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**CITY OF MARATHON, FLORIDA**

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**FINAL ASSESSMENT RESOLUTION**

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**ADOPTED SEPTEMBER 10, 2002**

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## RESOLUTION NO. 02-09-111

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE CITY OF MARATHON, FLORIDA; ESTABLISHING THE RATE OF ASSESSMENT; IMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST ASSESSABLE PROPERTY LOCATED WITHIN THE CITY OF MARATHON, FLORIDA; APPROVING THE ASSESSMENT ROLL; CONFIRMING THE INITIAL ASSESSMENT RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Council of the City of Marathon, Florida (the "City"), has enacted Ordinance No. 02-07-13 (the "Ordinance"), which authorizes the imposition of annual Service Assessments for Solid Waste collection and disposal services, facilities or programs against all Assessable Property within the City;

**WHEREAS**, the imposition of a Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning Solid Waste Costs among parcels of Assessable Property;

**WHEREAS**, the Council desires to initiate an assessment program for Solid Waste collection and disposal services, facilities or programs within the City using the tax bill collection method for the Fiscal Year beginning on October 1, 2002;

**WHEREAS**, the Council, on July 30, 2002, adopted Resolution No. 02-07-89 (the "Initial Assessment Resolution"), containing a brief and general description of the Solid Waste collection and disposal services, facilities or programs to be provided to Assessable Property, describing the method of apportioning the Solid Waste Costs to compute the Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs against Residential Property, designating a rate of assessment, and directing preparation of the Assessment Roll and provision of the notice required by the Ordinance;

**WHEREAS**, pursuant to the provisions of the Ordinance, the City is required to confirm or repeal the Initial Assessment Resolution, with such amendments as the Council deems appropriate, after hearing comments and objections of all interested parties;

**WHEREAS**, the Assessment Roll has heretofore been made available for inspection by the public, as required by the Ordinance;

**WHEREAS**, notice of a public hearing has been published and, as required by the terms of the Ordinance, mailed to each Owner of Residential Property proposed to be assessed notifying such Owners of their opportunity to be heard, an affidavit regarding the form of notice mailed to each Owner of Residential Property being attached hereto as Appendix A and the proof of publication being attached hereto as Appendix B; and

**WHEREAS**, a public hearing was held on September 10, 2002, and comments and objections of all interested persons have been heard and considered as required by the terms of the Ordinance.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This resolution is adopted pursuant to Ordinance No. 02-07-13; Resolution No. 02-07-89; Article VIII, Section 2, Florida Constitution; sections 166.021 and 166.041, Florida Statutes; and other applicable provisions of law.

**SECTION 2. DEFINITIONS AND INTERPRETATION.** This resolution constitutes the Final Assessment Resolution as defined in the Ordinance. All capitalized terms in this resolution shall have the meanings defined in the Ordinance and the Initial Assessment Resolution.

**SECTION 3. IMPOSITION OF SOLID WASTE COLLECTION AND DISPOSAL ASSESSMENTS.**

(A) The parcels of Assessable Property described in the Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the provision of Solid Waste collection and disposal services, facilities or programs described in the Initial Assessment Resolution, in the amount of the Solid Waste Service Assessment set forth in the Assessment Roll, a copy of which was present at the above referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined and declared that each parcel of Assessable Property within the City will be benefited by the City's provision of Solid Waste collection and disposal services, facilities or programs in an amount not less than the Solid Waste Service Assessment for such parcel, computed in the manner set forth in this Resolution. Adoption of this Final Assessment Resolution constitutes a legislative determination that all parcels assessed derive a special benefit, as set forth in the Ordinance and the Initial Assessment Resolution from the Solid Waste collection and disposal services, facilities or programs to be provided and a legislative determination that the Solid Waste Service Assessments are fairly and reasonably apportioned among the Residential Properties that receive the special benefit as set forth in the Initial Assessment Resolution.

(B) The method for computing Solid Waste Service Assessments described in the Initial Assessment Resolution is hereby approved.

(C) For the Fiscal Year beginning October 1, 2002, the Solid Waste Cost shall be allocated among all parcels of Assessable Property, based upon each parcels' classification as Residential Property and the number of Dwelling Units for such parcels. An annual rate of assessment equal to \$292.00 for each Dwelling Unit is hereby approved.

Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs in the amounts set forth in the Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessable Property described in the Assessment Roll.

(D) Any shortfall in the expected Solid Waste Service Assessment proceeds due to any reduction or exemption from payment of the Solid Waste Service Assessments required by law or authorized by the Council shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Solid Waste Service Assessments.

(E) As authorized in Section 2.13 of the Ordinance, interim Solid Waste Service Assessments are also levied and imposed against all Residential Property for which a Building Permit is issued after adoption of this Final Assessment Resolution based upon the rates of assessment approved herein.

(F) Such Solid Waste Service Assessments shall constitute a lien upon the Assessable Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid.

(G) The Assessment Roll, as herein approved, shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

**SECTION 4. CONFIRMATION OF INITIAL ASSESSMENT RESOLUTION.** The Initial Assessment Resolution is hereby confirmed.

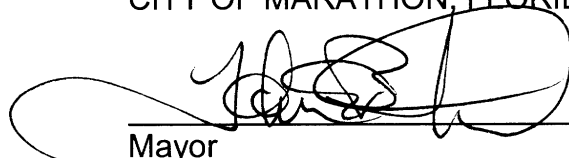
**SECTION 5. EFFECT OF ADOPTION OF RESOLUTION.** The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the method of apportionment, the rate of assessment, the Assessment Roll and the levy and lien of the Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs) unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Final Assessment Resolution.

**SECTION 6. EFFECTIVE DATE.** This resolution shall take effect immediately upon its passage and adoption.

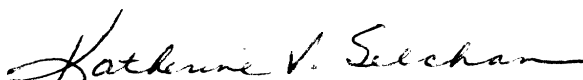
PASSED, ADOPTED AND APPROVED THIS 10th day of September, 2002.

CITY OF MARATHON, FLORIDA

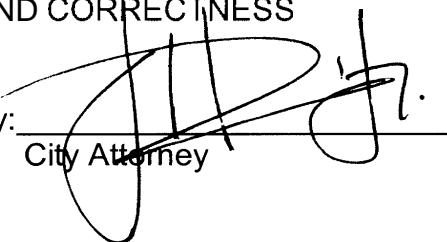
(SEAL)

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Clerk

APPROVED FOR FORM  
AND CORRECTNESS

By:   
\_\_\_\_\_  
City Attorney

**APPENDIX A**

**AFFIDAVIT REGARDING NOTICE MAILED TO PROPERTY OWNERS**



## **AFFIDAVIT OF MAILING**

BEFORE ME, the undersigned authority, personally appeared Craig Wrathell, who, after being duly sworn, deposes and says:

1. Craig Wrathell, as City Manager of Marathon, Florida (the "City"), pursuant to the authority and direction received from the City Council timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with Sections 2.03, 2.04, and 2.05 of the Master Service Assessment Ordinance adopted by the City Council on July 30, 2002 (the "Assessment Ordinance") in conformance with the Initial Assessment Resolution adopted by the City Council on July 30, 2002 (the "Initial Assessment Resolution").

2. In accordance with the Assessment Ordinance, Mr. Wrathell timely provided all necessary information for notification of the Solid Waste Service Assessments to the Property Appraiser of Monroe County to be included as part of the notice of proposed property taxes under section 200.069, Florida Statutes, the truth-in-millage notification. The information provided to the Property Appraiser to be included on the truth-in-millage notification included the following: the purpose of the assessment; the rate of assessment proposed to be levied against each parcel of property; the unit of measurement to be applied against each parcel to determine the assessment; the number of such units contained within each parcel; the total revenue the City expects to collect by the assessment; a statement that failure to pay the assessment will cause a tax certificate to be issued against the property which may result in a loss of title; notification that unpaid or delinquent fees, charges, or assessments due the City for Solid Waste collection and disposal services allocated to specific parcels will be additionally included in the assessment; a statement that all affected property owners have a right to appear at the

hearing and to file written objections with the local governing board within 20 days of the notice; and the date, time, and place of the hearing.

FURTHER AFFIANT SAYETH NOT.

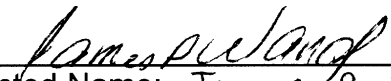
  
Craig Wrathell, affiant

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 10<sup>th</sup> day of September, 2002 by Craig Wrathell, City Manager of Marathon, Florida. He is personally known to me or has produced N/A as identification and did take an oath.



James P. Ward  
MY COMMISSION # CC864934 EXPIRES  
December 19, 2003  
BONDED TO: TROY FAIN'S RAN E INC.

  
Printed Name: James P. Ward  
Notary Public, State of Florida  
At Large  
My Commission Expires: December 19, 2003  
Commission No.: CC864934

**APPENDIX B**  
**PROOF OF PUBLICATION**



Joy Thomas  
Advertising Coordinator

PO Box 1800  
Key West FL 33041  
Office.....305-292-7777  
Extension.....X219  
Fax.....305-294-0768  
jthomas@keysnews.com

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key-west.com  
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Key Largo Free Press  
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Citizen Local's Guide  
Paradise  
Keys TV Channel Guide

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Citizen Locals Card  
Direct Mail

**FLORIDA KEYS OFFICES**  
Printing II Main Facility  
3420 Northside Drive  
Key West, FL  
33040-1800  
Tel 305-292-7777  
Fax 305-294-0768  
citizen@keywest.com

Internet Division  
1201 White Street (Suite 103)  
Key West, FL  
33040-3328  
Tel 305-292-1880  
Fax 305-294-1699  
sales@keywest.com

**Middle Keys Office**  
6363 Overseas Hwy  
Marathon, FL (MM 52.5)  
33050-3342  
Tel 305-743-8766  
Fax 305-743-9977  
navigator@floridakeys.com

**Upper Keys Office**  
81549 Old Hwy  
PO Box 469  
Islamorada, FL (MM81 5)  
33036-0469  
Tel 305-664-2266  
Fax 305-664-8411  
freepress@floridakeys.com

**Ocean Reef Office**  
3A Barracuda Lane  
Key Largo, FL 33037  
Tel 305-367-4911  
Fax 305-367-2191

**STATE OF FLORIDA  
COUNTY OF MONROE**

Before the undersigned authority personally appeared Randy G. Erickson, who on oath says that he is Vice-President of Advertising Operations of the Key West Citizen, a daily newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of Impose & Provide Solid Waste

In the \_\_\_\_\_ Court, was published in said newspaper in the issues of August 14, 2002

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspaper has heretofore been continuously published in said Monroe County, Florida every and has been entered as second-class mail matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Signature of Affiant

Sworn and subscribed before me this 15 day of August, 2002

Joy Thomas, Notary Public

Expires: July 23, 2004

Notary Seal

Personally Known x Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_



**PUBLIC NOTICE  
CITY OF MARATHON, FLORIDA**

**NOTICE OF HEARING TO IMPOSE AND  
PROVIDE FOR COLLECTION OF SOLID WASTE SERVICE  
SPECIAL ASSESSMENTS**

NOTICE IS HEREBY GIVEN that the City Council of the City of Marathon will conduct a public hearing to consider imposing solid waste special assessments against certain improved residential properties located within the incorporated area of the City to fund the cost of solid waste collection and disposal services, facilities and programs provided to such properties and to authorize collection of such assessments on the tax bill.

The hearing will be held at 6:30 p.m. on Tuesday, September 10, 2002, at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within 20 days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

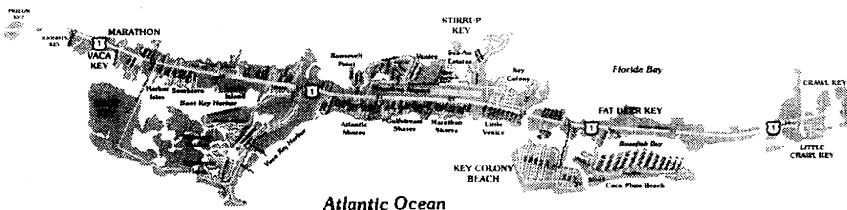
The assessments will be computed by multiplying the number of dwelling units on each parcel by the rate of assessment. The rate of assessment for the upcoming fiscal year shall be \$292.00. Copies of the assessment roll, showing the amount of the assessment to be imposed against each parcel of property, and the legal documentation relating to the assessments are available for inspection at the City Offices, located at 10045-55 Overseas Highway, Marathon, Florida.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2002, as authorized by section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact the City Offices at (305) 743-0033, Monday through Friday between 9:00 a.m. and 5:00 p.m.

Two or more committee members from various City Committees may be present at this meeting.

The City of Marathon complies with the provisions of the Americans With Disabilities Act. Individuals with disabilities requiring special accommodations or assistance should call Ann Boudreault at City Hall at (305) 743-0033 of such need at least 72 hours (3 days) prior to the date of the hearing.



Katherine Selchan  
City Clerk  
City of Marathon

August 14, 2002

**APPENDIX C**

**FORM OF CERTIFICATE TO  
NON-AD VALOREM ASSESSMENT ROLL**

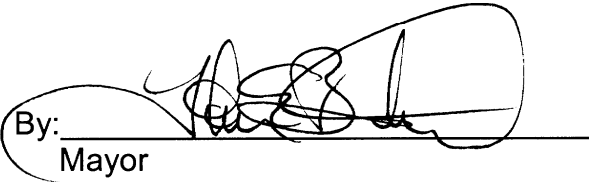
**CERTIFICATE  
TO  
NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that, I am the Mayor of Marathon, Florida or the authorized agent of Marathon, Florida (the City); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for solid waste services (the Non-Ad Valorem Assessment Roll) for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

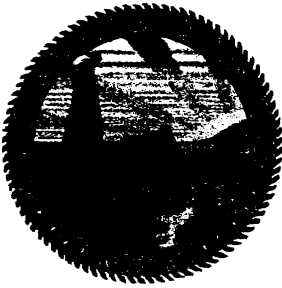
I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Monroe County Tax Collector by September 15, 2002.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Monroe County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this 10th day of September, 2002.

CITY OF MARATHON, FLORIDA

By:   
Mayor

[to be delivered to Tax Collector prior to September 15]



John Bartus  
*Mayor*

Randy Mearns  
*Vice Mayor*

Franklin D. Greenman  
*Councilman*

John Repetto  
*Councilman*

Pete Worthington  
*Councilman*

Craig Wrathell,  
Moyer, Ward, Wrathell  
& Associates  
*City Manager*

Kina L. Boniske  
John R. Henn, Jr.,  
Weiss Serota Helfman  
Pastoriza & Guedes, P.A.  
*City Attorneys*

September 16, 2002

**VIA FACSIMILE AND FEDEX**

Ms. Danise D. Henriquez, C.F.C.  
Monroe County Tax Collector  
P.O. Box 1129  
Key West, Florida 33041-1129

Dear Ms. Henriquez:

Attached is a signed copy of the City of Marathon's Certificate to the Non-ad valorem Assessment Roll for Solid Waste Services.

Should you have any questions, please feel free to contact me.

Sincerely,  
City of Marathon

James DeCocq  
City Manager

cc: Marathon City Council  
City Attorneys  
Craig Wrathell, Finance Director, Marathon  
Katey Selchan, City Clerk, Marathon

PLEASE REPLY TO

10045-55 Overseas Highway ■ Marathon, Florida 33050 ■ Phone: 305-743-0033 ■ Fax: 305-743-3661  
 210 N University Drive, Suite 702 ■ Coral Springs, Florida 33071 ■ Phone 954-753-5841 ■ Fax 954-345-1292



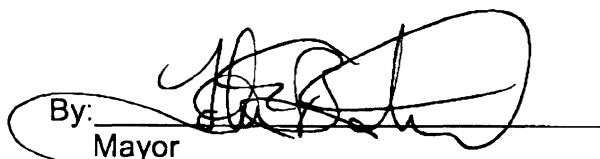
**CERTIFICATE  
TO  
NON-AD VALOREM ASSESSMENT ROLL**

I HEREBY CERTIFY that, I am the Mayor of Marathon, Florida or the authorized agent of Marathon, Florida (the ACity≡); as such I have satisfied myself that all property included or includable on the non-ad valorem assessment roll for solid waste services (the ANon-Ad Valorem Assessment Roll≡) for the City is properly assessed so far as I have been able to ascertain; and that all required extensions on the above described roll to show the non-ad valorem assessments attributable to the property listed therein have been made pursuant to law.

I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Monroe County Tax Collector by September 15, 2002.

IN WITNESS WHEREOF, I have subscribed this certificate and directed the same to be delivered to the Monroe County Tax Collector and made part of the above described Non-Ad Valorem Assessment Roll this 10 day of September, 2002.

CITY OF MARATHON, FLORIDA

By:   
Mayor

[to be delivered to Tax Collector prior to September 15]