ORDINANCE NO. 2016-21

AN ORDINANCE ADOPTED BY THE CITY COUNCIL OF THE CITY OF GREENACRES, FLORIDA, RELATING TO THE PROVISION OF FIRE SERVICES, FACILITIES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF THE CITY OF GREENACRES, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF FIRE PROTECTION ASSESSMENTS AGAINST PROPERTY; PROVIDING CERTAIN DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "FIRE PROTECTION ASSESSMENT"; ESTABLISHING A PROCEDURE FOR IMPOSING FIRE PROTECTION ASSESSMENTS; PROVIDING THAT FIRE PROTECTION ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A FIRE PROTECTION ASSESSMENT, COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING A PROCEDURE FOR THE COLLECTION OF FIRE PROTECTION ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS; pursuant to Article VIII, Section 2(b), Florida Constitution and Sections 166.021 and 166.041, Florida Statutes, the City Council of the City of Greenacres has the home rule power to impose special assessments on properties which receive a special benefit from a service provided by the City; and

WHEREAS; the service costs assessed must be fairly and reasonably apportioned among the properties which receive the special benefit; and

WHEREAS; fire suppression, prevention and other fire services protect the value and integrity of improvements to real property and protect the use and enjoyment of such property**;** and

WHEREAS; the availability of comprehensive fire services reduces the cost of fire insurance and enhance the market perception and property values; and

WHEREAS; the City Council desires to develop an annual recurring special assessment program to fund the assessable costs of providing fire services, excluding emergency medical services (EMS);

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF GREENACRES, FLORIDA, AS FOLLOWS:

Section 1. Fire Protection Assessments

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A. Definitions:

Annual Rate Resolution means the resolution establishing the rate at which a Fire Protection Assessment for a specific Fiscal Year will be computed. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which a Fire Protection Assessment is imposed or reimposed.

Assessed Property means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the fire protection services, programs or facilities identified in the Initial Assessment Resolution or a subsequent Preliminary Rate Resolution.

Assessment Roll means the special assessment roll relating to a Fire Protection Assessment approved by a Final Assessment Resolution.

Building means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lot or spaces are offered for use, rent or lease for the placement of mobile homes, recreational vehicles, or the like for residential purposes.

Building Permit means an official document or certificate issued by the City, under the authority of ordinance or law, authorizing the construction or siting of any Building within the City. The term Building Permit shall also include set up or tie down permits for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

City means the City of Greenacres, Florida.

City Clerk means the City Clerk of the City of Greenacres.

City Council means the City Council of the City of Greenacres, Florida.

City Manager means the Chief Administrative Officer of the City, designated by the City Council to be responsible for coordinating Fire Protection Assessments or such person's designee.

County means Palm Beach County, Florida.

Final Assessment Resolution means the resolution which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of Fire Protection Assessments.

Fire Protection Assessment means a special assessment lawfully imposed by the City Council against Assessed Property to fund all or any portion of the cost of the provision of fire protection services, facilities, or programs providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

Fire Protection Assessed Cost means the amount determined by the City Council to be assessed in any Fiscal Year to fund all or any portion of the cost of the provision of fire protection services, facilities, or programs which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (1) the cost of physical construction, reconstruction or completion of any required facility or improvement; (2) the costs incurred in any required acquisition or purchase; (3) the cost of all labor, materials, machinery, and equipment; (4) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (5) the cost of computer services, data processing, and communications; (6) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (7) the cost of any indemnity or surety bonds and premiums for insurance; (8) the cost of salaries, volunteer pay, workers' compensation insurance, pension or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (9) the cost of construction plans and specifications, surveys and estimates of costs; (10) the cost of engineering, financial, legal, and other professional services; (11) the costs of compliance with any contracts or agreements entered into by the City to provide fire protection services; (12) all costs associated with the structure, implementation, collection, and enforcement of the Fire Protection Assessments, including any service charges of the Tax Collector and/or Property Appraiser and amounts necessary to off-set discounts received for early payment of Fire Protection Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Fire Protection Assessments collected; (13) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of fire protection services, facilities, or programs, and such other expenses as may be necessary or incidental to any related financing authorized by the City Council by subsequent resolution; (14) a reasonable amount for contingency and anticipated delinquencies and uncollectible Fire Protection Assessments; and (15) reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing components of Fire Protection Assessed Cost. In the event the City also imposes an impact fee upon new growth or development for fire protection related capital improvements, the Fire Protection Assessed Cost shall not include costs attributable to capital improvements necessitated by new growth or development that

will be paid by such impact fees. Fire protection services include, but are not limited to, fire suppression, prevention, education and inspection services and first response medical services.

Fiscal Year means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City.

Government Property means property owned by the United States of America or any agency thereof, a sovereign state or nation, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

Initial Assessment Resolution means the resolution which shall be the initial proceeding for the identification of the Fire Protection Assessed Cost for which an assessment is to be made and for the imposition of a Fire Protection Assessment.

Maximum Assessment Rate means the highest rate of a Fire Protection Assessment established by the City Council in an Initial Assessment Resolution or Preliminary Rate Resolution and confirmed by the City Council in the Final Assessment Resolution or Annual Rate Resolution.

Ordinance means this Fire Protection Assessment Ordinance.

Owner shall mean the Person reflected as the owner of Assessed Property on the Tax Roll.

Person means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

Preliminary Rate Resolution means the resolution initiating the annual process for updating the Assessment Roll and directing the reimposition of Fire Protection Assessments pursuant to an Annual Rate Resolution.

Property Appraiser means the Palm Beach County Property Appraiser.

Tax Collector means the Palm Beach County Tax Collector.

Tax Roll means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

Uniform Assessment Collection Act means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

B. 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 Ordinance; and the term hereafter means after, and the term heretofore means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

C. General Findings.

It is hereby ascertained, determined, and declared that:

(1) Pursuant to Article VIII, Section 2(b), Florida Constitution, and Sections 166.021 and 166.041, Florida Statutes, the City Council has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of City ordinances.

(2) The City Council may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Council may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to fire protection services, facilities or programs of the City. The purpose of this Ordinance is to provide procedures and standards for the imposition of city-wide Fire Protection Assessments under the general home rule powers of a municipality to impose special assessments; to authorize a procedure for the funding of fire protection services, facilities, or programs providing special benefits to property within the City; and to legislatively determine the special benefit provided to Assessed Property from the provision of combined fire control and first response medical services by the City under its consolidated fire protection program.

(3) On February 22, 2016, the City Council adopted Resolution 2016-09, authorizing an agreement with the Palm Beach County Property Appraiser, and on April 18, 2016, adopted Resolution No. 2016-08, authorizing an agreement with the Palm Beach County Tax Collector, declaring its intent to use the uniform method of collection for non-ad valorem assessments under Section 197.3632, Florida Statutes. The City subsequently provided the Palm Beach County Property Appraiser and the Palm Beach County Tax Collector with the required notices by registered mail as required under Section 197.3632, Florida Statutes.

(4) The annual Fire Protection Assessments to be imposed shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(5) The Fire Protection Assessments are imposed by the City Council, not the Palm Beach County Board of County Commissioners, Property Appraiser or Tax Collector. The duties of the Property Appraiser and Tax Collector are ministerial.

D. Legislative Determination of Special Benefit to Property.

It is hereby ascertained and declared that the fire protection services, facilities, and programs provide a special benefit to property that is improved by the existence or construction of a Building based upon the following legislative determinations:

(1) Fire protection services possess a logical relationship to the use and enjoyment of improved property by protecting the value of the improvements and structures through the provision of available fire protection services; protecting the life and safety of intended occupants in the use and enjoyment of improvements and structures within improved parcels; lowering the cost of fire insurance by the presence of a professional and comprehensive fire protection program within the City; and containing the spread of fire incidents occurring on vacant property with the potential to spread and endanger the structures and occupants of improved property.

(2) The combined fire suppression and first response medical services of the City under its existing consolidated fire protection program enhance and strengthen the relationship of such services to the use and enjoyment of Buildings within improved parcels of property within the areas served by the City.

(3) The combined fire control and first response medical services of the City under its existing consolidated fire protection program enhance the value of business and commercial property that is improved by the existence or construction of a Building; this enhanced value can be anticipated to be reflected in the rental charge or value of such business or commercial property.

E. General Authority.

(1) The City Council is hereby authorized to impose an annual Fire Protection Assessment to fund all or any portion of the Fire Protection Assessed Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of fire protection services, facilities, or programs.

(2) The amount of the Fire Protection Assessment imposed in a Fiscal Year against a parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Fire Protection Assessed Cost among properties on a basis reasonably related to the special benefit provided by fire protection services, facilities, or programs funded with assessment proceeds.

(3) Nothing contained in this Section shall be construed to require the imposition of Fire Protection Assessments against Government Property.

F. Initial Proceedings.

The initial proceeding for the imposition of a Fire Protection Assessment shall be the adoption of an Initial Assessment Resolution by the City Council; (1) containing a brief and general description of the fire protection services, facilities, or programs to be provided; (2) determining the Fire Protection Assessed Cost to be assessed; (3)

describing the method of apportioning the Fire Protection Assessed Cost and the computation of the Fire Protection Assessment for specific properties; (4) establishing an estimated assessment rate for the upcoming Fiscal Year, (5) establishing a Maximum Assessment Rate, if desired by the City Council, and (6) directing the City Manager to prepare the initial Assessment Roll; publish the required notice, and mail the notice using information available from the Tax Roll.

G. Initial Assessment Roll.

(1) The City Manager shall prepare, or direct the preparation of, the initial Assessment Roll, which shall contain the following:

a. A summary description of all Assessed Property conforming to the description contained on the Tax Roll;
b. The name of the Owner of Record of the Assessed Property as shown on the Tax Roll; and
c. The amount of the Fire Protection Assessment to be imposed against each such parcel of Assessed Property.

(2) The initial Assessment Roll shall be retained by the City Manager and shall be open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Fire Protection Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

H. Notice by Publication.

Upon completion of the Initial Assessment Roll, the City Manager shall publish, or direct the publication of, once in a newspaper of general circulation within the City, a notice stating that at a meeting of the City Council on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the City Council will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve or amend the aforementioned Initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include: (1) a geographic depiction of the property subject to the Fire Protection Assessment; (2) a brief and general description of the fire protection services, facilities, or programs to be provided; (3) the rate of assessment including a Maximum Assessment Rate in the event one was adopted; (4) the procedure for objections; (5) the method by which the Fire Protection Assessment will be collected; and (6) a statement that the Initial Assessment Roll is available for inspection at the Office of the City Manager and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the City Manager.

I. Notice by Mail.

In addition to the required published notice, the City Manager shall provide notice, or direct the provision of notice, of the proposed Fire Protection Assessment by first class

mail to the Owner of each parcel of property (except Government Property) subject to the Fire Protection Assessment. Such notice shall include: (1) the purpose of the Fire Protection Assessment; (2) the rate of assessment to be levied against each parcel of property, including a Maximum Assessment Rate in the event one was adopted; (3) the unit of measurement applied to determine the Fire Protection Assessment; (4) the number of such units contained in each parcel of property; (5) the total revenue to be collected by the City from the Fire Protection Assessment; (6) a statement that failure to pay the Fire Protection Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of the notice; and (8) the date, time, and place of the hearing. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed, at least 20 calendar days prior to the hearing, to each Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The City Manager may provide proof of such notice by affidavit. Failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Protection Assessment imposed by the City Council.

J. Adoption of Final Assessment Resolution.

At the day and time named in such notice, or to which an adjournment or continuance may be taken by the City Council, the City Council shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Council adopt the Final Assessment Resolution which shall: (1) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (2) establish the rate of assessment to be imposed in the upcoming Fiscal Year; (3) establish a Maximum Assessment Rate that may be imposed in the event such rate was adopted; (4) approve the Initial Assessment Roll, with such amendments as it deems just and right; and (5) determine the method of collection. The adoption of the Final Assessment Resolution by the City Council shall constitute a legislative determination that all parcels assessed derive a special benefit from the fire protection services, facilities, or programs to be provided or constructed and a legislative determination that the Fire Protection Assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the Final Assessment Resolution shall be filed with the City Manager at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Fire Protection Assessments are imposed or reimposed hereunder.

K. Effect of Final Assessment Resolution.

The Fire Protection Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the determination of special benefit and fair apportionment

to the Assessed Property; the method of apportionment and assessment; the initial rate of assessment; the Maximum Assessment Rate, if any; the Initial Assessment Roll; and the levy and lien of the Fire Protection Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council action on the Final Assessment Resolution. The Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, as required by the Uniform Assessment Collection Act, or such other official as the City Council by resolution shall designate.

L. Adoption of Annual Assessment Resolution.

(1) The City Council shall adopt an Annual Rate Resolution during its budget adoption process for each Fiscal Year following the initial Fiscal Year for which a Fire Protection Assessment is imposed hereunder.

(2) The initial proceedings for the adoption of an Annual Rate Resolution shall be the adoption of a Preliminary Rate Resolution by the City Council: (a) containing a brief and general description of the fire protection services, facilities, or programs to be provided; (b) determining the Fire Protection Assessed Cost to be assessed for the upcoming Fiscal Year; (c) establishing the estimated assessment rate for the upcoming Fiscal Year; (d) establishing or increasing a Maximum Assessment Rate, if desired by the City Council; (e) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Rate Resolution for the upcoming Fiscal Year; and (f) directing the City Manager to (g) update the Assessment Roll, (h) provide notice by publication and first class mail to affected Owners in the event circumstances described in subsection (i) of this Section so require, and (j) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the City.

(3) The Annual Rate Resolution shall establish the rate of assessment to be imposed in the upcoming Fiscal Year and approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the City Council deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Rate Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(4) Nothing herein shall preclude the City Council from providing annual notification to all Owners of Assessed Property.

(5) The City Council may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Rate Resolution and confirm such Maximum Assessment Rate in the event notice of such Maximum Rate Assessment has been included in the required notices.

(6) In the event that (a) the proposed Fire Protection Assessment for any Fiscal Year exceeds the rates of assessment adopted by the City Council including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property; (b) the purpose for which the Fire Protection

Assessment is imposed or the use of the revenue from the Fire Protection Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property; (c) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Fire Protection Assessment from that represented by notice previously provided to the Owners of Assessed Property; or (d) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements and inform the Owner of the date, time, and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Fire Protection Assessment imposed by the City Council.

(7) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Fire Protection Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Council action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Fire Protection Assessment not challenged within the required 20-day period for those Fire Protection Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(8) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or by such other official as the City Council by resolution shall designate. If the Fire Protection Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

M. Lien of Fire Protection Assessments.

Upon the adoption of the Assessment Roll, all Fire Protection Assessments shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a Fire Protection Assessment shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Fire Protection Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the

lien date for ad valorem taxes imposed under the Tax Roll. The lien for a Fire Protection Assessment collected under the alternative method of collection shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

N. Revisions to Fire Protection Assessments.

If any Fire Protection Assessment made under the provisions of this Section is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the City Council is satisfied that any such Fire Protection Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Council has failed to include or omitted any property on the Assessment Roll which property should have been so included, the City Council may take all necessary steps to impose a new Fire Protection Assessment against any property benefited by the Fire Protection Assessed Costs, following as nearly as may be practicable, the provisions of this Section and in case such second Fire Protection Assessment is annulled, vacated, or set aside, the City Council may obtain and impose other Fire Protection Assessments until a valid Fire Protection Assessment is imposed.

O. Immateriality of Procedural Irregularities.

Any informality or irregularity in the proceedings in connection with the levy of any Fire Protection Assessment under the provisions of this Section shall not affect the validity of the same after the approval thereof, and any Fire Protection Assessment as finally approved shall be competent and sufficient evidence that such Fire Protection Assessment was duly levied, that the Fire Protection Assessment was duly made and adopted, and that all other proceedings adequate to such Fire Protection Assessment were duly had, taken, and performed as required by this Section; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

P. Correction of Errors and Omissions.

(1) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Manager, City Council, or their deputies or employees, shall operate to release or discharge any obligation for payment of a Fire Protection Assessment imposed by the City Council under the provision of this Section.

(2) When it shall appear that any Fire Protection Assessment should have been imposed against a parcel of property specially benefited by the provision of fire protection services, facilities, or programs, but that such property was omitted from the Assessment Roll; or such property was erroneously assessed; or was not listed on the Tax Roll as an individual parcel of property as of the effective date of the Assessment Roll approved by the Annual Rate Resolution for any upcoming Fiscal Year, the City Council may, upon provision of a notice by mail provided to the Owner of the omitted or erroneously assessed parcel in the manner and form provided, impose the applicable Fire Protection Assessment for the Fiscal Year in which such error or omission is discovered, in addition to the applicable Fire Protection

Assessment due for the prior two Fiscal Years. Such Fire Protection Assessment shall constitute a lien against Assessed Property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles, and claims in and to or against the real property involved, shall be collected as provided, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(3) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the City Manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any property subject to a Fire Protection Assessment, to reclassify property based upon presentation of competent and substantial evidence, and correct any error in applying the Fire Protection Assessment apportionment method to any particular parcel of property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Fire Protection Assessment imposed under the provisions of this Section. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager and not the Property Appraiser or Tax Collector.

(4) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the City Manager.

Q. Interim Assessments.

(1) An interim Fire Protection Assessment may be imposed against all property for which a Building Permit is issued after the adoption of the Annual Rate Resolution. The amount of the interim Fire Protection Assessment shall be calculated upon a monthly rate, which shall be one- twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Fire Protection Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Fire Protection Assessment may also include an estimate of the subsequent Fiscal Year's Fire Protection Assessment. Issuance of the Building Permit without the payment in full of the interim Fire Protection Assessment shall not relieve the Owner of such property of the obligation of full payment. Any interim Fire Protection Assessment not collected prior to the issuance of the Building Permit may be collected pursuant to the Uniform Assessment Collection Act, under the alternative collection method provided, or by any other method authorized by law. Any interim Fire Protection Assessment shall be deemed due and payable on the date the Building Permit was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Building Permit.

(2) In the event a Building Permit expires prior to completion of the Building for which it was issued, and the applicant paid the interim Fire Protection Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Fire Protection Assessment. Failure to timely apply for a refund of the Fire Protection Assessment shall waive any right to a refund.

(3) The application for refund shall be filed with the City and contain the following:

a. The name and address of the applicant;
b. The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;
c. The date the Fire Protection Assessment was paid; and
d. The date the Building Permit was issued and the date of expiration.

(4) After verifying that the Building Permit has expired and that the Building has not been completed, the City shall refund the interim Fire Protection Assessment paid for such Building.

(5) A Building Permit which is subsequently issued for a Building on the same property which was subject of a refund shall pay the interim Fire Protection Assessment as required.

R. Method of Collection.

(1) Unless otherwise directed by the City Council, the Fire Protection Assessments shall be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(2) The amount of a Fire Protection Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided, (a) the collection method used in connection with the prior year's assessment did not employ the use of the uniform method of collection authorized by the Uniform Assessment Collection Act, (b) notice is provided to the Owner as required under the Uniform Assessment Collection Act, and (c) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Fire Protection Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

S. Alternative Method of Collection.

In lieu of utilizing the Uniform Assessment Collection Act, the City Council may elect

to collect the Fire Protection Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(1) The City Council shall provide Fire Protection Assessment bills by first class mail to the Owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include:

a. a brief explanation of the Fire Protection Assessment;
b. a description of the unit of measurement used to determine the amount of the Fire Protection Assessment;
c. the number of units contained within the parcel;
d. the total amount of the Fire Protection Assessment imposed against the parcel for the appropriate period;
e. the location at which payment will be accepted;
f. the date on which the Fire Protection Assessment is due;
g. a statement that the Fire Protection Assessment constitutes 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.

(2) The City Council shall have the right to foreclose and collect all delinquent Fire Protection Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. A Fire Protection Assessment shall become delinquent if it is not paid within 30 days from the date payment was due, as identified. The City Council or its agent shall notify any property owner who is delinquent in payment of his or her Fire Protection Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the City Council or its agent will either:

a. initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Fire Protection Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or
b. cause an amount equivalent to the delinquent Fire Protection Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(3) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as any Person. The City Council or its agent may join in one foreclosure action the collection of Fire Protection Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City Council and its agents, including reasonable attorney fees, in collection of such delinquent Fire Protection Assessments and any other costs incurred by the City Council as a result of such delinquent Fire Protection Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(4) In lieu of foreclosure, any delinquent Fire Protection Assessment and the costs,

fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that:

a. notice is provided to the Owner in the manner required by the Uniform Assessment Collection Act and this Section, and
b. any existing lien of record on the affected parcel for the delinquent Fire Protection Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(5) Notwithstanding the City Council's use of an alternative method of collection, the City Manager shall have the same power and authority to correct errors and omissions as provided to him or other City officials.

(6) Any City Council action required in the collection of Fire Protection Assessments may be by resolution.

T. Government Property.

(1) In the event Fire Protection Assessments are imposed against Government Property, the City Council shall provide Fire Protection Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (a) a brief explanation of the Fire Protection Assessment, (b) a description of the unit of measurement used to determine the amount of the Fire Protection Assessment, (c) the number of units contained within the parcel, (d) the total amount of the parcel's Fire Protection Assessment for the appropriate period, (e) the location at which payment will be accepted, and (f) the date on which the Fire Protection Assessment is due.

(2) Fire Protection Assessments imposed against Government Property shall be due on the same date as all other Fire Protection Assessments and, if applicable, shall be subject to the same discounts for early payment.

(3) A Fire Protection Assessment shall become delinquent if it is not paid within 30 days from the date payment was due. The City Council shall notify the Owner of any Government Property that is delinquent in payment of its Fire Protection Assessment within 60 days from the date such assessment was due. Such notice shall state that the City Council will initiate a mandamus or other appropriate judicial action to compel payment.

(4) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent Owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Fire Protection Assessments and any other costs incurred by the City Council as a result of such delinquent Fire Protection Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(5) As an alternative to the foregoing, a Fire Protection Assessment imposed against Government Property may be collected as a surcharge on a utility bill provided to such Government Property in periodic installments with a remedy of a mandamus action in the event of non-payment. The City Council may contract for such billing services with any utility, whether or not such utility is owned by the City.

U. Applicability.

The provisions of this Section and the City Council's authority to impose assessments pursuant hereto shall be applicable throughout the City.

V. Alternative and Additional Method.

(1) This Section shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Section, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

(2) Nothing herein shall preclude the City Council from directing and authorizing, by resolution, the combination with each other of (a) any supplemental or additional notice deemed proper, necessary, or convenient by the City, (b) any required notice, or (3) any notice required by law, including the Uniform Assessment Collection Act.

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Section 2. Repeal of Conflicting Ordinances

All ordinances or parts thereof or parts of the Code conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

Section 3. Severability

If any section, part of a section, paragraph, sentence, clause, phrase or word of this Ordinance is for any reason held or declared to be unconstitutional, inoperative or void, such holdings of invalidity shall not affect the remaining portion of this Ordinance and it shall be construed to have been the legislative intent to pass the Ordinance without such unconstitutional, invalid or inoperative part therein, and the remainder of this Ordinance after the exclusion of such part or parts shall be deemed to be held valid as if

such part or parts had not been included therein, or if this Ordinance or any of the provisions thereof shall be held inapplicable to any person, group of persons, property, kind of property, circumstances, or set of circumstances, such holdings shall not affect the applicability thereof to any other person, property or circumstances.

Section 4. Effective Date

The provisions of this Ordinance shall become effective upon its adoption.

Passed on the first reading this 20th day of June, 2016.

PASSED AND ADOPTED on the second reading this 1st day of August, 2016.

Voted

_____	_____ ( )
Samuel J. Ferreri **Mayor**	**Jonathan G. Pearce** **Deputy Mayor**

Attest:

_____	_____ ( )
Denise McGrew **City Clerk**	**Lisa Rivera** **Councilwoman, District I**

_____ ( )
Peter Noble
Councilman, District II

_____ ( )
Judith Dugo
Councilwoman, District III

_____ ( )
Paula Bousquet
Councilwoman, District V

Approved as to Form and Legal Sufficiency:

_____
James D. Stokes
City Attorney