

RESOLUTION NO. 2011 - 18

A RESOLUTION OF THE CITY COMMISSION OF ST. PETE BEACH, FLORIDA, RELATING TO THE DELIVERY AND FUNDING OF STORMWATER MANAGEMENT SERVICES AND STORMWATER IMPROVEMENTS WITHIN THE CITY; PROVIDING FOR THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS TO FUND THE VARIABLE COSTS ASSOCIATED WITH SUCH SERVICES AND IMPROVEMENTS; ESTABLISHING THE METHOD OF ASSESSING THE VARIABLE COSTS AGAINST REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED BY OR OTHERWISE CREATES A DEMAND OR BURDEN FOR SUCH ESSENTIAL SERVICES AND CAPITAL IMPROVEMENTS; DIRECTING THE CITY MANAGER TO PREPARE A SUPPLEMENTAL ASSESSMENT ROLL FOR SHARING OF VARIABLE COSTS; PROVIDING A PROCEDURE BY WHICH QUALIFYING LANDOWNERS MAY APPLY FOR MITIGATION CREDITS; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; CONFIRMING CITY RESOLUTION NOS. 2010-07 AND 2010-08; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH, FLORIDA, AS FOLLOWS:

**ARTICLE I
INTRODUCTION**

SECTION 1.01. AUTHORITY. This Resolution of the City of St. Pete Beach, Florida (the "City") is adopted pursuant to City Ordinance No. 2009-30 (the "Assessment Ordinance"), City Resolution Nos. 10-07 and 10-08 (collectively, the "Initial Assessment Resolution"), Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 1.02. DEFINITIONS. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Initial Assessment Resolution and the Assessment Ordinance. As used herein, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Mitigation Credit" means a credit against the Stormwater Service Assessment contemplated herein for qualified Developed Properties which may be applied for in accordance with Article IV 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.

"Quality Credit" means a Mitigation Credit which may be awarded pursuant to Section 4.01(A)(7) hereof for properly maintained and functioning Mitigation Facilities.

"Quantity Credit" means a Mitigation Credit which may be awarded pursuant to Section 4.01(A)(8) hereof for properly maintained and functioning Mitigation Facilities.

"Rate Study" means the St. Pete Beach Stormwater Rate Study and Apportionment Report dated September 21, 2011, prepared by Woolpert, Inc.

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 that:

(A) The Commission adopted the Initial Assessment Resolution in order to (1) provide an initial funding source for the Program Costs associated with Stormwater Management Services and Stormwater Improvements, and (2) identify a fair and reasonable method to apportion the funding of variable costs of those services and improvements, with such method to be implemented by subsequent Annual Assessment Resolution or other supplemental resolution in the future.

(B) The Initial Assessment Resolution served as the premise to initially develop a foundation for allocating fixed costs across all Tax Parcels reasonably anticipated to benefit from, or which create a burden resulting in the need for the provision of, Stormwater Management Service and/or Stormwater Improvements, including the assemblage of data and information to subsequently and additionally allocate variable costs based upon physical demand and characteristics of each Tax Parcel.

(C) Fixed costs can generally be described as those costs incurred in providing a service which do not vary from parcel to parcel based upon property classification, parcel-specific physical characteristics or actual demand. The Program Cost, for example, can be reasonably described as a fixed cost in this sense. Variable costs are those dependent upon or which more closely bear a direct relationship to property classification, parcel-specific physical characteristics or actual demand and therefore do vary from parcel to parcel.

(D) In accordance with the Initial Assessment Resolution, the City has assembled the data and information necessary to additionally allocate variable costs based upon physical demand and characteristics of each Tax Parcel.

(E) Application of the apportionment methodology for variable costs (as identified in the Initial Assessment Resolution) to the parcel-specific area and information assembled since the adoption thereof offers the City a two-tiered methodology by which certain fixed costs can continue to be assessed on a per Tax Parcel basis and certain variable costs can be assessed according to Impervious Area as set forth in Section 3.03 hereof.

(F) 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).

(G) The Apportionment Report and the Rate Study have been submitted to and considered by the Commission, and are consistent with the approved method for recovering variable costs identified in the Initial Assessment Resolution.

(H) 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.

(I) The Stormwater Management Services and Stormwater Improvements contemplated herein possess a logical relationship to the use and enjoyment of, and relieve a burden created by and provide a special benefit to, Developed Property by creating the

premise or basis for a fair, efficient and cost effective stormwater program capable of 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.

(J) The relief of the burden created, or special benefit received by, Developed Property is the collection, storage, control, management, treatment, and conveyance of Stormwater generated by the improvements on Developed Property. It is fair and reasonable to impose Stormwater Service Assessments upon Developed Property to fund the Stormwater Management Service Cost.

(K) Both Developed Properties 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 System enhances the quality of development and redevelopment potential for property and responsibly advances the preservation and protection of natural resources.

(L) 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 Commission 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 born by all properties benefited by the availability of such planning and related services.

(M) As a substantially developed urban area essentially located on a barrier island, the City reasonably consists of a single geographic drainage area or basin, such that Stormwater Management Service and Stormwater Improvements delivered in one area of the City benefit the entire City. Accordingly, there is no need to divide the City into distinct Assessment Areas or zones and limit the expenditure of Assessment proceeds derived in a particular zone to stormwater-related activities within that zone.

(N) It is fair and reasonable that all Assessed Property pay an equal share of the fixed costs associated with providing Stormwater Management Service, 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 also fair and reasonable that all Assessed Property pay a pro rata share of the variable costs associated with providing Stormwater Management Service and Stormwater Improvements apportioned on the basis of ERUs which reflect the amount of

Impervious Area presented by individual Tax Parcels. Apportionment on this basis is fair and reasonable because it reasonably reflects the relative burden or demand placed on the Stormwater System by Tax Parcels with varying amounts of Impervious Area.

(P) The classification system proposed by the Apportionment Report and based upon standardized Florida Department of Revenue "DOR Codes" employed by the public data base maintained by law by the Property Appraiser and Tax Collector, is reasonable and equitable, and will continue to be so as properties within the City develop and change. The use of such classification system and description of Tax Parcels is also manageable and capable of being fairly implemented from year to year without wasteful or extraordinary consumption of resources which could better be expended to address stormwater related issues such that the amount of the Assessment for variable costs will vary in direct proportion to the ratio of Impervious Area on any given parcel.

(Q) The apportionment methods described in the Apportionment Report and Rate Study and set forth in Article III hereof are fair and reasonable and bear a logical relationship to the cost, benefits and burdens of providing Stormwater Management Services and Stormwater Improvements.

(R) It is the intent of the Commission in adopting this Annual Assessment Resolution to implement the two tiered approach to Assessments contemplated in the Initial Assessment Resolution whereby certain fixed costs associated with the Stormwater Management Service Cost are apportioned equally on a per Tax Parcel basis and certain variable costs are apportioned on the basis of Impervious Area.

(S) On June 28, 2011, the Commission adopted Resolution 2011-11 which approved the Fiscal Year 2011-12 Assessment Roll for fixed costs and certified such roll to the Tax Collector for collection on the property tax bill in November, 2011.

(T) On September 27, 2011, the Commission conducted a workshop concerning imposition of Assessments to fund variable costs for the Fiscal Year 2011-12 and collection thereof through the alternative method authorized by Section 3.02 of the Assessment Ordinance.

(U) The benefits derived from the Stormwater Management Services and Stormwater Improvements exceed the amount of the Assessments proposed hereunder. The Assessment for any Tax Parcel within the City does not exceed the proportional benefits that such Tax Parcel will receive from Stormwater Management Services and Stormwater Improvements compared to any other Tax Parcel within the City.

(V) The method set forth herein for allocating the variable costs of Stormwater Management Services and Stormwater Improvements among specially benefited Tax

Parcels is consistent with the apportionment methodology presented for judicial validation to the Circuit Court in and for Pinellas County, Florida in *City of St. Pete Beach v. State of Florida, et al.*, Case No. 10-3948-CI-21, which was decided in the City's favor and which upheld the methodology as fair and reasonable.

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ARTICLE II
NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED STORMWATER MANAGEMENT SERVICE COST. The estimated variable cost to be recovered through the supplemental Stormwater Service Assessments contemplated herein for the Fiscal Year commencing October 1, 2012 is \$350,000.

SECTION 2.02. FISCAL YEAR 2011-12 STORMWATER SERVICE ASSESSMENT ROLL FOR VARIABLE COSTS.

(A) The City Manager is hereby directed to prepare, or cause to be prepared, a preliminary Stormwater Service Assessment Roll for the variable costs associated with Stormwater Management Service, Stormwater Improvements and any other costs not otherwise contemplated by City Resolution No. 2011-11, for the Fiscal Year commencing October 1, 2011, in the manner provided in Section 2.04 of the Assessment Ordinance. The preliminary variable cost Stormwater Service Assessment Roll shall include the amount of the Fiscal Year 2011-12 Stormwater Service Assessment for each Tax Parcel; provided, however, that such roll shall exclude any Tax Parcel otherwise exempted from payment of Stormwater Service Assessments under the Initial Assessment Resolution. The City Manager shall apportion the estimated Stormwater Management Service Cost to be recovered through Stormwater Service Assessments as provided herein.

(B) In preparing the preliminary Stormwater Service Assessment Roll, the City Manager is hereby directed to conduct such inspection and make such inquiries and determinations as are reasonably necessary in order to ensure (1) apportionment of variable costs associated with Stormwater Management Services and Stormwater Improvements in a manner consistent with the Initial Assessment Resolution and the Rate Study, and (2) that properties which are not specially benefited by such services and/or improvements or which do not create a burden upon the Stormwater System are not included on the Stormwater Service Assessment Roll, notwithstanding any coding applied to the parcels by the Property Appraiser which suggests otherwise. Such excluded parcels may include, by way of example only, rights-of-way, submerged property or any other parcel for which, either through the coding system employed by the Property Appraiser, visual inspection or other means, it becomes apparent to the City Manager that such parcel is not appropriate for assessment.

SECTION 2.03. PUBLIC HEARING.

(A) There is hereby established a public hearing to be held at 6:30 p.m. on November 8, 2011 at City Hall, City Commission Chambers, 155 Cory Avenue, St. Pete Beach, Florida, at which time the Commission will receive and consider any comments on the imposition of Assessments to fund variable costs associated with Stormwater Management Service and Stormwater Improvements from the public and affected property owners, and will consider adoption of a resolution confirming this Supplemental Annual Assessment Resolution, imposing the Stormwater Service Assessments contemplated hereunder and providing for the collection thereof initially in the alternative method of collection set forth in Section 3.02 of the Assessment Ordinance, and thereafter pursuant to the Uniform Assessment Collection Act.

(B) A copy of this Supplemental Annual Assessment Resolution 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.

SECTION 2.04. NOTICE BY PUBLICATION. The City Manager shall direct the publication of notice of the public hearing authorized by Section 2.03 hereof in the manner and time provided in Section 2.05 of the Assessment Ordinance. The notice shall be published no later than October 18, 2011, in substantially the form attached hereto as Appendix A.

SECTION 2.05. NOTICE BY MAIL. The City Manager shall direct the mailing of notice of the public hearing authorized by Section 2.03 hereof in the manner and time provided in Section 2.06 of the Assessment Ordinance. The notice shall be mailed no later than October 18, 2011, in substantially the form attached hereto as Appendix B.

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**ARTICLE III
ASSESSMENTS**

SECTION 3.01. STORMWATER ASSESSMENTS TO BE IMPOSED THROUGHOUT CITY.

(A) As a substantially developed urban area essentially located on a barrier island, the City reasonably consists of a single geographic drainage area or basin, such that Stormwater Management Services and Stormwater Improvements delivered in one area of the City benefit the entire City.

(B) The development and use of stormwater management programs and systems inherently benefit and relieve burdens caused by real property. It is logical and reasonable that the Stormwater Service Assessments imposed hereunder will provide benefits and relieve burdens associated with all Tax Parcels located within the City.

SECTION 3.02. FIXED COSTS. As provided in City Resolution No. 2011-11, the portion of the Fiscal Year 2011-12 Stormwater Management Service Cost comprising fixed costs will be funded through the imposition of Stormwater Service Assessments at the rate of \$36 per Tax Parcel and are being collected pursuant to the Uniform Assessment Collection Act.

SECTION 3.03. VARIABLE COSTS.

(A) The Commission hereby determines, based on the analysis and rationale set forth herein and information presented in the Apportionment Report and Rate Study, that \$350,000 of the Fiscal Year 2011-12 budget for the Stormwater System is fairly characterized as the variable costs associated with providing Stormwater Management Service and Stormwater Improvements.

(B) It is fair and reasonable that variable costs be shared and distributed using an apportionment method which is weighted more heavily toward physical demand and characteristics of each Tax Parcel.

(C) The additional impervious-based rate structure generally described in the Apportionment Report and Rate Study is fair and reasonable and is hereby approved and adopted as the apportionment approach for Stormwater Service Assessments imposed hereunder to recover the variable costs associated with Stormwater Management Service and Stormwater Improvements.

(D) The typical single family Impervious Area identified in the Rate Study is 3,813 square feet. Accordingly, one ERU shall be equal to 3,813 square feet for purposes of determining the Assessment levied against Assessed Property.

(E) The determination of whether a Tax Parcel is Developed Property or Undeveloped Property has been made using best available data (e.g. Property Appraiser information, aerial images, all other data assembled and deemed reliable by the City or its consultants) prior to the adoption of this Resolution.

(F) The supplemental Stormwater Service Assessment for each Tax Parcel of Developed Property shall be calculated by multiplying the number of factored ERU's by a specific dollar amount necessary to defray the variable costs.

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

$$\frac{\text{property total Impervious Area (in sq. ft.)}}{1 \text{ ERU (in sq. ft.)}} \times \frac{\text{property impervious coverage (\%)}}{\text{typical single-family impervious coverage (\%)}} = \text{factored ERU's}$$

(H) The calculations authorized by this Section are to be made using reasoned assumptions based upon data determining:

- (1) Typical single-family lot size in square feet.
- (2) Typical single-family Impervious Area in square feet (1 ERU).
- (3) Typical single-family impervious coverage equals typical single-family Impervious Area (in square feet) divided by typical single-family lot size (in square feet).
- (4) Property impervious coverage shall be determined:
 - (a) for single family residential properties using a typical single family ratio; and
 - (b) for all other properties not having a substantial or typical similarity, the property impervious coverage may be parcel specific and equal to property Impervious Area divided by property lot size.

(I) Each Tax Parcel constituting Developed Property which consists of a single family residential unit shall be attributed one (1) factored ERU.

(J) ERU values shall be rounded to the nearest tenth for purposes of calculating the Assessment due from each Tax Parcel.

(K) The physical characteristics of a given condominium or other similar development could be such that the algorithms and rounding functions inherent in computer programs designed for application of the formula set forth herein may result in a negligible factored ERU value (e.g. for certain individual condominium units). To avoid potential inefficiencies arising from assignment of negligible ERU values and the imposition of an Assessment which is less than a pro rata share of actual collection costs which otherwise might occur in an effort to ensure that each Tax Parcel which benefits from Stormwater Management Services and Stormwater Improvements contributes to the overall costs involved, it is fair and reasonable to establish a minimum assessment amount for all Tax Parcels. Accordingly, Tax Parcels which would be attributed less than one tenth (0.1) ERU through application of the apportionment methodology provided herein resulting in an Assessment of less than \$5.00 may be assessed at zero, so long as the Stormwater program is not fully funded by Assessments and the City otherwise relies on other legally available funds to partially fund the Stormwater System.

(L) It is hereby ascertained, determined, and declared that the method of determining the Stormwater Service Assessments associated with variable costs as set forth herein is a fair and reasonable method of apportioning such costs among parcels of Assessed Property located within the City.

SECTION 3.04. EXEMPTION. Real property exempted from the imposition of Stormwater Service Assessments under the Initial Assessment Resolution shall be exempt from the Assessments imposed herein.

SECTION 3.05. COLLECTION OF ASSESSMENTS.

(A) Collection of the Stormwater Service Assessments associated with variable costs shall initially take place pursuant to the alternative method of collection set forth in Section 3.02 of the Assessment Ordinance.

(B) It is the Commission's direction and intent that starting in November, 2012, Stormwater Service Assessments imposed to fund both fixed costs and variable costs will be collected on the annual property tax bill in accordance with the Uniform Assessment Collection Act. Any notices required by the Uniform Assessment Collection Act and the Assessment Ordinance may be given in any manner authorized by law, including inclusion of the Assessment on the notice provided for in Section 200.069, Florida Statutes, if applicable.

(C) Any delinquencies in payment of the Assessments contemplated hereunder may be included in the amount of the Stormwater Service Assessment imposed for Fiscal Year 2012-13 and collected pursuant to the Uniform Assessment Collection Act; provided,

however, that any existing lien of record on the affected Tax Parcel for the delinquent Assessment(s) is supplanted by the lien resulting from certification of the Stormwater Service Assessment Roll to the Tax Collector.

(D) The City Manager is hereby directed to publish the notices required by Section 3.01 of the Assessment Ordinance in order for the Commission to consider collection of Stormwater Service Assessments pursuant to the Uniform Assessment Collection Act commencing in November, 2012, at the public hearing established by Section 2.03 hereof.

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ARTICLE IV

MITIGATION CREDIT

SECTION 4.01. GENERAL MATTERS; TIME LIMIT. The procedure by which eligible landowners may apply for Mitigation Credit against the Stormwater Service Assessments imposed to fund variable costs shall be 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 associated with the Stormwater System.

(2) Application for Mitigation Credit. In order to qualify for a Mitigation Credit, the owner of the property seeking the Mitigation Credit shall submit to the City's Public Services Director, along with the review fee described below, an application in substantially the form attached hereto as Appendix C; provided, however, that such form shall be subject to revision as approved by the City Manager from time to time to achieve the purposes of this Article. The application for any Fiscal Year must be submitted by May 1 preceding such Fiscal Year.¹ 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. All applications for Mitigation Credit, depending upon the size of the site served by the Mitigation Facilities, shall be accompanied by the following application fee:

- (a) Residential parcels: \$25.00
- (b) Non-residential parcels: \$100.00

(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

¹ Any timely application for Fiscal Year 2012-13 shall be deemed an application for Fiscal Year 2011-12. Provided the associated Assessment for Fiscal Year 2011-12 has been timely paid, a credit or rebate shall be afforded the applicant.

representative; provided, however, the application fee for such single application shall be \$100.00.

(5) Supplemental Information. Within thirty (30) days of filing the application, the Public Services Director 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 Public Services Director and disclosed to the applicant, the Public Services Director shall administratively grant or deny the application in writing within thirty (30) days of its receipt or, if supplemental information is timely requested, within thirty (30) days of receipt of the supplemental information. The Public Services Director 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 reasonably exceeds his or her capacity 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 Public Services Director shall grant a Quality Credit of 10% of the Stormwater Service Assessment associated with variable costs for Mitigation Facilities which provide at least five one hundredths of an inch (0.05") of Stormwater retention per rainfall event over the entire area served by the Mitigation Facilities in question. No credit or reduction shall be allowed against Assessments imposed for Program Cost or other fixed costs.

(8) Quantity Credit. The Public Services Director shall grant a Quantity Credit of 10% of the Stormwater Service Assessment associated with variable costs for Mitigation Facilities which provide at least one quarter inch (.25") of Stormwater retention per rainfall event over the entire area served by the Mitigation Facilities in question. No credit or reduction shall be allowed against Assessments imposed for Program Cost or other fixed costs.

(9) Burden of Proof. The burden of establishing entitlement to a Mitigation Credit shall fall on the applicant. If it is determined by the Public Services Director, using sound engineering and public administration judgment, that the property does not satisfy the criteria set forth herein, 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 Public Services Director describing the basis for the denial. The owner shall then have the right to appeal the Public Services Director's decision to the City Manager by written notice specifying the basis for the appeal. Within thirty (30) days after receipt of the notice of appeal, the City Manager shall consider the appeal and make a determination in writing setting forth the reasons for his or her decision based on the criteria contained in this section. The decision made by the City Manager shall be final.

(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.

(B) Time Limit and Renewal of Credit.

(1) All Mitigation Credit determinations shall only apply to five annual Assessment cycles. In order to renew a Mitigation Credit determination, the property owner shall, prior to May 1 immediately preceding the applicable Fiscal Year, submit to the Public Services Director an application pursuant to Section 4.02 or 4.03 hereof, along with the review fee, certifying that the subject property meets the then-applicable technical standards and requirements for the Mitigation Credit. The renewal application shall be processed, granted or denied in the same manner as an original application. If circumstances upon which the original Mitigation Credit was determined have changed, a full application demonstrating substantial conformance with Section 4.02 or 4.03 shall be required.

(2) Notwithstanding anything to the contrary herein, if at any time the Southwest Florida Water Management District, the United States Environmental Protection Agency or any other regulatory agency establishes heightened quality or quantity standards applicable to the Mitigation Facilities in question and requires proof of conformance with such heightened standards by the owner thereof, the owner shall simultaneously submit proof of conformance to the City. Failure to do so may result in rescission of any Mitigation Credit previously granted hereunder.

SECTION 4.02 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, certifying 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 Public Services Director 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.

SECTION 4.03 ALTERNATIVE APPLICATION PROCEDURE. In addition to the general application procedure set forth in Section 4.02, the following alternative application procedure may be available for Mitigation Credit applications based upon Mitigation Facilities which were permitted by the City or any state or federal agency:

(A) For purposes of the application, it shall be presumed that the Mitigation Facilities when originally permitted met all applicable regulatory requirements of the City, the Southwest Florida Water Management District or applicable regulatory agency.

(B) The application may be prepared and submitted by the owner of the subject property or an authorized representative of such owner and, subject to the provisions of paragraph (F) below, need not be prepared and submitted by a professional engineer.

(C) 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 substantially as originally designed. If both conditions are met, the application may be granted under this alternative application procedure.

(D) It shall be the sole responsibility and burden of the applicant to clearly demonstrate that the Mitigation Facilities have not been altered in any material way and have been maintained so as to continue to function substantially as originally designed.

(E) In the event the City shall discover that the Mitigation Facilities as originally permitted did not meet the applicable regulatory requirements when permitted, or do not at time of inspection meet all then-applicable regulatory requirements, the application shall be denied. In any appeal of the City's denial on the basis that the facilities did not or do not meet all applicable regulatory requirements, the burden of proof shall be on the Applicant. The burden of proof as to all other issues shall also be on the applicant.

(F) The alternative application procedure set forth in this Section 4.03 is provided solely as an accommodation to the owners of Developed Property served by Mitigation Facilities. If the Public Services Director is not satisfied that the Mitigation Facilities warrant Mitigation Credit under this Section, or if lack of public resources or the nature, age or condition of the subject Mitigation Facilities are such that, in the sole discretion of the Public Services Director, certification of a professional engineer is required in order to establish compliance with the technical criteria set forth herein, the applicant shall be required to follow the general application procedure set forth in Section 4.02 in order to establish entitlement to a Mitigation Credit.

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**ARTICLE V
GENERAL PROVISIONS**

SECTION 5.01. RATIFICATION AND CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION. It is the express intent of the Commission in adopting this Resolution to confirm the Initial Assessment Resolution and, as contemplated therein, to provide for the funding of variable costs associated with the delivery of Stormwater Management Service and Stormwater Improvements through the imposition of Stormwater Service Assessments. The Initial Assessment Resolution is hereby ratified and confirmed.

SECTION 5.02. CONFLICTS. All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5.03. 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 5.04. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and adoption.

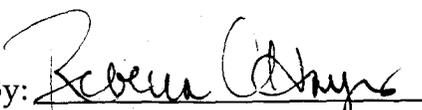
PASSED, ADOPTED AND APPROVED this 11th day of October 2011.

**CITY COMMISSION OF ST. PETE
BEACH, FLORIDA**

By: 
Steve McFarlin, Mayor

(SEAL)

Attest:

By: 
Rebecca C. Haynes, City Clerk

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To be published on or before October 18, 2011.

[Map of St. Pete Beach]

**NOTICE OF HEARING
TO IMPOSE AND PROVIDE FOR COLLECTION OF
NON-AD VALOREM SPECIAL ASSESSMENTS (STORMWATER)**

Notice is hereby given that the City Commission of St. Pete Beach, Florida, will conduct a public hearing to consider adoption of a resolution related to the City of St. Pete Beach (the "City") stormwater system. The resolution will provide for the limited imposition of special assessments against property located within City limits in order to pay for the variable costs associated with providing stormwater related services and improvements, and collection of the assessments by the alternative collection method described in Section 3.02 of City Ordinance No. 2009-30. The hearing will be held at 6:30 PM on November 8, 2011 at City Commission Chambers of City Hall, City Hall, 155 Corey Avenue, St. Pete Beach, Florida. All affected property owners have a right to appear at the hearing and to file written objections with the City Commission within twenty (20) days of this notice.

The assessments have been proposed to fund a small portion of the variable costs associated with providing stormwater related essential services and capital improvements throughout the City. Variable costs are those which are dependent upon property classification, parcel-specific physical characteristics or actual demand or burden created by individual tax parcels. The special assessments for each parcel of property will be based on the amount of impervious area attributable to each parcel as measured by "Equivalent Residential Units" (ERUs). A more specific description of the variable costs associated with the stormwater system and the method of computing the assessment for each tax parcel are set forth in Resolution No. 2011- 18 adopted by the City Commission on October 11, 2011. Copies of Resolution No. 2011- 18 and the preliminary Stormwater Service Assessment Roll are available for inspection at the office of the City Clerk, located at City Hall, 155 Corey Avenue, St. Pete Beach, Florida or on the internet at <http://quicksearch.ennead-data.com/spbswu>.

The resolution, if approved, will also potentially provide for the limited reduction in stormwater assessments for property owners with certain private stormwater mitigation facilities.

Please note that the resolution will provide for funding of variable costs associated with the City's stormwater program for fiscal year 2011-12 through direct billing of affected property owners in December 2011. The City intends that stormwater assessments for Fiscal Year 2012-13 and each fiscal year thereafter will be collected on the annual property tax bill by the Pinellas County Tax Collector

If you have any questions, please contact the City Clerk's Office at (727) 363-9220.

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 (727) 363-9220.

APPENDIX B

FORM OF NOTICE TO BE MAILED

ST. PETE BEACH, FLORIDA

**NOTICE OF HEARING TO IMPOSE AND TO PROVIDE FOR LIMITED COLLECTION
OF STORMWATER RELATED NON-AD VALOREM SPECIAL ASSESSMENTS
IN ST. PETE BEACH**

October __, 2011

[Property Owner Name]

[Street Address]

[City, State and Zip]

Re: Tax Parcel Number [Insert Number]

Dear Property Owner:

The City of St. Pete Beach (the "City") is considering the imposition of special assessments to fund a limited portion of certain variable costs associated with the City's stormwater system. Variable costs are those which are dependent upon property classification, parcel-specific physical characteristics or actual demand or burden created by individual tax parcels. The special assessments for each parcel of property will be based on the amount of impervious area attributable to each parcel as measured by "Equivalent Residential Units" (ERUs). A more specific description of the variable costs associated with the Stormwater System and the method of computing the assessment for each tax parcel as set forth in Resolution No. 2011-__ adopted by the City Commission on October __, 2011.

The City Commission will hold a public hearing at 6:30 PM on November 8, 2011, in the City Commission Chambers at City Hall, 155 Corey Avenue, St. Pete Beach, Florida, for the purpose of considering a resolution imposing the assessments and receiving public comments. You are invited to attend and participate in the hearing. You may also file written objections with the City Commission prior to or during the hearing. If you decide to appeal any decision made by the City Commission with respect to any matter considered at 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.

Copies of Resolution No. 2011-___ and the preliminary stormwater assessment roll describing the assessments are available for your review at the offices of the City Clerk, located at City Hall, 155 Corey Avenue, St. Pete Beach, Florida [or on the internet at <http://quicksearch.ennead-data.com/spbswu>]. Information regarding the assessment for your specific property is included below.

The annual assessment will include your share of the collection costs of the assessments.

The City expects to collect approximately \$350,000 in the first year for variable costs described in this notice. The assessment is an annual assessment which will continue from year to year. The resolution to be considered by the Commission on November 8, if approved, will also potentially provide for limited reduction in stormwater assessments to property owners with certain private stormwater mitigation facilities.

Please note that the resolution will provide for funding of variable costs associated with the City's stormwater program for fiscal year 2011-12 through direct billing of affected property owners in December 2011. This is the second tier of the City's approach to funding this important program. The first tier for fixed program costs has already been certified for collection on your tax bill. Both assessments are modest in terms of the challenges that stormwater related issues present to our City. No overall increase can occur in the future without published and individually mailed notice to each property owner. The City intends that all stormwater assessments for Fiscal Year 2012-13 and each fiscal year thereafter will be collected on the annual property tax bill by the Pinellas County Tax Collector

Your property is considered [_____] tax parcel(s).

Total Amount of variable cost Fiscal Year 2011/20121

Stormwater Assessment for your property is: \$ _____

Until paid, the stormwater assessment will constitute a lien 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.

If you have any questions, please contact the City Clerk's office at (727) 363-9220.

THIS IS NOT A BILL. DO NOT SEND PAYMENT.

ST. PETE BEACH, FLORIDA

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 (727) 363-9220.

APPENDIX C

FORM OF MITIGATION CREDIT APPLICATION

APPLICATION FOR STORMWATER ASSESSMENT MITIGATION CREDITS

Property Owner(s): _____
Last Name First Name

Mailing Address: _____
Street Number and Name

City State ZIP Code

Tax Map Parcel No.: _____

Phone: _____

Certifying Registered Engineer or Land Surveyor: _____

Professional Registration No.: _____

Company: _____

Company Phone: _____

Check if attached	Required for Submission by Owner
<input type="checkbox"/>	A scaled sketch, drawing or diagram showing: (1) Site legal boundaries, (2) Site approved drainage plan, (3) all buildings, parking, roads, storage, storm water facilities, landscaped areas and any other improvements impacting stormwater flows
<input type="checkbox"/>	Stormwater Facility Information a. Date constructed or anticipated construction date. b. Attach copies of applicable permits by the City or any regulatory agency c. Maintenance plan and schedule d. Property area (acres) e. Area of parcel treated by mitigation facilities f. Impervious Area (acres) g. Condition rating facility by owner (e.g., good, fair, or poor).
<input type="checkbox"/>	A short narrative description for the rationale supporting the basis for the request for the mitigation credit, and explaining how the tax parcel needs the technical standards and requirements for a quality credit, quantity credit or both
<input type="checkbox"/>	Right of Entry Agreement for Department Staff
<input type="checkbox"/>	Application Fee (\$25.00 or \$100.00)

Owner Certification
I certify that the information contained in the application, including all attachments, is, to the best of my knowledge, correct and represents a complete and accurate statement. I further understand that the credit determination will be based on the information provided and a later determination that the information provided was inaccurate may result in loss of the credit.

Signature of Owner Date

Signature of PE or PLS, License Number, Seal Date

Mail form and any applicable information to:
 City of St. Pete Beach, Stormwater Management
 155 Corey Avenue, St. Pete Beach, FL 33706
 (727) 363-9243
 Attn.: Mitigation Credit Review