City of North Port
Office of the City Attorney

Response to Legal Request

To: Deanna Marshall, Fire Rescue Department

From: Michael Golen, Deputy City Attorney MGolen

Copy: A. Jerome Fletcher II, City Manager
Chief Scott Titus, Fire Rescue Department
Amber L. Slayton, City Attorney

Date: December 5, 2023

Regarding: Amendment to City Fee Structure to Update Changes to FEMA Fees (1903)

You inquired regarding the need to amend certain fees in Appendix A of the City's Fee Structure to account for changes made to the fees by the Federal Emergency Management Agency ("FEMA"). This memo addresses the legal aspects of your questions.

I. SUMMARY

The current FEMA rates may be charged at this time because the City Code provides that they are subject to change. However, the codified rates should be amended to eliminate any confusion.

II. ANALYSIS

The City Code sets the fees for use of Fire Rescue and EMS vehicles at a rate established by FEMA and provides the rates are FEMA's 2021 rates and "subject to change based on FEMA rate schedule." On September 13, 2022, the Commission adopted Ordinance No. 2022-17, amending certain fees codified in Appendix A of the City's Fee Structure ("City Code"), including equipment rates established by FEMA. Following adoption of Ordinance No. 2022-17, FEMA revised their schedule of equipment rates.

The City Code provides that the fees are subject to change and therefore the current FEMA rate may be charged at this time. To ensure the correct fee is charged and to eliminate confusion the City Code should be amended to reflect the current FEMA rate.

Please be aware, our office anticipates that in February 2024 the Commission will consider an ordinance removing the City's Fee Structure from the City Code and at the same time will consider a resolution adopting the City's Fee Schedule outside of the City Code. Please let our office know right away if your

department would like to wait until adoption of the resolution to change FEMA's fees or if it will submit a legal request with draft ordinance prior to February.