

RESOLUTION NO. 332-08

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, RELATING TO THE PROVISION OF FIRE SERVICES, FACILITIES AND PROGRAMS IN THE CITY OF WEST PALM BEACH; IMPOSING FIRE RESCUE ASSESSMENTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY FOR THE FISCAL YEAR COMMENCING OCTOBER 2008; APPROVING THE RATE OF ASSESSMENT; APPROVING THE ASSESSMENT ROLL; PROVIDING AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

* * * * *

WHEREAS, on February 25, 2008, after weekly advertising for four weeks and after holding a public hearing, the City Commission adopted Resolution No. 93-08, a resolution of intent to use the uniform method of collecting non-ad valorem assessments authorized in section 197.3632, Florida Statutes, as amended, for collecting non-ad valorem assessments for the cost of providing fire protection services; and

WHEREAS, Government Services Group, Inc., the City's consultant, performed a comprehensive analysis and developed an apportionment methodology to allocate assessable fire service costs by categories of real property use, as contained in their Fire Assessment Report dated June 2008; and

WHEREAS, by Ordinance No. 4141-08, the City Commission of the City of West Palm Beach, Florida, authorized the imposition and collection of an annual recurring fire service assessments against real property within the City; and

WHEREAS, the Ordinance established that the initial proceeding for the imposition of a fire service assessment is the adoption by the City Commission of an Initial Assessment Resolution containing, determining, establishing and directing the matters specified in Section 2.02 of the Ordinance, including development of a Preliminary Assessment Roll, and the publication and mailing of notices to property owners and the scheduling of a public hearing; and

WHEREAS, by Resolution No. 212-08, on June 16, 2008, the City Commission adopted the Initial Assessment Resolution directing the matters specified in Section 2.02 of the Ordinance, including development of a Preliminary Assessment Roll, and the publication and mailing of notices to property owners and the scheduling of a public hearing; and

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

WHEREAS, notice of a public hearing has been published as required by the terms of the Ordinance, which provides notice to all interested persons of an opportunity to be heard, and proof of such publication is attached hereto as Exhibit A; and

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WHEREAS, notice of public hearing was also mailed to each effected property owner as required by the Ordinance, providing notice of an opportunity to be heard; and an affidavit of the mailing of such notice is attached hereto as Exhibit B; and

WHEREAS, a public hearing was held on July 28, 2008, and comments and objections of all interested persons wishing to comment have been heard and considered; and

WHEREAS, the City Commission continued the matter to August 25, 2008, and again to September 8, 2008, to allow an analysis of the future requirements and capital improvement needs for the Fire Department, and financial analysis of the budget and proposed assessment; and

WHEREAS, it is the intent of the City Commission that a portion of the fire service assessment attributed toward the purchase of fire vehicles and associated equipment may not need to be assessed after fiscal year 2014/2015 once sufficient funds for this purpose have been collected; and

WHEREAS, it is the further intent of the City Commission, in the event bonds for the construction of fire stations are issued, secured by the Fire Service Assessment funds, that the proceeds from any significant land sale of \$15 million or more, shall be applied toward the defeasance of any such bonds; and

WHEREAS, in order to impose a fire service assessment for the fiscal year commencing October 1, 2008, the Ordinance requires the City Commission to adopt a Final Assessment Resolution which establishes the rates of assessment and approves the Assessment Roll for the upcoming Fiscal Year, with such amendments as the City Commission deems appropriate;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF WEST PALM BEACH, FLORIDA, THAT:

SECTION 1. **AUTHORITY.** This Resolution is adopted pursuant to the provisions of Ordinance No. 4141-08 (the "Ordinance"), Resolution No. 212-08 (the "Initial Assessment Resolution"), Section 2 of the Florida Constitution, Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. **PURPOSE AND DEFINITIONS.** This Resolution constitutes the Final Assessment Resolution as defined in the Ordinance. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance and Initial Assessment Resolution, as amended and supplemented hereby

SECTION 3. **IMPOSITION OF FIRE SERVICE ASSESSMENT.**

(A) It is hereby ascertained, determined, and declared that each parcel of Assessed Property located within the City will be specially benefited by the City's provision of

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fire services, facilities, and programs in an amount not less than the Fire Services Assessment imposed against such parcel, computed in the manner set forth in the Initial Assessment Resolution.

- (B) The method for computing the Fire Services Assessment described and referenced in the Initial Assessment Resolution and the Fire Assessment Report is hereby approved. The cost apportionment methodology and parcel apportionment methodology described in the Fire Assessment Report and the Initial Assessment Resolution is hereby approved.
- (C) The Fire Service Assessed Cost to be assessed and apportioned among benefited parcels pursuant to the Cost Apportionment and the Parcel Apportionment for the fiscal year commencing October 1, 2008, is the amount determined in the Fire Service Assessment Rate Schedule, and is estimated at approximately \$2,198,415 gross revenues.
- (D) The Fire Service Assessment Rate Schedule is hereby approved as follows:

RESIDENTIAL PROPERTY USE CATEGORIES	Rate Per Dwelling Unit
Residential Single Family and Multi-Family	\$25
NON-RESIDENTIAL PROPERTY USE CATEGORIES	Rate Per Building Square Foot
Commercial	\$0.03
Industrial/Warehouse	\$0.01
Institutional	\$0.04
Nursing Home	\$0.10

- (E) The Fire Services Assessment Roll for fiscal year 2008/2009, based on the above Rate Schedule, is hereby approved and incorporated herein by reference.
- (F) The Fire Services Assessment in the amount set forth in the Assessment Roll, as may be corrected and adjusted pursuant to the Ordinance, are hereby levied and imposed on all parcels of Assessed Property described in the Assessment Roll.
- (G) No Fire Services Assessment shall be imposed upon Governmental Property. The City will buy down this exemption with non-assessment funds.
- (H) Institutional Property whose use is exempt from taxation under Florida law shall be assessed, but shall be required to pay only twenty percent (20%) of the Fire

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Services Assessment imposed against each parcel. The City will buy down this 80% exemption with non-assessment funds. The City will separately notice and issue assessment bills for such Institutional tax-exempt property in accordance with Ordinance No. 4141-08.

- (I) The Fire Services Assessment shall constitute a lien upon the Assessed Property 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 liens shall be superior in dignity to all other liens, titles and claims, until paid.

SECTION 4. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. This Final Assessment Resolution constitutes legislative determinations that: (i) all parcels assessed derive a special benefit in a manner consistent with the legislative declarations, determinations and findings set forth in the Ordinance and the Initial Assessment Resolution from the fire services, facilities or programs to be provided; and (ii) the Fire Service Assessments are fairly and reasonably apportioned among the properties that receive the special benefit.

SECTION 5. METHOD OF COLLECTION. It is hereby declared that pursuant to Section 3.01 of the Ordinance that the Fire Service Assessments shall be collected and enforced pursuant to the Uniform Assessment Collection Act for Fiscal Year 2008-2009.

SECTION 6. APPLICATION OF ASSESSMENT PROCEEDS. A portion of the cost to provide fire services, facilities, or programs shall be funded from proceeds of the Fire Service Assessment. The Fire Service Assessment for Fiscal Year commencing October 1, 2008 will be used for capital improvements including, but not limited to: (A) fire station construction and improvements, including, but not limited to: (i) the cost of physical construction, reconstruction or completion of any required facility or improvement; (ii) the costs incurred in any required acquisition or purchase; (iii) the cost of all labor, materials, machinery, and equipment; (iv) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (v) the cost of any indemnity or surety bonds and premiums for insurance; (vi) the cost of construction plans and specifications, surveys and estimates of costs; (vii) the cost of engineering and other professional services; (viii) the costs of related hard and soft costs; and (B) fire/rescue vehicles; and (C) other capital costs. The intent is to use approximately \$10 (based on the Residential assessment) toward the cost of fire trucks and associated equipment and approximately \$15 (based on the Residential assessment) toward the design and construction of three fire stations, all amounts apportioned in accordance with the property classifications. The remaining cost required to provide fire services, facilities, and programs and operating costs shall be funded by legally available City revenues other than Fire Service Assessment proceeds. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund fire services, facilities, and programs.

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SECTION 6. **EFFECT OF ADOPTION OF RESOLUTION.** The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented, including, but not limited to, the determination of special benefit, the determination of 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 Services Assessment, unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Final Assessment Resolution.

SECTION 7. **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 effect the validity of the other provision of this Resolution.

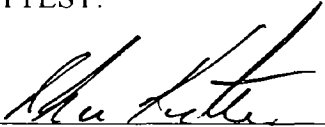
SECTION 8. **EFFECTIVE DATE.** This Final Assessment Resolution shall take effect immediately upon its passage and adoption.

PASSED AND ADOPTED this 8th day of September, 2008.

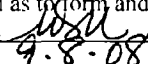
(CORPORATE SEAL)

CITY OF WEST PALM BEACH
BY THE CITY COMMISSION


PRESIDING OFFICER

ATTEST:


CITY CLERK

CITY ATTORNEY'S OFFICE
Approved as to form and legal sufficiency
By: 
Date: 9-8-08

05295

City of West Palm Beach
PO Box 3366
West Palm Beach, FL 33402

CITY OF WEST PALM BEACH, FLORIDA

NOTICE OF HEARING TO IMPOSE AND PROVIDE
FOR COLLECTION OF FIRE SERVICES
NON-AD VALOREM ASSESSMENTS

NOTICE DATE: JULY 7, 2008

GALLI ROBERT G
2737 S FLAGLER DR
WEST PALM BEACH FL 33405-1215

Tax Parcel #: 74434322390007290
Sequence Number: WPBF-12001
Legal: PRADO CONDOMINIUM UNIT 729

***** NOTICE TO PROPERTY OWNER *****

As required by Section 197.3632, Florida Statutes, and City Ordinance No. 4141-08, notice is given by the City of West Palm Beach that an annual assessment for fire services may be levied on your property for the fiscal year October 1, 2008 - September 30, 2009. The purpose of this assessment is to fund fire services benefiting improved property located within the City of West Palm Beach. The total annual fire services assessment revenue to be collected within the City of West Palm Beach is estimated to be \$2,153,761. The annual fire services assessment is based on the classification of each parcel of property and number of billing units contained therein.

Category	Type and Number of Billing Units	Fiscal Year 08-09 Assessment
Residential	1 Dwelling Unit	\$25.00

The maximum annual fire services assessment for the above parcel for Fiscal Year 2008-09 and future fiscal years is \$25.00.

A public hearing will be held at the City Commission meeting scheduled for July 28, 2008, at 5:00 p.m., in Commission Chambers, City Hall, 200 2nd Street, West Palm Beach, Florida for the purpose of receiving public comment on the proposed assessments. You and all other 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 you decide to appeal any decision made by the City Commission with respect to any matter considered at the hearing, you will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. 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 of West Palm Beach at (561) 822-1210, at least three (3) days prior to the date of the hearing.

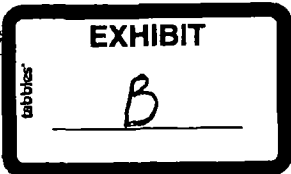
Unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Commission action at the above hearing (including the method of apportionment, the rate of assessment and the imposition of assessments), such action shall be the final adjudication of the issues presented.

Copies of the Fire Services Assessment Ordinance, the Initial Assessment Resolution and the preliminary assessment roll are available for inspection at the City Clerk's Office, located at 200 2nd Street, West Palm Beach, Florida.

Both the fire services non-ad valorem assessment amount shown on this notice and the ad valorem taxes for the above parcel will be collected on the ad valorem tax bill mailed in November. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If there is a mistake on this notice or if you have any questions regarding your fire rescue services assessment, please contact the City of West Palm Beach Fire Rescue Department at (561) 804-4726, Monday through Friday between 8:30 a.m. and 4:30 p.m.

***** THIS IS NOT A BILL *****



AFFIDAVIT OF MAILING

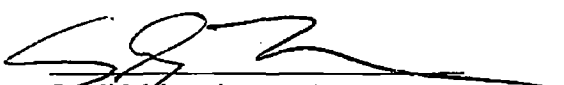
STATE OF FLORIDA } SS:
COUNTY OF LEON }

I, Sandi Melgarejo, Project Coordinator for Government Services Group ("GSG"), do hereby depose and state the following:

1. GSG has caused the notices required by the Fire Services Assessment Ordinance No. 4140-08 and the Initial Assessment Resolution No. 212-08 to be prepared. An exemplary form of such notice is attached hereto. GSG has caused such individual notices for each affected property owner to be prepared and each notice included the following information: 1) the purpose of the Fire Service Assessment; (2) the rate of assessment to be levied against each parcel of property; (3) the unit of measurement applied to determine the Fire Service Assessment; (4) the number of such units contained in each parcel of property, where applicable; (5) the total revenue to be collected by the City from the Fire Service Assessment; (6) a statement that failure to pay the Fire Service 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 Commission within 20 days of the notice; and (8) the date, time, and place of the hearing.

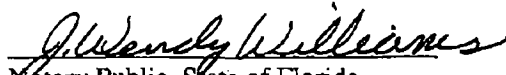
2. On or before July 7, 2008, the notices were mailed or caused to be mailed by GSG to each affected Owner at the address then shown on the real property assessment tax roll database maintained by the Palm Beach County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

FURTHER AFFIAN SAYETH NOT.


Sandi Melgarejo

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 22nd day of July, 2008, by SANDI MELGAREJO, Project Coordinator for Government Services Group, Inc., a Florida corporation. She is personally known to me and did take an oath.




Notary Public, State of Florida

Printed Name: J. Wendy Williams
Commission No. DD 787547