

CITY OF TAMARAC, FLORIDA

RESOLUTION NO. 2020 - ____

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, RELATING TO THE PROVISION OF STORMWATER MANAGEMENT PROVIDED BY THE CITY'S STORMWATER UTILITY; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING AND CONFIRMING THE METHOD OF CALCULATING THE COST OF STORMWATER MANAGEMENT SERVICE AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; DIRECTING THE CITY MANAGER TO PREPARE OR DIRECT THE PREPARATION OF A PRELIMINARY STORMWATER UTILITY MANAGEMENT FEE ROLL BASED UPON THE METHODOLOGY SET FORTH HEREIN; ESTABLISHING A PUBLIC HEARING FOR THE PROPOSED STORMWATER UTILITY MANAGEMENT FEES AND DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF TAMARAC, FLORIDA, AS FOLLOWS:

ARTICLE 1

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. PURPOSE AND DEFINITIONS. This resolution constitutes the Preliminary Fee Resolution for the levy of the annual Stormwater Utility Management Fee and collection using the Uniform Assessment Collection Act, as defined in the Ordinance. All capitalized words and terms have the meaning as set forth in the Ordinance. As used in this resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

“ERU Value”, the City has computed an “ERU Value” of 1830 square feet, which shall be used to calculate the number of ERUs attributable to each Tax Parcel.

“Ordinance” means Ordinance 2013-05, adopted by the Commission on April 24, 2013, as may be amended from time to time and as codified in Chapter 22 of the City’s Code of Ordinances.

SECTION 1.02. 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 genders, unless the sense indicates otherwise.

SECTION 1.03. LEGISLATIVE FINDINGS. It is hereby ascertained, determined, and declared that:

(A) The general and legislative findings set forth in the Ordinance, codified in Section 22-259, are incorporated and relied upon herein.

(B) The special benefits provided by the Stormwater Management Services to all Assessed Property located within the Stormwater Service Area (the same area as the Stormwater Improvement Area) include, but are not limited to: (1) the provision of Stormwater Management Services and the availability and use of facilities and improvements by the owners and occupants of Assessed Property to properly and safely detain, retain, convey, and treat Stormwater discharged from Assessed Property; (2) stabilization of or the increase of Developed Property values; (3) increase safety and better access to Assessed Property; (4) improved appearance; (5) rendering

Developed Property more adaptable to a current or reasonably foreseeable uses; (6) alleviation of the burdens caused by Stormwater runoff and accumulation attendant with the use of Assessed Property; and (7) fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the Stormwater Area.

(C) The City's Stormwater Management Services are necessitated by the existence of Impervious Area and the use by Assessed Properties of the City's Stormwater Utility Management System. Undeveloped Property has minimal Impervious Area, but utilize the City's Stormwater Utility Management System. As a result, the Ordinance provides for a charge per acre for Undeveloped Properties. At the same time, the City's methodology is based upon ERUs being assigned to Assessed Properties. Having multiple methodologies creates the potential of additional work and expense in creating the Assessment Roll, and in coordinating with the Broward County Property Appraiser. The per acre Stormwater Utility Management Fee for Undeveloped Property can be calculated by using a formula based upon ERUs, permitting the City to use a single methodology to calculate the Stormwater Utility Management Fee. As a result, it is fair and reasonable to calculate the per acre Stormwater Utility Management Fee for Undeveloped Properties by multiplying a factor by the ERU Value.

(D) Pervious portions of properties used as golf courses do not utilize the City's Stormwater Management System; rather, they contain no impervious space and contain their own stormwater. As a result, it is fair and reasonable not to impose a Stormwater Utility Management Fee upon the pervious portions of those parcels of property used as golf courses.

(D) The Stormwater Utility Management Fees authorized by the Ordinance and this Preliminary Fee Resolution provide an equitable method of funding the Stormwater Service Cost

attributed to Assessed Property by fairly and reasonably allocating the Stormwater Service Cost to specially benefited Assessed Property. Assessed Property is classified on the basis of the Stormwater burden expected to be generated by the physical characteristics and use of such property.

(E) Any shortfall in the expected proceeds from the Stormwater Utility Management Fee due to any reduction or exemption from payment of the Stormwater Utility Management Fee required by law or authorized by the City Commission shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Stormwater Utility Management Fee collected through the Uniform Assessment Collection Act. In the event a court of competent jurisdiction determines any exemption or reduction by the City Commission is improper or otherwise adversely affects the validity of the Stormwater Utility Management Fee imposed for this Fiscal Year, the sole and exclusive remedy shall be the imposition of a Stormwater Utility Management Fee upon each affected Tax Parcel in the amount of the Stormwater Utility Management Fee that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel.

ARTICLE II

STORMWATER UTILITY MANAGEMENT FEES

SECTION 2.01. STORMWATER SERVICE AREA.

(A) The City Commission hereby establishes the entire incorporated area of the City of Tamarac as the Stormwater Service Area/Stormwater Improvement Area (collectively, the Stormwater Service Area.)

(B) The Stormwater Utility shall provide Stormwater Management Services to all Assessed Property within the Stormwater Service Area. All or any portion of the Stormwater Service Cost may be funded from the proceeds of the Stormwater Utility Management Fees.

(C) The Stormwater Utility may also acquire and construct capital facilities to assist and facilitate the provision of Stormwater Management Services within the Stormwater Service Area.

SECTION 2.02. IMPOSITION AND COMPUTATION.

(A) A Stormwater Utility Management Fee shall be imposed against all Assessed Property within the Stormwater Service Area. The Stormwater Service Cost shall be assessed against all Tax Parcels of Assessed Property within the Stormwater Service Area at a rate of assessment based upon the special benefit accruing to such Assessed Property from the City's provision of Stormwater Management Services, measured by the number of ERUs attributable to each Tax Parcel.

(B) The Stormwater Utility Management Fee will be computed for each Tax Parcel of Developed Property located within the Stormwater Service Area by multiplying the number of ERUs attributable thereto by \$135.53 annually.

(C) For each parcel of Undeveloped Property, the Stormwater Utility Management Fee shall be 1.6237 ERUs per acre or portion thereof.

(D) The City Commission hereby finds that the rate per ERU of \$135.53 for Developed Property and 1.6237 ERUs per acre or portion thereof for Undeveloped Property ensures that the aggregate Stormwater Utility Management Fee within the Stormwater Service Area does not

exceed the Stormwater Service Cost for the Stormwater Utility for the Fiscal Year beginning on October 1, 2020.

(E) The total Stormwater Service Cost to be funded by the Stormwater Utility Management Fees hereby shall be \$6,584,748.

(F) Any state law requirements for exemptions, including without limitation, condominium and HOA common areas, shall apply to the Stormwater Utility Management Fee.

SECTION 2.03. STORMWATER UTILITY MANAGEMENT FEE ROLL.

The City Manager is hereby directed to prepare, or direct the preparation of, the updated Stormwater Utility Management Fee Roll for the Stormwater Utility Management Fee in the manner provided in the Ordinance. A copy of this Preliminary Fee Resolution and the Stormwater Utility Management Fee Roll for the Stormwater Utility Management Fee 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 Stormwater Utility Management Fee Roll be in printed form if the amount of the Stormwater Utility Management Fee for each Tax Parcel can be determined by use of an available computer terminal.

SECTION 2.04. METHOD OF COLLECTION

(A) The Stormwater Utility Management Fee levied on all Assessed Property on the Stormwater Utility Management Fee Roll will be collected using the Uniform Assessment Collection Act.

(B) The City may bill the Stormwater Utility Management Fee on Assessed Properties for which the Uniform Assessment Collection Act does not apply by any other legally available means.

ARTICLE III

DETERMINATION OF ERUs

SECTION 3.01. CLASSIFICATION OF TAX PARCELS. Each Tax Parcel located within the Stormwater Service Area shall be assigned to one of the following classifications set forth in Section 22-253(a): Residential Property, Non-residential Property, or Undeveloped Property.

SECTION 3.02. RESIDENTIAL PROPERTY PARCELS.

(A) The Commission hereby finds and determines as follows:

(1) The cost of measuring or verifying the Impervious Area for each individual Residential Property greatly exceeds any benefit to be derived from individual measurement and verification.

(2) Through a statistically valid sampling procedure, including review of City data and the ad valorem tax roll information for residential properties within the City, it has been determined that the average Residential Property within the Stormwater Service Area contains 1,830 square feet of Impervious Area.

(B) The City has determined that all Residential Properties within the Stormwater Service Area are likely to have a similar impact on the Stormwater system; therefore, it is fair and reasonable to assign one (1) ERU to each Residential Property.

SECTION 3.03. NON-RESIDENTIAL PROPERTY PARCELS.

For Non-Residential Property, the impervious area of the property is the determining factor as to the calculation of the Stormwater Management Utility Fee. The Fee for Non-Residential

Property shall be calculated using the formula set forth in Section 22-254 of the City's Code of Ordinances.

SECTION 3.04. UNDEVELOPED PROPERTY PARCELS.

The Stormwater Management Utility Fee for Undeveloped Property shall be a set rate based upon acreage, as described in Section 22-254 of the City's Code of Ordinances.

ARTICLE IV

NOTICE AND PUBLIC HEARING

SECTION 4.01. PUBLIC HEARING. There is hereby established a public hearing to be held at 5:05 p.m. on September 14, 2020, in the City Commission Chambers of Tamarac City Hall, 7525 Northwest 88th Avenue, Tamarac, Florida 33321, to consider imposition of the Stormwater Utility Management Fees and their collection pursuant to this Preliminary Fee Resolution.

SECTION 4.02. NOTICE BY PUBLICATION. The City Manager, or his designee, shall publish a notice of the public hearing authorized by Section 4.01 hereof in the manner and the time provided in the Ordinance. The published notice shall be in substantially the form attached hereto as Appendix A.

SECTION 4.03. NOTICE BY MAIL. The City Manager, or his designee, shall, at the time and in the manner specified in the Ordinance, provide mailed notice of the public hearing authorized by Section 4.01 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll.

ARTICLE V

GENERAL PROVISIONS

SECTION 5.01. ADJUSTMENT OF ERUs

(A) As authorized by Section 22-266 of the Ordinance, petitions for review of the number of ERUs attributed to any Tax Parcel shall be submitted to the City's Utility Director, who shall have authority to correct any errors made in applying the provisions of this Preliminary Fee Resolution to the Tax Parcel. The following procedures shall apply to all petitions.

(1) Each petition shall be made in writing to the City's Utility Director by the owner of the Tax Parcel or such owner's authorized agent, setting forth, in detail, the grounds upon which adjustment is sought.

(2) The petition must be filed with the City's Utility Director within thirty (30) days of the receipt of the mailed notice and shall be reviewed by the City's Utility Director, or his designee within thirty (30) days of the date of receipt by the City. The petitioner may be required, at petitioner's own cost, to provide supplemental information to the City's Utility Director including, but not limited to, survey data approved by a professional land surveyor and/or engineering reports approved by a professional engineer. Failure to provide such information may result in the denial of the petition.

(3) The City's Utility Director shall provide a response in writing, and his determination shall be final.

(4) The filing of a petition shall not extend the time for payment of any Stormwater Utility Management Fee. If the number of ERUs is adjusted for any Tax Parcel, the Stormwater Utility Management Fee shall be corrected by the City in accordance with the Ordinance. If the

Stormwater Utility Management Fee has been paid prior to adjustment of the number of ERUs, the City shall refund the amount by which the Stormwater Utility Management Fee has been reduced, adjusted for any early payment discount taken by the owner.

(5) The City Manager, or his designee, may initiate adjustments to the number of ERUs attributed to any Tax Parcel. If the number of ERUs is reduced for any Tax Parcel, the Stormwater Utility Management Fee shall be corrected in accordance with the Ordinance. In such event, if the Stormwater Utility Management Fee has been paid prior to adjustment of the number of ERUs, the City shall refund the amount by which the Stormwater Utility Management Fee has been reduced. If the number of ERUs is increased for any Tax Parcel, the adjustment shall become effective for Stormwater Utility Management Fees in subsequent Fiscal Years.

SECTION 5.02. SEVERABILITY. If any clause, section, other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or applications of this Resolution.

SECTION 5.03. CONFLICT. All resolutions or parts of resolutions on in conflict herewith be, and the same are hereby repealed to the extent of such conflict.

SECTION 5.04. EFFECTIVE DATE. This Resolution shall become effective immediately upon its passage and adoption.

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**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF TAMARAC,
FLORIDA, THIS 8th DAY OF JULY, 2020.**

CITY OF TAMARAC FLORIDA

MICHELLE J. GOMEZ, MAYOR

ATTEST:

JENNIFER JOHNSON, CMC
CITY CLERK

RECORD OF COMMISSION VOTE:

MAYOR GOMEZ

DIST 1: V/M. BOLTON

DIST 2: COMM. GELIN

DIST 3: COMM. FISHMAN

DIST 4: COMM. PLACKO

I HEREBY CERTIFY THAT I HAVE
APPROVED THIS RESOLUTION
AS TO FORM:

SAMUEL S. GOREN
CITY ATTORNEY

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

To Be Published on August 16, 2020

[MAP OF STORMWATER SERVICE AREA]

**NOTICE OF HEARING TO IMPOSE AND
PROVIDE FOR COLLECTION OF STORMWATER UTILITY MANAGEMENT FEES**

Notice is hereby given that the City Commission of City of Tamarac, Florida (“City”), will conduct a public hearing to consider imposing Stormwater Utility Management Fees within the City of Tamarac, as shown above, and collecting such on the annual Property Tax Bills.

The hearing will be held at 5:05 p.m. on September 14, 2020, in the Commission Chambers of Tamarac City Hall, 7525 Northwest 88th Avenue, Tamarac, Florida, 33321 for the purpose of receiving public comment on the proposed Stormwater Utility Management Fees. All affected property owners have a right to appear at the hearing and to file written objections with the City Commission within 20 days of this notice. If a person decides to appeal any decision made by the City Commission with respect to any matter considered at the hearing, such person 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. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk’s office at (954) 597-3505 at least 48 hours (2 days) prior to the date of the hearing.

The Stormwater Utility Management Fees have been proposed to fund the City’s cost to provide Stormwater Management Service within the City of Tamarac, as shown above. The Stormwater Utility Management Fees are based upon the estimated amount of stormwater runoff generated by impervious surface on the property. Impervious surfaces include the rooftop, patios, driveways, parking lots, and similar areas. The City has determined that the average Residential

Property in the Stormwater Service Area includes 1,830 square feet of impervious surface, which is defined as the “Equivalent Stormwater Unit” or “ERU Value.” The annual Stormwater Utility Management Fee rate for the Fiscal Year beginning October 1, 2020, will be \$135.53 for each ERU. Each residential property in the City will be charged for one ERU, which is \$135.53 for the Fiscal Year beginning October 1, 2020.

Generally, the number of ERUs was calculated for each parcel of Nonresidential Property by dividing the impervious surface area by the ERU value of 1,830 square feet. For Undeveloped Property, the amount of Stormwater Utility Management Fee shall be 1.6237 ERUs per acre or portion thereof. A more specific description is set forth in Chapter 22 of the City’s Code of Ordinances, and the Preliminary Fee Resolution adopted by the City Commission on July 8, 2020. Copies of the Ordinance, the Preliminary Fee Resolution and the Stormwater Utility Management Fee Roll are available for inspection at the City Clerk’s Office, City Hall, 7525 Northwest 88th Avenue, Tamarac, Florida 33321.

The Stormwater Utility Management Fees will be collected on the ad valorem tax bill to be mailed in November 2020, as authorized by section 197.3632, Florida Statutes. Failure to pay the Stormwater Utility Management Fees will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact the Finance Department at (954) 597-3550, Monday through Friday between 8:30 a.m. and 5:00 p.m.

**CITY CLERK
OF TAMARAC, FLORIDA**