

## **RESOLUTION 2016-22**

**A RESOLUTION OF THE CITY OF LAKE WALES, FLORIDA, RELATING TO THE PROVISION OF FIRE PROTECTION SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF LAKE WALES, FLORIDA; ESTABLISHING THE RATE OF ASSESSMENT; CONFIRMING THE AMENDED AND RESTATED INITIAL ASSESSMENT RESOLUTION AND THE AMENDED AND RESTATED INITIAL ASSESSMENT RESOLUTION (CORRECTIVE); REIMPOSING FIRE PROTECTION ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF LAKE WALES FOR THE FISCAL YEAR BEGINNING OCTOBER 1, 2016; APPROVING THE ASSESSMENT ROLL; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, the City of Lake Wales, Florida, has enacted Ordinance No. 2008-26 (the "Ordinance"), which authorizes the imposition of Fire Protection Assessments for fire protection services, facilities, and programs against Assessed Property located within the City; and

**WHEREAS**, the reimposition of a Fire Protection Assessment for fire protection services, facilities, and programs each fiscal year is an equitable and efficient method of allocating and apportioning Fire Protection Assessed Costs among parcels of Assessed Property; and

**WHEREAS**, the City desires to reimpose a fire protection assessment program in the City using the procedures provided by the Ordinance, including the tax bill collection method for the Fiscal Year beginning October 1, 2016; and

**WHEREAS**, the City, on June 7, 2016, adopted Resolution No. 2016-13, (the "Amended and Restated Initial Assessment Resolution"); and

**WHEREAS**, the City, on June 14, 2016, adopted Resolution No. 2016-13(A), (the "Amended and Restated Initial Assessment Resolution (corrective)" for the purpose of correcting the date of the public hearing for adoption of the Final Assessment Resolution; and

**WHEREAS**, the Amended and Restated Initial Assessment Resolution contains a brief and general description of the fire protection services, facilities, and programs to be provided to Assessed Property; describes the method of apportioning the Fire

Protection Assessed Costs to compute the Fire Protection Assessment for fire protection services, facilities, and programs against Assessed Property; estimates rates of assessment; and directs the updating and preparation of the Assessment Roll and provision of the notice required by the Ordinance; and

**WHEREAS**, pursuant to the provisions of the Ordinance, the City is required to confirm or repeal the Amended and Restated Initial Assessment Resolution, as corrected, with such amendments as the City Commission deems appropriate, after hearing comments and objections of all interested parties; and

**WHEREAS**, the Assessment Roll has heretofore been made available for inspection by the public as required by the Ordinance; and

**WHEREAS**, notice of a public hearing has been published and mailed, as required by the terms of the Ordinance, which provides notice to all interested persons of an opportunity to be heard; an affidavit regarding the form of notice mailed being attached hereto as Appendix A and the proof of publication being attached hereto as Appendix B; and

**WHEREAS**, a public hearing was held on September 7, 2016, and comments and objections of all interested persons have been heard and considered as required by the terms of the Ordinance.

**NOW THEREFORE, BE IT ORDAINED by the City Commission of the City of Lake Wales, Florida:**

SECTION 1. **AUTHORITY.** This Resolution is adopted pursuant to Ordinance No. 2008-26; the Amended and Restated Initial Assessment Resolution (Resolution No. 2016-13); the Amended and Restated Initial Assessment Resolution (corrective) (Resolution No. 2016-13(A); Sections 166.021, 166.041, and 197.3632, Florida Statutes, and other applicable provisions of law.

SECTION 2. **DEFINITIONS AND INTERPRETATION.** This Resolution constitutes the Annual Rate Resolution as defined in the Ordinance. All capitalized terms in this Resolution shall have the meanings defined in the Ordinance, the Amended and Restated Initial Assessment Resolution, and the Amended and Restated Initial Assessment Resolution (corrective).

**SECTION 3. REIMPOSITION OF FIRE PROTECTION ASSESSMENTS.**

(A) The parcels of Assessed Property described in the Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of the fire protection services, facilities, and programs described or referenced in the Amended and Restated Initial Assessment Resolution, and the Amended and Restated Initial Assessment Resolution (corrective), in the amount of the Fire Protection

Assessment set forth in the updated Assessment Roll, a copy of which was present or available for inspection at the above referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined and declared that each parcel of Assessed Property within the City will be specially benefited by the City's provision of fire protection services, facilities, and programs in an amount not less than the Fire Protection Assessment for such parcel, computed in the manner set forth in the Amended and Restated Initial Assessment Resolution, and the Amended and Restated Initial Assessment Resolution (corrective). Adoption of this Annual Rate Resolution constitutes a legislative determination that all parcels assessed derive a special benefit in a manner consistent with the legislative declarations, determinations and findings as set forth in the Ordinance, the Amended and Restated Initial Assessment Resolution, and the Amended and Restated Initial Assessment Resolution (corrective), from the fire protection services, facilities, or programs to be provided and a legislative determination that the Fire Protection Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the Preliminary Rate Resolution.

(B) The method for computing Fire Protection Assessments described and referenced in the Amended and Restated Initial Assessment Resolution, as corrected, is hereby approved. The apportionment methodology described and adopted in the Amended and Restated Initial Assessment Resolution, as corrected, is hereby approved.

(C) For the Fiscal Year beginning October 1, 2016, the estimated Fire Protection Assessed Cost to be assessed is \$1,152,830.00. The Fire Protection Assessments to be assessed and apportioned among benefited parcels pursuant to the Cost Apportionment and Parcel Apportionment to generate the estimated Fire Protection Assessed Cost for the Fiscal Year commencing October 1, 2016, are hereby established as follows:

<b>Residential Property Use Categories</b>	<b>Rate Per Dwelling Unit</b>
Single-Family	\$146.00
Multi-Family	\$72.00
Mobile Home	\$129.00
<b>Non-Residential Property Use Categories</b>	<b>Rate Per Square Foot</b>
Commercial	\$0.06
Industrial/Warehouse	\$0.01
Institutional	\$0.08

(D) The above rates of assessment are hereby approved. Fire Protection Assessments for fire protection services, facilities, and programs in the amounts set forth in the Fire Protection Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in such Fire Protection Assessment Roll for the Fiscal Year beginning October 1, 2016.

(E) Institutional Property whose use is wholly exempt from ad valorem taxation under Florida law provides facilities and uses to their ownership, occupants, and membership as well as the public in general that otherwise might be requested or required to be provided by the City and such property uses serve a legitimate public purpose and provide a public benefit. Therefore, it is fair and reasonable not to impose Fire Services Assessments upon Buildings located upon such parcels of Institutional Property whose Building Use is wholly exempt from ad valorem taxation under Florida law. Accordingly, no Fire Services Assessments shall be imposed upon Institutional Buildings located upon a parcel of Institutional Property whose Building Use is wholly exempt from ad valorem taxation under Florida law.

(F) Government Property provides facilities and uses to the community, local constituents, and the public in general that serve a legitimate public purpose and provides a public benefit. Therefore, it is fair and reasonable not to impose Fire Services Assessments upon such parcels of Government Property.

(G) Government Property that is owned by federal government mortgage entities, such as the VA and HUD due to foreclosures, are not serving a governmental purpose or providing a public benefit but are instead being held by these federal government mortgage entities in a proprietary capacity. Accordingly, these properties shall not be considered Government Property for purposes of the Fire Services Assessments and shall not be afforded an exemption from the Fire Services Assessment that is granted to other Government Property.

(H) As authorized in Section 10.5-17 of the Ordinance, interim Fire Protection Assessments are also levied and imposed against all property for which a Certificate of Occupancy is issued after adoption of this Annual Rate Resolution based upon the rates of assessment approved herein.

(I) Fire Protection Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(J) The Fire Protection Assessment Roll, as herein approved, together with the correction of any errors or omissions as provided for in the Ordinance, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

SECTION 4. **EFFECT OF ADOPTION OF RESOLUTION.** The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented

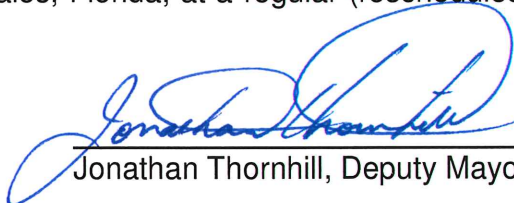
(including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of assessment, the Assessment Roll and the levy and lien of the Fire Protection Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Annual Rate Resolution.

SECTION 5. **CONFIRMATION OF AMENDED AND RESTATED INITIAL ASSESSMENTS RESOLUTIONS.** The Amended and Restated Initial Assessment Resolution and the Amended and Restated Initial Assessment Resolution (corrected) are hereby confirmed.

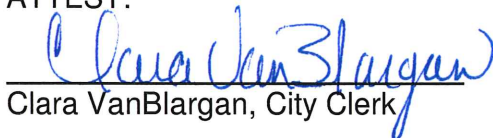
SECTION 6. **SEVERABILITY.** If any clause, section or other part of this Resolution shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Resolution.

SECTION 7. **EFFECTIVE DATE.** This Resolution shall take effect immediately upon its passage and adoption.

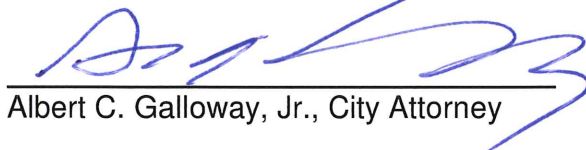
**PASSED** and **ORDAINED** this 7<sup>th</sup> day of September, 2016, by the City Commission of the City of Lake Wales, Florida, at a regular (rescheduled) Commission meeting.

  
Jonathan Thornhill, Deputy Mayor

ATTEST:

  
Clara VanBlargan, City Clerk

Approved as to form and legality:

  
Albert C. Galloway, Jr., City Attorney



**APPENDIX A**

**AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS**

## **AFFIDAVIT OF MAILING**

BEFORE ME, the undersigned authority, personally appeared Kenneth Fields, who, after being duly sworn, deposes and says:

1. Kenneth Fields, as City Manager of the City of Lake Wales, Florida, ("City"), pursuant to the authority and direction received from the City Commission, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with the Fire Protection Assessment Ordinance adopted by the City on August 4, 2008, (the "Assessment Ordinance") and in conformance with the Amended and Restated Initial Rate Resolution adopted by the City on June 7, 2016, and the Amended and Restated Initial Rate Resolution (corrective) adopted by the City on June 14, 2016 (collectively the "Rate Resolutions"). The Rate Resolutions directed and authorized notice pursuant to the Uniform Assessment Collection Act as provided in Section 10.5-18 of the Assessment Ordinance.

2. In accordance with the Assessment Ordinance, Kenneth Fields timely provided all necessary information for notification of the Fire Protection Assessment to the Property Appraiser of Polk County to be included as part of the notice of proposed property taxes under Section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: the purpose of the assessment; the total amount proposed to be levied against each parcel; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the City expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property

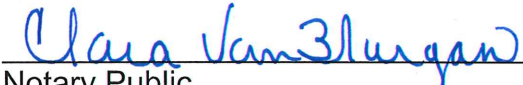
which may result in a loss of title; a statement that all affected property owners have a right to appear at the hearing and to file written objections with the local governing body within 20 days of the notice; and the date, time, and place of the hearing.

FURTHER AFFIANT SAYETH NAUGHT.

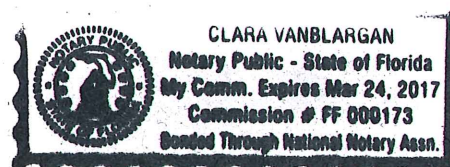
  
\_\_\_\_\_  
Kenneth Fields

STATE OF FLORIDA  
COUNTY OF POLK

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 31<sup>st</sup> day of August, 2016, by Kenneth Fields, City Manager, City of Lake Wales, Florida. He is ☒ personally known to me or ☐ has produced \_\_\_\_\_ as identification and did take an oath.

  
\_\_\_\_\_  
Notary Public

My Commission Expires: 3/24/2017  
Commission No. FF 000173



**APPENDIX B**  
**AFFIDAVIT OF PUBLICATION**

**FFIDAVIT OF PUBLICATION**  
**NEWS CHIEF**  
**inter Haven, Polk County, Florida**

ATE OF FLORIDA)  
UNITY OF POLK)

re the undersigned authority personally appeared Michelle Reece who  
ath says that she is Account Executive for Advertising at the News Chief,  
ily newspaper published at Winter Haven in Polk County, Florida; that  
ttached copy of advertisement, being a

**NOTICE OF HEARING**

e matter of **IMPOSE AND PROVIDE FOR COLLECTION OF  
FIRE SERVICE SPECIAL ASSESSMENTS**

cerning **CITY OF LAKE WALES**

published in said newspaper in the issues of

**8-15; 2016**

ant further says that said the News Chief is a newspaper published at  
ter Haven, in said Polk County, Florida, and that the said newspaper has  
tofore been continuously published in said Polk County, Florida, daily,  
has been entered as second class matter at the post office in Winter  
en, in said Polk County, Florida, for a period of one year next preceding  
first publication of the attached copy of advertisement; and affiant further  
that he has neither paid nor promised any person, firm or corporation  
discount, rebate, commission or refund for the purpose of securing this  
rtisement for publication in the said newspaper.

ed... *Michelle Reece*  
Michelle Reece  
Advertising Account Executive  
Who is personally known to me.

orn to and subscribed before me this 15th day of August, A.D. 2016

*Leslie Alice Martinez Colon*  
Notary Public

(SEAL)

NOTARY PUBLIC  
LESLIE ALICE MARTINEZ COLON  
MY COMMISSION # FF 981559  
EXPIRES: April 12, 2020  
Bonded Thru Budget Notary Services

**APPENDIX E**

**NOTICE OF HEARING TO IMPOSE AND PROVIDE F  
COLLECTION OF FIRE SERVICES SPECIAL ASSESSMI**

Notice is hereby given that the City Commission of the City of Lake W  
conduct a public hearing to consider imposing fire services special asse  
for the provision of fire protection services within the City for the Fiscal Yec  
ning, October 1, 2016.

The hearing will be held at 6:00 p.m., or as soon thereafter as pos  
September 7, 2016, in the Commission Chambers at the City Admir  
Building, 201 W. Central Avenue, Lake Wales, Florida, for the purpose c  
ing public comment on the proposed assessments.

All affected property owners have a right to appear at the hearing a  
written objections with the City Commission within 20 days of this notice  
son decides to appeal any decision made by the City Commission with  
to any matter considered at the hearing, such person will need a rec  
proceedings and may need to ensure that a verbatim record is made, i  
the testimony and evidence upon which the appeal is to be made.

In accordance with the Americans with Disabilities Act of 1990, persons  
a special accommodation to participate in this proceeding should co  
City Clerk no later than seven (7) days prior to the proceedings. Telephc  
678-4182, ext. 228, for assistance. If hearing impaired, telephone the Flor  
Service numbers, (800) 955-8771 (TDD) or (800) 955-8770 (Voice) for as

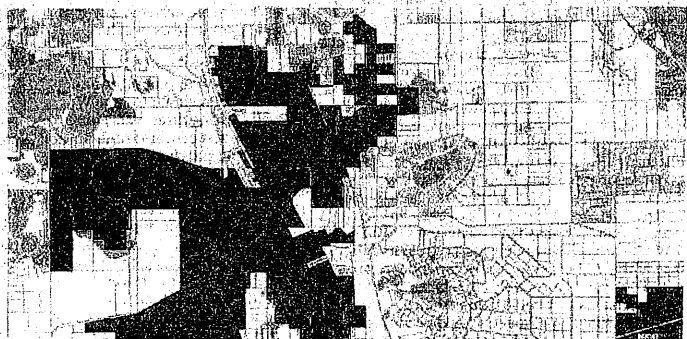
The assessments for each parcel of property will be based upon each  
Property Use classification and the total number of billing units attribute  
parcel. The following table reflects the proposed fire services assessme  
ule being considered by City Commission for the Fiscal Year beginning  
1, 2016:

Residential Property Use Category	Rate Per Dwelling Unit
Single-Family	\$146
Multi-Family	\$72
Mobile Home	\$129
Non-Residential Property Use Categories	Rate Per Square Foot
Commercial	\$.06
Industrial/Warehouse	\$.01
Institutional	\$.08

Copies of the Fire Services Special Assessment Ordinance, the Initial/A  
Resolution initiating and imposing the fire services assessment, the p  
assessment roll, and other documentation related to the proposed Fir  
Special Assessment are available for inspection at the City Manager  
cated at the City Administration Building, 201 W. Central Avenue, Lake  
ida between the hours of 8:00 a.m. and 5:00 p.m., Monday through F

The assessments will be collected through the property tax bill to be  
the Polk County Tax Collector. Failure to pay the assessment could re  
closure proceeding against your property as well as the initiation of pr  
to compel payment by any means authorized by law, including a pr  
would result in a tax certificate to be issued against the property whi  
sult in a loss of title.

If you have any questions, please contact the City at (863) 678-418  
8:00 a.m. and 5:00 p.m., Monday through Friday.



## **APPENDIX C**

### **AFFIDAVIT REGARDING NON-AD VALOREM ASSESSMENT ROLLS**

**CERTIFICATE  
TO  
NON-AD VALOREM ASSESSMENT ROLLS**


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

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

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Polk County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this the 7<sup>th</sup> day of September, 2016.

**CITY OF LAKE WALES, FLORIDA**

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



SEP 08 2016

[to be delivered to Tax Collector prior to September 15]