

September 3, 2020

GAI NUMBER 200717.00

Honorable Mayor Greg Brudnicki and
City Commission, City of Panama City, Florida
501 Harrison Avenue
Panama City, Florida 32401

CC: Mark McQueen, City Manager; Nevin Zimmerman, City Attorney; Mark G.
Lawson P.A., Special Counsel; Ennead LLC, Special Consultant

REPORT

Overview of Simplified Fire Protection Assessment Apportionment Strategy City of Panama City, Florida

INTRODUCTION

This letter report summarizes our analysis of your city's proposed fire budget and its prospective allocation to various accounts or activities, providing a basis for a simplified method of apportioning costs to various properties benefitting from the constant provision and maintenance of fire protection and associated services. The document includes a funding scenario based on the data we considered and the City's direction on July 28, 2020, and August 25, 2020, so you will have a detailed and transparent basis for your policies and as you make decisions as these may impact a strategy for any specific tax parcel, developed or undeveloped, in the entire community.

INTRODUCTION AND PURPOSE

The City of Panama City, Florida ("City") in Bay County has expressed an interest in exploring and better understanding a reasoned special assessment methodology to fund a portion of the annual operating and capital costs associated with maintaining the Panama City Fire Department ("PCFD" or "department"). Special assessments are levies made against certain real property to recover all or part of the cost of a specific service or capital improvement deemed to benefit those real properties. These assessments may be collected either through the City's direct billing of affected property owners or by inclusion on the annual property tax bill, a procedure known as the uniform collection method.

The City has directed and has approved GAI Consultants ("GAI") to describe and analyze those special benefits associated with the provision of fire protection services and facilities to each of the various tax parcels of property in the City using the simplified approach described herein.¹ Our work represents a reasoned

GAI Consultants, Inc.
618 E. South Street
Suite 700
Orlando, Florida 32801

T 407.423.8398
F 407.843.1070
gaiconsultants.com

¹ The use of the maintained database of tax parcels employed by the local property appraiser and tax collector is a relatively accurate, fair, and efficient means to annually allocate or

alternative and equity tool for allocating and sharing all or some portion of benefits, burdens, and the budgeted annual costs associated with the availability of essential services and facilities. The described work and effort applies the concept of Simplified Fire™ to the unique and particular financial circumstances of Panama City and its budget data.

This memorandum is provided for expedited planning and decision-making purposes although it also forms the foundation for implementation should the City determine to proceed with imposition of this methodology. Included is a summary of Florida law governing special assessments, a description of the special benefits conveyed by the budgeted availability of fire protection services and facilities, and a reasoned apportionment methodology reflecting two distinct tiers or classes of assessment allocations.

- Tier 1: A sharing of benefits, burdens and costs for fire protection services and facilities based upon the *relative value of improvements* for each tax parcel in the City as compared to the similar value of improvements for all tax parcels in the City.
- Tier 2: A sharing of benefits, burdens, and costs for fire protection services and facilities on a *per parcel*² apportionment.

The tiers and approach used are both premised upon maintaining a continual state of *preparedness* and *readiness to serve* whether or not PCFD ever receives a request for actual assistance.³ The two discrete tiers identified above are used to digest the estimated budget after a deliberate reduction for potential advanced life support costs (“ALS”), parsing these costs from the budget to avoid any

distribute costs. For apportioning benefits and allocating costs to property as discussed herein, the use of tax parcels is reasonable, fair, effective, and efficient for all tax parcels, including statutorily defined parcels such as multiple-building parcels and individual condominium or cooperative units.

² In most communities, the use of the tax parcel which is evidenced on the real property ad valorem tax assessment roll and database and reflected by a distinct property identification number is sufficient. However, in some communities, it may be preferable to identify individual parcels within a tax parcel. Either approach is sufficient. We believe use of the tax parcel is the better alternative for the City as your community does not appear to have a significant presence of platted subdivision lots that await development, and accordingly, the terms “parcel” and “tax parcel” are used interchangeably throughout this Report.

³ Although either of these two tiers might be used by itself to address a significant portion of the budget for special assessment apportionment purposes, the two together provide a simplified equity tool for the City to share assessable benefits, burdens and costs among assessable tax parcels in the City. The combination of these two tiers offers a public policy tool that necessarily creates a higher level of equity.

misunderstanding that emergency medical services are being funded with the resulting special assessments.⁴

Specific funding examples are included to illustrate the application of, and the flexibility offered by, the two-tiered apportionment methodology.⁵ In terms of those examples, we offer a cautionary note: Within this region, we also have worked with the City of Springfield and the City of Panama City Beach in Bay County for several years providing both initial and annual assistance in setting their respective fire service assessments. The rates in all of these cities differ, not because one jurisdiction charges more or less using the same simplified method discussed here, but rather each city has a differing [1] *number and mix of parcels*, [2] *improvements thereon*, [3] *levels of service*, [4] *budgets, including sources and uses of revenue*, [5] *general funding availability*, and [5] *other circumstances*. Thus, as each community is unique, so will be its rates and approach for using each of the two tiers.

SPECIAL ASSESSMENTS IN GENERAL, FLORIDA LAW

Special assessments are a dedicated revenue source available to general purpose local governments like the City to fund capital improvements or essential services. While our discussion of the law governing special assessments should not be construed as a legal opinion, there are legal guidelines to draw upon in laying out an assessment methodology which conforms to accepted principles and practices necessary to achieve legal validity. As established by Florida case law, two requirements exist for the imposition of a valid special assessment:

- The property assessed must derive a *special benefit* from the improvement or service provided; and
- The assessment must be *fairly and reasonably apportioned* among the properties receiving the special benefit.

Under both Florida's case law and certain statutory components, it is well settled that the benefit required for a valid special assessment may be measured or benchmarked against something other than simply an increase in real property market value. The concept of benefit also includes the relief of a burden or demand created by property as well as added use and enjoyment of the real property. The benefits then can be conceptual. However, they must be capable of being evaluated by some metric and being apportioned in some reasonable manner. It is not necessary that the benefits be direct or immediate, but they must be substantial, certain, and capable of being realized within a reasonable time.

⁴ See ADDRESSING AND REMOVING THE COST OF EMS on page 15 of this report.

⁵ See Appendix B.

The benefits must be distinguishable or different from those of non-assessed properties but they may coincidentally extend to non-assessed properties. Specifically, Florida's case law, as well as its statutory regime relating to special assessments, supports substantial latitude both in the means by which *benefit to or relief of burden created by* real property is identified and determined and the subsequent manner by which an assessment itself is *calculated or apportioned*. Though Florida law requires that special assessments funding improvements or services must be fairly and reasonably apportioned, the State's Supreme Court has held the method of apportionment is immaterial and may vary provided the amount of the assessment for each property *does not exceed the proportional benefits it receives compared to other properties*.

BENEFIT TO PROPERTY DESCRIBED

Under Florida law, fire protection activities indisputably create special benefits for real property. Although several of the many benefits realized may overlap, it is useful for informational and analytical purposes to articulate and describe them separately since they respond to or satisfy different expectations or needs and assume varying qualities.

For the purposes of this memorandum, the reference to benefits specifically includes the annually occurring obligation to underwrite and share the relief of a burden to continually stand in readiness created in the aggregate by the very existence of the various parcels in the City. In the aggregate and overall, the benefits described equal or exceed the costs of readiness to serve and could be rationally apportioned using *either or both* of the methodology tiers described herein.

The collective and relative benefits listed below are among those enjoyed by the various parcels in the incorporated area of Panama City through the availability of fire protection services and facilities budgeted for continual readiness to serve. These benefits apply to improved and unimproved properties.

- ***Assured Fire Protection On Call.*** First and foremost, PCFD has a department of approximately 84 personnel, including, the fire chief, deputy chief, battalion chiefs, numerous fire prevention trainers or specialists and 34 firefighters. PCFD firefighter's primary responsibilities are to continually stand in readiness to secure individual properties in this community from the threat of fire and to render fire suppression services if required. These firefighters are the dedicated *first responders* charged with continually being available to provide fire protection and associated basic medical aid.
- ***Assured First Response Medical Aid On Call.*** This should not be confused with broadly described Emergency Medical Services ("EMS") that are further discussed in this report. Among the responsibilities of the

department and its staff is to stand in readiness to provide *first response* medical aid stemming from fire incidents or related emergency conditions to persons visiting, residing in, working in, occupying, or otherwise associated with the residential and non-residential properties in its service area. As with fire protection services that are always on call, the obvious special benefit to real property is assured life safety and health for residents, visitors, and employees of protected parcels, residences, businesses, and institutions within the City, which increases the use and enjoyment of the property.

- ***Prevention and Education.*** As noted by staffing emphasis, all personnel are not dedicated to suppression activities. A variety of inspection, training, and preventive activities are ongoing. Rather than deployment, these professionals engage in initiatives intended to deter fire conditions and their subsequent damage to property. These employees, reduce the risk of fire hazards or facilitate the administration of efficient fire protection services, thus providing benefit to property as those personnel directly involved in suppression activities.
- ***Maintenance of Minimum Insurance Rating(s).*** The Insurance Services Office, Inc. (ISO) sets minimum standards for fire and emergency response teams. These standards can be a positive or favorable determinant in actual insurance rates imposed by Florida's insurers for various classes of properties. A basic complement of coverage from the PCFD is necessary to assure a minimum fire rating is achieved for actuarial purposes. There are distinct differences in insurance ratings for properties protected by trained full time personnel and those protected by voluntary staff with comparably less equipment and training. That such ratings and the cost of individual coverage for fire insurance vary by location and structural conditions is itself an indicator of the added value, or benefit, to property imparted by a well-staffed and easily deployed fire unit. As well, the greater or lesser available insurance ratings correspondingly and continuously benefit the attractiveness of unimproved properties for potential improvement or development.
- ***Assured Coverage for Other Emergency Conditions.*** As with most departments engaged in fire protection and associated life safety activities, the sworn fire personnel and their support team provide continuing coverage and protection to improved and unimproved real property, delivering incidental services (often to individuals living, working and visiting thereon) associated with a wide range of emergency and potentially hazardous conditions, for example, fire events, terrorist attacks, accident clearance, spilled contaminants, and control of noxious or incendiary materials.

- ***Protection for the Uninsured.*** Those tax parcels without mortgages and/or fire insurance are materially advantaged by supporting a fire assessment program which becomes, by default, an alternate means to shield equity in property. In this case, the benefits associated with continual readiness to deploy are easily evaluated by the value of the residential, commercial, or other improvements, features, or enhancements which are the measure of potential loss when a fire incident is experienced.
- ***Enjoyment of Property and Protection of Value Therein.*** The combination of available fire protection for tax parcels in the City - regardless of insurance ratings, enhanced life safety, personal security and financial advantage - yields materially greater enjoyment in real property. As the basic complement of fire protection is enhanced through the assessment, the *reduced potential* for fire losses or liabilities stemming from a wide variety of incidents occurring thereon become their own benefits to real property. When calls are actually received and personnel deployed to a scene of an incident, the economic value of the department's ability to act becomes more apparent as losses are minimized or contained. These losses, or potential losses, or any related liability can be reasonably measured in terms of the value attributed to any improvements, enhancements, or features on the underlying real property and the parcel itself. While this value may only be apparent in the event of loss or potential loss, the true cost to assure the availability of fire protection services and facilities remains virtually unchanged in the City's budget.
- ***Protection for Improved and Unimproved Properties.*** Clearly any improvements or enhancements on a tax parcel benefit from the readiness to provide fire protection, but unimproved properties also benefit. Unimproved properties benefit from fire protection services and facilities when the PCFD is ready to put out yard waste or brush fires, fires resulting from illegal dumping or arson or other similarly isolated instances, and, in addition, is ready to stop the spread of fires from unimproved to improved properties. As well, the prevention and education measures cited above are intended to forestall potential damage to both improved and unimproved properties.
- ***Relief of Burden.*** As noted in the introduction to this section, the benefits, burdens, and costs reasonably associated with an annual and recurring budget that underwrites a continual readiness to serve the various parcels in the City in the event of fire incidents can be addressed through a direct assessment vehicle. Each parcel in the City, whether improved or unimproved, contributes to the potential for a fire outbreak, and thus burdens the entity charged with standing ready to provide fire suppression service—each parcel of property increases the capacity needed by PCFD to remain ready to serve. The burden of these costs is assigned to all parcels to which services in the event of a fire are continually available

throughout each fiscal year, while other alternative funding sources are relieved of this financial encumbrance.

- ***Economic Leverage.*** The above benefits, viewed in the aggregate, provide a distinct economic advantage to the various improved residential and non-residential, as well as unimproved, properties in the City. Additionally, properties protected by the availability of *full time* departments with trained personnel, such as the community in this case, typically receive, or are more easily capable of receiving, more attractive insurance rates than those properties that are not so protected resulting in direct benefit to property. The availability of more attractive insurance rates positively impacts both already improved tax parcels as well as making unimproved tax parcels more attractive for development.

Through agreements with other jurisdictions or agencies, these or other benefits may be available to properties beyond the assessment area of the City, but they are coincidental and difficult to plan for in advance. For example, should an agreement exist between PCFD and Bay County for the provision of mutual aid, properties not paying a specific assessment would receive obvious - but totally coincidental, unintended, and relatively immaterial - benefit. While a typical arrangement for mutual aid generates no compensation for services exchanged, it is possible that PCFD or any similarly positioned department could be reimbursed for coverage beyond the assessment area.

READINESS AS A CONCEPT

To emphasize again, the impact of insurance rates is just one of several overall benefits involved in the annual budgeting and provision of fire protection service. In most cases, a lower numerical score or rating issued by the ISO is preferable to a higher one. Currently, the City maintains a level 2 out of 10 for fire protection based on the ISO's Public Protection Classification (PPC) rating.

Though at times difficult to quantify, the ISO's PPC rating for each fire department figures prominently in determining benefit to property. To wit, ISO assesses risk based on a series of criteria grouped into categories of the fire department including staff, the fire alarm and communications system, and the water supply system. The rating standardizes levels of fire protection, with Public Protection Classification of 1 being the best and 10 being equivalent to the lowest rating. Many insurance companies consider the ISO rating of the local fire department when determining the premium for property insurance. Insurance rates are, in part, a function of the insurance carrier and the impact of the ISO's PPC rating and can vary considerably. A two- to three-point shift in ISO rating can have a notable effect on the price of insurance.

The PCFD, like virtually every fire department, provides fire protection benefits through its available *capacity* and *readiness* to respond. That is, PCFD -- its staff,

equipment and infrastructure -- stands alert, ready to respond to the potential of a fire and associated basic life support in such an emergency event. The department stands prepared to release or apply this capacity even when simply on call. A *constant potential* for the outbreak of a fire defines the both the capacity and the effectiveness of service when deployed.

The scale of this potential defines the basic underlying cost of the department's fire infrastructure. Even *prior* to an incident - without regard to what the nature of the incident or call may require - PCFD's personnel and equipment remain in readiness or preparedness. From a policy and public purpose standpoint, this is the predominant activity of the PCFD. Indeed, substantial commitments are made to both prevention and education as a way of forestalling a need to deploy.

The amount of resources made available each year, including committable personnel and necessary equipment, is a public administration and policy decision. To limit fire loss and to preserve property values, the City and its fire unit, in this state of readiness, must consider the committable personnel, necessary equipment, and the time likely required to extinguish a fire (*planning or preparing* for the potential incident or event) prior to allocating the direct resources enabling the fire to be extinguished as quickly as possible (*deploying to or intervening* in the incident or event itself). As suggested by the standards of ISO, there are minimal capabilities that must be maintained at all times.

Consequently, an apportionment stemming from a fire department's continual readiness to serve is premised largely on the fact that PCFD must maintain and the City must underwrite its preparedness *whether or not* a fire-related distress call is ever received. Indeed, records of many departments affirm that a significant portion of the benefit derived or burden relieved occurs through readiness or preparedness and *not* deployment. PCFD's preparedness costs are generally those *necessary to maintain the readiness of PCFD's fire personnel to respond* to periodic calls, with the level of service being a policy or budget decision from year to year.

The ever-present *potential for, or threat of*, the outbreak of a fire represents the predominant requirement for service. Even *prior* to an incident – without regard to what the nature of the incident or call may require - PCFD's personnel and equipment continually remain in readiness or preparedness to provide fire protection services and facilities to all property within the City.

Readiness then is the means by which the benefits described on pages 4-7 are received and realized by each improved and unimproved tax parcel.

OVERVIEW OF PROPOSED APPORTIONMENT METHOD

Local governments are afforded great latitude under Florida law with respect to legislative determinations concerning special benefit, and reasonable apportionment is well settled law. No single apportionment methodology has emerged as preferable in the governing case law for a given service or

improvement. So long as the apportionment is reasonable and not arbitrary, the assessment is generally capable of withstanding legal challenge.

This should not be construed to mean local governments which consider the use of special assessments should adopt, without reasoned analysis, a particular apportionment methodology exclusively on the basis of its use elsewhere. Florida's local governments vary in their needs, composition, and policies. The well settled implication is local governments are free to select an apportionment methodology which provides competent and substantial means to share the benefits, burdens, and costs of the fire protection budget and represents the best fit in terms of cost and ease of implementation, not only with respect to affected landowners but also in consideration of the staff required and resources involved with maintenance of the assessment program from year to year.

The parcel identification and classification system required by law to be maintained by the local property appraiser and tax collector will always be sustained and updated over the years as properties within Panama City develop and change. The use of such classification and appraisal system and description of tax parcels is publicly prepared in accordance with discrete procedures, readily accessible, reasonably consistent and accurate, maintained without cost to the City and capable of being used from year to year without extraordinary consumption of resources better expended to address other fire protection related issues. Accordingly, the assessment approach contemplated relies upon such a system as a stable, reasonable, and standardized resource.

The recommended approach does not rely upon attempted statistical analysis of demand-based fire call data maintained by the City or State Fire Marshal for other purposes nor does it attempt to categorize demand among affected parcels. The *current* analysis instead emphasizes that fire protection service, [1] first and foremost, stands ready to serve and protect real property, and [2] is not actually mobilized to fight fires as frequently as the average citizen might think. The proposed approach is in contrast to demand-based approaches to fire assessment (which attempt to allocate costs among different property classifications based on *incidents* while not adequately addressing the efforts to educate and inspect prior to deployment), the simplified fire protection assessment approach focuses instead upon the relative value of the improvements⁶ protected and the costs associated with maintaining a *continual state of readiness to serve*.

This logistically appealing and simplified approach focuses upon an understandable and reasoned two-tiered approach involving the relative value of improvements protected and the annually budgeted core costs of continual

⁶ Such values are fundamental to appraisal systems used by the local property appraiser and are updated, or self-correcting, annually, even in unusual circumstances such as Hurricane Michael or the COVID-19 pandemic.

readiness to serve – not the random and indiscriminate results of demands for calls which may vary materially from year to year.

APPORTIONMENT METHOD: RELATIVE VALUE OF IMPROVEMENTS (TIER 1)

The manner of apportioning a given assessment is immaterial and may vary from jurisdiction to jurisdiction, as long as the assessment for each tax parcel is not in excess of the proportional benefits *as compared to the assessments on other tax parcels*. Therefore, fire protection assessments, like other service or capital assessments, may be apportioned in any number of different ways. Conceivably, the entire cost of fire protection services *could* be apportioned among benefited property *exclusively* on the basis of the value of improvements on each parcel relative to the total value of improvements throughout the jurisdiction and those measures could themselves be substantially varied or weighed.

The simplified fire protection assessment approach removes the severable underlying land value from the calculus and centers instead upon the built or improved environment targeted each year to be protected by fire services and facilities. Focusing on relative improvement value is a direct and logically related means to share costs, benefits and burdens of availability of fire protection services and facilities. It is also clear that improvement value may be utilized as one factor among several considered in a given formula or means since the resulting assessments form a logical base against which the special benefits, burdens, and costs may be compared or determined. A very explicit apportionment on the basis of relative improvement value (as determined by the latest reasonably available real property assessment roll prepared by the county property appraiser) recognizes the relatively higher and proportionate benefit accruing to properties facing potentially greater financial loss in the event of fire incident.

Besides the advantage of relying upon data prepared by the local constitutional property appraiser in the normal course of such person's responsibilities, an approach based in whole or in part upon value is advantageous and defensible because it is systematic in its estimation of *just value* as the basis for purpose of estimating the value of improvements or enhancements, treats properties with proportionate fairness, has an internal system of controls or appeals, and is self-correcting. That is, value and/or circumstances for each particular parcel may change from year to year in accordance with market conditions and other factors, some very discrete to individual parcels. Where conditions or needs dictate, such variation will be adjusted automatically each subsequent year in accordance with the latest reasonably available relative value determined by the property appraiser.

If the improvements or enhancements on a given tax parcel were to increase or decrease in value with the passage of time relative to the improvement value city-wide, that tax parcel's percentage of the total amount assessed would also increase or decrease proportionately to the whole. Using the improvement valuations

employed by the local property appraiser is a fair and reasoned method and proxy for distributing and sharing the multitude of benefits described herein:

There are important considerations in this analysis of any affected improvements subject to Tier 1.

- Improvement value in the context of the Tier 1 assessment is defined as the county property appraiser's officially recorded just market value *minus* any officially recorded land value. The resulting value is a proxy for a parcel's legal attributes or classification, physical characteristics, location, structural conditions and other special attributes or features of the structure or other enhancements, including crops or orchards, for example.

In the case of multiple-parcel buildings, condominiums or similar statutory regimes - where a land value can become a common element by law, is no longer easily severable from improvements and may be only nominally recognized by the property appraiser, may receive a minimal value, and/or simply not be recorded by the county property appraiser for valuation purposes at all - just value represents the measure for improvement value. This is reasonable because the common legal structure of multiple-parcel buildings, condominium or cooperative ownership materially restricts the severability of a specific or individual unit from any associated parcel of land. Effectively this limitation conveys benefit that might otherwise exist from land and any other shared common features back to the unit itself in the form of improvement value. This valuation treatment differs from the example of a typical house and lot in which the house might be severed or removed physically by the owner in an unfettered fashion from any associated land to be subsequently replaced with a materially larger and more valuable improvement that can be appraised separately should it be necessary.

- Tier 1 is reasonably confined to a *maximum* improvement value of \$10,000,000 per parcel. Like other community resources, those of the fire department are plausibly limited based on planning and expectations. Based on our findings and conversations with fire officials elsewhere, it would be rare that a department would staff for or anticipate an event of this magnitude. Consequently, the consideration of valuations beyond this amount would defray any related cost and risk only minimally.

In Panama City, there are approximately 16,546 tax parcels in the City that have the potential to be affected by the assessment and only five have an improvement value greater than \$10,000,000. These high value tax parcels represent much less than 1% of the tax parcel count overall. It would not be rational or practical within reasonable budgetary means to prepare, staff, and equip for such an unlikely event or concentration of loss to such few tax parcels. Based upon the foregoing, we

believe it rational and reasonable to set this amount as the ceiling for calculating each respective tax parcel's potential assessment following the methods described for the Tier 1 assessment.

IDENTIFYING AND APPORTIONING COSTS TO BE ASSESSED BASED UPON RELATIVE VALUE OF IMPROVEMENTS (TIER 1)

Tier 1 includes costs of the PCFD which are largely, but not exclusively, variable and often indeterminate. Many are a direct function of annual negotiated contracts for service or may be the result of changing demand or needs. Even when they can be anticipated in the course of budgetary planning, they may show up as a sudden rise in the budget. In this category then would be infrequent purchases of capital items, gasoline, health contracts, repair and other similar services needed periodically or on demand as well as infrequent overtime labor which together may drive costs on an occasional or so-called "lumpy" basis.

By their very nature and their level of use capital goods depreciate, lose value, and may need periodic replacement, so they are properly included in this tier or class. Although for increased equity purposes we do not recommend it, this tier or class could, in theory, logically justify the entirety of the assessable budget based upon the relative value of the improvements on each tax parcel.

APPORTIONMENT METHOD: READINESS TO SERVE (TIER 2)

Apportionment based upon continual readiness to serve is based primarily upon this premise: a significant portion of the benefit derived or burden relieved by fire protection services stems from the fact that the fire department maintains its full preparedness *whether or not* a fire-related distress call is ever received. PCFD's preparedness costs are generally those *necessary to maintain the readiness of PCFD's fire personnel to respond to periodic calls.*

Though there is minor variation from year to year, core costs associated with readiness to serve 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 department's basic manpower infrastructure without regard to the nature of an event. That is, these core costs must be absorbed even when the department's firefighting capabilities remain exclusively in standby mode. In this context, these costs *are not* an accounting concept. Rather, they represent, or are associated with, a functional concept for purposes of classification. Their characterization as *fixed*, or primarily fixed, serves only to distinguish basic and nominally changing costs correlated to the department's capacity to respond to a fire event or incident.

The PCFD stands alert, ready to respond to the potential of a fire and associated basic life support in an emergency event. The constant *potential* for the outbreak of a fire represents the predominant requirement for service. The scale of this potential, in turn, defines the basic underlying cost of the department's fire

infrastructure. Even *prior* to, or without regard to, an incident - engaged in training, prevention measures, and educational efforts - PCFD's personnel and equipment remain in a ready state.

The emphasis on capacity as a kind of infrastructure that *may or may not* be called into service differentiates fire protection services from most other services normally offered by local government such as garbage collection or the provision of water and wastewater treatment. In these other examples, demand is generated by discrete system users, is measurable within some level of accuracy, is typically constant, not random or sporadic, and can normally be more accurately programmed in advance. In any case, the immediate provision of these services is not typically required in an emergency circumstance to prevent substantial loss of property or life.

Stated somewhat differently, the core fixed costs associated with readiness to serve logically apply to *every* parcel of real property in the City and will be incurred absolutely without regard to that parcel's physical character, use, or composition. On the other hand, other more variable costs can be logically associated with the relative value of improvements assigned to the various tax parcels in the City. Most staffing stems from procedural specifications, and the associated costs are relatively fixed or predetermined for a budget period. The costs of fuel and equipment damage incurred in response to incidents, by contrast, are obvious examples of variable costs. Some costs, based on this functional non-accounting concept, may have both fixed and variable characteristics such as periodic capital expenditures which, to sustain a state of readiness, may be expended in a single year or over many years.

IDENTIFYING AND APPORTIONING COSTS TO BE ASSESSED FOR READINESS TO SERVE (TIER 2)

In virtually every fire department, labor costs comprise the largest share of total costs on an annualized basis. Such costs are those associated with wages, salaries, general administration, payroll taxes and mandated contributions to retirement. Each year actuaries determine the participation rate to be contributed by firefighters toward pension accounts. Currently, PCFD retirement accounts are approximately 70% funded.

The labor costs are relatively determinant based on an expected staffing level and are largely, but not altogether fixed. These are core costs of being continually ready to serve and must be incurred whether a fire event occurs or not. The functional fixed nature of these costs logically can be attributed to the existence of the number of tax parcels and not just their various improvements protected or any other physical characteristics. Thus, sharing these core fixed costs is equitably and reasonably shared by all of the tax parcels which benefit in a substantially similar degree from the predominant readiness to serve aspect of such costs.

This allocation is further strengthened from an equitable standpoint in that other more variable costs are also apportioned by the relative value of improvements approach in Tier 1.

THE USE OF TIER 1 AND TIER 2 TOGETHER

The proposed fire protection budget was carefully analyzed during preparation of this report, and expenses which appeared to be even remotely related to the provision of ALS were eliminated from consideration for assessment to observe the restrictions set forth in Florida case law. The apportionment methodology contemplated and recommended herein involves a two-tiered approach corresponding to any *remaining* reasonably fixed costs and those costs other than fixed.

By using Tier 2, together along with Tier 1, the City achieves a “blended” approach that achieves better equity and allows policy makers - with enhanced insight and understanding of their community’s funding needs - more flexibility in achieving both a reasoned and fair strategy. The combination of both tiers has logical and identified relationships to the benefits, burdens, and costs of the affected parcels, creating a strong, rational, and proportionate vehicle that can be further linked to, or supplemented by, other legally available funding resources.

It is also well-settled in Florida case law that local governments, should they impose an assessment, are not required to *fully* fund that service or improvement through the special assessment itself. The local government may determine, entirely in its own discretion, to fund some portion of the overall cost with general fund or other legally available revenues. Two examples of other revenues would be unrestricted carried-forward funds from prior fiscal years or impact fees charged to some new developments that may require the fire department to expend additional resources. Such impact fees often go towards the purchase of a new fire vehicle or the building of a new fire station. To be clear, a local government may not impose an assessment for any capital items otherwise purchased with impact fees. For this reason, capital expenditures from impact fees are excluded from this budgetary analysis for assessments.

Likewise, either of the two assessment tiers can be funded at a rate independent of the other. For example, the City could impose an assessment for 75% of the costs attributable to Tier 1, but collect a lesser or greater percentage of the costs attributable to Tier 2. As a matter of policy or financial flexibility, the City Commission as the local legislative body may find it useful to levy an assessment for the identified core fixed costs in an amount *less* than the total assessable amount, supporting or offsetting the balance of the same costs through general revenues or other legally available means. The two-tiered methodology described herein is thus also responsive to the need for political flexibility and readily accommodates policy determinations regarding the relevant variables for each tier within the paradigm of legal sufficiency.

ADDRESSING AND REMOVING THE COST OF EMS

The PCFD provides first response aid often defined as basic life support (BLS). The PCFD also provides nominal emergency medical services, either as part of its first response efforts delivered in conjunction with its firefighting activities or to stabilize injured in advance of arrival of Bay County Emergency personnel and transport to area hospitals. The PCFD does not provide “transport”, relying on Bay County or private ambulance services for transport.

An exemplary budget analysis has been prepared based upon the PCFDs anticipated 2020-21 fiscal year expenditures and is attached as Appendix A. The exemplary budget information provided by the City was utilized for the analysis summarized herein and includes an initial assignment of individual line item expenditures to each of the two tiers comprising the overall assessment.

In order to determine the portion of the budget appropriate for recovery through special assessment, it is important to emphasize the limitations established by Florida case law regarding emergency medical services. The Florida Supreme Court has determined that ALS services or emergency medical services (EMS) primarily benefit persons instead of real property and therefore such services, *other than first response medical aid routinely delivered by firefighters* should likely not be funded through special assessments without statutory support or findings beyond the scope of this report. To the extent the costs of EMS services, if any, may be reflected in a fire department budget, such costs for a general purpose local government should be isolated from other fire related tasks or responsibilities and funded through means other than special assessments in order to avoid debate as to the case law validity of any fire related special assessment.⁷

In Florida, first response aid is considered one of the primary professional obligations of a trained firefighter, a point made clear by the Florida Supreme Court. Indeed, *every* fire professional must have a specified minimum number of hours of training related to the provision of such aid. Not atypically, in Florida, first response often takes the form of basic life support (BLS) provided by firefighters also trained as emergency medical technicians (EMT). Such aid is rendered as the *first response* to those victims, patients, or others confronted with an incident, life-threatening illness, or injury needing immediate stabilization until the patient can be transported and given full medical care by other clinicians.

To these substantive differences in care or service, many firefighters also have EMT certifications. Such certifications are coincidental to their primary mission as first responders, assuring they have the skills and training many departments deem

⁷ It is notable that since the Florida Supreme Court’s decision in *City of North Lauderdale v. SMM Properties, Inc.*, 825 So. 2d 343 (2002), the Legislature has in various circumstances expressly authorized special assessments for “emergency medical services and emergency transport services,” section 191.009(2)(b)1., Fla. Stat., or “emergency medical services,” section 170.201(1), Fla. Stat.

necessary to provide BLS. As well, there are some firefighters certified as paramedics. Paramedics possess enhanced skills more aligned with ALS and requiring a higher level of training and education than that necessary to be an EMT.

Case law acknowledges the potential for integration of duties in a fire rescue unit. However, the costs of any additional training or certifications for both EMTs and paramedics that extend beyond that of the first responder must be recognized and appropriately parsed. These EMS and ALS costs may be excluded. For purposes of assessment, we approach the distinctions among BLS, EMS and ALS thoughtfully and reasonably and consistent with law. Our approach here may be overly conservative.

In the case of Panama City, two firefighters maintain the ALS paramedic certification. These two individual firefighters pay the annual cost of their own paramedic certification and training while PCFD carries the basic cost of EMT certification. It is only the paramedic training and skill that might be construed as [1] other than a benefit to property and [2] beyond that to address first response aid. Because there are no costs in the PVFD budget associated with paramedic training and certification, those cost are not relevant to the 2021 budget for the purpose of this assessment analysis.

Even with due care, the lines between first response and more intensive care may occasionally blur. However, to this point explicitly, the role of life support in Panama City falls almost *exclusively* to the Emergency Medical Services Division of the Bay County Fire Rescue, with transport provided by Bay County Fire Rescue or private ambulance companies, meaning the cost of such services simply do not appear in the Panama City fire budget.

Because of the *potential* for EMS costs to bleed into PCFD's budget even though there appears to be no direct manner in which this could happen, we have elected to *exclude* for this overview even the appearance of funding EMS services by further eliminating potential costs associated with ALS training, certification or special pay from the assessment as is demonstrated in Table 1. In order to ensure compliance with Florida case law regarding the funding of EMS, those costs would be funded instead by other legally available means and the balance of the budget would comprise legally assessable costs and be absorbed through the combination of Tier 1 and Tier 2 assessment revenues. Because of this careful budget analysis, it *can* be reasoned plausibly and realistically that *all* costs in the adjusted or remaining PCFD budget are appropriate for recovery through special assessments in the manner described in this analysis.

The use of the adjusted PCFD budget presents a very conservative or excessive exclusion of ALS costs in order to avoid debate as to compliance with case law and tension between that pronouncement and the subsequent inconsistent determinations by the Legislature.

Table 1, prepared for exemplary purposes, summarizes the percentage allocation of the entire budget between the two tiers as more fully described in the assumed PCFD FY 2020-2021 Budget included as Appendix A. The actual dollar amount, and thus the rates for each tier, will be a policy decision with the total amount funded with any assessments determined by the City.

Table 1: Tier Allocation

	\$ \$ Maximum Assessable	% Maximum Assessable	Tier 1		Tier 2	
			Relative Value of Improvements		Readiness to serve (Per parcel)	
			% of Assessable Budget	\$ \$ Amount Maximum	% of Assessable Budget	\$ \$ Amount Maximum
Full FY 2021 PCFD Budget	Assessable in FY 2021 PCFD Budget	Assessable in FY 2021 PCFD Budget				
\$ 8,825,474	\$ 8,742,124	99.1%	30.5%	\$2,667,488	69.5%	\$6,074,636

EXCLUSION OF CERTAIN PARCELS

We have reviewed data prepared by Ennead LLC which reveals there are approximately 16,546 tax parcels within the boundaries of the City that are potentially affected by the analysis and approach outlined. Among these are approximately 468 tax parcels owned by governmental entities which must be excluded since governmentally-owned property used by governments for public purposes cannot be subject to special assessment.^{8,9} Additional parcels may not benefit from fire protection services or are otherwise inappropriate or infeasible to assess based on physical configuration such as submerged or undevelopable lands. In addition, there are approximately 183 “institutionally-coded” parcels (e.g. churches, non-profits, etc.) which the City may, in its discretion, exempt from the assessment based upon public policy determinations. It is assumed that the City will not exempt institutionally-coded parcels. Amounts associated with any exemption on developed or developable tax parcels from the assessment must be funded through other legally available funds of the City.

⁸ The estimate of 468 parcels does not include property owned by governmental entities which is leased to third parties for private uses; such leasehold parcels may be subjected to special assessment.

⁹ However, whether or not the City may be able to charge governmental properties a user fee or service charge similar to impositions for water, sewer, or solid waste, for fire protection in a comparable amount per tax parcel is beyond the scope of this report.

FUNDING EXAMPLES

Due to the expedited consideration of the use of non-ad valorem assessments and timing to employ the efficiency and cost savings of the uniform collection method, the funding example illustrating the two-tiered apportionment approach summarized herein and included in Appendix B, prepared by Ennead LLC, is based upon rates provided by the City using the tax parcel metric for both tiers. The example is provided to further inform and assist in decision-making based upon the assumed budget and an intensive review of the array of tax parcels affected.

PUBLIC ADMINISTRATION AND POLICY DECISION-MAKING OPTIONS

This letter report strongly supports a layered or tiered assessment strategy from an equitable, legally sufficient, and practical perspective. The two distinct tiers are designed to maximize informed public administration and policy decision-making within the legal context of using valid special or non-ad valorem assessments, and other legally available or general funds. As a matter of policy or financial flexibility, the City Commission as the local legislative body may find it useful to levy an assessment for the identified core fixed costs in an amount *less* than the total assessable amount, supporting or offsetting the balance of the same costs through general revenues or other legally available means. The apportionment methodology described provides certain flexibility and readily accommodates local policy determinations regarding the relevant variables. Accordingly, the City has the means to proceed to augment the funding of its fire protection related budget in a rational, fair, and reasoned manner.

POLICY DIRECTION AND AUTHORIZATION TO IMPLEMENT

Necessary policy direction and authorization to proceed to implement the approach can be rendered by home rule ordinance or resolution. The costs of this work and judicial validation under the applicable work order can be recovered by the City as assessment program costs and/or inter-fund transfer in future budgets.

Sincerely,

GAI Consultants, Inc.



Owen M Beitsch, PhD, FAICP, CRE
Senior Director

Attachment: Appendix A - EXEMPLARY LINE ITEM BUDGET ANALYSIS
Appendix B – FUNDING EXAMPLE

APPENDIX A

Illustrative Fire Budget, FY 2021 Panama City, FL							
	(COL A)	(COL B)	(COL C)	(COL D)	(COL E)	(COL F)	(COL G)
Expenditure Object/ Name	Full FY 2021 PCFD Budget	% of FY 2021 PCFD Budget affected By line item adjustments for ALS	Remaining Line Items Assessable in FY 2021 PCFD Budget	Tier 1 Costs Relative Value of Improvements		Tier 2 Costs Readiness to serve (Per parcel)	
				% of Assessable Budget	Amount	% of Assessable Budget	Amount
Payroll and personnel							
Regular Salaries & Wages	\$ 4,172,785	0.0%	\$ 4,172,785	0.0%	\$ -	100.0%	\$ 4,172,785
Overtime	\$ 325,000	0.0%	\$ 325,000	100.0%	\$ 325,000	0.0%	\$ -
Special Pay	\$ 50,000	100.0%	\$ -	100.0%	\$ -	0.0%	\$ -
FICA Taxes	\$ 319,219	0.0%	\$ 319,219	7.0%	\$ 22,345	93.0%	\$ 296,873
FMPTF Contributions	\$ 13,929	0.0%	\$ 13,929	0.0%	\$ -	100.0%	\$ 13,929
Fire Pension Contribution	\$ 2,481,751	0.0%	\$ 2,481,751	50.0%	\$ 1,240,876	50.0%	\$ 1,240,876
Life Insurance	\$ 15,630	0.0%	\$ 15,630	0.0%	\$ -	100.0%	\$ 15,630
Workers' Compensation	\$ 180,000	0.0%	\$ 180,000	0.0%	\$ -	100.0%	\$ 180,000
Unemployment Compensation	\$ 9,500	0.0%	\$ 9,500	100.0%	\$ 9,500	0.0%	\$ -
Subtotal	\$7,567,813	0.7%	\$ 7,517,813	21.3%	\$1,597,721	78.7%	\$5,920,092
Operations							
Professional Services	\$40,378	0.0%	\$ 40,378	100.0%	\$ 40,378	0.0%	\$ -
Other Contractual Svcs	\$167,724	0.0%	\$ 167,724	100.0%	\$ 167,724	0.0%	\$ -
Travel and Per Diem	\$35,300	0.0%	\$ 35,300	100.0%	\$ 35,300	0.0%	\$ -
Communication Services	\$ 26,073	0.0%	\$ 26,073	100.0%	\$ 26,073	0.0%	\$ -
Freight & Postage Service	\$ 150	0.0%	\$ 150	100.0%	\$ 150	0.0%	\$ -
Utility Services	\$ 79,000	0.0%	\$ 79,000	100.0%	\$ 79,000	0.0%	\$ -
Rentals & Leases	\$ 1,800	0.0%	\$ 1,800	100.0%	\$ 1,800	0.0%	\$ -
Insurance	\$ 150,000	0.0%	\$ 150,000	100.0%	\$ 150,000	0.0%	\$ -
Repairs & Maintenance Svc	\$ 196,307	0.0%	\$ 196,307	100.0%	\$ 196,307	0.0%	\$ -
Printing & Binding	\$ 500	0.0%	\$ 500	100.0%	\$ 500	0.0%	\$ -
Promotional Activities	\$ 5,000	0.0%	\$ 5,000	100.0%	\$ 5,000	0.0%	\$ -
Other Current Charges	\$ 735	0.0%	\$ 735	100.0%	\$ 735	0.0%	\$ -
Operating Supplies	\$ 208,100	0.0%	\$ 208,100	100.0%	\$ 208,100	0.0%	\$ -
Fuel Charges	\$ 58,750	0.0%	\$ 58,750	100.0%	\$ 58,750	0.0%	\$ -
Books Publicatns Membrshp	\$ 3,544	0.0%	\$ 3,544	0.0%	\$ -	100.0%	\$ 3,544
Training	\$ 33,350	100.0%	\$ -	0.0%	\$ -	0.0%	\$ -
Subtotal	\$1,006,711	3.3%	\$ 973,361	99.6%	\$ 969,817	0.4%	\$ 3,544
Capital outlays							
Improv Other Than Buildgs	\$ 11,000	0.0%	\$ 11,000	0.0%	\$ -	100.0%	\$ 11,000
Machinery & Equipment	\$ 99,950	0.0%	\$ 99,950	100.0%	\$ 99,950	0.0%	\$ -
Subtotal	110,950	0.0%	110,950	90.1%	\$ 99,950	9.9%	\$ 11,000
Debt Service	140,000	0.0%	140,000	0.0%	\$ -	100.0%	\$ 140,000
TOTALS/CHECK	\$8,825,474	0.9%	\$8,742,124	30.5%	\$2,667,488	69.5%	\$6,074,636

APPENDIX B

APPENDIX B – FUNDING EXAMPLE

As directed, the following funding example (Appendix B) is provided for illustrative purposes to demonstrate application of the methodology contemplated herein. The dollar amounts are approximations and may reflect minor rounding errors. The annual amount of any assessments actually imposed will depend upon direction of City Commission, its staff and fire officials with respect to the underlying variables (such as the tax parcels to be excluded from the assessment for legal or public policy reasons and the authorized level of assessment funding). The percentage of costs attributable to each tier in a given fire department's budget may vary from year to year, and the percentage allocations for the City's fire department budget may be quite different from the allocations for fire department budgets in other municipalities or counties. Clearly, the City Commission has great policy flexibility in determining the level of assessment funding each year. The greater the contribution from the general fund will result in a lower amount of the assessment imposed against each tax parcel to fund the fire protection budget and vice versa. This combination of funding sources is itself a significant public administration and tax equity tool.

The examples are based upon (i) proposed implementation of an annual assessment program generating revenue of approximately \$4,713,817, (ii) maximum assessable fire protection costs of \$8,742,124, (iii) 16,546 assessable and non-excluded parcels¹, and (iv) a total improvement value throughout the City of \$1,392,384,139.² As discussed elsewhere herein, while it is legally permissible to assess for the entire cost of providing fire protection service, most jurisdictions choose to continue to pay for some portion of the overall cost through general fund transfers so as to implement and annually maintain the fire protection assessment at a politically acceptable level. The level of assessment funding may increase or decrease over time, depending on the policy determinations of the governing body. There is no need to distinguish between residential and commercial classification for purposes of calculating either tier of the assessment. The first tier is derived from the relative value of improvements associated with the tax parcel (typically excluding land) as determined solely by the Bay County Property Appraiser's office from year to year as part of its statutory appraisal process, while the second tier focuses more on the core fixed costs per tax parcel necessary to continually be ready to serve. The latter is obviously dependent upon the number of tax parcels within the City.

It is important to note that the base annual assessment amounts set forth in the examples do not include collection and administration costs. The allocable assessment for each tax parcel is typically adjusted prior to billing to include a pro rata share of administration and collection costs associated with the assessment program and, where the uniform collection method is utilized to collect the assessments, to account for the charges of the property appraiser and tax collector and the maximum statutory discount for the early payment of ad valorem taxes and non-ad valorem assessments when the uniform method is used. Such costs (which are in addition to the allocable annual assessment amounts set forth in the examples).

¹ The total 2020 parcel count for the City, as determined from the records of the Bay County Property Appraiser, was approximately 16,546, of which 195 are believed to be infeasible or impractical to assess (submerged, right of way, or Just Value of < \$2,500, etc.). For purposes of the examples set forth herein, the estimated tax parcel count assumes all properties capable of development are assessed and does not exclude tax parcels for legal, policy or other reasons.

² The total value of improvements within the City for 2020, calculated using values determined by the Bay County Property Appraiser.



Example: Funding Gross Revenue of \$5,011,481 (using prepared budget of \$8,825,474 based on City direction), resulting in Net Assessment Revenue of \$4,713,817³.

Amount recovered via Tier 1 of the assessment (relative value of improvements):	\$	1,908,562
Amount recovered via Tier 2 of the assessment (readiness to serve per parcel):	\$	2,805,255
Total amount recovered through special assessments:	\$	4,713,817

Example 1 Rates:

\$1.52 per \$1,000 in Relative Value of Improvements
\$176.62 per Parcel

“Vacant (Unimproved)” with Improvement value = \$0.00

Tier 1 assessment (relative value of improvements) =	\$	0
Tier 2 assessment (per parcel) =	\$	176.62
Base annual assessment =	\$	176.62

“Average” SFR improvement value = \$67,364

Tier 1 assessment (relative value of improvements) =	\$	102.39
Tier 2 assessment (per parcel) =	\$	176.62
Base annual assessment =	\$	279.01

Improvement value = \$100,000

Tier 1 assessment (relative value of improvements) =	\$	152.00
Tier 2 assessment (per parcel) =	\$	176.62
Base annual assessment =	\$	328.62

“Average” Residential Condo improvement value = \$98,170

Tier 1 assessment (relative value of improvements) =	\$	149.22
Tier 2 assessment (per parcel) =	\$	176.62
Base annual assessment =	\$	325.84

Improvement value for McDonalds = \$691,934

Tier 1 assessment (relative value of improvements) =	\$	1051.74
Tier 2 assessment (per parcel) =	\$	176.62
Base annual assessment =	\$	1228.36

Improvement value = \$500,000

Tier 1 assessment (relative value of improvements) =	\$	760.00
Tier 2 assessment (per parcel) =	\$	176.62
Base annual assessment =	\$	936.62

Improvement value = (468 Governmentally-coded parcels) = \$141,451,314

Tier 1 assessment (relative value of improvements) =	\$	215,005.99
Tier 2 assessment (per parcel) =	\$	82,658.16
Base annual assessment =	\$	297,664.15

³ Governmentally-coded property cannot be subject to special assessment. The “cost” of exempting governmentally-coded parcels at the funding level in this Example is approximately \$297,664. Net revenue, exempting governmentally-coded parcels is \$4,713,817 (\$5,011,481 - \$297,664).