

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA, RELATING TO THE PROVISION OF FIRE PROTECTION AND RESCUE SERVICES (INCLUDING CAPITAL NEEDS LESS THAN \$10,000), RELATING TO NON-AD VALOREM ASSESSMENTS TO PROVIDE FOR SUCH SERVICES IN THE INCORPORATED AND UNINCORPORATED AREAS OF SUMTER COUNTY, FLORIDA; FINDING THAT SUCH SERVICES PROVIDE A SPECIAL BENEFIT TO CERTAIN REAL PROPERTY; APPROVING A METHODOLOGY FOR THE LEVY OF SUCH NON-AD VALOREM ASSESSMENTS FOR ALL NON-EXEMPT, SPECIALLY BENEFITTED PROPERTY IN SUMTER COUNTY; DETERMINING THAT THE METHODOLOGY AND ASSESSMENT RATES FOR ALL CLASSES OF NON-EXEMPT, SPECIALLY BENEFITTED PROPERTIES IN SUMTER COUNTY RECOMMENDED BY THE BENESCH STUDY DATED JUNE 30, 2023 ARE FAIRLY AND REASONABLY APPORTIONED AND CONSTITUTE LEGALLY VALID ASSESSMENTS FOR FIRE PROTECTION AND RESCUE SERVICES; APPROVING THE NON-AD VALOREM ASSESSMENTS RECOMMENDED BY THE BENESCH STUDY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, non-ad valorem assessments may be used to provide funding for all or a portion of capital and operating costs associated with fire protection and rescue (including first response) services in accordance with Florida law in order to protect specially benefitted real property; and

WHEREAS, Sumter County has previously utilized non-ad valorem assessments to pay for the cost of fire protection and rescue services through its Municipal Services Benefit Unit (MSBU) programs; and

WHEREAS, the Sumter County MSBU has a single district but is served by two separate entities, the Sumter County Fire/EMS Department and the Villages Public Safety Department; and

WHEREAS, this Resolution is considered for adoption pursuant to Article VIII, Section 1(f), *Florida Constitution*, and Section 125.01, *Florida Statutes*, Section 197.3632, *Florida Statutes*, and other applicable laws; and

WHEREAS, the Florida Supreme Court has upheld the authority of local governments to impose non-ad valorem assessments for fire protection and rescue services on specially benefitted, non-exempt property since 1969, so long as the methodology for the levy and apportionment demonstrates a “special benefit” to real property and the assessment apportions the assessments among benefitted properties in a manner proportionate to the benefit received; and

WHEREAS, the Florida Supreme Court has determined that a local government’s legislative determination that a fire protection and rescue non-ad valorem assessment provides a special benefit and is fairly apportioned should be upheld unless the determination is arbitrary and capricious and is not supported by competent, substantial evidence; and

WHEREAS, Board of County Commissioners of Sumter County (“BOCC”) finds that fire protection and rescue services possess a logical relationship to the use and enjoyment of Developed Property and convey a special benefit to such property, by: (1) protecting the value of the improvements and structures through the provision of available fire protection and rescue services; (2) protecting the life and safety of intended occupants in the use and enjoyment of improvements and structures within Developed Properties; (3) lowering the cost of fire insurance by the presence of a professional and comprehensive fire protection and rescue services within Sumter County; and (4) containing the spread of fire incidents occurring on Undeveloped Property with the potential to spread and endanger the structures and occupants of Developed Property; and

WHEREAS, at the regular meeting of the BOCC held on July 11, 2023, the BOCC adopted preliminary approval to the Resolution, the Benesch Study, and proposed methodology; and

WHEREAS, on July 26, 2023 and July 27, 2023, the BOCC has published notice in a newspaper generally circulated in Sumter County as required by Section 197.3632, Florida Statutes; and

WHEREAS, on or before August 1, 2023, the BOCC has provided first class mail notice to all owners of specially benefitted properties subject to the proposed non-ad valorem Fire Rescue Assessments (defined below); and

WHEREAS, the BOCC has convened a public hearing with public notice, and the notices described above, to consider adoption of this Resolution, approval of the Benesch Study dated June 30, 2023 (“Benesch Study,” attached hereto as Exhibit #1 and hereby incorporated herein), approval of the Fire Rescue Assessments recommended by the Benesch Study, and to hear, receive, and consider any public comment and written comments or objections received; and

WHEREAS, the BOCC has received evidence in the form of the Benesch Study and the Benesch Study’s recommended levy of revised non-ad valorem Fire Rescue Assessments (See Exhibit #1) that the non-ad valorem assessment methodology proposed by the Benesch Study based upon actual service calls for fire rescue service to particular land use classes such as residential, commercial, industrial/warehouse, and institutional, and on twenty-four hour a day, seven days a week availability of service for fire protection and rescue services, and omitting costs for advanced life support services, provides a special benefit to real property and fairly apportions the Fire Rescue Assessments among benefitted properties; and

WHEREAS, the BOCC finds that the Fire Rescue Assessments will be fairly and reasonably apportioned; and

WHEREAS, pursuant to Section 125.01(1)(r), *Florida Statutes*, subject only to certain limited exceptions, a county may not levy special assessments for the provision of fire protection services on lands classified as agricultural lands; and

WHEREAS, institutional properties that are exempt from ad valorem taxation under Florida law provide facilities and uses to the ownership, occupants, membership as well as the

public in general that otherwise might be requested or required to be provided by Sumter County and such property uses serve a legitimate public purpose and provide a public benefit. Therefore, it is fair and reasonable not to impose Fire Rescue Assessments upon such parcels of Institutional Property whose use is wholly exempt from ad valorem taxation under Florida law. Accordingly, no Fire Rescue Assessment shall be imposed upon a parcel of Institutional Property whose use is wholly exempt from ad valorem taxation under Florida law; and

WHEREAS, governmental property is similarly exempt from ad valorem taxation, serves a legitimate public purpose and provides a public benefit, and in many circumstances may not be legally subjected to non-ad valorem assessments. Therefore, it is fair and reasonable not to impose Fire Rescue Assessments upon such parcels; and

WHEREAS, the suppression of fire on Undeveloped Property primarily benefits the buildings within the adjacent Developed Property by the containment of the spread of fire rather than the preservation of the Undeveloped Property. Therefore, it is fair and reasonable not to apportion any of the Fire Rescue Assessed Cost to Undeveloped Property;

WHEREAS, similar assessment methodologies have been recognized by the Florida Supreme Court to provide insurance cost savings, reduction in financial liability, protection of nearby properties from adjacent fires and enhanced property values; and

WHEREAS, Sumter County has previously collected Fire Rescue Assessments pursuant to the Uniform Assessment Collection Act and intends to continue to use the same procedure; and

WHEREAS, after consideration of the Benesch Study, Florida case law, and written and oral testimonial evidence at the public hearing, the BOCC finds that the proposed non-ad valorem assessment methodology and apportionment of Fire Rescue Assessments among benefitted non-exempt properties constitute legally valid non-ad valorem assessments for the provision of fire protection and rescue services in Sumter County.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF SUMTER COUNTY, FLORIDA:

SECTION 1. AUTHORITY. This Resolution is adopted pursuant to Article VIII, Section 1(f), *Florida Constitution*, and Section 125.01, *Florida Statutes*, the provisions of Chapter 2 Sumter County Code of Ordinances, and other applicable provisions of law.

SECTION 2. DEFINITIONS. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance. Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa. As used in this resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

“Assessed Property” means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the fire protection and rescue services

identified in the Initial Assessment Resolution, or a subsequent Preliminary Rate Resolution or Rate Resolution.

“Assessment Roll” means a listing prepared, or cause to be prepared, by Sumter County including all real property parcels within the geographic boundaries subject to the assessment and which shall be maintained on file in the office of the County Administrator and open to public inspection.

“BOCC” means the Sumter County Board of County Commissioners.

“Code Descriptions” mean the descriptions from the Sumter County Property Appraiser’s Office, which correspond to the descriptions listed in the DOR Code. Code Descriptions are used by the Property Appraiser in categorizing Tax Parcels on the Tax Roll.

“Developed Property” means Tax Parcels that the Property Appraiser has assigned a DOR Code or categorization indicating the Tax Parcel is improved entirely or in part with buildings.

“DOR Code” means a property use code regime established in Rule 12D-8.008, Florida Administrative Code, or its successor in function, assigned by the Property Appraiser to Tax Parcels on the Tax Roll.

“Fire Rescue Assessment” or “Assessment” means a special assessment lawfully imposed by the BOCC against Assessed Property to fund all or any portion of the cost of the provision of fire protection and rescue services providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

“Institutional Property” means those Tax Parcels with a Code Description designated as "Institutional" in the DOR Code.

“Tax Parcel” means a parcel of property located within Sumter County to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

“Undeveloped Property” means Tax Parcels that the Property Appraiser has assigned a DOR Code or categorization indicating the Tax Parcel is vacant or not improved with buildings.

SECTION 3. LEGISLATIVE FINDINGS. The BOCC hereby adopts and incorporates the recitations first set forth above as legislative findings.

SECTION 4. ADOPTION OF BENESCH STUDY. The BOCC hereby approves and adopts the Benesch Study and its proposed methodology for the Fire Rescue Assessments.

SECTION 5. RATES. The BOCC hereby approves the following rates of assessment for Developed Properties within the MSBU based on the Benesch Study:

PROPERTY RATE CATEGORY	UNIT	RATE PER UNIT
Residential	Dwelling Unit	\$323.64
Commercial	Square Footage	\$0.539
Industrial/Warehouse	Square Footage	\$0.344
Institutional	Square Footage	\$0.405

Fire Rescue Assessments may be increased year over year by the BOCC by no more than the annual increased percentage in the Consumer Price Index, All Items, without amendment of the approved methodology.

SECTION 6. APPLICATION OF ASSESSMENT FUNDS. Funds derived by Sumter County from the Assessments will be utilized for the provision of fire protection and rescue services, facilities, and programs provided within the Sumter County Municipal Service Benefit Unit (including capital needs less than \$10,000). In the event there is any fund balance remaining at the end of the Fiscal Year, such balance shall be carried forward and used only to fund fire protection and rescue services (including capital needs less than \$10,000) provided within the Sumter County MSBU.

SECTION 7. SEVERABILITY. If any clause, section, or other part of this resolution shall be held by any court of competent jurisdiction unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affect the validity of the other provisions of this resolution.

SECTION 8. EFFECTIVE DATE. This Resolution shall take effect immediately upon its passage and approval by the BOCC.

PASSED AND APPROVED THIS ____ day of ____, 2023.

BOARD OF COUNTY COMMISSIONERS
OF SUMTER COUNTY, FLORIDA

By: _____
Craig A. Estep, Chairman

ATTEST:

Clerk