

APPENDIX B



The City of North Port

NORTH PORT ROAD AND DRAINAGE DISTRICT

FY 2014 NON-AD VALOREM ASSESSMENT METHODOLOGY

Final Report

July 26, 2013

Prepared By:

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BURTON & ASSOCIATES

July 26, 2013

Ms. Lynn Banish
Business Manager
Public Works Department
1100 North Chamberlain Blvd North Port, FL 34286

Re: Road and Drainage District Assessment Study – Final Report

Dear Ms. Banish:

Burton & Associates is pleased to present the City of North Port with this Final Report of the Road and Drainage District Assessment Study that we conducted for the City. We appreciate the fine assistance provided by you and all of the members of City staff who participated in the project.

If you have any questions, please do not hesitate to contact Andy Burnham or me at (904) 247-0787.

Very truly yours,



Michael E. Burton
President

Enclosure

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SECTION 1. INTRODUCTION

This report presents the results of an analysis to develop a recommended assessment methodology for the North Port Road and Drainage District (District) Non-Ad Valorem Assessment Program. This study was conducted by Burton & Associates, a firm that specializes in providing rate and assessment consulting services to local governments.

1.1 THE ROAD AND DRAINAGE DISTRICT (DISTRICT)

The District provides road and drainage service through the North Port Road and Drainage District. The primary sources of funding for the District are non-ad valorem assessments and other miscellaneous revenues for services. No funding is provided by the General Fund of the City of North Port

1.2 OBJECTIVE AND SCOPE

The objective of this study was to develop a recommended methodology for the District's Road and Drainage Assessments that will result in assessment rates that will recover the full cost requirement of providing road and drainage service to properties within the District limits for FY 2014 and subsequent years in proportion to the benefit received from the road and drainage service provided by the District.

1.3 STUDY PROCEDURES

During this study we identified the full FY 2014 cost requirements for the provision of road and drainage service that recognizes the high level of service that has traditionally been provided by the District. We also projected annual cost requirements for providing road and drainage service in each year of a ten-year projection period from FY 2014 through FY 2023. We accomplished this through interactive work sessions with District staff.

During these work sessions, we examined the impact of alternative scenarios upon key financial indicators. This was accomplished by use of visual representations projected on a large viewing screen from our assessment rate model. In this way, we identified the Road and Drainage Assessment revenue requirements presented in this report, including the FY 2014 revenue requirements that served as the basis for the Road and Drainage Assessments developed during the study and presented in this report. We also identified subsequent annual percentage adjustments in the assessments that will be required for the Road and Drainage Assessments in the remainder of the projection period from FY 2014 through FY 2023 in order to fund the District operation throughout the ten year projection period.

In order to initiate our analysis, we obtained the Public Works Department's historical and budgeted financial information, including three years of historical operating expenditures, the FY 2013 operating budget, year-to-date actual FY 2013 results, the preliminary estimates of the FY 2014 operating budget, the multi-year capital improvement program and other revenues generated from the Road and Drainage Assessments. The capital improvement program includes a schedule of annual capital costs for equipment, vehicle and facility renewal and replacement and also identifies the additional operating and maintenance requirements associated with each capital expenditure as appropriate.

To determine the annual cost and corresponding revenue requirements of road and drainage service, we evaluated each line item of cost in the Public Works Budget and determined with Public Works staff what percentage of the cost of each line is associated with the Road and Drainage District. The results of this determination of Road and Drainage District costs were input into our Financial Analysis and Management System (FAMS-XL©) model to develop a ten-year financial management plan.

The FY 2014 road and drainage service revenue requirement was then allocated to roads, drainage and mowing, the three major functions performed by the District. The costs in each of these three major functions were then further apportioned to administration, and the major system elements of each service. Once the allocations and apportionments were complete, a Road and Drainage Assessment rate structure was developed and specific Road and Drainage Assessment rates and a preliminary assessment roll were developed, the results of which are presented herein.

1.4 BACKGROUND

The development of a non-ad valorem assessment for road and drainage service requires that the service for which properties are to be assessed confer a special benefit upon the property burdened by the special assessment. Simply stated, there must be a logical relationship between the service provided and the benefit to real property assessed for the service.

In addition to the special benefit requirement, the costs associated with providing the service must be reasonably apportioned to the properties that receive a benefit from road and drainage service in proportion to the benefit received. Therefore, the recommended Road and Drainage Assessments calculated in this study were developed such that the costs of providing road and drainage service will be recovered through assessments to properties in proportion to the benefit received from each of the three components of service: roads, drainage and mowing.

1.5 DESCRIPTION OF ROAD AND DRAINAGE DISTRICT SERVICES

This section describes the District services and presents a discussion of relevant Florida Law regarding Special Non-ad Valorem Assessments, followed by sections discussing how Florida Law has been applied to the determination of benefit and the apportionment of the annual revenue requirements of the Road and Drainage Assessment to benefitting properties.

The services provided by the City through the Road and Drainage District are described below.

1.5.1 BASE ADMINISTRATIVE SERVICES

Base administrative services are classified as those core support functions that are spread across all services provided by the Road and Drainage District. These include rights-of-way inspections, infrastructure evaluations of roads and drainage systems, development plan review, contract administration, system support services, and rights-of-way permit processing.

1.5.1.2 Road Services

Base Road Services - Base Road services are performed on all arterial and collector roads. Services include the repair of potholes and street areas up to 100 feet by 200 feet and the rehabilitation of roads based on priorities and criteria as determined by the Department's Road Pavement Management Committee, landscape maintenance and the maintenance of bridges and sidewalk maintenance and debris removal. It was determined that there is a benefit conferred upon all parcels from Base Road services.

Enhanced Road Services - Enhanced Road services are performed on all local roads. Services include the repair of potholes and street areas up to 100 feet by 200 feet and the rehabilitation of roads based on priorities and criteria as outlined by the Department's Pavement Management Committee. Work is performed by Department staff and also through contracted services. It was determined that there is a benefit conferred upon some, but not all parcels from Enhanced Road services.

1.5.1.3 Drainage Services

Benefit to parcels received from the drainage system and related services is a function of system components from which the parcels receive benefit. The drainage system components and services are as follows:

Primary Drainage (Drainage I) – The major ditches that receive rainwater from secondary drainage system components and convey the rainwater out of the District to receiving waters.

Secondary Drainage (Drainage II) – The retention ditches and other drainage facilities that receive rainwater from the tertiary drainage system components and convey the rainwater to primary drainage system components.

Tertiary Drainage (Drainage III) – The drainage swales and other drainage facilities that collect rainwater in developed neighborhoods where it first falls and convey the rainwater to secondary drainage system components.

These drainage system components are graphically depicted in Figure 1 on the following pages.

1.5.1.4 Mowing Services (Right-of-Way)

This service includes mowing of rights-of-way on unimproved properties by Department staff and service contract within the City. The Department maintains a proactive schedule of all rights-of-way mowing.

Figure 1

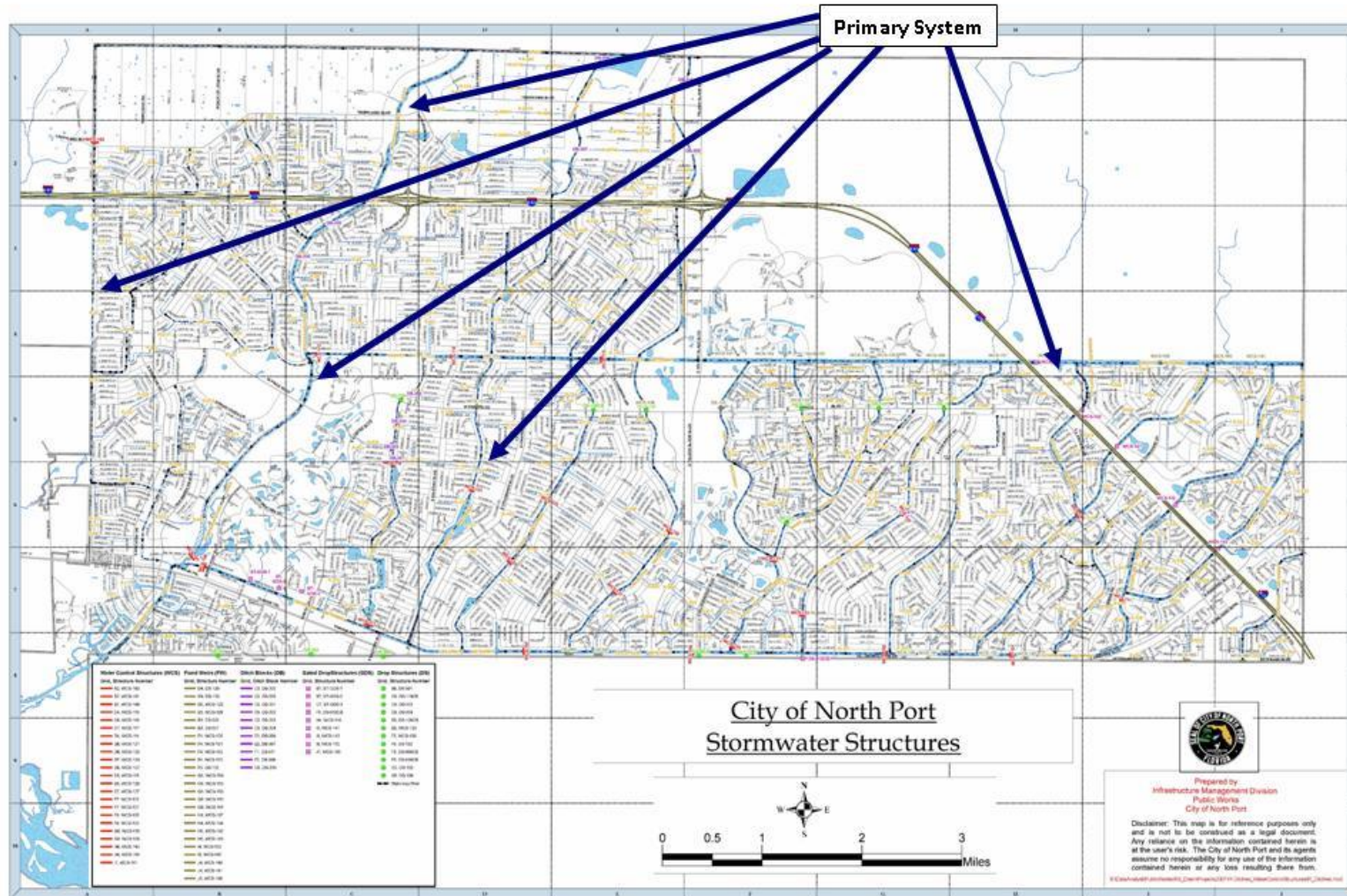


Figure 1 (Cont'd)

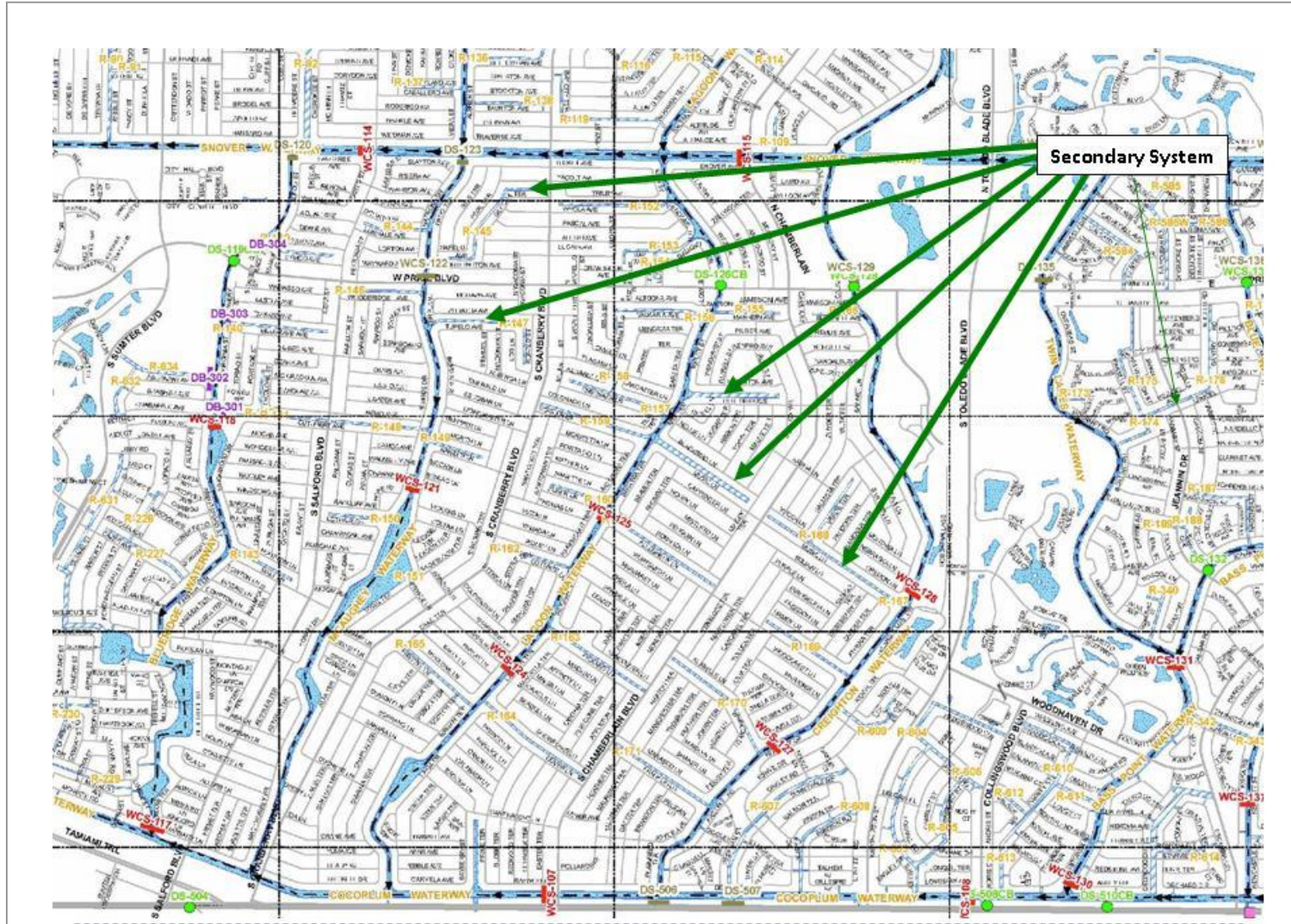
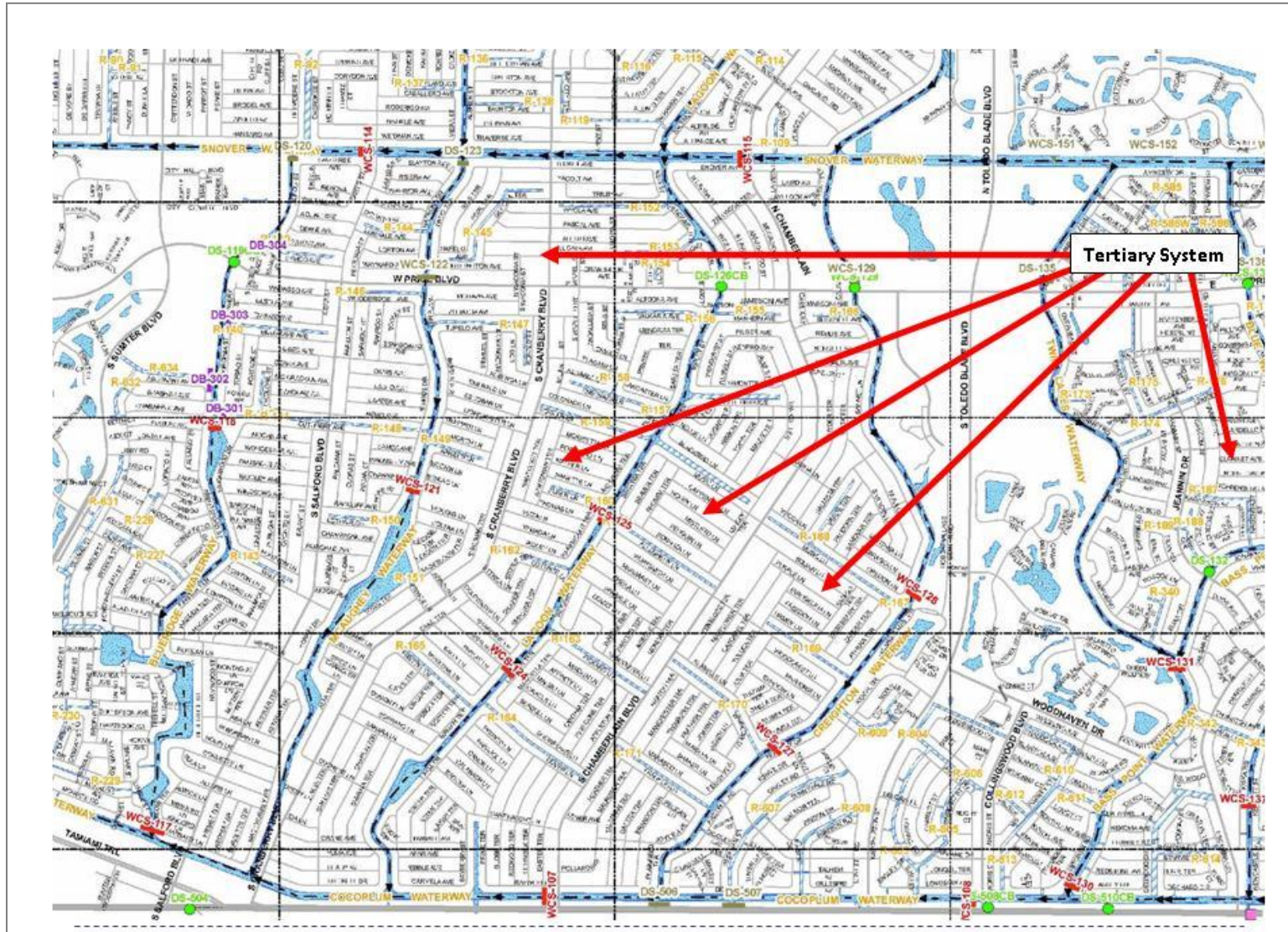


Figure 1 (Cont'd)



1.5.2 SUMMARY OF RELEVANT FLORIDA LAW GOVERNING SPECIAL ASSESSMENTS

This section discusses relevant Florida Law regarding special non-ad valorem assessments as it relates to the District's Road and Drainage Assessment program. The discussion covers how Florida law relates to special benefit and proportional benefit.

Special non-ad valorem assessments are a revenue source available to local governments in Florida to fund operations and maintenance expenses and capital improvements for essential services such as roads, drainage, fire/rescue services, utilities, etc. Florida case law has established two requirements for the imposition of a non-ad valorem special assessment. These two requirements have become known as the two pronged test. They are 1) the property assessed must derive a special benefit from the service provided, and 2) the assessment must be fairly and reasonably apportioned among the properties that receive the special benefit.

The Road and Drainage Assessments recommended in this report comply with both prongs of the two pronged test as follows.

1.4.1.2 Special Benefit

Special benefit, the first prong of the two pronged test, is conferred upon properties within the District by the provision of road, drainage and mowing management services and the availability and use of facilities or improvements by owners and occupants of such property as follows:

Roads - In considering special benefit, it is important to consider that the roads within the District are a network. All parts of the network of roads are necessary for residential properties to be accessible and for commercial properties to be accessed by residential property owners in the District. If any portion of the road network were to be removed or otherwise made not available, 1) residential properties would have diminished or no accessibility, and 2) accessibility to commercial properties by residents of the District would be diminished or eliminated. Therefore, it is proper to conclude that all properties receive a special benefit from the road network by virtue of the availability of the road network and the accessibility thus provided to and from their property by the entire road network.

Drainage - Much like the roads within the District it is important to consider that the drainage system within the District is a network. Like the road network, if any portion of the drainage network were to be removed or otherwise made not available, stormwater would not be conveyed out of the District, flooding would occur, access to properties

would be blocked and damage would likely occur to many properties. Therefore, it is proper to conclude that all properties receive a special benefit from the drainage network by virtue of the availability of the network to safely detain, retain, convey or treat drainage discharged from properties within the District.

Mowing - Mowing is performed on rights of way on vacant properties and the cost of such mowing is included in the mowing component of the assessment to vacant properties only. Properties that receive this mowing service receive a special benefit because if the District did not accomplish the mowing the property owner would otherwise have to accomplish the mowing at the property owner's expense.

1.4.1.3 Proportional Benefit

Proportional benefit, the second prong of the two pronged test, is conferred upon properties within the District by apportionment of costs of system components to specific property classes that benefit from those system components by the following steps in the cost allocation and apportionment methodology:

Roads – District Roads costs were apportioned to Roads Administration and to the two types of roads in the District, Base Roads (arterials and collectors) and Enhanced Roads (local roads). Base and Enhanced Roads costs were apportioned to parcels as follows: all parcels were determined to benefit from Base Roads, whereas only parcels that are located on the local road network were determined to benefit from Enhanced Roads. Base Roads cost and Enhanced Roads costs were then apportioned to parcels by property class based upon the Equivalent Residential Units (ERUs) for each parcel, which are derived by a weighting by property class of trip generation rates for each property class compared to the trip generation rate for the single family property class. Roads Administration costs were also apportioned based upon Roads ERUs.

Drainage – District Drainage costs were apportioned to Drainage Administration and to the three system components: Primary Drainage (Drainage I), Secondary Drainage (Drainage II) and Tertiary Drainage (Drainage III). Assessment rates were determined for each system component and were applied to properties based upon the acreage of each parcel, with a minimum Equivalent Drainage Unit (EDU) of one acre. Administration costs were also apportioned based upon Drainage EDUs.

Mowing – District Mowing costs were apportioned to Mowing Administration and to Mowing. Administration and Mowing costs were spread equally per parcel among all vacant parcels for which mowing services are provided.

SECTION 2. ANALYSIS

This section presents the analysis and basis for and the results of 1) the development of a ten-year financial management plan for the District, and 2) the calculation of FY 2014 Road and Drainage Assessments designed to recover 100% of the full cost of providing road and drainage services in the District. The methodology used results in assessments to individual properties that are in proportion to the benefit received by the availability of road and drainage services and the provision of mowing service to the properties to be assessed.

The analysis was conducted in two work elements as follows:

Work Element 1 – Revenue Sufficiency Analysis

This work element consisted of the development of a ten-year financial management plan for the District that will provide sufficient revenue to meet all of its current and projected operating, maintenance, and capital cost requirements during all years of the projection period. This work element also served as the basis for the FY 2014 revenue requirement for the development of specific Road and Drainage Assessment rates for FY 2014.

Work Element 2 – Cost Apportionment and Assessment Rate Design

This work element consisted of the development of a cost apportionment methodology, specific assessment rates, and an assessment roll of all properties within the District to be assessed in order to recover the revenue requirement for FY 2014 that was identified in Work Element 1 in a manner such that the burden of the assessment is proportional to the benefit received from the services provided by all property classes. The analysis and results of each work element are presented in the following sections.

2.1 WORK ELEMENT 1 – REVENUE SUFFICIENCY ANALYSIS

This section presents the results of the analysis conducted in this work element and our recommendations based upon those results.

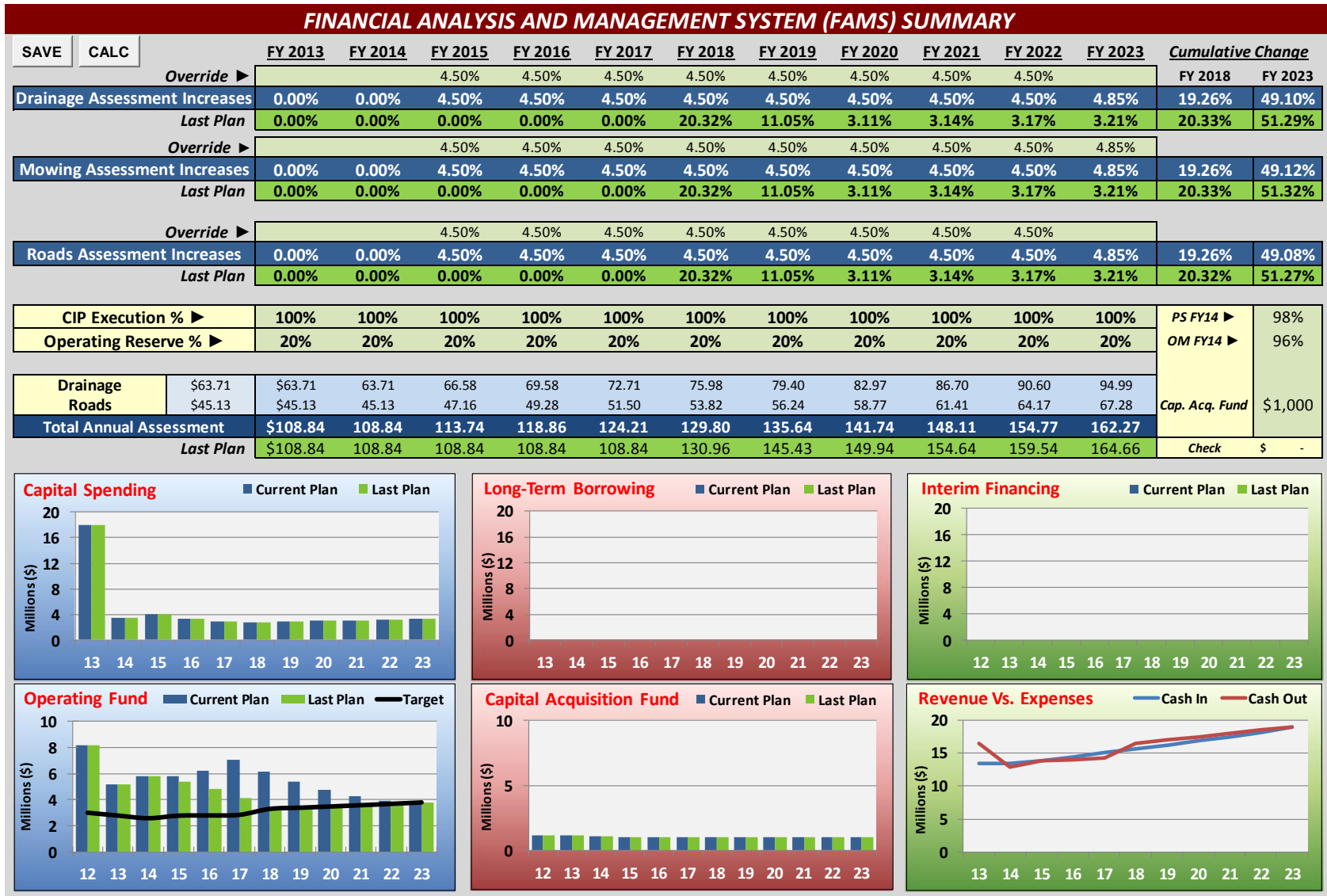
2.1.1 ANALYSIS AND RESULTS

In order to develop the Road and Drainage Assessments, it was first necessary to determine the cost of providing road and drainage services to all properties located within the District limits. As such, we conducted several interactive work sessions with District staff during which we compiled Public Works Department costs and allocated those costs to the Road and Drainage District. We then proceeded with the development of the revenue requirements of the Road

and Drainage Assessment based upon the determination of the Public Works department costs eligible to be recovered in the Road and Drainage Assessments. In addition, the eligible costs included costs associated with preparing and certifying the annual assessment roll, the payment to the Sarasota County Tax Collector to process the annual assessment, mailing costs, and future cost requirements associated with vehicle and equipment replacement and other capital improvement projects.

We then developed a ten-year financial management plan for the District. The projections for future years operating and maintenance costs in the plan were based upon annual escalation factors for each category of operating and maintenance costs which were determined based upon recent history, our experience with similar analyses and consultation with District staff.

The figure on the following page presents a summary of the financial plan for the Road and Drainage District. The green panels and graphs show the results of a “just-in-time” approach to adjustment in the assessment rates. As can be seen on the following figure, under that approach an increase would not be needed until FY 2018, but the required increase at that time would be about 20%. Alternatively, the blue panels and graphs show the results if equal annual percentage increases were implemented and the annual increases required would be approximately 4.5%.



2.1.2 REVENUE SUFFICIENCY ANALYSIS RECOMMENDATIONS

The recommended assessments for FY 2014 were developed to recover \$10,507,421, the assessment revenue requirement determined for FY 2014. We also recommend that in the adoption of the FY 2014 assessments, the District adopt a continuing assessment for future years that can increase up to 10% per year, with the actual annual adjustments to be determined by the District based upon need as determined by updating the financial management plan in subsequent years.

2.2 WORK ELEMENT 2 – COST APPORTIONMENT & ASSESSMENT RATE DESIGN

This section presents the results of the analysis conducted in this work element and our recommendations based upon those results.

2.2.1 ANALYSIS AND RESULTS

2.2.1.2 Exempt Properties

Certain parcel types are exempt by State statutes or case law from non-ad valorem assessments such as this Road and Drainage Service Assessment. Other parcels are typically exempted from such assessments because they receive no benefit from Road and Drainage Services, such as lake bottoms, marshes, etc. The exempted/excluded property types by Department of Revenue (DOR) Code are as follows:

DOR Code	DOR Description	Parcel Count
8000	VACANT GOVERNMENTAL	11
8100	GOVERNMENTAL - MILITARY	-
8200	GOVERNMENTAL - FOREST	22
8210	GOVERNMENTAL - PARKS	50
821X	GOVERNMENTAL - PARKS	-
8220	GOVERNMENTAL - RECREATIONAL AREA	2
8300	GOVERNMENTAL - PUBLIC SCHOOL (BOARD OF PUBLIC INST	7
8400	GOVERNMENTAL - COLLEGE (PUBLIC)	-
8500	GOVERNMENTAL - HOSPITAL (PUBLIC)	-
8600	GOV'T-CO(OTHER THAN SCHLS/COLEGS/HOSP)INC NON-MUN	1
8700	GOVERNMENTAL - STATE (OTHER THAN MILITARY,FOREST,P	1
8800	GOVERNMENTAL - FEDERAL (OTHER THAN MILITARY,FOREST	1
8900	GOVERNMENTAL - MUNICIPAL (OTHER THAN PARKS,REC ARE	9
890X	GOVERNMENTAL-MUNICIPAL (MIXED)	-
9000	MISCELLANEOUS- LEASEHOLD INTEREST (GOV OWNED LEASE	-
9016	SHOPPING CENTER RELATED LONG TERM LEASEHOLD	-
9039	LODGING RELATED LONG TERM LEASEHOLD	-
9042	INDUSTRIAL LONG TERM LEASEHOLD	-
9047	ROCK PLANT LONG TERM LEASEHOLD	-
9100	MISCELLANEOUS- UTILITY - GAS	1
9110	MISCELLANEOUS- UTILITY - ELECTRIC	6
9120	MISCELLANEOUS- UTILITY - TELEPHONE	8
9140	MISCELLANEOUS- UTILITY - RAILROAD/LOCALLY ASSESSED	-
9150	MISCELLANEOUS- UTILITY - WATER AND SEWER	11
9160	MISCELLANEOUS- UTILITY - CABLE TV SERVICE	-
9170	MISCELLANEOUS- UTILITY - RADIO/TELEVISION	-
9300	MISCELLANEOUS-SUBSURFACE RIGHTS	61
9400	MISCELLANEOUS- RIGHT-OF-WAY,STREETS,ROADS,IRR CANA	31
9500	MISCELLANEOUS- RIVERS AND LAKES	4
9600	MISCELLANEOUS- SOLID WASTE	1
960X	MISCELLANEOUS-SOLID WASTE - MIXED USE	-
9610	MISCELLANEOUS- BORROW PIT	-
9620	MISCELLANEOUS- DRAINAGE RESERVOIR	979
9630	MISCELLANEOUS-WASTE LAND	-
9640	MISCELLANEOUS- MARSHES/SWAMPS	-
9650	MISCELLANEOUS-SAND DUNES	-

2.2.2 ALLOCATION OF DISTRICT COST

This section presents the methodology used to allocate District costs in the development of the Road and Drainage Assessments.

2.2.2.1 Allocation to Primary Functions

The FY 2013 Road and Drainage District Budget was used as the basis for allocating District costs to roads, drainage and mowing. The results of that allocation were then applied to the FY 2014 Revenue Requirement of \$10,507,421 to allocate to the Roads, Drainage and Mowing cost pools.

A cost allocation model was developed and used to allocate costs at the detailed line item level to roads, mowing and drainage and further within roads to administration, base and enhanced roads; and further within drainage to administration, the primary system, the secondary system and the tertiary system; and further within mowing to administration and right-of-way mowing. During several interactive work sessions with City staff, we reviewed, and adjusted as appropriate, the cost allocation model. During these work sessions the allocation of costs was determined in consultation with City staff based upon appropriate allocation criteria for each line item of cost. The cost of operations personnel was based upon percentage of time devoted to activities associated with the above referenced primary allocation cost pools. Other costs were allocated based upon City staff's judgment as to the percentage benefit derived by the above referenced cost pools and administrative and general costs that were not able to be specifically allocated were allocated based upon the weighted average of other specifically allocable costs.

2.2.2.2 Allocation to System Cost Pools

After allocating District costs to the primary functions of roads, mowing and drainage, we then allocated those cost pools to cost components within each primary cost pool for the calculation of specific assessments. The roads cost components are administration, base roads and enhanced roads. The mowing cost components are administration and right-of-way mowing. The drainage cost components are administration, primary drainage, secondary drainage and tertiary drainage. The allocation of each primary cost pool to the above referenced cost components was accomplished by direct assignment or allocation of line item costs where possible based upon how personnel and other resources are deployed. Where direct assignment or allocation based upon a specific criterion was not possible, costs were allocated

based upon the weighted average allocation of other related costs that were able to be specifically allocated.

The cost allocation results were then applied to the FY 2014 revenue requirement as the basis for the FY 2014 Road and Drainage Assessments recommended in this report.

2.2.3 APPORTIONMENT METHODOLOGY

Each assessed parcel must receive a special benefit that equals or exceeds the amount of the special assessment actually imposed on the parcel. For the road components of the apportionment methodology each parcel will benefit in varying degrees depending upon each parcel's property use category and the number of lots, acreage, number of dwelling units, amount of building area and number of trips generated by the property use. For the right-of-way mowing component, each unimproved parcel will benefit equally from the service and therefore each unimproved parcel is assigned one (1) unit. For the drainage components of the apportionment methodology each parcel will benefit in varying degrees depending upon each parcel's property use category, acreage, and/or number of dwelling units.

2.2.4 ROAD APPORTIONMENT METHODOLOGY

For road maintenance services, an apportionment methodology that uses trip generation rates by property uses and building improvement sizes (or equivalent) to allocate benefits is typical. An analysis of the number of trips to be generated by each property use is based on the trip generation information contained in the Institute of Transportation Engineers (ITE) manual (9th edition).

Calculation of Road Equivalent Residential Units (ERUs) - The average trip generation per day for single family residential uses is 9.52 trips per day per dwelling unit. The Road Apportionment Methodology apportions the road maintenance service costs using an equivalent residential unit (ERU) based on the average number of trips generated by each property class each day compared to the average number of trips generated by a single family dwelling unit per day. Vacant (un-improved) parcels are assigned a minimum ERU of 1. Table 1 on the following page shows the ERUs by property use that were the basis for apportioning the administration, base and enhanced road costs to each benefited parcel of property.

Table 1 – Road ERUs (Excludes DOR codes that are exempt or for which no parcels exist)

DOR Code	Property Use Description	Road ERU
0000	RESIDENTIAL - VACANT	1.00
0001	RES NEW CONSTRUCT COMMENCED BUT NOT YET ASSESSED	1.00
0004	VACANT CONDO LOT IN CONDO PROJECT	1.00
0010	VACANT MULTI-FAMILY	1.00
0100	RESIDENTIAL - SINGLE FAMILY	1.00
0101	SFR ATTACHED END UNIT, 1 COMMON WALL	1.00
0102	SFR ATTACHED INTERIOR UNIT 2 OR MORE COMMON WALLS	1.00
010X	RESIDENTIAL - SINGLE FAMILY-MIXED IMPROVEMENTS	1.00
0200	RESIDENTIAL - MOBILE HOME	1.00
0320	RESIDENTIAL MULTI FAMILY 20 - 49 UNITS	0.70
0390	RESIDENTIAL MULTI FAMILY-100 OR MORE UNITS	0.70
0403	CONDOMINIUM - LOW RISE 2-3 STORIES	0.87
0700	RESIDENTIAL - MISC.(MIGRANT CAMPS,BOARDING HOMES,E	0.70
0810	MULTI-FAMILY < 10 UNITS SFRD	1.00
0820	MULTI FAMILY/LESS THAN 10 UNITS/DUPLEX	1.00
089X	MULTI-FAMILY APTS 5-9 UNITS-MIX	0.70
1000	COMMERCIAL - VACANT	1.00
1004	VACANT COMMERCIAL/INDUSTRIAL CONDO LAND	1.00
1100	COMMERCIAL - STORES-ONE STORY	4.66
1104	RETAIL CONDO UNIT	4.66
1110	COMM'L-STRIP STORES-ONE STORY/LESS THAN 10,000 SF	4.66
111X	COMM'L-STRIP STORES-ONE STORY/LESS THAN 10,000 SF	4.66
1120	COMM'L-STRIP STORES-ONE STORY/=>10,000 AND <30,000	4.66
1140	COMMERCIAL-STORES-1/STORY/ CONVENIENCE-WITH GAS	88.82
114X	COMMERCIAL-STORES-1/STORY/CONV-WITH GAS - MIXED	88.82
1150	COMMERCIAL STORES-1 STORY FREESTANDING W/DRIVETHRU	10.18
1300	COMMERCIAL - DEPARTMENT STORE/FREESTANDING	5.73
1600	COMM'L-COMMUNITY SC/100K-450K SF/SUPRMKT-DEPT STR	4.49
1620	COMM'L-COMMUNITY NEIGHBORHOOD CTRS/30K-100K SF	4.49
1630	COMMERCIAL-COMMUNITY MULTI STORY/SINGLE TENANT	4.49
164X	COMM'L-COMMUNITY MULTI STY STRIP STORES/<10,000 SF	4.49
1700	COMM'L/OFFICE BLDG-1 STY/SINGLE TENANT <10,000 SF	1.22
1720	COMM'L/OFFICE BLD-1 STY/MULTI TENANT <10,000 SF	1.16
172X	COMM'L/OFFICE BLD-1 STY/MULTI TENANT <10,000 SF -	1.16
1730	COMM'L/OFFICE BLD-1 STY/MULTI TENANT =>10,000 SF	1.16

DOR Code	Property Use Description	Road ERU
1800	COMM'L-OFFICE BLDG/MULTI STY-SINGLE TENANT <10,000	1.22
1804	OFFICE CONDO UNIT	1.22
181X	COMM'L-OFC BLDG/MULTI STY-MULTI TENANT <10,000 SF	1.16
1830	COMM'L-OFC BLDG/MULTI STY-MULTI TENANT=>10,000 SF	1.16
183X	COMM'L-OFC BLDG/MULTI STY-MULTI TENANT=>10,000 SF-	1.16
1904	MEDICAL OFFICE CONDO UNIT	3.80
1910	COMMERCIAL-MEDICAL PROF BLDS/1 STY-SINGLE TENANT <	3.80
1920	COMMERCIAL-MEDICAL PROF BLDS/1 STY-MULTI TENANT <1	3.80
192X	COMML-MED PROF BLDS/1 STY-MULTI TENANT <10,000 SF-	3.80
1930	COMM'L-MED PROF BLDS/1 STY-SINGLE/MULTI TENANT =>1	3.80
1940	MED PROF BLDS/MULTI STY-SINGLE OR MULTI TENANT	3.80
1950	MEDICAL, VETERINARY-RELATED	0.46
2100	COMMERCIAL - RESTAURANTS/FULL SERVICE	9.45
2210	COMM'L/RESTAURANTS/FAST FOOD W/DRIVE-THRU WINDOW	52.11
2220	COMML/RESTAURANTS-FAST FOOD WITHOUT DRIVE THRU WIN	50.34
2350	COMML-FINANCIAL INSTS (RETAIL W/DRIVE-THROUGH)	15.56
2640	COMMERCIAL-SERVICE STATION/CAR WASH-SELF SERVICE	8.10
2720	COMM'L-AUTO REPAIR/SERV & BODY SHPS/COMMERCIAL GAR	0.24
272X	COMM'L-AUTO REPAIR/SERV & BODY SHPS/COMMERCIAL GAR	0.24
2800	COMMERCIAL - PARKING LOTS(COMMERCIAL OR PATRON)	3.25
2810	COMMERCIAL USE IN TRANSITION	4.66
2819	MEDICAL PROFESSIONAL OFFICE PARKING	3.80
2821	FULL SERVICE RESTAURANT PARKING	9.45
2835	TOURIST ATTRACTION PARKING	0.13
2838	GOLF COURSE/DRIVING RANGE EXTENDEDUSE	0.53
2872	PRIVATE SCHOOL PARKING AND EXTENDED USE	1.22
3500	COMMERCIAL-TOURIST ATTRACTIONS/PERMANENT EXHIBITS,	0.13
3820	COMMERCIAL-GOLF COURSES/SEMI-PRIVATE	0.53
382X	GOLF COURSES, SEMI PRIVATE, MIXED USE	0.53
391X	COMMERCIAL-HOTELS/MOTELS/LODGING(1-40 UNITS) - MIX	3.51
4000	INDUSTRIAL - VACANT LAND	1.00
4100	INDUSTRIAL - MANUFACTURING/LIGHT	0.72
410X	INDUSTRIAL - MANUFACTURING/LIGHT - MIXED USE	0.72
4110	INDUSTRIAL-MANUFACTURING/ENGINEERING OR SCIENTIFIC	0.72
4300	INDUSTRIAL - LUMBER YARD	0.16

DOR Code	Property Use Description	Road ERU
4800	INDUSTRIAL - WAREHOUSE	0.37
4804	INDUSTRIAL CONDO UNIT	0.37
480X	INDUSTRIAL - WAREHOUSE - MIXED USE	0.37
4810	INDUSTRIAL-WAREHOUSE AND SALES MIXED USE	0.37
4820	INDUSTRIAL-WAREHOUSE AND OFFICE MIXED USE	0.37
4860	INDUSTRIAL-WAREHOUSE - MINI-STORAGE	0.26
4870	INDUSTRIAL-WAREHOUSE/FLEX SPACE/OVERHEAD DOOR FRON	0.37
4880	IND'L-WAREHOUSE/FLEX SPACE/OFFICE FRONT	0.37
4900	IND'L-OPEN STORAGE/MATERIALS/EQUIPMENT/BLDG SUPPLI	0.37
490X	IND'L-OPEN STRG/MATERIALS/EQUIP/BLDG SUPPLIES/FUEL	0.37
4910	INDUSTRIAL-OPEN JUNK YEAR OR RECYCLING (NOT AUTO)	0.37
6200	AGRICULTURAL - GRAZING LAND SOIL CAPABILITY CLASS	1.00
6900	AGRICULTURAL-ORNAMENTALS	1.00
7000	INSTITUTIONAL- VACANT INSTITUTIONAL	1.00
7200	INSTITUTIONAL - SCHOOL (PRIVATE)	1.22
720X	INSTITUTIONAL - SCHOOL (PRIVATE)/MIXED USE	1.22
7400	INSTITUTIONAL-HOME FOR THE AGED/ASSISTED LIVING/AC	0.80
740X	INSTITUTIONAL/HOME FOR THE AGED/ACLF/ASSISTED CARE	0.80
7500	INSTITUTIONAL-ORPHANAGES/NON-PROFIT/CHARITABLE SER	2.66
7600	INSTITUTIONAL - MORTUARY	3.85
7700	SERVICE CLUB	5.28
7720	COMMUNITY CENTER	3.55
7750	UNION HALL, OTHER	5.28
7800	INSTITUTIONAL - NURSING HOMES/CCRC/SANITARIUMS	0.80
7900	INSTITUTIONAL - CULTURAL ORGANIZATIONS, FACILITIES	1.22
9900	MISCELLANEOUS- ACREAGE NOT ZONED AGRICULTURAL	1.00

For both the Base Road Services and the Enhanced Road Services, the apportionment methodology is identical, using trip generation data as previously described. First, all parcels benefit from and are charged an equal administration assessment component. Next, the determination as to whether a parcel benefits from Base Road Services and/or Enhanced Road Services was based upon the assignment of benefit reflected in the FY 2013 Road and Drainage Assessment Roll, adjusted where appropriate by City staff. The ERU calculation is described below:

Residential Parcels

- Single family residential – DOR codes 0100, 010X, 010Y, 0110, & 0200
 - Parcel ERU = (Category ERU)(# of Dwelling Units)
- Duplexes – DOR code 0820
 - Parcel ERU = (Category ERU)(# of Dwelling Units)
- Residential condos – DOR code 0400 & 0404
 - Parcel ERU = (Category ERU)(1)
- Multi-family other than duplexes – DOR codes 0320, 0390, 039X, & 0820
 - Parcel ERU = (Category ERU)(# of Dwelling Units)

Non-Residential Parcels

- Commercial condos – DOR code 0410, 0411, 0418, 0419, & 0448
 - Parcel ERU = (Category ERU)(Total Complex Living Area Sq. Ft. / 1,000 / # of Parcels in Complex)
- All other commercial
 - Parcel ERU = (Category ERU)(Building Area Sq. Ft. / 1,000)
- Golf Courses - Includes DOR codes 3820, 382X (golf courses)
 - Parcel ERU = (Category ERU)(Acres)

Acres/Vacant (Unimproved) Parcels

- Includes DOR codes 0000, 0010, 1000, 4000, 7000, 5100, 5200, 5700, 5800, 5900, 6000, 6200, 6610, 6700, 6710, 6720, 6800, 6832, 6900, 8200, 8210, 821X, 8220, & 9900
 - Parcel ERU = 1

2.2.5 DRAINAGE APPORTIONMENT METHODOLOGY

The proposed drainage assessments are based upon equivalent drainage units (EDUs) which are based upon acres¹. The EDUs for residential and non-residential parcels determined to receive benefit from primary, secondary and tertiary system components respectively were then divided into the respective residential and non-residential cost pools for primary, secondary and tertiary drainage to calculate the residential and non-residential drainage assessment rate per EDU for the primary, secondary and tertiary drainage system components. Those rates per EDU were then applied to individual parcels based upon the number of EDUs for each parcel to determine the Administration, Drainage I, Drainage II and Drainage II assessments for each parcel.

2.2.6 MOWING APPORTIONMENT METHODOLOGY

All vacant parcels for which the District mows right-of-ways receive an equal assessment per parcel for Mowing Administration and for Mowing of Rights-of-Way.

2.3 CALCULATION OF ASSESSMENTS

The cost allocation process resulted in the allocation of District costs to roads, drainage and mowing. These cost pools were then used to develop road, drainage and mowing assessments. The assessment rates are presented in Section 3 - Results.

Roads - The Roads cost pool, as allocated to Administration, Base and Enhanced Roads was used to calculate the roads assessment rate per ERU for each of these components. The Administration, Base Roads and Enhanced Roads cost pools were used to calculate Administration, Base Roads and Enhanced Roads rates based upon the trip generation factors presented previously in Table 1.

Drainage - The Drainage cost pool, as allocated to Administration, Primary, Secondary and Tertiary drainage system components, was used to calculate an assessment rate per EDU for each system component respectively. In accomplishing the calculation for the cost pool rates, property classes were evaluated and assigned the system components from which they receive benefit. For example, most residential properties were assigned primary, secondary and tertiary system benefits because all system components contribute to draining rainwater from

¹ In the case that the acreage of a parcel is less than 1 acre, a minimum of one (1) Equivalent Drainage Unit is assigned because the Department's drainage services are necessitated by the existence of the majority of the parcels of property in aggregate.

the most residential properties. However, some residential properties, in private neighborhoods that provide tertiary system components for their properties, were only assigned primary and secondary system benefits because the tertiary system benefit is not provided by the City's drainage system. Also, some properties were only assigned primary system benefit in cases where their runoff goes directly into the City's primary system components and they receive no benefit from the City's secondary and tertiary system components.

After all properties were assigned to the appropriate system components relative to benefit received, the cost for each system component was divided by the total residential and non-residential EDU's respectively which were associated with the parcels assigned to receive benefit from that system component in order to derive a residential and non-residential drainage cost per EDU, by property class, for administration, primary, secondary and tertiary system components. A drainage EDU is defined as a minimum of one acre, for parcels that are less than 1 acre, and per acre, or portion thereof, for parcels greater than 1 acre. The exception is large parcels that do not significantly benefit from the drainage system because of the location of the parcel and the large size that precludes much of the acreage to drain to the City's drainage system – such parcels are assigned 1 EDU.

After the drainage cost per EDU was calculated for administration, primary, secondary and tertiary system components, the annual assessment for each parcel was calculated by adding the cost per EDU for each system component from which the parcel receives benefit.

Mowing - The Mowing cost pool, as allocated to Administration and Mowing was used to calculate an assessment rate per parcel for each component. The Administration and the Mowing cost pools were divided by all vacant parcels for which right-of-way mowing was accomplished to derive an assessment rate per benefitted parcel for Mowing Administration and Mowing.

Assessment Rates and Property Impact Analysis - Upon completion of the above referenced apportionments, assessment rates were developed and a preliminary assessment roll was produced which lists each parcel with its total road, mowing and drainage assessment. A comparative analysis was also prepared which presents a comparison of the proposed road, mowing and drainage assessments to the current road, mowing and drainage assessments for primary classes of properties in different size ranges. Section 3 – Results presents the assessment rates and the property impact analysis.

SECTION 3. RESULTS

The results of the study are in two parts in this section, 1) the cost allocation of District costs to roads, drainage and mowing and further to the sub-components for each, and 2) the resulting calculation of road, drainage and mowing assessments and a comparison of the impact of the proposed assessments to the current assessments for various property classes and sizes of parcels. These results are presented in the following subsections.

3.1 ALLOCATION OF DISTRICT COSTS

As stated previously, the FY 2013 Road and Drainage District Budget was used as the basis for allocating District costs to roads, mowing and drainage and the results were then applied to that FY 2014 revenue requirement to derive the primary assessment rate cost pools. Table 2 below shows the result of the cost allocation to the assessment rate cost pools which was used as the basis for calculating the assessment rates proposed herein.

Table 2 – Cost Allocation Results

FY 2014 Gross Assessment Revenue Requirement		\$ 10,507,421								
Breakdown of FY 2014 Gross Assessment Revenue	Mowing		Roads			Drainage				Total
	Admin	Mowing	Admin	Base	Enhanced	Admin	Primary	Secondary	Tertiary	
FY 2013 Gross Asmt Rev. Per Roll	\$ -	\$ 2,058,708	\$ 322,057	\$ 1,629,135	\$ 1,613,150	\$ 397,591	\$ 2,116,383	\$ 669,063	\$ 1,884,402	\$ 10,690,490
FY 2014 Allocation of Asmt. Rev. Req.	\$ 152,048	\$ 1,971,421	\$ 334,436	\$ 909,936	\$ 2,047,708	\$ 343,570	\$ 2,251,043	\$ 1,227,154	\$ 1,270,104	\$ 10,507,421
Variance (Allocation - Asmt)	\$ 152,048	\$ (87,287)	\$ 12,379	\$ (719,199)	\$ 434,557	\$ (54,021)	\$ 134,660	\$ 558,091	\$ (614,299)	\$ (183,069)

Prepared by Burton & Associates

3.2 CALCULATION OF ASSESSMENT RATES AND ASSESSMENTS

Based upon the cost allocation and benefit assignment for property classes described in the previous sections, an assessment roll was produced which lists each parcel with its total road, mowing and drainage assessment. The assessment rates developed and used in the preparation of the assessment roll are presented in Table 3 below and the assessment roll was delivered to the City in electronic form under separate cover.

Table 3 – Assessment Rates by Service Component

ROAD & DRAINAGE ASSESSMENT REVENUE SUMMARY										
DESCRIPTION	ROAD ADMIN	BASE ROAD	ENH ROAD	DRAIN ADMIN	DRAIN I	DRAIN II	DRAIN III	MOW ADMIN	MOWING	TOTAL
FY 13 Revenue Per Roll	\$ 322,057	\$1,629,135	\$1,613,150	\$ 397,591	\$2,116,383	\$ 669,063	\$1,884,402	\$ -	\$2,058,708	\$10,690,490
FY 14 Per Cost Allocation	\$ 334,436	\$ 909,936	\$2,047,708	\$ 343,570	\$2,251,043	\$1,227,154	\$1,270,104	\$ 152,048	\$1,971,421	\$10,507,421
\$ Variance (FY 14 - FY 13)	\$ 12,379	\$ (719,199)	\$ 434,557	\$ (54,021)	\$ 134,660	\$ 558,091	\$ (614,299)	\$ 152,048	\$ (87,287)	\$ (183,069)
% Variance	3.84%	-44.15%	26.94%	-13.59%	6.36%	83.41%	-32.60%	N/A	-4.24%	-1.71%

FY 2013 Assessments	ROAD ADMIN	BASE ROAD	ENH ROAD	DRAIN ADMIN	DRAIN I	DRAIN II	DRAIN III	MOW ADMIN	MOWING
Residential	\$3.93	\$19.88	\$21.32	\$5.01	\$23.92	\$8.76	\$26.02	\$0.00	\$47.62
Commercial	\$3.93	\$19.88	\$21.32	\$5.01	\$56.29	\$25.00	\$68.00	\$0.00	\$47.62
Basis of Assessment	RERU	RERU	RERU	DBU	DBU	DBU	DBU	Parcel	Parcel

FY 2014 Assessments	ROAD ADMIN	BASE ROAD	ENH ROAD	DRAIN ADMIN	DRAIN I	DRAIN II	DRAIN III	MOW ADMIN	MOWING
Residential	\$3.89	\$10.57	\$27.04	\$4.66	\$30.55	\$17.74	\$18.85	\$3.53	\$45.73
Commercial	\$3.89	\$10.57	\$27.04	\$4.66	\$30.55	\$17.74	\$18.85	\$3.53	\$45.73
Basis of Assessment	RERU	RERU	RERU	DBU	DBU	DBU	DBU	Parcel	Parcel

Note: Revenue totals do not reflect any pre-payment discounts or property appraiser/tax collector fees.

Prepared By Burton & Associates

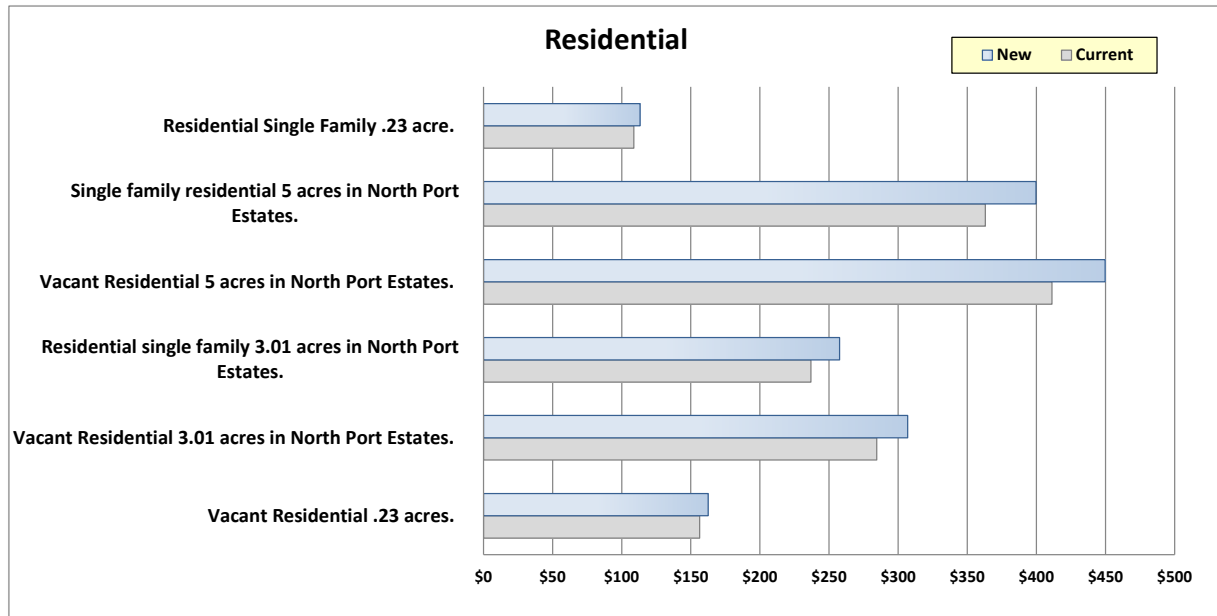
7/18/2013

3.3 PROPERTY IMPACT ANALYSIS

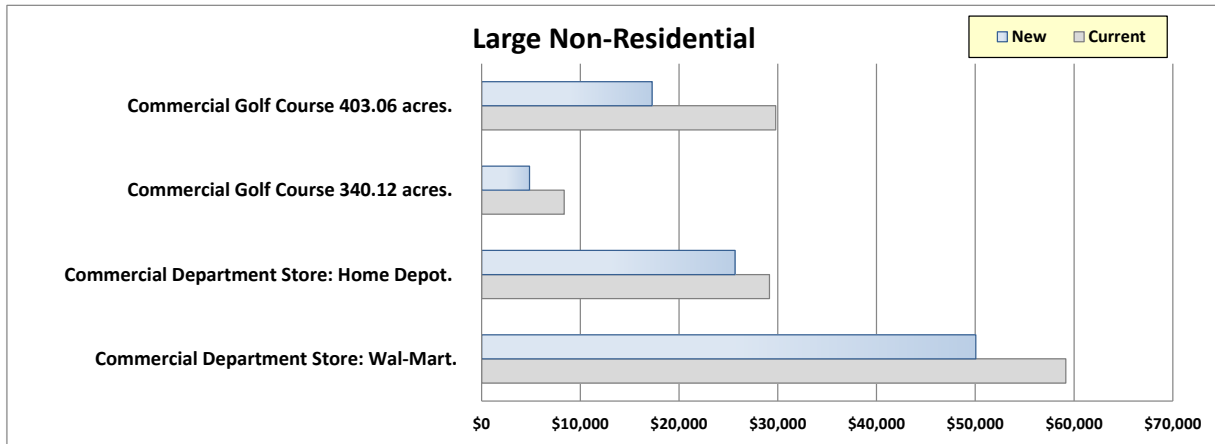
A comparative analysis was also prepared which presents a comparison of the proposed road, mowing and drainage assessment to the current road, mowing and drainage assessment for examples of several classes of properties in different size ranges. Graphical and tabular results of this comparative analysis are presented in Table 4.

Table 4 – Comparative Property Impact Analysis

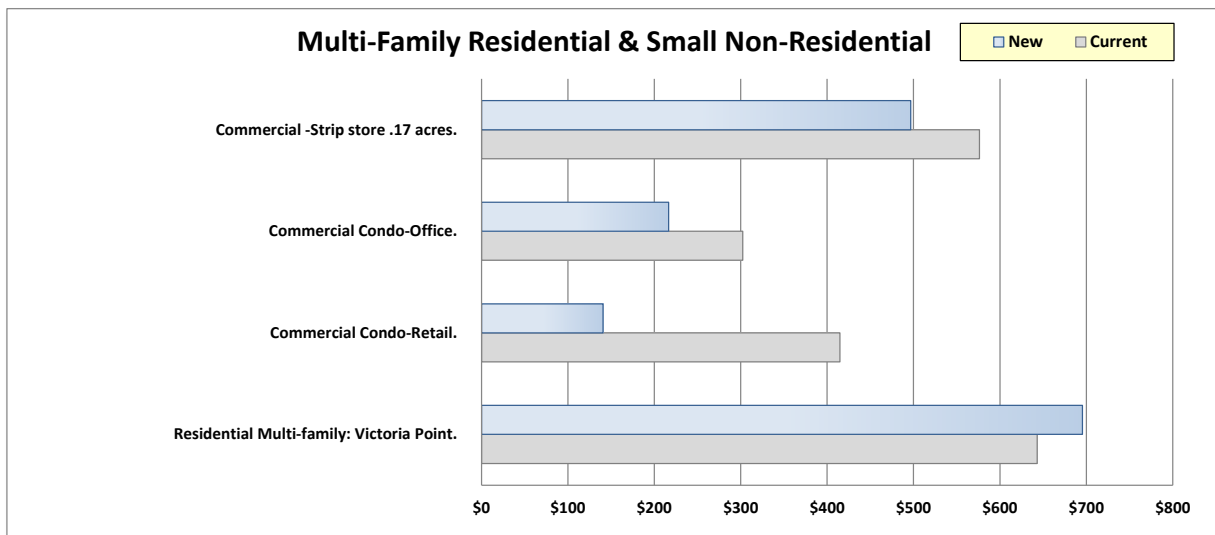
Gray bar graphs represent the annual amount of the current assessment and blue bar graphs represent the annual amount of the recommended assessment. Tabular Results are presented below each graph.



RESIDENTIAL	Current	New	Change
Vacant Residential .23 acres.	\$156.46	\$162.56	\$6.10
Vacant Residential 3.01 acres in North Port Estates.	\$284.52	\$306.89	\$22.37
Residential single family 3.01 acres in North Port Estates.	\$236.90	\$257.63	\$20.73
Vacant Residential 5 acres in North Port Estates.	\$411.30	\$449.76	\$38.46
Single family residential 5 acres in North Port Estates.	\$363.04	\$399.77	\$36.73
Residential Single Family .23 acre.	\$108.84	\$113.30	\$4.46



LARGE NON-RESIDENTIAL	Current	New	Change
Commercial Department Store: Wal-Mart.	\$59,171.97	\$50,049.24	-\$9,122.73
Commercial Department Store: Home Depot.	\$29,160.15	\$25,662.41	-\$3,497.74
Commercial Golf Course 340.12 acres.	\$8,371.30	\$4,854.56	-\$3,516.74
Commercial Golf Course 403.06 acres.	\$29,793.88	\$17,277.22	-\$12,516.66



MULTI-FAMILY AND SMALL NON-RESIDENTIAL	Current	New	Change
Residential Multi-family: Victoria Point.	\$642.98	\$695.36	\$52.38
Commercial Condo-Retail.	\$414.71	\$140.70	-\$274.01
Commercial Condo-Office.	\$302.33	\$216.64	-\$85.69
Commercial -Strip store .17 acres.	\$576.27	\$496.76	-\$79.51

SECTION 4. RECOMMENDATIONS

Based upon the analysis and results described in the prior sections of this report, we recommend the following:

1. Adopt the cost allocations to roads, mowing and drainage presented herein.
2. Adopt the proposed road, mowing and drainage cost apportionment methodology presented herein.
3. Adopt the proposed Road, Mowing and Drainage Assessment Rates presented herein for FY 2014.
4. Adopt a continuing assessment with the provision that assessment rates can be increased up to 10% annually in subsequent years, based upon the decision of the Commission as the revenue requirements of the assessment are evaluated each year.
5. Adopt the proposed Road, Mowing and Drainage Assessment Roll delivered under separate cover.

SECTION 5. FINDING OF BENEFITS SUMMARY

The following conclusions support a finding that the road, mowing and drainage services provided by the District confer a special benefit upon the assessed parcels.

- Benefit is conferred by the provision of road, drainage and mowing management services and the availability and use of facilities or improvements by owners and occupants of such property to properly and safely detain, retain, convey or treat drainage discharged from such property
- Benefit is conferred by the maintenance of a roadway network that provides ready access to and from properties
- Benefit is conferred by stabilization of, and/or the increase in property values
- Benefit is conferred in the form of increased safety, better access to property and improved appearance
- Benefit is conferred by rendering property more adaptable to current or reasonably foreseeable new and higher use
- Benefit is conferred by alleviation of the burdens caused by road and drainage runoff and accumulation attendant with the present or projected use of property, and
- Benefit is conferred by fostering the enhancement of environmentally responsible use and enjoyment of the natural resources within the City.

From this analysis, it is concluded that the provision of road and drainage services provided by the District, enhance and strengthen the relationship of such services to the use and enjoyment of the parcels of property in the area and, ultimately, the property values within the area. It is further concluded that the value of the special benefit conferred exceeds the assessment in all cases.

SECTION 6. SUMMARY OF RECOMMENDATIONS

6.1 REVENUE SUFFICIENCY ANALYSIS

Based upon the results of the analysis and the financial management plan presented herein, we recommend that the assessment rates presented in this section be adopted for FY 2014. Furthermore, we recommend that in the adoption of the FY 2014 assessments, the District also adopt a continuing assessment for future years that can be increased up to 10% per year, with the actual annual adjustments to be determined by the District Board based upon need as determined by updating the financial management plan in subsequent years².

6.2 COST APPORTIONMENT AND ASSESSMENT RATE DESIGN

We recommend adoption of the FY 2014 Road and Drainage Assessment rates presented below that were developed based upon the cost apportionment methodology described herein.

Recommended Road and Drainage Assessment Rates

FY 2014 Assessments	ROAD ADMIN	BASE ROAD	ENH ROAD	DRAIN ADMIN	DRAIN I	DRAIN II	DRAIN III	MOW ADMIN	MOWING
Residential	\$3.89	\$10.57	\$27.04	\$4.66	\$30.55	\$17.74	\$18.85	\$3.53	\$45.73
Commercial	\$3.89	\$10.57	\$27.04	\$4.66	\$30.55	\$17.74	\$18.85	\$3.53	\$45.73
Basis of Assessment	RERU	RERU	RERU	DBU	DBU	DBU	DBU	Parcel	Parcel

Note: Revenue totals do not reflect any pre-payment discounts or property appraiser/tax collector fees.

Prepared By Burton & Associates

7/18/2013

² Our analysis indicates that annual increases will be required to meet the District’s revenue requirements over the next ten years and beyond; therefore, adoption of an upper limit of a 10% per year increases will allow the District to react in the future to unforeseen circumstances, if needed, without having to go through the expensive process of updating the Study, sending first class mail notices and conducting another special hearing.

SECTION 7. LEGAL OPINION SUMMARY

Mr. Terry Lewis, of the law firm of Lewis, Longman & Walker, serves as a member of our consulting team for this project. In that role, he provided legal counsel to Burton & Associates in the development of the recommended Road and Drainage Assessment methodology and rates. Throughout the project we have consulted with Mr. Lewis regarding the assessment methodology used in this Study to ensure that it meets all legal requirements for a non-ad valorem assessment program. Mr. Lewis's responsibility was to counsel with our consulting team during the development of the proposed methodology and to review the methodology that is proposed herein to protect the District's interest by ensuring that the recommended assessment methodology is in compliance with all legal requirements for non-ad valorem assessments as contained in State statutes and case law.

Mr. Lewis's detailed legal opinion is presented in the Appendix. It is recommended that Mr. Lewis' detailed legal opinion be reviewed; however, he has provided the following summary statement for inclusion in this report:

"Based upon my discussions with the Burton & Associates consulting team regarding the proposed assessment methodology, and my review of this report, my opinion is that the proposed assessment methodology is in compliance with applicable State statutes and case law defining a legal non-ad valorem assessment." Terry Lewis, Lewis, Longman & Walker

The entirety of Mr. Lewis's legal opinion is presented in the Appendix.

SECTION 8. PRELIMINARY ASSESSMENT ROLL

We developed a Preliminary Road and Drainage Assessment Roll (Roll) of all parcels within the District that will receive a Road and Drainage Assessment. This Roll includes specific information for each parcel, including the recommended FY 2014 Road and Drainage Assessment. The Roll is being delivered to the District electronically.

SECTION 9. APPENDIX – LEGAL OPINION

Mr. Terry Lewis, of the law firm of Lewis, Longman & Walker, in his role as City Attorney, provided legal counsel to Burton & Associates in the development of the recommended Road and Drainage Assessment methodology and rates. Mr. Lewis has provided a detailed legal opinion which is presented on the following pages of this Appendix.



Reply To: West Palm Beach

July 24, 2013

Mayor Linda Yates and Members of the City Commission and
North Port Road and Drainage District Board
City of North Port
4970 City Hall Boulevard
City of North Port, FL 34286

RE: North Port Road and Drainage District Maintenance Assessment Opinion

Dear Mayor Yates:

The Firm of Lewis, Longman & Walker, P.A. has consulted with Burton & Associates in the development of a proposed non-ad valorem assessment (the road and drainage assessment) which, if adopted, will fund all of the North Port Road and Drainage District's (the "District") costs of providing road and drainage maintenance services throughout the District in perpetuity except a small amount of miscellaneous revenue. We have been asked to provide an opinion as to whether the assessment recommended by Burton & Associates may be legally imposed and collected by the District.

In order to provide the requested opinion, we have undertaken the following preliminary tasks:

1. Consultation with Burton & Associates' assessment specialists and District staff in the development of an assessment methodology and program.
2. Review of the proposed Road and Drainage Assessment Study developed by Burton & Associates.
3. Legal research and review of applicable Florida Statutes and case law relating to the imposition and collection of non-ad valorem assessments.

Our opinion is based upon the following legal analysis:

A. General Background.

Non-ad valorem assessments are distinguishable from taxes (though both are mandatory) in that a legally valid assessment:

See Things Differently

BRADENTON
101 Riverfront Boulevard
Suite 620
Bradenton, Florida 34205

JACKSONVILLE
245 Riverside Avenue
Suite 150
Jacksonville, Florida 32202

TALLAHASSEE
315 South Calhoun Street
Suite 830
Tallahassee, Florida 32301

WEST PALM BEACH
515 North Flagler Drive
Suite 1500
West Palm Beach, Florida 33401

[M]ust confer a specific benefit on the land burdened by the assessment;
and

.....

It is imposed upon the theory that that portion of the community which is required to bear it, receives some special or peculiar benefit in the enhancement of value of the property against which it is imposed as a result of the improvement made with the proceeds of the special assessment.

City of Boca Raton v. State, 595 So. 2d 25, 29 (Fla. 1992); Collier County v. State, 733 So. 2d 1012, 1016, 1017 (Fla. 1999).

It is well settled that counties, cities and special districts are generally authorized to impose and collect non-ad valorem assessments by ordinance as a result of their constitutional grant of home rule power or statutory authority. Id. at 30. Art. VIII §1, Fla. Const.; §125.01(1), Fl. Stat.

Since at least 1917, non-ad valorem assessments for drainage services have been recognized as legally valid by the Florida Supreme Court. Lainhart v. Catts, 75 So. 47 (Fla. 1917); Northern Palm Beach County Water Control District v. State; 604 So.2d 440 (Fla. 1992); Sarasota County v. Sarasota Church of Christ Inc., 667 So. 2d 180 (Fla. 1995); See also Chapter 298, Florida Statutes. Non-ad valorem assessments for roads have been legally valid since 1922. Atlantic Coast Line R.R. v. City of Gainesville, 91 So. 118 (Fla. 1922). See also Bodner v. City of Coral Gables, 245 So. 2d 250 (Fla. 1971). Indeed, Since the date of the referenced cases, no court has seriously questioned the authority of a city, county (or special district with adequate legislative authority) to levy non-ad valorem assessments for drainage and road improvements. Nor, has there been any question of the special benefits to real property provided by such assessments.

In order for a non-ad valorem assessment to be legally valid, it must pass a two-pronged test. First, the assessment must provide a special benefit to the assessed property. Second, the assessment for services must be properly apportioned. South Trail Fire Control District, Sarasota County v. State 273 So. 2d 380 (Fla. 1973). In South Trail the Supreme Court held that legislative determinations as to existence of a special benefit should be upheld unless they are “palpably arbitrary or grossly unequal and confiscatory.” South Trail at 282. The court also held that using a different method of assessment for different properties (i.e., Flat rate vs. area basis), does not invalidate the assessment. And , in a later case involving downtown improvements including streets, the Supreme Court held that a determination regarding the apportionment of benefits should be sustained even “if reasonable people may differ” on the issue. City of Boca Raton v. State, 595 So. 2d 25, 30 (Fla. 1992).

The Supreme Court has stated that:

[t]he legislative determination as to the existence of special benefits and as to the apportionment of the cost of these benefits should be upheld unless the determination is arbitrary.

Sarasota County v. Sarasota Church of Christ, Inc., 667 So. 2d 180, 184 (Fla. 1995).

B. Special Benefit.

The Supreme Court has opined that the test of special benefit is:

[w]hether there is a logical relationship between the services provided and the benefit to real property.

Lake County v. Water Oak Management Corporation, 695 So.2d 667,669 (Fla 1997).

In Lake County the court concluded that while fire protection services were generally available to the community at large, the most substantial benefits from these services were to owners of real property. Id. at 669. This finding is consistent with the earlier determination in South Trail Fire Control District, Sarasota County v. State. (The Supreme Court determined that fire protection benefited all property). Sarasota County.

Based upon the foregoing, the Road and Drainage District may determine that there is a logical relationship between the provision of services and benefit to real property. The legislative determination of such a relationship based upon the facts presented to the District Board satisfies the special benefit requirement imposed by the Supreme Court for the levy of a valid non-ad valorem assessment. The analysis that has been prepared for the Board by Burton & Associates demonstrates that there is a logical relationship and that substantially all real property within the District receives special benefits from the provision of roads and drainage services in the form of an efficient transportation system, flood protection, an improved natural environment and water quality, enhanced public health and safety, increased property value, marketability, developability, and better access and protection to tenants which should reflect higher rental charges for property.

C. Proper Apportionment.

A valid non-ad valorem assessment which provides a special benefit in the form of a service or capital improvement to benefited properties must also be:

[f]airly and reasonably apportioned upon the properties that receive the benefit.

City of Boca Raton v. State, 595 So. 2d at 29. Per Sarasota County, the determination of reasonableness of apportionment is a legislative determination left to the City Commission and should be upheld unless the determination is arbitrary. Sarasota County at 184.

The Burton and Associates North Port Road and Drainage District Fiscal Year 2014 Non-Ad Valorem Assessment Methodology Report proposes an allocation of assessments among vacant properties benefited by the District's right-of-way mowing program which is incidental to the District's road and drainage maintenance activities. Basically, an allocation of the percentage of the District's administrative costs for mowing operations is allocated to all benefited parcels. The cost of the mowing service is also assessed to all vacant lots where right of ways must be maintained for the safety and operation of the District road and drainage system and the property value protection and developability of the vacant lots.

For road assessments, the cost of base road (arterials and collectors) administration and maintenance is assessed by determining the total number of Equivalent Residential Units (ERUs) for all parcels benefited by the base road maintenance program. ERUs are calculated using vehicle trip generation data on a property class basis based on factors that include, as appropriate for each property class, parcel size, dwelling units, property use or building size as specified by the Transportation Engineers Manual, 9th edition. The total number of ERUs is divided into the total base road administrative and maintenance costs to determine an ERU dollar value. The number of ERUs that are assigned to a parcel are then multiplied by the ERU value to determine the annual assessment. For the parcels determined to be benefited by the enhanced road (local roads) program, the methodology is identical to the base road methodology.

As to drainage, once the total cost of drainage maintenance is calculated, the cost is divided among the primary, secondary and tertiary drainage sub-systems. The total number of Equivalent Drainage Units (EDUs) within the primary, secondary and tertiary drainage systems is calculated on an acreage basis. The total number of EDUs in each of the three sub-systems, which is a function of acreage (with a minimum of one acre), is then divided into the administrative and maintenance service costs for each sub-system in order to obtain an EDU value for each sub-system. Depending upon whether a property receives benefit from one drainage sub-system or all three, the assessment on a particular parcel reflects the sum of the number of calculated EDUs times the EDU value for each sub-system from which the parcel receives benefit.

While I have not identified a specific appellate case that describes the exact above system, there are cases that clearly state that the use of a combination of methods to levy a valid assessment is permissible. In the South Trail case the Supreme Court stated:

The manner of the assessment is immaterial and may vary within the district, as long as the amount of the assessment for each tract is not in excess of the proportional benefits as compared to other assessments on

other tracts. The mere fact that some property is assessed on an area basis and other property is assessed at a flat rate, does not in itself establish the invalidity of the special assessment. *Id.* At 384; City of Boca v. State; Sarasota County v. Sarasota Church of Christ, Inc.

Under the circumstances, it is the opinion of the firm that, if anything, the proposed system goes the extra mile to assure that benefitted properties pay no more than their proportionate share of the cost of services for which non-ad valorem assessment are a legally valid source of revenue. Further it is not unreasonable to determine that no benefitted parcel owner will pay more than the value of the benefit received.

D. Assessment Collection Procedures.

The District intends to utilize Section 197.3632, Florida Statutes, to impose and collect the referenced non-ad valorem assessments beginning in fiscal year 2013/2014. The referenced statute requires individual first-class mail notice to all property owners upon whom the non-ad valorem assessment is to be imposed and adoption of the assessment roll at a public hearing if:

1. The non-ad valorem assessment is levied for the first time;
2. The non-ad valorem assessment is increased beyond the maximum rate authorized by law or judicial decree at the time of initial imposition;
3. The local government's boundaries have changed, unless all newly affected property owners have provided written consent for such assessment to the local governing board; or
4. There is a change in the purpose for such assessment or in the use of the revenue generated by such assessment. § 197.3632(4)(a), Fla. Stat.

In a case rendered by the 4th District Court of Appeal, Atlantic Gulf Communities Corporation v. City of Port St. Lucie, 34 So. 2d 1208 (Fla. 4th DCA, 1999), the court determined that unless the notice to benefitted property owners references the fact that the assessments will continue for multiple years and conceivably increase, any subsequent assessment or increase in assessment must honor the entire notice and public hearing process in Section 197.3632, Florida Statutes. In Atlantic Gulf, the City clearly failed to provide such notice and attempted to collect stormwater assessments for multiple years and raise the assessments from time to time. Atlantic Gulf Communities Corporation v. City of Port St. Lucie, 734 So. 2d 1208 (Fla. 4th DCA 1999), rev. denied, 744 So.2d 453 (Fla. 1999).

In the matter of the proposed District assessment, the notices to individual property owners and the Burton & Associates' analysis disclose the fact that the assessment is to continue in perpetuity. Hence, the proposed notice of assessments to all landowners will fully comply

with the requirements of the referenced case and Section 197.3632(4), Florida Statutes, for a valid multi-year assessment. Further, Section 197.3632(6), Florida Statutes, states:

- (6) If the non-ad valorem assessment is to be collected for a period of more than one year or is to be amortized over a number of years, the local governing board shall so specify and shall not be required to annually adopt the non-ad valorem assessment roll and shall not be required to provide individual notices to each taxpayer unless the provisions of subsection (4) apply.

Therefore, pursuant to the referenced statute, the notice and hearings specified by Section 197.3634(4)(b), Florida Statutes, will not be required in subsequent years so long as the assessment methodology or assessment rates are not modified.

E. Conclusions and Opinions

Based upon the foregoing the Firm is of the opinion that:

1. The District is authorized, pursuant to its charter, a properly adopted city ordinance, and referenced case law to levy, impose and collect road and drainage assessments to fund provision of maintenance services within the District.
2. The notice procedures employed by the District will provide all property owners with notice that the assessment will be collected for multiple years. Therefore, pursuant to Section 197.3632(6), Florida Statutes, the District may collect assessments for multiple years without the necessity of annually undertaking the individual notice and hearing procedures in Section 197.3632(4), Florida Statutes, unless the cap rate in its adopted resolution is modified in some manner.
3. The road and drainage service to be provided by the District confers a special benefit upon all assessed real property within the District and the Burton & Associates methodology proposes a fair and reasonable apportionment of the assessment among benefited properties similar to apportionment methodologies previously employed by other local governments and approved by Florida courts.

In reliance upon the documents reviewed, statutory interpretation and case analysis, the Firm's general conclusion and opinion is that the road and drainage assessments to be imposed by the District are consistent with the special benefit and reasonable apportionment requirements for a valid non-ad valorem assessment. Lake County v. Water Oak Management Corporation,

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695 So. 2d 667 (Fla. 1997) Sarasota County v. Sarasota County Church of Christ, 667 So. 2d 180 (Fla. 1995).

Thank you for the opportunity to provide this opinion to the District.

Sincerely yours,



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TEL/bas

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