

**RESOLUTION NO. 20-\_\_\_\_\_**

**A RESOLUTION OF THE BOARD OF COMMISSIONERS OF THE LEHIGH ACRES FIRE CONTROL AND RESCUE DISTRICT, RELATING TO THE FUNDING FOR CONSTANT AVAILABILITY AND READINESS TO SERVE AND BENEFIT REAL PROPERTY WITH FIRE PROTECTION, RESCUE, EMERGENCY MEDICAL SERVICES, ADMINISTRATION, GOVERNANCE, ASSOCIATED CAPITAL, AND ASSOCIATED SERVICES, FACILITIES AND PROGRAMS WITHIN THE DISTRICT; PROVIDING FOR THE IMPOSITION OF NON-AD VALOREM ASSESSMENTS WITHIN THE DISTRICT TO FUND, IN SUBSTANTIAL PART, THE ANNUAL BUDGETED COST OF FIRE PROTECTION, RESCUE, EMERGENCY MEDICAL SERVICES, ADMINISTRATION, GOVERNANCE, ASSOCIATED CAPITAL, AND ASSOCIATED SERVICES, FACILITIES AND PROGRAMS; IDENTIFYING BENEFITS, BURDENS AND COSTS TO BE ASSESSED; ESTABLISHING THE METHOD OF APPORTIONING BENEFITS, BURDENS AND COSTS AMONG BENEFITED PARCELS OF PROPERTY; ADOPTING AN ASSESSMENT ROLL; PROVIDING THE METHOD OF COLLECTION; PROVIDING FOR ASSOCIATED BUSINESS AND POLICY DIRECTION; AND PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE LEHIGH ACRES FIRE CONTROL AND RESCUE DISTRICT, AS FOLLOWS:**

**ARTICLE I  
INTRODUCTION**

**SECTION 1.01. AUTHORITY.**

This Resolution of the Lehigh Acres Fire Control and Rescue District (the "District") is adopted pursuant to Procedural Resolution No. 20-08-01 (the "Procedural Resolution"), the Independent Fire District Act, the Uniform Collection Act, and is premised upon case law and statutory guidance, statutory determinations and authority, direction from the electors as authorized by referendum, and other applicable provisions of law.

**SECTION 1.02. DEFINITIONS.**

This Resolution constitutes the Annual Assessment Resolution as defined in the Procedural Resolution. All capitalized words and terms not otherwise defined herein shall have the meaning set forth in the Procedural Resolution unless the context hereof otherwise requires.

**SECTION 1.03. 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. References to ‘benefit’, ‘special benefit’, ‘benefited property’ or the like also include the relief of a burden created by real property as well as improvements or lack thereof thereon. Words of any gender include the correlative words of the other gender unless the sense indicates otherwise.

**SECTION 1.04. FINDINGS.**

It is hereby ascertained, determined and declared as follows:

(A) The constant and continued preparedness to provide fire protection, rescue, emergency medical services, administration, governance, associated capital, and associated services, facilities and programs by the District possesses a logical relationship to the value, use and enjoyment of real property by: (1) protecting the value of the improvements and structures on real property through the continual availability and readiness of fire control and provision of fire protection and emergency rescue and medical services; (2) protecting the life and safety of intended occupants in the use and enjoyment of real property; (3) lowering or stabilizing the cost of casualty or liability

insurance by the demonstrated presence of a professional fire control and availability of fire protection and emergency rescue and medical services program within the District; (4) providing an equity shield or protection for uninsured or underinsured property and property owners; and (5) containing the spread of fire incidents, sometimes occurring on vacant or undeveloped property, with the potential to spread and endanger the structures and occupants of nearby improved property, thereby limiting liability.

(B) The sharing of benefits, burdens and costs for fire protection, rescue, emergency medical services, administration, governance, associated capital, and associated services, facilities and programs based upon the relative value of improvements for each Tax Parcel in the District as compared to the relative value of improvements for all Tax Parcels in the District could conceivably serve alone as a fair and reasonable means to apportion entirely the Assessed Cost. Such approach substantially removes the underlying land values from consideration and reasonably focuses upon the built, improved, or husbanded environment on the real property protected and served by fire protection, rescue, emergency medical services, administration, governance, associated capital, and associated District services, facilities and programs. This is a direct and logically related means to share benefits, burdens and costs emanating from or inuring to real property in the District for the constant availability and readiness of fire protection, rescue, emergency medical services, administration, governance and associated capital, services, facilities, and programs.

(C) It is also clear that the relative improvement value of improvements to land may be utilized as one factor among others considered in a given formula or calculus

since the resulting Assessments are formed from a reasoned or logical base against which the special benefits, burdens and costs may be multiplied or determined.

(D) Apportionment on the basis of relative improvement value (as determined by data derived from the Tax Roll data base annually prepared by the Property Appraiser) recognizes and fairly shares the relatively higher benefit accruing to properties which face greater financial loss in the event of fire incident or lack of casualty or liability insurance.

(E) Besides the advantage of relying upon data prepared by the Property Appraiser in the normal conduct of such person's responsibilities, an approach based in whole or in part upon relative improvement value is also advantageous because it is self-correcting. Relative value of improvements may change from year to year in accordance with market conditions and other factors and such variation will be adjusted automatically each subsequent year in accordance with the updated improvement value determined from data required to be developed by the Property Appraiser for other purposes. If the improvements on a given Tax Parcel were to increase or decrease in value with the passage of time relative to the updated improvement value District-wide, that Tax Parcel's relative percentage to the total amount assessed for that Tax Parcel and all Tax Parcels would also increase or decrease proportionately.

(F) The mere availability of fire protection, rescue, emergency medical services, administration, governance, associated capital, and associated services, facilities and programs benefits each parcel of real property in the District in a substantially uniform fashion by relieving the common burden placed upon District services and facilities collectively created by individual parcels in the District whether a

fire or emergency event occurs or not. Fundamentally, the presence of each parcel within the District creates a comparable and similar requirement to stand ready to serve and continually maintain a preparedness to provide fire protection, emergency rescue and medical services and facilities for all parcels in the District. Such constant availability and readiness inures to the benefit of all developed and developable real property in the District.

(G) The District's core preparedness costs are generally those necessary to maintain the readiness of emergency personnel, equipment and facilities to respond in the event of random emergency calls and to assure an effective network of coverage, a metric used by insurance ratings organizations for calculation of basic insurance ratings. Such preparedness is continual and predominantly lies in wait for the emergency of a fire control, emergency rescue or medical service incident occurring at or upon real property within the District.

(H) The Board of Commissioners carefully considered a detailed analysis and report prepared by GAI Consultants, Inc. describing a simplified special assessment apportionment methodology designed to fund all or some portion of the District's annual budget expenditures corresponding to fixed (as opposed to more variable) costs incurred in maintaining common or similar continual readiness to provide fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities and programs to all parcels within the District.

(I) These core preparedness costs of lying in wait are largely recurring, almost fixed over the course of a budgetary period, because they are strongly associated with wages, salaries, administration, and overhead which support the

constant availability of fire protection, rescue, emergency medical services, administration, governance, and associated capital services, facilities and programs. Due, in part, to the focused and limited statutory mission of this special purpose local government, such core costs must be absorbed even when firefighting and emergency services capabilities remain exclusively in standby mode.

(J) Fixed costs can generally be described as those costs incurred in providing services, facilities or programs required for readiness to provide fire protection and emergency rescue and medical services which do not necessarily vary from parcel to parcel based upon property classification, parcel-specific physical characteristics (improvements) or actual demand in the event of deployment. Variable costs are those dependent upon or which more closely bear a direct relationship to property classification and/or parcel-specific physical characteristics which can be more uniformly considered by value of improvements on any one parcel compared with all parcels in the District, and therefore are more likely to vary from parcel to parcel.

(K) The constant potential for the outbreak of a fire and need for emergency rescue and medical services represents the predominant requirement for service by the District. When and where an incident occurs is essentially an unknown and difficult variable to accurately predict. The scale of this potential defines the basic underlying cost of being prepared to limit fire loss, serve real property and occupants thereon to protect and support property values and limit liability of property owners, and increase the use and enjoyment of real property in the District. From a policy and public purpose standpoint, preparedness is the predominant activity of the District's fire protection, emergency rescue and medical services and facilities. The District, in this state of

readiness, must consider the committable personnel, necessary equipment and facilities, and the time likely required to extinguish a fire or undertake an emergency rescue or medical services response (planning or preparing for the potential incident or event) prior to the emergency allocation of direct resources enabling a fire to be extinguished or effecting an emergency rescue or medical services response as quickly as possible (deploying to or intervening in the incident or event itself). The amount of resources for fire protection and emergency rescue and medical services, facilities and programs made available in such a continual preparedness exercise each year is a public administration and policy decision which necessarily focuses in the aggregate on all parcels of property within the District.

(L) In developing a recurring revenue source to fund a portion of the core fixed cost component of the District's annual budget associated with a continued readiness to provide fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs, it is not necessary to solely focus on the size, value or physical characteristics of individual parcels or Tax Parcels. Instead, in this context, each individual parcel or Tax Parcel capable of development contributes similarly to the required state of readiness, and similarly and substantially shares the same benefits from such core fixed cost component; and, therefore it is fair and reasonable to ask the owner of each individual parcel or Tax Parcel (developed or capable of development) to contribute equally toward the burden of funding all or a portion of the core fixed costs associated with such continual readiness to provide fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities and programs.

(M) The findings contained herein are premised upon information, input, analysis and review from District staff, officials and experts, and public comment, as well as careful consideration by the Board of Commissioners. A combination of the foregoing yields a reasoned apportionment methodology premised upon two distinct tiers or classes of apportionment allocation: Tier 1 – a sharing of benefits, burdens and costs for fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs based upon the relative value of improvements for each Tax Parcel in the District as compared to the value of improvements for all Tax Parcels in the District; and, Tier 2 – a sharing of benefits, burdens and costs for fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs on a per parcel allocation premised upon maintaining a continual state of preparedness and readiness to serve whether or not a request for actual assistance is ever received. Although either of these two tiers might be used singularly to address a significant portion of the budget for special assessment apportionment purposes, together they provide a simplified and powerful equity tool for the District to fairly and reasonably share assessable benefits, burdens and costs among all assessable Tax Parcels in the District.

(N) Allocating a portion of the fixed costs attributable to the District's continual readiness to provide fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs on either a developable parcel or Tax Parcel basis reasonably avoids cost inefficiencies



and unnecessary administration, and is a fair, efficient and reasonable mechanism to allocate such costs among all Tax Parcels.

(O) The use of data derived from the Tax Roll (both in form and content), which is a statutorily required and uniformly maintained database of all Tax Parcels employed by the Property Appraiser and Tax Collector, represents a reasonably accurate, fair and efficient means to allocate or distribute the Assessed Cost associated with standing ready to provide fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs.

(P) It is fair, reasonable, effective, and efficient for all Tax Parcels, including statutorily defined parcels such as multiple parcel buildings or individual condominium or cooperative units with extraordinary alienability, to share equally in the core fixed costs represented by the special assessments to be imposed hereby, particularly since such costs are not necessarily dependent upon or determined by physical characteristics or demand in the event of deployment.

(Q) It is also fair and reasonable that some portion of fixed costs and variable costs be shared and distributed among parcels, including statutorily defined parcels such as multiple parcel buildings, individual condominium or cooperative units with extraordinary alienability, using apportionment methods which are weighted more heavily on the Assessment Roll (using data from the Tax Roll) toward physical characteristics, such as those represented by the relative value of improvements.

(R) District staff and consultants have reviewed current and prior year budget information related to the provision of fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and

programs. The exemplary budget for this purpose conservatively excludes any impact fee associated costs or revenues for the purposes of identifying the Assessed Cost. As well, the Board of Commissioners determines not to underwrite non-emergency transport services by Assessment revenues, so that the District's exemplary budget used to determine the Assessed Cost, on its face, avoids any question that the Assessed Cost includes such transport services. This factually serves to isolate expenditures of impact fee revenue sharing and non-emergency transport services from being paid for from the Assessed Cost and avoids a strained debate as to case law concerns and the validity of the resulting Non-Ad Valorem Assessment.

(S) GAI Consultants, Inc. reviewed current and prior year budget information related to the provision of fire protection, emergency rescue and medical services, administration, governance, and associated capital services, facilities and programs and shared a reasoned analysis of fixed and variable cost budget components, resulting in the determination that all parcels in the District benefit in a substantially uniform manner from services, facilities and programs characterized as fixed and otherwise necessary to provide a continual readiness and availability of fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs. Based on the GAI Consultants, Inc., report and the premises:

(1) The obligation to stand in readiness to provide fire protection or emergency rescue and medical services is caused by the very existence of each of the parcels in the District.

(2) The benefits provided to real property by the fire protection, rescue, emergency medical services, administration, governance, and

associated capital services, facilities, and programs equal or exceed the costs of standing ready to serve and deploying to those parcels where a fire, emergency rescue, or emergency medical incident occurs.

(3) Both improved and unimproved properties benefit from the District's provision of fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities, and programs regardless of whether a call for assistance is ever received, even if the District's resources remain exclusively in a standby mode.

(4) Each parcel in the District places a burden on the public budget that underwrites a continual readiness to provide fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities, and programs, because each parcel in the District, whether improved or unimproved, contributes to the potential for a fire outbreak or medical emergency to which the District has the focused mission to respond; each such parcel increases the capacity needed by the District to respond to emergency events.

(5) The prevention and education functions of certain District personnel benefit real property as much as direct fire suppression personnel because they reduce the likelihood of an outbreak of a fire incident on any particular parcel, deter conditions that create enhanced risk of a fire or emergency rescue or medical services call occurring, ensure compliance with regulations or industry standards that facilitate efficient and effective responses that ensure maximum protection of

improvements to real property and reduction of liability for events occurring on improved or unimproved real property, and facilitate the provision of fire protection, emergency rescue, and emergency medical services to parcels where an incident occurs.

(6) The focused mission of the District supports the maintenance of the District's Insurance Services Office, or ISO, rating, including fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities, and programs, both directly and indirectly, resulting from the documented availability of professional fire protection and emergency medical services first responders with certain response capabilities.

(7) The bundle of services, including fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities, and programs, available to all parcels of real property within the District, contribute to the inherent value of those parcels—properties are more valuable when they are provided with these types of services than if they are unprotected.

(8) The mere availability of fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities, and programs enhances the potential use and enjoyment of both improved and unimproved parcels because it expands the groups of persons or businesses who are willing to invest in, develop,

or otherwise make use of real property for residential, commercial, or recreational purposes.

(9) The reduced potential for losses or liabilities associated with fire incidents, emergency medical events, or a wide variety of other incidents to which the District stands ready to respond yields materially greater enjoyment of and enhances the value of real property.

(T) It is fair and reasonable to fund all or a portion of the Assessed Cost on the basis of the relative value of improvements associated with each Tax Parcel compared to the total value of all improvements in the District in order to recognize the proportional benefit accruing to properties which face greater financial loss in the event of fire incident or liability resulting from the need for emergency rescue and medical services associated with any given Tax Parcel. Based on the GAI Consultants, Inc., report and the premises:

(1) The provision of fire protection, rescue, emergency medical services, administration, governance, and associated capital services, facilities, and programs protects properties, whether insured or uninsured, by shielding equity in those properties in the event of a fire incident or response for emergency rescue or medical services which may result in liability and by reducing the magnitude of a loss in a fire incident, emergency rescue or medical services deployment, or other incident to which the District stands ready to respond.

(2) The benefits to improved properties of the provision of fire protection, rescue, emergency medical services, administration,

governance, and associated capital services, facilities, and programs in excess of the degree to which unimproved properties are benefitted equal or exceed the annually varying costs of providing these services.

(3) Improved properties benefit from the deployment of the District's resources to all nearby properties, whether improved or unimproved, because the containment of fire outbreaks, emergency rescue and medical events, and other incidents to which the District may respond reduces or prevents losses and liabilities to improved properties to a greater degree than to unimproved properties.

(4) Parcels of real property benefit from the provision of fire protection, rescue, emergency medical services, administration, governance, and associated capital services, facilities, and programs in a degree proportionate to the relative value of each improvement compared to the value of all of the improvements in the District as a whole because the potential for loss associated with a fire, rescue, or medical emergency is fairly and reasonably viewed as proportionately greater for properties with higher-value improvements than lower-value improvements.

(U) It is fair and reasonable to multiply the District's estimated budget for fire protection, emergency rescue and medical services, administration, governance, and associated capital services, facilities and programs by an identified proportion of the core fixed costs associated with the continual readiness to provide fire protection, rescue, emergency medical services, administration, governance and associated capital, services, facilities and programs, in order to determine a proportional amount of

the estimated budget allocable to such core fixed costs; and, then divide such amount by a reasonable estimate of the total number of developable parcels within the District in order to determine the proposed annual rate of assessment per Tax Parcel in a reasoned process to uniformly and proportionally fund such core fixed costs associated with the constant readiness to serve. The same treatment may also be fairly and reasonably accomplished in an administratively truncated manner by use of Tax Parcels alone.

(V) The District is not required to fully fund any given essential service or capital cost through a special assessment. So long as the application of funds is for a public purpose and funds are legally available, the District may alternatively determine to fund all or some discrete portion of an essential service or capital cost with general fund or other legally available revenues. The determination as to whether to contribute other legally available revenues, and how much to contribute, lies solely in the discretion of the Board of Commissioners in each budget year.

(W) There is no requirement that the District impose an assessment for the maximum amount of the budget that can be funded by special assessments. Stated in the alternative, the Board of Commissioners may annually determine as a tax equity tool to impose special assessments at a rate less than necessary to fund all or any specific portion of the costs which might otherwise be funded by special assessments associated with fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs. Costs incurred in providing fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs not otherwise

funded through special assessments in any given year may be paid with general fund or other legally available revenues. Such legally available revenues as a matter of policy may be applied exclusively to any tier or class of budget allocation or expense otherwise funded by a special assessment, in part to one tier or class of any budget allocation or expense, or in any combination thereof, and maintain the validity of each apportionment approach used for the remaining portion of the budget attributed to the costs assessed. This flexibility is implemented through a policy and legislative determination employed through careful adherence to and understanding of case law, statutory law, and the State Constitution, as well as the exercise of annual budget responsibility, discretion and equity vested in the Board of Commissioners. However, in no event shall any annual rate of special assessment exceed that previously noticed to the affected property owners without further notice and public hearing pursuant to the Procedural Resolution or as otherwise provided by law.

(X) The Board of Commissioners is cognizant that any system, metric or analytical view of appraising benefits or assessing costs will be open to some criticism or suggestion of alternative methods or approaches, and has labored to educate itself as to the facts, analysis, law and policy latitudes available to it in determining the Assessed Cost and the rate of the Non-Ad Valorem Assessment in the process of approving the Non-Ad Valorem Assessment Roll.

(Y) The apportionment among Tax Parcels of a portion of the District's annual budget for fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs represented by the assessment rates approved and authorized by the District electors and Non-Ad



Valorem Assessments hereby adopted are reasonably characterized as necessary for providing the continual availability and readiness to provide fire protection, emergency rescue and medical services, administration, governance and associated capital, services, facilities and programs, notwithstanding whether fire incidents, emergency rescue or medical services calls materialize or not; and, is hereby determined to be a fair and reasonable means to annually allocate and share such benefits, burdens and costs; and has also been authorized by the electors.

(Z) The benefits derived or burdens relieved from the continual readiness to provide fire protection, rescue, emergency medical services, administration, governance and associated capital, services, facilities and programs as to each Tax Parcel subjected to the Assessments equal or exceed the amount of the special assessments levied and imposed hereunder. The Assessment for any Tax Parcel within the District in employing such an approach also does not exceed the proportional benefits (or corresponding relief of burdens) that each such Tax Parcel will receive (or cause) compared to any other Tax Parcel so assessed within the District.

(AA) The Non-Ad Valorem Assessments to be imposed in accordance with this Resolution provide a proper and equitable method of funding fire protection, emergency rescue and medical services, administration, governance, and associated capital, services, facilities and programs provided by the District by fairly and reasonably allocating a portion of the cost thereof among specially benefited property.

## **ARTICLE II**

### **NOTICE AND PUBLIC HEARING**

#### **SECTION 2.01. ESTIMATED ASSESSED COST; RATE OF ASSESSMENT.**

(A) The estimated Assessed Cost to be recovered through the Non-Ad Valorem Assessment for the Fiscal Year commencing October 1, 2020 is \$24,991,158 consisting of \$4,742,130 for Tier 1 (relative value of improvement for each Tax Parcel for more variable costs) and \$20,249,028 for Tier 2 (substantially uniform benefit per Tax Parcel encompassing more fixed, readiness to serve costs).

(B) The Non-Ad Valorem Assessments established in this Annual Assessment Resolution are determined by the assessment rates prepared for consideration by the public and District Commission in the preparation of the Non-Ad Valorem Assessment Roll for the Fiscal Year commencing October 1, 2020.

(C) The rate of Non-Ad Valorem Assessment for each Tax Parcel is (1) \$0.93 per thousand dollars of improvements, or fraction thereof, for each Tax Parcel as reflected in the Tax Roll (Tier 1), plus (2) \$162.00 per each parcel of developed or developable real property determined to benefit from or to create burdens upon, or both, the Assessed Cost (Tier 2).

(D) The rates in subsection (C) shall be the Maximum Rate; and, are the annual rates for the Assessment imposed at the time of the initial imposition of the Non-Ad Valorem Assessment in accord with the referendum approved by the electors of the District on August 18, 2020.

**SECTION 2.02. NON-AD VALOREM ASSESSMENT ROLL**

(A) The Assessment Coordinator has prepared a preliminary Non-Ad Valorem Assessment Roll that contains the following information:

(1) a summary description of each Tax Parcel (conforming to the description contained on the Tax Roll maintained by the Property Appraiser for the purpose of levying and collecting ad valorem taxes) which is intended to be subject to the Non-Ad Valorem Assessment;

(2) the name of the owner of record of each Tax Parcel, as shown on the Tax Roll; and

(3) the proposed amount of the total Non-Ad Valorem Assessment for each affected Tax Parcel for the fiscal year commencing October 1, 2020, exclusive of anticipated costs of collection and administration.

(B) In the event the District also imposes or collects an impact fee upon new growth or development for capital improvements related to the Assessed cost, the special assessments provided for hereunder shall not include costs attributable to capital improvements necessitated by new growth or development which were included in the computation of such impact fee or which are otherwise funded by such impact fee.

(C) The Assessment Coordinator is directed and authorized to cause the Assessment Roll to conform to the direction of the Board of Commissioners in Resolution No. 20-06-02, which is more specifically carried out in Section 3.06 hereof.

(D) Copies of the Procedural Resolution, this Resolution and the preliminary Non-Ad Valorem Assessment Roll have been made available in the District

administration office located at 636 Thomas Sherwin Avenue, Lehigh Acres, Florida, or have been open to public inspection in a manner consistent with the Procedural Resolution. The proposed approach and amount of Assessment for each Tax Parcel has been noticed since the beginning of the Summer and updated as of August 24, 2020 at or through the District website and accessible through the internet at [www.lehighfd.com](http://www.lehighfd.com) and at the District administration office located at 636 Thomas Sherwin Avenue, Lehigh Acres, Florida. In the event the Assessment Coordinator makes any corrections, exemptions or other modifications to the Assessment Roll authorized by the Procedural Resolution, this Resolution or otherwise, all funding for such changes to the Assessment Roll shall be funded by legally available funds or otherwise as directed by law. Such changes shall not require any recalculation or change in the rate or rates of assessment otherwise considered or adopted pursuant to the Procedural Resolution or any Annual Assessment Resolution.

**SECTION 2.03. NOTICE BY PUBLICATION AND MAILING.**

The Assessment Coordinator has directed and caused the publication and mailing of notice of a public hearing. Proof of timely publication and mailing of the notice are attached hereto as Appendix A and Appendix B.

**SECTION 2.04. PUBLIC HEARING.**

A public hearing was held on September 14, 2020 commencing at or about 6:00 p.m. in District Fire Station 104, located at 3102 16<sup>th</sup> Street S.W., Lehigh Acres, Florida 33976 at which time the Board of Commissioners received and considered information and comments on the Non-Ad Valorem Assessment from District officials, staff, experts and advisors, as well as the public and affected property owners, and considered

imposing Non-Ad Valorem Assessments and the method of collection thereof as required by law and the Procedural Resolution.

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## **ARTICLE III**

### **ASSESSMENTS**

#### **SECTION 3.01. IMPOSITION THROUGHOUT DISTRICT.**

Upon adoption hereof, Non-Ad Valorem Assessments are to be imposed and levied throughout the entire area within the boundaries of the District and this Resolution shall be deemed to be adopted and confirmed for all purposes associated with certification to the Tax Collector as required by the Uniform Assessment Collection Act.

#### **SECTION 3.02. IMPOSITION OF ASSESSMENTS.**

Non-Ad Valorem Assessments shall be imposed against Tax Parcels located within the District, the annual amount of which shall be computed for each Tax Parcel in accordance with this Resolution and shall include all administration and collection costs, fees and adjustments provided for in Section 2.01(B) of the Procedural Resolution. When imposed, the Non-Ad Valorem Assessment for each Fiscal Year shall constitute a lien upon Assessed Property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments as provided by law and the Procedural Resolution.

#### **SECTION 3.03. APPORTIONMENT APPROACH.**

(A) As provided for herein, the Assessed Cost shall be apportioned among all Tax Parcels within the District, not otherwise exempted hereunder, and including any statutorily defined parcels such as multiple parcel buildings, individual condominium or cooperative units with extraordinary alienability. The estimated Assessed Cost

associated with the Non-Ad Valorem Assessment and rate of Non-Ad Valorem Assessment shall be that described in Section 2.01 hereof.

(B) It is hereby ascertained, determined, and declared that the method of determining the Non-Ad Valorem Assessments as set forth in this Annual Assessment Resolution is a rational, fair and reasonable method of paying for, recovering and apportioning both benefits and burdens to real property as well as the Assessed Cost associated therewith among Tax Parcels of Assessed Property located within the District.

(C) The Non-Ad Valorem Assessment Roll is hereby approved.

**SECTION 3.04. APPLICATION OF ASSESSMENT PROCEEDS.**

Proceeds derived by the District from the Non-Ad Valorem Assessments, after payment of costs and expenses associated with collection and administration of the Assessments, shall be utilized for the provision of fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities and programs. In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used as legally available funds to fund any costs associated with fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities and programs.

**SECTION 3.05. COLLECTION OF ASSESSMENTS; COVENANT TO ADOPT ANNUAL RESOLUTION.**

(A) Unless otherwise determined by the Board of Commissioners, collection of the Non-Ad Valorem Assessments shall take place pursuant to the uniform method of collection described in Article III of the Procedural Resolution.

(B) The amount of the Assessment imposed, levied, and billed to each owner of Assessed Property shall additionally include a charge for a pro rata share of the District's costs and expenses associated with development, implementation, notice, collection and administration of the Assessments, but not to exceed five dollars (\$5.00) per Tax Parcel to defray such District costs.

(C) Capital equipment and facilities are fundamental components to the preparedness necessary to continually stand ready to provide fire protection, rescue, emergency medical services, administration, governance, and associated capital, services, facilities, and programs. Following adoption of this Annual Assessment Resolution, counsel for the District are directed and authorized to institute proceedings pursuant to Chapter 75, Florida Statutes, for validation of any Obligations to be secured by proceeds of the Assessments. Unless directed otherwise by resolution of the Board of Commissioners, funding using Obligations shall be contingent upon the validation associated with any such Obligations and the appeal period having expired without an appeal having been taken and/or any appeal having been resolved in favor of the District.

(D) Any Obligations issued by the District shall contain a covenant by the District to adopt an Annual Assessment Resolution imposing Assessments for each Fiscal Year until any Obligations which include Assessments as pledged revenues have been paid in full.

**SECTION 3.06. DIRECTION CONCERNING ANY EXEMPTION.**

(A) Tax Parcels which are statutorily exempted from the payment of ad valorem taxes are in most circumstances subject to the Non-Ad Valorem Assessments



contemplated hereunder. To accomplish community-oriented purposes, the Board exercises its discretion and determines Non-Ad Valorem Assessments to fund fire protection, rescue, emergency medical services, administration, and governance, and associated capital, services, facilities and programs will not be imposed upon the following:

(1) Tax Parcels properly assigned a NAL Real Property Exemption Code of 09 that are wholly exempt from ad valorem taxation under Florida law pursuant to either an institutional, charitable, religious, scientific, or literary exemption granted by the Property Appraiser in accordance with Section 196.196, Florida Statutes.

(2) Tax Parcels properly assigned a NAL Real Property Exemption Code of 05 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain permanently and totally disabled veterans and surviving spouses of veterans granted by the Property Appraiser in accordance with Section 196.081, Florida Statutes.

(3) Tax Parcels properly assigned a NAL Real Property Exemption Code of 05 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain surviving spouses of first responders who died in the line of duty granted by the Property Appraiser in accordance with Section 196.081, Florida Statutes.

(4) Tax Parcels properly assigned a NAL Real Property Exemption Code of 06 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain disabled veterans confined to wheelchairs granted by the Property Appraiser in accordance with Section 196.091, Florida Statutes.

(5) Tax Parcels properly assigned a NAL Real Property Exemption Code of 08 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain totally and permanently disabled persons granted by the Property Appraiser in accordance with Section 196.081, Florida Statutes.

(6) Tax Parcels properly assigned a NAL Real Property Exemption Code of 38 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain deployed service members granted by the Property Appraiser in accordance with Section 196.173, Florida Statutes.

(7) Tax Parcels properly assigned a NAL Real Property Exemption Code of 13 that are wholly exempt from ad valorem taxation under Florida law pursuant to an exemption for certain property used by nonprofit homes for the aged granted by the Property Appraiser in accordance with Section 196.1975, Florida Statutes.

(8) Beginning with the Fiscal Year commencing October 1, 2020, physically adjoining and contiguous residential parcels, where record title is held in the same manner by the same person(s), which are improved with a single-family house, either (a) with the house resting on up to four (4) physically adjoining and contiguous and previously platted subdivision lots together not exceeding in the aggregate of approximately one (1) acre, or (b) with the house resting on one (1) or more, but not more than a total of four (4) physically adjoining and contiguous and previously platted subdivision lots together not exceeding in the aggregate of approximately one (1) acre (both of which are for purposes of this Resolution being defined and considered as a form of "curtilage"), may, upon petition filed by the record owner(s) prior to February 1 each fiscal year with the Fire Chief or such person's designee (which may include a

special master), receive a partial exemption and adjustment to the annual Non-Ad Valorem Assessment using this curtilage definition so that the physically adjoining and contiguous platted lots are exempt from multiple single parcel rate Assessments and instead will be charged a single annual parcel rate, plus the annual charge for all associated improvement value on such lots and all uniform collection fees and costs. This is an equitable determination available only for so long as the adjoining lots are owned and record title is held by the same person(s) in the same manner and used in association with that single house. This exemption may sometimes be referred to as the “adjoining residential lots exemption” or the “modified curtilage exemption.” Due to time needed to identify eligible property owners, and due to statutory timing limitations, implementing this exemption may require several months and will also require the need to work with applicants, the Property Appraiser and Tax Collector after the Assessment Roll is certified. The Fire Chief has already alerted District staff of the need to expedite, and the Board of Commissioners asks and counsels all involved to be patient and good-natured as this exemption is documented and implemented between now and April of 2021, and refunds and modifications to tax notices are issued as necessary.

(9) For the Fiscal Year commencing October 1, 2020, the Assessment Coordinator is directed and authorized to reduce and exempt all Tax Parcels with more than one parcel of developable real property to a single annual parcel rate, such that the Tier 2 rate of \$162.00 will effectively be the same for all Tax Parcels. The Tier 1 rate shall still apply in all such instances.

(B) Parcels comprising Government Property are not necessarily subject to the Non-Ad Valorem Assessments contemplated hereunder. Such Tax Parcels include

those classified or described by the Property Appraiser as government-owned, including the following: (1) military, (2) forest, parks, recreational, (3) public county schools, (4) public colleges, (5) public hospitals, (6) other county-owned property, (7) other state-owned property, (8) other federal-owned property, and (9) other municipal-owned property. Provided, however, each such Government Property owner may be subjected to a user fee and asked to pay such as a fee or charge for the availability of service, similar to the availability and use of garbage removal, water and sewer services, in an amount comparable to the Assessment for the availability of fire protection, emergency rescue and medical services for each such Government Property. Said amount may be invoiced annually, quarterly or monthly in accord with Section 3.04 of the Procedural Resolution. Due to the time demands associated with initial implementation, no such fees to Governmental Property are to be imposed for the upcoming Fiscal Year. The foregoing classifications of properties not to be assessed do not include Government Property that is leased for private use.

(C) The following Tax Parcel classifications are special designations used by the Property Appraiser for recordkeeping purposes and do not represent actual or assessable Tax Parcels and are not subject to the Non-Ad Valorem Assessments contemplated hereunder: (1) common element, (2) header record, and (3) notes parcel.

(D) Certain Tax Parcels associated with the following classifications used by the Property Appraiser typically do not receive a special benefit from the provision of fire protection, emergency rescue and medical services and facilities or are infeasible or impractical to assess, and therefore are not subject to the Non-Ad Valorem Assessments contemplated hereunder: (1) right-of-way, (2) rivers, lakes & submerged

land, (3) sewage disposal & waste lands, and (4) outdoor recreation or parkland.

(E) Tax Parcels associated with the following classifications used by the Property Appraiser receive a special benefit from the provision of services and facilities and are subject to the Non-Ad Valorem Assessments contemplated hereunder: (1) cropland, (2) timberland, (3) grazing land, (4) orchards and groves, (5) apiary, aquaculture, fowl, horse, and other animals, and (6) nursery, floriculture, sod production, and hydroponics. As the assessments contemplated hereunder are not imposed pursuant to chapter 170, Florida Statutes, the exemption from assessment for certain agricultural lands described therein does not apply. In the event a court of competent jurisdiction determines that such agricultural lands are not subject to the Non-Ad Valorem Assessments, the imposition of the Non-Ad Valorem Assessments on such properties or portions of properties not subject to the Non-Ad Valorem Assessments shall be severed from this Resolution.

(F) The classifications of properties in this Section which are or may be exempted, in whole or in part, are reasonably determined to be inappropriate, infeasible or impracticable to assess, and either benefit marginally or create a lesser or nominal demand or burden on the District's costs associated with readiness to serve, do not merit the expenditure of public funds to impose or collect the Non-Ad Valorem Assessments, are exempt and/or otherwise generally serve in some respect to promote the public health, safety, morals, general welfare, security, prosperity and contentment of the property owners, inhabitants or residents of the District. The Assessment Coordinator, or such person's designee, is authorized and directed to use sound

judgment in extending the foregoing determinations and guidance as the Non-Ad Valorem Assessment Roll is extended and collected.

(G) Based upon the foregoing, there are relatively few exempt properties within the District. Using legally available funds other than the proceeds of the Non-Ad Valorem Assessments unless provided by law, the District shall otherwise fund or contribute an amount equal to the Non-Ad Valorem Assessments that would have been otherwise derived, in whole or in part, from such exempt properties.

(H) Provided, however, the Board of Commissioners reserves the right and ability in the future to impose Non-Ad Valorem Assessments against Tax Parcels determined to be exempt, in whole or in part, hereunder to the extent permitted by law, for any reason including lack of reasonable cooperation or willingness to pay for a share of the Assessed Cost as determined by the Fire Chief, or otherwise in the event required or directed to do so by a court of competent jurisdiction.

(I) The foregoing exemptions are proper, justified and within the discretion of the Board of Commissioners. In the event a court of competent jurisdiction determines any exemption or reduction by the District is improper or otherwise adversely affects the validity of the Non-Ad Valorem Assessment imposed for this or any other Fiscal Year, the sole and exclusive remedy shall be the imposition of a Non-Ad Valorem Assessment upon each affected Tax Parcel in the amount of the Assessment that would have been otherwise imposed except for such reduction or exemption afforded to such Tax Parcel by the District.

(J) Any shortfall in the expected Non-Ad Valorem Assessment proceeds due to any reduction or exemption from payment of the annual Assessments required by law

or authorized by the District shall be paid or supplemented by law or by any legally available funds, or combination of such funds, and shall not otherwise be paid for by proceeds or funds derived from Non-Ad Valorem Assessments in any given year.

**SECTION 3.07. EFFECT OF ANNUAL ASSESSMENT RESOLUTION.**

The adoption of this Annual Assessment Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the validity and legal sufficiency of the Procedural Resolution and this Resolution, the method of apportionment and assessment, the rate or rates of assessment, the Assessment Roll and any exemption therefrom, the levy and lien of the Assessments, and method of collection and enforcement), unless proper steps are initiated in a court of competent jurisdiction to secure relief within thirty (30) days from the date of the Board of Commissioners adoption of this Annual Assessment Resolution.

**ARTICLE IV  
GENERAL PROVISIONS**

**SECTION 4.01. AUTHORIZATIONS.** The Fire Chief and any member of the Board of Commissioners, the District Attorney, the Finance Director and such other officials, employees or agents of the District as may be designated by the Board of Commissioners are authorized and empowered, collectively or individually, to take all action and steps and to execute all instruments, documents, and contracts on behalf of the District that are necessary or desirable in connection with the imposition and collection of the Non-Ad Valorem Assessments contemplated hereunder, and which are specifically authorized or are not inconsistent with the terms and provisions of this Resolution.

**SECTION 4.02. EXPRESSION OF GRATITUDE.** This District serves one of the largest unincorporated census tracts in Florida. The use of a simplified assessment approach benefits real property, is expected to make the community a better place to live, and takes a step toward funding the mission specific services of a special fire control district with over 125,000 parcels and 135,000 residents while attracting thoughtful development and improving the use and enjoyment of all parcels within the District. Adoption of this Resolution is not the end of a journey, but a next step for this community. It is with gratitude that this Board of Commissioners considers this Resolution. In the ensuing months through next April much additional work is to be done in implementing a new method of apportionment. District staff has and will be asked to move quickly on modifying the Assessment Roll to implement the 'adjoining lot' exemptions as a priority. As well, the Board, with sincere appreciation for all views, asks for the good-natured patience of District staff, property owners and the public alike as this District carries out its focused and special service mission.

**SECTION 4.03. CONFLICTS.** All resolutions or parts of resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 4.04. SEVERABILITY.** If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Resolution that can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared to be severable.



**SECTION 4.05. EFFECTIVE DATE.**

This Resolution shall take effect

upon the adoption of this Resolution by the Board of Commissioners of the Lehigh Acres Fire Control and Rescue District.

The foregoing Resolution was offered by Commissioner \_\_\_\_\_, who moved its adoption. The motion was seconded by Commissioner \_\_\_\_\_, and being put to a vote, the vote was as follows:

Commissioner Catherine Kruse	_____
Commissioner Debra Cunningham	_____
Commissioner Linda Carter	_____
Commissioner Robert Bennett	_____
Commissioner Lucia Sherman	_____

DULY PASSED AND ADOPTED on the \_\_\_\_ day of \_\_\_\_\_ 2020.

(Seal)

**LEHIGH ACRES FIRE CONTROL  
AND RESCUE DISTRICT**

ATTEST:

\_\_\_\_\_  
Catherine Kruse, Chair

\_\_\_\_\_  
Lucia Sherman, Treasurer/Secretary

**APPENDIX A  
PROOF OF PUBLICATION**

**APPENDIX B  
PROOF OF MAILING**