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PART 2. - WATERWAY DREDGING PROGRAM AREA

Sec. 714.201. - Generally.

A Program Area is hereby created that is intended to authorize Neighborhood Assessment Programs, as set forth in and pursuant generally to the procedures set forth in Part 1 hereof as supplemented or modified hereby this Part 2, for the provision of Waterway Dredging and Related Improvements within an Eligible Neighborhood, and allowing for City contribution. A copy of a petition form acceptable for the Waterway Dredging Program Area is on file with the Division of Legislative Services.

(Ord. 2005-157-E, § 3)

Sec. 714.202. - Definitions.

Where capitalized and used herein this Part 2, unless otherwise defined in Part 1, above, the following terms shall have the following meanings:

- (a) *Eligible Neighborhood* means a Neighborhood where the body of water to be dredged is navigable in fact and where the bottom lands under such body of water are sovereign submerged lands owned by the state, are owned by the City, or where the City has permission to dredge such lands from, as applicable, the title-holding associative entity or a sufficient percentage of the relevant landowners with permission determined by the same methodology as the Preliminary Petition was based upon.
- (b) *Waterway Dredging and Related Improvements* means the service of dredging the waterway and also necessary systems and facilities related thereto including necessary riprap or bulkhead improvements installed along public (but not private) riparian or littoral shoreline, such channel markers and navigational buoys as may be required by law, ecosystem restoration components, and systems placed within the boundaries of the Neighborhood designed to prevent or reduce the rate of siltation including traps, swales, ponds and vegetative barriers.

(Ord. 2005-157-E, § 3)

Sec. 714.203. - Eligibility.

Only Neighborhoods defined as Eligible Neighborhoods may be improved pursuant to this particular Program Area.

(Ord. 2005-157-E, § 3)

Sec. 714.204. - Determination of assent.

In addition to the criteria provided at Section 714.106(b) hereof, the Council may find that a preliminary petition proposing a Waterways Dredging Program Area N.A.P. represents the will and assent of the owners of properties within a Neighborhood if the petition demonstrates the petitioners' properties contain two-thirds (66.67 percent) of the total number of existing (including those presently permitted to be built within the next six-month period) docks, ramps, and/or boat slips affixed to the benefited properties. For calculating determination of assent, in the event that one parcel contains numerous docks, ramps or boat slips, the signature of the owner of that parcel shall be afforded equal weight as a parcel containing a single dock, ramp or boat slip.

(Ord. 2005-157-E, § 3)

Sec. 714.205. - Preliminary study and correction of upland impacts.

For this Program Area, if the City wishes to proceed further after receiving a preliminary petition, the City shall appropriate sufficient funds for the Public Works Department (or its outside agent) to conduct a pre-dredge survey and study in order to most accurately determine the estimated Costs of the Waterway Dredging and Related Improvements. If, as a result of the study, the City determines the waterway impacts requiring the dredging activities were caused by ongoing conditions existing on upland City owned or controlled properties, those conditions must be corrected independent of the City's contribution, as outlined in this Part. If, as a result of the study, the City determines the waterway impacts requiring the dredging activities were caused by ongoing conditions existing on upland privately owned or controlled properties, those conditions must be corrected prior to initiation of any dredging work and independent of this special assessment process.

(Ord. 2005-157-E, § 3)

Sec. 714.206. - Methodology.

A Waterway Dredging and Related Improvement Assessment based upon a methodology related to "access" shall consider both the quality and quantity of access to each property, and shall consider potential future access.

(Ord. 2005-157-E, § 3)

Sec. 714.207. - City contribution.

The City's Contribution shall be in accordance with the following.

- (a) *General Contribution for Public Waterways.* In general and subject to exception as set forth hereafter, the City's Contribution for any public dredging project provided in this Part shall be 12 percent, expressed as a percentage of the total N.A.P. Costs. The foregoing maximum Contribution limits may only be increased where a Neighborhood can demonstrate by "clear and convincing" evidence that the City should bear additional responsibility. A Neighborhood desiring to present evidence suggesting additional City contribution shall make such request in writing to the Chair of the City's Waterways Commission. The Chair shall set such matter for a hearing to be held as soon as is convenient for all parties involved. After hearing all evidence presented at the hearing, the Waterways Commission shall make a recommendation approving or denying the request. The Waterways Commission's recommendation shall be submitted to the City Council, who shall review the recommendation and record created at the Waterways Commission hearing and shall pass an Ordinance approving, approving in part or denying the request. In addition, the Council may remand the request back to the Waterways Commission with directions for additional findings. In such an event, the Waterways Commission shall conduct an additional hearing, resulting in a repeat of the process described above.
- (b) *Special Assessment for Private Waterways.* There shall be no general contribution by the City for those waterways that are privately owned. However, the provisions in paragraph (a), above, regarding the process for a Neighborhood to demonstrate special circumstances requiring City contributions shall apply.
- (c)

Federal and State Contribution Variation. The City may deviate from the foregoing guidelines in the event that the federal or state government is providing funding or reimbursement limited to the particular N.A.P. (i.e. not a block appropriation or general grant) in an amount not less than 25% of the total Costs.

(Ord. 2005-157-E, § 3)

Sec. 714.208. - Miscellaneous.

The City may require that its facilitation of a N.A.P. be contingent upon:

- (1) A certain number of Neighborhood property owners execute a waiver and release related to the design slope of influence upon bulkheads, structures and uplands; and/or,
- (2) The availability of a spoil disposal site at a certain unit price.

The assessment generated by a N.A.P. project shall be fully satisfied and paid prior to approval of the same or a substantially similar subsequent N.A.P. project.

(Ord. 2005-157-E, § 3)

Sec. 714.209. - Existing Neighborhood Assessment Programs.

The following Neighborhood Assessment Programs have been established in the City:

- (1) *Isle of Palms.* 396 property owners in District 3 petitioned the City to dredge canals within the Isle of Palms community. Ordinances 1998-970-E and 2002-912-E authorized the dredging of canals within the Isle of Palms community with assessments for the dredging to be levied over a ten-year period. Ordinance 2003-311-E appropriated funds for the engineering plans associated with the dredging. Ordinance 2004-408-E appropriated funds to provide for the up-front costs of the dredging, with the City to be reimbursed through the assessments. Resolution 2004-1265-A authorized the City to collect the assessments associated with the dredging using the Uniform Method by the Tax Collector.
- (2)

Fishing Creek. 68 property owners along Fishing Creek in Council Districts 12 and 14 petitioned the City to dredge a portion of Fishing Creek. Ordinance 2002-1303-E authorized the development of a preliminary assessment roll for the dredging of Fishing Creek. Ordinance 2003-183-E authorized the dredging of Fishing Creek with assessments for the dredging to be levied over a ten-year period. Ordinance 2005-1378-E authorized the City to collect the assessments associated with the dredging using the Uniform Method by the Tax Collector beginning with the November 2006 Tax Notice.

- (3) *Hogpen Creek/Seven Pine Island.* 81 property owners along Hogpen Creek in Council District 3 petitioned the City to dredge a portion of Hogpen Creek. Ordinance 2003-748-E authorized the development of a preliminary assessment roll for the dredging of Hogpen Creek. Ordinance 2003-873-E authorized the dredging of Hogpen Creek with assessments for the dredging to be levied over a ten-year period. Ordinance 2004-68-E appropriated the funds for the dredging of Hogpen Creek. Resolution 2004-1264-A authorized the City to collect the assessments associated with the dredging using the Uniform Method by the Tax Collector.
- (4) *Tarpon Cove.* 40 property owners along Tarpon Cove in Council District 3 petitioned the City to dredge portions of Tarpon Cove. Ordinance 2000-1031-E authorized the dredging of Tarpon Cove with assessments for the dredging to be levied over a ten-year period. Ordinance 2002-651-E appropriated the funds for the dredging of Tarpon Cove. Resolution 2004-1266-A authorized the City to collect the assessments associated with the dredging using the Uniform Method by the Tax Collector beginning on the November 2005 Tax Notice. Ordinance 2005-1387-E confirmed the assessments, directed the Tax Collector to record the assessments in the improvement lien book and allowed property owners to pay the entire assessment without interest by January 31, 2006.
- (5) *Morven Lake.* The City adopted Ordinance 2006-226-E which acknowledged the assent to the establishment of the Morven Lake Neighborhood Assessment Program. Pursuant to Ordinance 2006-289-E, the City performed a pre-dredge survey and study to determine whether the cost estimate submitted as part of the initial petition was accurate. The City expressed its intent to use the uniform method of the levy, collection and enforcement of

the assessments for the Morven Lake dredging project in Ordinance 2007-111-E. The City established the Morven Lake Neighborhood Assessment Program in Ordinance 2007-294-E.

(Ord. 2006-919-E, § 5; Ord. 2007-294-E, § 10)

