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 3. INTERPRETATION.** Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

**SECTION 4. LEGISLATIVE FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The Council enacted the Assessment Ordinance to provide a home rule procedure for the imposition and collection of special assessments to fund Essential Services and Capital Improvements.

(B) Pursuant to the provisions of the Assessment Ordinance, the Council is required to adopt an Initial and Final Assessment Resolution providing for the imposition and collection of Assessments to fund Essential Services and Capital Improvements, with such provisions as the Council deems appropriate after hearing comments and receiving objections of all interested parties.

(C) In accordance with the Assessment Ordinance and Florida law, the Council has conducted a public hearing to consider comments and objections of all interested persons concerning imposition of the Paving Assessments, approval of the Assessment Roll and collection of the Assessments on the annual property tax bill

administered by the Tax Collector pursuant to the Uniform Assessment Collection Act.

(D) Notice of such public hearing has been published and mailed to each property owner proposed to be assessed notifying such property owner of the assessments and method of collection and providing them with the opportunity to be heard concerning the Assessments.

(E) The Assessment Roll has been prepared and has been made available for inspection by the public in the office of the City Manager, as required by the Assessment Ordinance.

(F) Assessed Property is specially benefitted by the provision of paving services and improvements. The benefits conveyed thereby include, but are not limited to, access to a publicly owned and maintained roadway system providing improved conditions for ingress and egress to all Tax Parcels, an increase in market valuation, enhanced development/re-development potential, enhanced overall aesthetics of Tax Parcels, and enhance value, use, enjoyment attractiveness, viability and marketability of Assessed Property.

(G) Such benefits are reasonably anticipated to exceed the amount of the Assessments contemplated herein.

(H) It is in the best interests of the City and the real property specially benefitted by the paving services and improvements to fund a portion of the costs associated therewith through the levy of Assessments.

(I) The Council hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the provision of paving services and improvements by fairly and reasonably allocating a portion of the costs associated therewith to specially benefitted property based upon the relative degree of benefit attributable to each parcel.

**SECTION 5. PAVING ASSESSED COST.** As described in the Assessment Report, the estimated annual cost to administer the Pavement Management Plan is \$1,700,000. Of that amount, \$425,000 will be funded through proceeds of the local option gas tax distribution received by the City or any other legally available funds. The balance of \$1,275,000 shall be the Paving Assessed Cost funded by the Paving Assessments contemplated hereunder.

**SECTION 6. APPORTIONMENT METHODOLOGY.** The Council hereby approves and adopts the Assessment Report and the apportionment

methodology set forth therein. Such report, the apportionment methodology and description of the special benefits conveyed by paving services and improvements set forth therein are hereby incorporated herein by reference. Accordingly, one half of the Paving Assessed Cost (\$637,000) shall be allocated among Assessed Property based on the assignment of EAUs at the rate of \$49.16 per EAU, and the other half (\$637,000) shall be allocated among Assessed Property based on the assignment of ERUs at the rate of \$36.26 per ERU. Parcel size and the number of trips generated by parcel use are fair and reasonable factors for allocating the Paving Assessed Cost among Assessed Property which bear a reasonable relationship to the benefit conveyed by paving services and improvements. The methodology based upon such factors as described in the Assessment Report was utilized by the City in preparing the Assessment Roll.

**SECTION 7. ADOPTION AND CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION.** This Resolution shall constitute both the Initial Assessment Resolution and the Final Assessment Resolution, as contemplated under the Assessment Ordinance. The Council hereby finds that notice by mail to each property owner subject to the Assessment and by publication has been provided in accordance with the Assessment Ordinance, the Uniform Assessment Collection Act and Florida law. All prior actions of the Council associated with the imposition and collection of the Paving Assessments are hereby ratified and confirmed.

**SECTION 8. ASSESSMENTS TO BE IMPOSED THROUGHOUT CITY.** In accordance with Section 2.02 of the Assessment Ordinance, the Paving Assessments shall be imposed throughout the entire area of the City.

**SECTION 9. APPROVAL OF ASSESSMENT ROLL.** The Assessment Roll, a copy of which is currently on file in the office of the City Manager and incorporated herein by reference, is hereby approved.

**SECTION 10. IMPOSITION OF ASSESSMENTS TO FUND THE PAVING MANAGEMENT PLAN.**

(A) The Tax Parcels described in the Assessment Roll are hereby found to be specially benefited by the provision of paving services and improvements comprising the Paving Management Plan in the amount of the annual Assessment set forth in the Assessment Roll. The methodology for computing the annual Assessments is hereby approved and found to be a fair and reasonable method of apportioning the Paving Assessed Cost among Tax Parcels specially benefitted by the paving services and improvements.

(B) The annual Assessments computed in the manner set forth herein are hereby levied and imposed on all Tax Parcels described in the Assessment Roll.

(C) Upon adoption of this Final Assessment Resolution, the Assessments shall constitute a lien against the assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles, and claims until paid. The lien shall be deemed perfected upon adoption by the Council of this Final Assessment Resolution.

**SECTION 11. COLLECTION OF ASSESSMENTS.** The Assessments shall be collected pursuant to the Uniform Assessment Collection Act, beginning with the tax bill to be sent in November 2016. The City Manager is authorized and directed to take such actions as may be necessary or desirable in order to effectuate collection of the Assessments pursuant to the Uniform Assessment Collection Act, including but not limited to certifying the Assessment Roll to the Tax Collector for collection and delivering to the Tax Collector a Certificate of Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix A. Amounts included on the Assessment Roll as certified to the Tax Collector shall include a pro rata share of Collection Costs.

**SECTION 12. EFFECT OF FINAL ASSESSMENT RESOLUTION.** As provided in Section 2.09 of the Assessment Ordinance, the adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the method by which the Assessments are computed, the Assessment Roll, the annual Assessment amount, the levy and lien of the Assessments, and the special benefit to assessed property) unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Council's adoption of this Final Assessment Resolution.

**SECTION 13. EXCLUDED PARCELS.**

(A) Certain Tax Parcels do not receive a special benefit from the provision of paving services and improvements or are infeasible or impractical to assess, and therefore shall not be subject to the Paving Assessments contemplated hereunder. Such excluded parcels include the following as indicated by Florida Department of Revenue property usage codes:

- (1) Rights of way.
- (2) Rivers/lakes.

- (3) Wasteland/dump.
- (4) Lift stations.
- (5) DOR Codes indicative of common elements, notes parcels, headers, etc.

(B) The foregoing classifications of properties are reasonably determined to be inappropriate, infeasible or impracticable to assess, benefit marginally or create a lesser or nominal demand or burden on the costs associated with providing emergency medical services and facilities, and do not merit the expenditure of public funds to impose or collect the Paving Assessments. The City manager may extend the determination as to whether a Tax Parcel should be excluded hereunder based upon the presentation of competent substantial evidence by the owner thereof.

#### **SECTION 14. EXEMPTIONS.**

(A) Government Property provides facilities and uses to the community, local constituents and the public in general that serve a legitimate public purpose and provide a public benefit, and is therefore exempt from the Paving Assessments contemplated hereunder.

(B) Tax Parcels owned by housing authorities or their corporate affiliates, common elements or common areas of residential subdivisions, condominiums and/or cooperative forms of ownership are exempt from the Paving Assessments contemplated hereunder.

(C) Privately-owned or privately maintained streets, roads and rights of way are exempt from the Paving Assessments contemplated hereunder.

(D) Jurisdictional wetlands as recognized by a regulatory agency and areas associated with wetland mitigation.

(E) Stormwater treatment ponds in excess of one acre.

(F) 100 year flood plan compensation areas in excess of one acre.

(G) The City manager may extend the determination as to whether a Tax Parcel should be exempted hereunder based upon the presentation of competent substantial evidence by the owner thereof.

(H) If the use or ownership of a Tax Parcel changes over time such that the

Tax Parcel no longer qualifies for exemption hereunder, such Tax Parcel shall be included in the Assessment Roll approved by an Annual Assessment Resolution in accordance with Section 2.08 of the Assessment Ordinance.

(I) Using legally available funds other than the proceeds of the Paving Assessments, the City shall fund or contribute an amount equal to the Paving Assessments that would have been otherwise derived from Tax Parcels exempted hereunder

(J) Notwithstanding anything herein to the contrary, the Council reserves the right and ability in the future to impose Paving 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 15. CORRECTION OF ERRORS AND OMISSIONS.** The City Manager shall have the authority, at any time, upon her or his own initiative or in response to a petition from the owner of any Tax Parcel subject to a Paving Assessment, to reclassify Tax Parcels or correct or revise the number of assessment units attributed to Tax Parcels, based upon presentation of competent and substantial evidence (which may include Property Appraiser data, site inspection, aerial photographs, etc.), and correct any error in applying the apportionment method approved herein to any particular Tax Parcel not otherwise requiring the provision of notice pursuant to Section 2.08 of the Assessment Ordinance. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Paving Assessment imposed hereunder. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager and not the Property Appraiser or Tax Collector.

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**SECTION 16. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

**DULY ADOPTED THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2016.**

**CTY OF NEW PORT RICHEY, FLORIDA**

By: \_\_\_\_\_  
Mayor

ATTEST:

By: \_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND  
CORRECTNESS

By: \_\_\_\_\_  
City Attorney

**APPENDIX A**

**FORM OF CERTIFICATE  
OF NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that I am the City Manager and authorized agent of City of New Port Richey, Florida (the "City"); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for road paving services (the "Non-Ad Valorem Assessment Roll") is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act set forth in Section 197.3632, Florida Statutes, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Pasco County Tax Collector by September 15, 2016.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Pasco County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this \_\_\_\_ day of \_\_\_\_\_, 2016

**CITY OF NEW PORT RICHEY, FLORIDA**

By: \_\_\_\_\_  
City Manager