

Punta Gorda, Florida

Punta Gorda Isles Additional Charlotte Harbor Access Apportionment Methodology Memorandum

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Apportionment Methodology Memorandum

INTRODUCTION AND BACKGROUND

The City of Punta Gorda (“City”) has engaged Nabors, Giblin & Nickerson, P.A. (“NG&N”) to assist in the development of an appropriate apportionment methodology and implementation of a special assessment program to fund the capital costs of constructing an additional navigational access canal to connect the Punta Gorda Isles canal system to Charlotte Harbor through a shorter, more convenient, and more direct route than is currently available at the existing Ponce de Leon Inlet harbor access point (the “Harbor Access Project”).

The Harbor Access Project has been contemplated for more than 10 years and is envisioned in the Punta Gorda Waterfront Development Master Plan and the TEAM Punta Gorda Citizens Master Plan. Various boards and committees have discussed this potential project and possible means of implementation, including the Waterfront Development Advisory Committee, the Revitalization Committee, the Punta Gorda Isles Canal Advisory Committee, the Burnt Store Isles Canal Advisory Committee, and the 1% Local Option Sales Tax Committee. In 2015, the City Council engaged Hans Wilson & Associates (“HWA”) to perform a preliminary assessment of possible alignments and channel routes for the Harbor Access Project, project costs, and the likely benefit area. On January 11, 2016, HWA prepared an “Assessment Matrix Supporting Discussion” memorandum. Recently, the City engaged NG&N to assist in developing a proposed apportionment methodology under which all or a portion of the project costs of the Harbor Access Project could be funded from a non-ad valorem assessment imposed against benefited properties within the Punta Gorda Isles benefit area.

NG&N is a law firm located in Tallahassee, Tampa, and Fort Lauderdale that is dedicated to the representation of local governments on issues of finance and taxation. NG&N has developed extensive experience in structuring and implementing alternative revenue sources in Florida.

The objectives of this project were to:

- Describe the improvements to be provided and the area to be benefitted thereby;
- Describe and determine the anticipated relative benefit derived by the affected properties within the area from the construction of the improvements; and
- Recommend the fair and reasonable apportionment of assessable costs among the benefited parcels.

This document is the methodology memorandum, which will generally identify the proposed capital project, describe the benefit area as determined by HWA with any recommended modifications, and provide a description of the recommended apportionment methodology including all underlying assumptions and an implementation schedule in conformance with the Uniform Method of Collection provided in Section 197.3632, Florida Statutes.

NG&N will assist the City with the development and implementation of a recurring annual assessment to fund the Harbor Access Project in the Punta Gorda Isles benefit area

commencing Fiscal Year 2018-19 and with the tax bill to be mailed in November 2018 (the "Assessments"). The proposed special Assessments will be collected on the tax bill in November 2018 for Fiscal Year 2018-19 and future fiscal years.

LEGAL REQUIREMENTS

A special assessment is a charge levied against a particular property because that property receives a special benefit from the service or improvement being funded. As established by Florida case law, two requirements exist for the imposition of a valid special assessment:

(1) the property assessed must derive a special benefit from the improvement or service provided and

(2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit. See City of Boca Raton v. State, 595 So. 2d at 29.

An assessment may provide funding for either capital expenditures or the operational costs of services, provided that the property which is subject to the assessment derives a special benefit from the improvement or service. See Sarasota County v. Sarasota Church of Christ, 667 So. 2d 180 (Fla. 1995).

The benefit required for a valid special assessment consists of more than simply an increase in market value and includes both potential increases in value and the added use and enjoyment of the property. See Meyer v. City of Oakland Park, 219 So. 2d 417 (Fla. 1969). In Meyer, the Supreme Court upheld a sewer assessment on both improved and unimproved property, stating that the benefit need not be direct nor immediate but must be substantial, certain and capable of being realized within a reasonable time. Furthermore, the benefit need not be determined in relation to the existing use of the property. See City of Hallandale v. Meekins 237 So. 2d 318 (Fla. 4th DCA 1970), aff'd, 245 So. 2d 253 (Fla. 1971). Although the benefit derived need not be direct and immediate, the benefit must be special and peculiar to the property assessed and not a general benefit to the entire community.

An improvement or service which specially benefits the assessed properties must also be "fairly and reasonably apportioned among the benefited properties." See City of Boca Raton v. State, 595 So. 2d 25 (Fla. 1992); Parrish v. Hillsborough County, 123 So. 830 (Fla. 1929). For example, in South Trail Fire Control Dist. Sarasota County v. State, 273 So. 2d 380 (Fla. 1973), the Court upheld the apportionment method that assessed business and commercial property on an area basis while other property was assessed on a flat rate basis. The Supreme Court held that the manner of the assessment's apportionment is immaterial and may vary provided that the amount of the assessment for each property does not exceed the proportional benefits it receives as compared to other properties.

However, improper apportionment will defeat a special assessment when a special benefit is otherwise available. In City of Ft. Lauderdale v. Carter, 71 So. 2d 260 (Fla. 1954), a special

assessment for garbage, waste and trash collection was apportioned based upon the value of the property. The Court held this assessment to be invalid in that apportioning on the basis of value did not bear any reasonable relationship to the services provided. See St. Lucie County-Ft. Pierce Fire Prevention and Control District v. Higgs, 141 So. 2d 744 (Fla. 1962) (striking fire assessments imposed against property based on the ratio of the assessed value of each property to the total value of all property in the district).

Finally, in determining the reasonableness of the apportionment, courts generally give deference to the legislative determination of a local government. See Harris v. Wilson, 693 So. 2d 945 (Fla. 1997). Similarly, in Rosche v. City of Hollywood, 55 So. 2d 909 (Fla. 1952), the Florida Supreme Court stated:

The apportionment of assessments is a legislative function and if reasonable men may differ as to whether land assessed was benefited by the local improvement the determination as to such benefits of the city officials must be sustained.

Id. at 913; see also Key Colony No. 1 Condominium Assoc., Inc. v. Village of Key Biscayne, 651 So. 2d 779 (Fla. 3d DCA 1995).

HARBOR ACCESS PROJECT

As currently envisioned by HWA and directed by the City Council, the Harbor Access Project's selected alignment is Alternative 6 Bird Cut East. Subject to permitting, at this location an approximately 1,446 feet long and 60 feet wide channel will be cut through an existing mixed wetland and upland area to connect the Punta Gorda Isles canal system to Alligator Creek, which then connects directly to Charlotte Harbor about 1 mile down the creek.

The construction of the Harbor Access Project will include acquisition of a 4.24 acre wetland parcel (parcel i.d. 412225203003) immediately southwest of the terminus of River Bay Drive where the new channel will be constructed. Approximately .38 acres of mangroves will be removed, new seawalls will be installed, and an estimated .15 acres of uplands will be dredged during the construction of the Harbor Access Project. The Harbor Access Project will also include necessary dredging of 1,450 linear feet within the existing waterway and down to Alligator Creek and removal of exotic invasive species.

The current engineer's opinion of probable cost for the Harbor Access Project is \$1,500,000, which includes land acquisition, PD&E, administration, and construction costs.

PUNTA GORDA ISLES BENEFIT AREA

The Punta Gorda Isles benefit area, as proposed by HWA, is an area of parcels within the Punta Gorda Isles subdivision which abut a series of navigable canals that connect to Charlotte Harbor through the existing Ponce de Leon Inlet (the “Benefit Area”). Proposed clarifications and modifications to this area will be discussed below.

Generally, the target Benefit Area lies south of Aqui Esta Drive, west of Almar Drive and the existing city limits, and largely east of Bal Harbor Boulevard but includes certain parcels lying south of Suzi Street and east of La Costa Island Court. A map of the Benefit Area as proposed by HWA is attached hereto as exhibit A. The Benefit Area is a mixed use area, but consists mainly of residential property uses. Subject to verification by the City, it is estimated that there are 858 improved single family lots, 327 unimproved single family lots, 878 improved condominiums, 4 improved multi-family parcels, 240 unimproved multi-family parcels, 2 government parcels owned by the City, an institutional parcel, and a large (105+ acres) unplatted area that is currently zoned for single family use.

HWA established the Benefit Area by marking the half way point between the existing Charlotte Harbor access points at Ponce de Leon Inlet and Alligator Creek based on navigable travel distance in linear feet (the “Halfway Point”). The Halfway Point lies on the canal at the eastern most terminus of La Costa Island Court. Based on the assumption that boaters leaving properties within Punta Gorda Isles will be most reasonably served by the closest access point to Charlotte Harbor, HWA included all parcels east of the Halfway Point in the Benefit Area.

Although the proposed Benefit Area boundaries are drawn to include those properties that will be most immediately served by the Harbor Access Project and, accordingly, receive a special benefit from the new access channel, an analysis of the properties included with the proposed Benefit Area demonstrates that the following modifications should be incorporated before the Assessments are implemented:

- Only tax parcels abutting the canal system with access to the Harbor Access Project should be included in the Benefit Area. There are certain landlocked parcels within the proposed Benefit Area that should be removed because they will not be benefitted by the construction of the Harbor Access Project.
- All developable or developed properties abutting the canal system that could be improved with a dock, boat slip or other water access improvement should be included in Benefit Area. For example, there are two government parcels that abut the canal system that are not included within the proposed Benefit Area. These parcels will receive a special benefit and excluding them could negatively impact the validity of the Assessment.
- Only developable properties will receive a special benefit and should be included in the Benefit Area. For example, at the intersection of Bal Harbor Road and Albatross Drive, there is an L-shaped parcel that is recorded as vacant multi-family property. Due to the dimensions of this parcel, its ability to be built on is suspect and should be verified.

- All properties that will receive a special benefit from the Harbor Access Project should pay their fair share of the project cost. The properties along the northwest side of River Bay Drive in the unincorporated area of Charlotte County will receive a special benefit from the Harbor Access Project. The City should pursue an interlocal agreement with Charlotte County so these properties can be included in the Assessment program.

SPECIAL BENEFIT ASSUMPTIONS

As documented by HWA, the Harbor Access Project will serve the following purposes:

- Improved navigational access to Charlotte Harbor
- Decreased travel time to reach the open water of Charlotte Harbor
- Second access point for Punta Gorda Isles canal front properties
- Better boating experience due to less time in navigating the canals
- Improved tidal exchange that will lead to better tidal flushing of the interior canals in the Benefit Area
- Improved property values¹

The proposed Harbor Access Project will provide a special benefit to the assessed properties. The Harbor Access Project directly benefits property owners within the proposed Benefit Area by improving the properties' navigational access to Charlotte Harbor through the provision of a closer, more convenient and direct harbor access point for each property, thus decreasing the time and travel distance to reach open waters. Based on linear foot travel distance measurements obtained by HWA, a boater leaving the property located at 1532 Albatrose Drive, which is the furthest reach of the interior canal system in Punta Gorda Isles, must travel 30,371 linear feet (about 5.75 miles) to reach the existing Ponce de Leon Inlet access point to Charlotte Harbor. Assuming a 5 mph speed through the interior canals, this trip would take about 69 minutes. In contrast, the Harbor Access Project would enable that same boater to reach Charlotte Harbor after travelling just 20,669 linear feet (about 3.91 miles). Assuming a 5 mph speed through the interior canals, this trip would take about 47 minutes. Accordingly, the properties within the proposed Benefit Area will all now have a closer access point to Charlotte Harbor in terms of both distance and time.

The additional harbor access point is also expected to improve the tidal exchange within the interior canal system. This improved exchange will result in better tidal flushing and result in improved interior canal health and longevity.

Additionally, it is reasonably expected that a canal front property in closer proximity to a harbor access point would have an enhanced or preserved property value due to these improvements. Therefore, the proposed improvements protect and enhance the value and integrity of assessed property within proposed Benefit Area through provision of the harbor Access Improvement. From this analysis, it was concluded that the proposed improvements enhance and strengthen

¹ It is recommended that the City engage an appraiser to opine on the projected positive impact on property values as a result of closer harbor access.

the relationship of such improvements to the use and enjoyment of the assessed parcels and ultimately, the property values within the Benefit Area.

APPORTIONMENT METHODOLOGY

All improved and buildable, unimproved parcels that abut a platted canal that has been dedicated to the public within the Benefit Area, as modified above, will benefit from the Harbor Access Project since under the City's current regulations governing construction in waterways, all properties would be eligible to place at least one dock and boatlift on the property to access the canal.

Based on the planned Harbor Access Project and the nature and type of the special benefit that is expected to be provided to those properties within the Benefit Area, the recommend method of apportionment for the Harbor Access Project is allowable Water Access Units per parcel of property. A Water Access Unit would be defined as "a dock, landing, ramp, slip, bay, lift, wharf or other structure for receiving boats and other water craft, which will serve as the standard unit to be used in calculating the Assessments as a proxy to the expected special benefit derived from the Harbor Access Project." The use of an equivalent Water Access Unit based on the current or potential existence of such water access improvements, as allowable in accordance with existing regulations, is a fair and equitable method of allocating the Harbor Access Project costs among parcels located within the Benefit Area.

The assignment of Water Access Units to each parcel of property within the Benefit Area should be consistent with the City's existing regulations. Section 6-6(c) of the City of Punta Gorda Code of Ordinances ("City Code"), governs permitted construction for residential properties in platted canals dedicated to the public, such as the canals within the Punta Gorda Isles subdivision. The Building Division is authorized to issue permits to residential properties in accordance with these regulations. Generally, all single family structures are allowed to install a minimum of one 10-foot dock and at least one boat lift, although lots with larger frontage along a canal are allowed additional boat lifts. Similarly, all multi-family parcels are also allowed to install a 10-foot dock and at least one boat lift, but again, parcels with greater frontage along the canal will be allowed additional boat lifts, finger docks, and boat slips. Section 6-6(c) of the City Code provides as follows in pertinent part:

* * *

(c) Permitted construction; platted canals dedicated to the public. The Building Division is delegated the authority to issue permits in accordance with submitted plans for construction in platted canals which have been dedicated to the public for the following structures in compliance with the following requirements and limitations based on the zoning of the abutting upland property:

1. Single Family Residential on lots having at least 85 feet of seawall:

(a) Concrete seawalls, similar in design, height, and appearance to those on adjoining lots;

(b) Freestanding concrete docks protruding no more than ten (10) feet waterward from the seawall, and

(c) i. a boatlift and up to three (3) outpilings, or

ii. up to six (6) outpilings, or

iii. two (2) boat lifts, provided said boat lifts are separated by a distance which is the lesser of 50 feet or the maximum distance necessary to keep both boat lifts within the 45 degree rule per subsection 6-6(c)4.

2. Multi-Family Residential on lots having at least 85 feet of seawall:

(a) Concrete seawalls, similar in design, height and appearance to those on adjoining lots.

(b) Freestanding concrete docks protruding no more than ten (10) feet waterward from the seawall.

(c) i. On lots having a canal width of less than 120 feet:

a. A boat lift and up to three outpilings, or

b. up to six (6) outpilings, or

c. two (2) boat lifts, provided said boat lifts are separated by a distance which is the lesser of 50 feet or the maximum distance necessary to keep both boat lifts within the 45 degree rule per subsection 6-6(c)4.

ii. On lots having a canal width of 120 feet or greater, in lieu of those items allowed in (c)i a-c above:

a. Freestanding concrete finger docks a minimum of four (4) feet in width protruding no more than twenty-five (25) feet waterward from the seawall.

b. Finger docks shall be separated by a minimum of twenty-seven (27) feet in width.

c. Boat slips, with or without boat lifts, provided the number of boat slips (and boat lifts) shall not exceed the number of units being constructed. If the number of units being constructed is an odd number, the number of boat slips and boat lifts may exceed the number of units by one slip.

d. Up to three (3) bumper piles per individual slip or shared slips, provided bumper piles are within the 45 degree rule per subsection 6-6(c)4.

e. Areas currently permitted with finger docks are allowed to install boat lifts at permitted slips provided they are no more than twenty-five (25) feet waterward of the seawall and within the forty-five (45) degree angle area pursuant to subsection 6-6(c)4.

3. Single Family and Multi-Family Residential on lots with less than 85 feet of seawall length:

(a) Concrete seawalls, similar in design, height and appearance to those on adjoining lots;

(b) Freestanding concrete dock protruding no more than ten (10) feet waterward from the seawall, and

(c) i. one (1) boat lift, or

ii. up to three (3) outpilings.

(d) on lots with 50 feet or less of seawall, in addition to the improvements allowed in subsection (3(b)) above, an approved extension as depicted below, to aid in the boarding of a vessel, may extend up to twenty-five (25) feet waterward of the seawall within the forty-five (45) degree angle area pursuant to subsection 6-6(c)4.

4. The foregoing improvements must be placed within an area defined by projected lines extending waterward at a forty-five (45) degree angle from the property's seawall at the side property lines, not to exceed twenty-five (25) feet waterward from the seawall, nor encroach within twenty-five (25) feet of the established centerline of the waterway except:

a. In waterways where the width is less than one hundred (100) feet, or in waterways not seawalled, or where only one side of the waterway is seawalled; structures will be placed so as not to exceed ten (10) feet waterward provided a passageway of fifty (50) feet can be maintained for navigation purposes, except in Burnt Store Isles Subdivision (PGI Section 15) on waterways where only one side of the waterway is seawalled a passageway of only forty (40) feet is required to be maintained. Encroachment by use of or mooring a vessel into the required passageway is prohibited except temporarily for loading and unloading passengers and other activities done in attendance of a vessel. The required passageway is measured from the outmost structure waterward to the limit of unobstructed waterway; and

b. In Ponce De Leon Inlet no structures will be permitted within ten (10) feet of either side of rip-rapped areas or abutting rip-rapped areas; and

* * *

Permitted construction for non-residential properties is governed by a different subsection of the City Code, Section 6-6(j), which establishes a special permitting process conducted by the Punta Gorda Isles Canal Advisory Committee. Although the allowable number of docks, boat lifts, boat slips, and other water access structures is individually determined for non-residential

properties, the City Code does provide generally that these be in “harmony” with the provisions outlined above for residential properties. Specifically, Section 6-6(j) provides as follows:

(j) Procedure for petition and granting of a special permit for any structure or dredging in a platted canal dedicated to the public, which the Building Division is not authorized to approve whether for new or existing construction.

(1) Petition. Owners of lands abutting any platted canal dedicated to the public or their designated agents may petition the City in writing, through the Director of the Public Works Department, for a special permit to dredge or to construct or locate a structure not permissible by the Building Division under subsections (a), (c), (d) and (e) above. The petition shall identify the requirements or limitations of subsections (a), (c), (d) and (e), above, with which the proposed construction or dredging does not comply. Upon receipt of a completed petition and the payment of a fee, the Public Works Department shall schedule a quasi-judicial hearing before the Burnt Store Isles Canal Advisory Committee or Punta Gorda Isles Canal Advisory Committee, as determined by the location of the request, at the committee's next available regularly scheduled meeting and shall provide public notice pursuant to Section 6-6(a)(3).

(2) Fee. The fee for a petition for such special permit shall be \$450.00.

(3) Public notice. Upon receipt of a petition for such special permit by the Director of Public Works, a notice describing the nature and location of the special permit requested, the land owner's name and, if applicable, the owner's agent's name, shall be published one (1) time in a newspaper of general circulation published in Charlotte County, Florida, and mailed to the owners of parcels within 200 feet of the subject parcel at least fifteen (15) days prior to presentation of the public hearing held by the appropriate canal advisory committee. Failure to strictly comply with these notice requirements shall not invalidate the proceedings.

(4) Public hearing; action by Canal Advisory Committee. Upon proper notification to the public of the date, time and place of the public hearing, the Burnt Store Isles Canal Advisory Committee or Punta Gorda Isles Canal Advisory Committee, as determined based on the subject location, will hear the petition for special permit and such other reports by the public as may be deemed pertinent and may grant or deny the petition as it deems appropriate, provided the applicant establishes that granting of the petition would conform to the following criteria:

a. would be in harmony with the general intent and purpose of subsection 6-6(c);

b. would not be injurious to the waterway involved;

c. would not impede safe navigation;

d. would not allow a structure or use aesthetically or functionally incompatible with existing structures or uses on surrounding lands;

e. would not permit any structure or activity that would interfere with or be detrimental to the quiet and peaceful use and enjoyment of any nearby land; and

f. would not otherwise be a detriment to public health, welfare and safety.

A motion to approve a petition for special permit must be by affirmative vote of a majority of the members present.

(5) Conditions. In granting any such petition for special permit, the Canal Advisory Committee may prescribe appropriate conditions and safeguards in conformity with the provisions of section 6-6(c) above, including, but not limited to, reasonable time limits within which the action implementing the approved petition for special permit must be begun, completed, or both. Violation of such conditions and safeguards, when made a part of the terms under which the petition for special permit is approved, shall be cause for the revocation of said approval.

(6) Record and basis for decision. In making its decision on such a special permit petition, the Canal Advisory Committee shall consider only the reports, testimony, and other evidence presented at the public hearing thereon.

(7) Appeals. An applicant may appeal a Canal Advisory Committee's denial of a petition for special permit to the City Council by filing a written notice of appeal with the City Clerk within 30 days of the date of denial. Upon written receipt of a timely filed notice of appeal, the City Clerk shall schedule a quasi-judicial hearing before the City Council at the next available regularly scheduled City Council meeting. The appeal hearing before the City Council shall be a hearing de novo. The applicant shall have the burden of demonstrating entitlement to the requested special permit based on competent, substantial evidence.

Accordingly, based on the above regulations, each tax parcel within the Benefit Area would first be categorized by property use and would then be assigned the maximum number of Water Access Units, as permitted by the City Code.² Non-residential parcels with current Water Access Units or allowable Water Access Units under a special permit, will be assigned the maximum amount of existing or permitted units, whichever is greater. Non-Residential parcels with no current Water Access Units and no special permit would be assigned the maximum amount of Water Access Units such property would be eligible for if the regulations of section 6-6(c) of the City Code were applied to the property. If, as in the case of condominiums, more than one tax parcel is served by an allocation of Water Access Units, all tax parcels will be included in the Benefit Area and the allocated Water Access Units will be divided among them.

The rate of the Assessment would be calculated and expressed as \$X per Water Access Unit where \$X is based on the estimated total project cost of the Harbor Access Project divided by the total number of Water Access Units within the Benefit Area payable for a term of years as established by the City Council. The owners of the properties within the Benefit Area will be entitled to prepay the Assessment at any time. This includes prepaying the Assessment in full prior to the incurrence of financing costs as well as prepayment in full in any year during the collection term. The prepayment amount will be adjusted annually to reflect the principal retired

² For the properties along the northwest side of River Bay Drive in the unincorporated area of Charlotte County, the assignment of Water Access Units should be based on the Charlotte County Code of Ordinances. These assignments should be coordinated with County staff.

from the annual Assessment. If no prepayment is made, the owner of each parcel of property may chose to pay annually for the term of the collection period.

The annual Assessment for each parcel of property will include its share (based upon its relative percentage of the remaining aggregate prepayment amount) of the principal and interest on the funds financed, administration costs, and the City's annual collection cost for the Assessments. An amount will also be added to cover the statutory discount applicable to early payment of ad valorem taxes and special assessments. After payment of the collection cost, all remaining amounts received by the City from proceeds of the Assessment will be applied to the payment of principal and interest on the borrowed or advanced funds.

OUTSTANDING ISSUES

COST ESTIMATES

The City obtained an opinion of probable cost from HWA, which was provided in 2015. This estimate should be updated to reflect current costs prior to the calculation of any Assessment rates. Additionally, a reasonable construction cost contingency, an interest rate contingency for any borrowings, an allowance for tax collector collection costs, notice costs, and the 4% statutory discount should be included to ensure that the Assessments are sufficient to fully cover the project cost of the Harbor Access Project.

PERMITTING

The ERP permitting process began on August 26, 2016, and is expected to take at least 17 months. The City is able to implement and begin collecting the Assessments while the ERP permitting process is ongoing and prior to the initiation of the Harbor Access Project construction. However, due to the special benefit requirement for a legally valid special assessment, in the event the City's permit is denied, any Assessments would be required to be refunded to the current property owners.

MAINTENANCE

Upon the completion of the Harbor Access Project certain ongoing maintenance may be required to ensure that the channel continues to be navigable. The existing interior canal system, waterways, and navigable channels are maintained through the "Punta Gorda Isles Canal Maintenance Assessment District," as created in Section 6-26 of the City Code. Once completed, it is recommended that the Harbor Access Project be included within the existing Canal Maintenance Assessment District for future maintenance.³

³ The existing maintenance assessment utilizes a different apportionment method than the methodology recommended in this report because it funds ongoing maintenance of all canals, waterways, and navigable channels, including maintenance and reconstruction of bulkheads and retaining walls within the district. Such services may be reasonably apportioned based upon property front footage because that equates directly to the cost of the maintenance services.

WATER ACCESS UNIT ASSIGNMENT

Prior to implementation of the Assessments, appropriate city staff will need to assign and verify the Water Access Units for each tax parcel within the Benefit Area. For purposes of calculating the Assessment rates, the total number of Water Access Units should be decreased by a reasonable percentage (est. 10%) to account for corrections that may arise during the property owner notification process.

IMPLEMENTATION

FISCAL YEAR 2018-19 (OR FUTURE FISCAL YEAR) TIME FRAME

The following section describes all of the steps required to implement and collect the proposed special assessment on the ad valorem tax bill in Fiscal Year 2018-19 and thereafter. The City will be required to follow the statutory deadlines provided in section 197.3632, Florida Statutes. Following this section is a critical events schedule identifying specific dates for all significant remaining events to authorize the imposition of the Assessment.

To use the tax bill collection process, a local government must follow the strict procedures provided in section 197.3632, Florida Statutes (Uniform Method). A local government must initiate the process almost a year before it intends to begin using the Uniform Method to collect the assessments. The process begins with the passage of a resolution of intent prior to January 1 or, if the property appraiser, tax collector, and local government agree, March 1. The adoption of a resolution of intent does not obligate the local government to use the method or to impose a special assessment, but it is a prerequisite to using the Uniform Method.⁴

The local government must publish notice of its intent to consider a resolution to use the Uniform Method weekly for four consecutive weeks prior to a public hearing on the matter. If the resolution is adopted, the governing board must send a copy of it to the property appraiser, the tax collector, and the Florida Department of Revenue by January 10 or, if the property appraiser, tax collector, and local government agree, March 10. The City must comply with this requirement by adopting a resolution of intent and timely notifying the Charlotte County Property Appraiser, the Charlotte County Tax Collector and the Florida Department of Revenue.

The City then will adopt a master capital project and service assessment ordinance, which outlines the procedural steps for imposing capital and service special assessments generally. Pursuant to this master ordinance, the City will then adopt an initial assessment resolution for Fiscal Year 2018-19. The initial assessment resolution will, among other things, briefly describe the capital improvement, the method of apportionment, set a public hearing date for final consideration, and direct and authorize the mailed and published notifications to those property owners included on an initial assessment roll.

Upon adoption of the initial assessment resolution, the City will have made the tentative decision to move forward with the imposition of special assessments to fund the assessable

⁴ A copy of a proposed resolution of intent and the required newspaper notices was provided to the City by NG&N on September 9, 2016.

cost calculations for the Harbor Access Project. After adopting the necessary implementing documentation, the city must develop a computerized, non-ad valorem assessment roll that contains the basis and rate of the assessment and electronically applies it to each parcel subject to the assessment. The non-ad valorem assessment roll must utilize the parcel identification number and must be compatible with the ad valorem tax roll.

Under section 197.3632, Florida Statutes, property appraisers must annually provide certain information to local governments by June 1 to assist the local government in the preparation of special assessment rolls to be collected under the Uniform Method. The information must conform to that contained on the ad valorem tax roll, but the property appraiser need not submit information that is not on the ad valorem tax roll. If the local government determines that the information supplied by the property appraiser is insufficient to develop its non-ad valorem assessment roll, the local government must obtain information from other sources.

Statutory requirements provide that a capital improvement special assessment roll must be adopted at a public hearing by September 15 so the tax collector can merge it with the ad valorem tax roll and mail a single bill for the combined collection of assessments and ad valorem taxes. At least 20 days prior to the public hearing, the City must publish notice of the hearing in a newspaper of general circulation within the City's boundaries and by individual first class United States mail to the owners of property subject to the assessment.

At the public hearing, the City will adopt a final assessment resolution which, among other things, will confirm the initial assessment resolution, articulate the rate of assessments, approve the assessment roll, direct and authorize the method of collection, and provide for a prepayment period for the assessed property owners.

Once the final assessment resolution is adopted and the roll certified by September 15 to the Charlotte County Tax Collector to be collected along with ad valorem taxes, any minor modifications, corrections or errors must be made in accordance with the procedure applicable to the correction of errors on the tax roll, upon written direction from the City to the Charlotte County Tax Collector.

During this process, the City and Charlotte County will enter into an interlocal agreement for inclusion within the assessment program of the properties along the northwest side of River Bay Drive in the unincorporated area of Charlotte County. Charlotte County will be required to impose the Assessments on these properties through the same process outlined above.⁵

Collection of the special assessments and ad valorem taxes begins in November. Failure to pay the assessments and taxes result in the issuance of a tax certificate and may result in the sale of a tax deed.

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⁵ Nabors, Giblin & Nickerson P.A. represents Charlotte County on various special assessment issues. Charlotte County has an appropriate procedural ordinance in place to accommodate this assessment program if the County elects to participate. NG&N has not discussed this project with the County.

CRITICAL EVENTS SCHEDULE

The following provides a general review related to the remaining critical events schedule:

EVENT	DATE
NGN Prepares Notice and Resolution of Intent for the City's adoption to utilize the tax bill collection method on November 2018 tax bill (adv. 11/14; 11/21; 11/28; 12/5)	September 9, 2017
NGN provides draft Ordinance Amendment to City for review and comment	October 26, 2017
City adopts Resolution of Intent	December 7, 2017
City provides comments on draft Ordinance Amendment to NGN	TBD
NGN provides Ordinance Amendment for Agenda Package	TBD
1 st Reading of Amending Ordinance	TBD
NGN sends reminder letter for advertising public hearing on Amending Ordinance	TBD
2 nd Reading and Adoption of Amending Ordinance	TBD
City, NGN and City Engineer draft methodology summary report	November 2017 – February 2018
City to determine assignment of Water Access Units and assessment area and rates for upcoming fiscal year	January - May 2018
City or City Engineer to develop Assessment Roll	TBD
NGN provides City with draft Initial Assessment Resolution	TBD
NG&N provides City with Initial Assessment Resolution for agenda package	TBD
City adopts Initial Assessment Resolution	TBD
NG&N drafts first class notice package and advertisement	TBD
NG&N provides City with draft Final Assessment Resolution	TBD
<ol style="list-style-type: none"> 1. City to mail any required First Class Notices 2. City to Publish notice of Public Hearing to adopt Final Assessment Resolution 	TBD (must be 20 days prior to Public Hearing)
City provides comments on draft Final Assessment Resolution	TBD
NG&N provides City with Final Assessment Resolution for agenda package	TBD
Public Hearing to Adopt Final Assessment Resolution	TBD (must be no later than September 15)
Prepayment Period	TBD
City Certifies Assessment Roll to Tax Collector	By September 15
Tax Bill Mailed	By November 1

Appendix A

Map of Benefit Area

APPENDIX A
MAP OF BENEFIT AREA

