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RESOLUTION NO. 2006-123

A RESOLUTION OF THE CITY COUNCIL OF MARATHON, MARATHON, FLORIDA, RELATING TO THE CONSTRUCTION OF ROADWAY AND UTILITY IMPROVEMENTS FOR AVENUE K; ESTABLISHING THE TERMS AND CONDITIONS OF PROPOSED SPECIAL ASSESSMENTS TO FUND THE CONSTRUCTION; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL, CITY OF MARATHON, FLORIDA, THAT:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"Annual Debt Service Component" means the amount computed for each Tax Parcel pursuant to Section 3.04(A) hereof.

"Assessment" means an annual special assessment imposed against Improved Property located within the Assessment Area to fund the Project Cost of Construction to serve the Assessment Area and related expenses, computed in the manner described in Section 3.04 hereof.

"Assessment Area" means the proposed Avenue K Assessment Area as described in Section 3.01 hereof.

"Assessment Period" means the time period estimated by the City during which Assessments are imposed for any portion of the Obligations that remain outstanding unless otherwise prepaid pursuant to Sections 3.05, 3.06 or 3.07 hereof. The Assessment Period shall be set by the Council at or following the public hearing established in Section 2.03 hereof.

"Assessment Roll" means a non-ad valorem assessment roll relating to the Project Cost of the Roadway Construction to serve the Assessment Area and related expenses.

"Capital Cost" means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, and installation (including demolition, environmental mitigation and relocation) of the Roadway Construction and imposition of the Assessments under generally accepted accounting principles, and including reimbursement to the City for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"City Engineer" means the engineer employed by the City to provide engineering services on the design and construction of the Roadway Construction.

"City Manager" means the chief executive officer of the City, or such person's designee.

"Collection Cost" means all or any portion of the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments.

"Collection Cost Component" means the amount computed for each Tax Parcel pursuant to Section 3.04(B) hereof.

"Council" means the City Council of the City of Marathon, Florida.

"Final Assessment Resolution" means the resolution described in Section 3.05 of the Ordinance that imposes Assessments within the Assessment Area.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, or such other period as may be prescribed by law as the fiscal year for the City.

"Government Property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Improved Property" means all property within the Assessment Area on which improvements have been placed or constructed as of the effective date of the Final Assessment Resolution

"Initial Prepayment Amount" means the amount computed pursuant to Section 3.03 hereof for each Tax Parcel located in the Assessment Area to prepay the Assessment prior to issuance of the Original Obligations.

"Ordinance" means Ordinance No. 2006-019.

"Obligations" means funds of the City used to initially finance Local Improvements and designated as such by the City, the repayment of which is secured, in whole or in part, by proceeds of the Assessments.

"Platted Lot" means only Improved Property on which a building has been constructed or sited in accordance with applicable laws or regulations, as described on a map or plat recorded in the Official Records of Monroe County, Florida.

"Property Appraiser" means the Monroe County Property Appraiser.

"State" means the State of Florida.

"Statutory Discount Amount" means the amount computed for each Tax Parcel pursuant to Section 3.04(C) hereof.

"Tax Parcel" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. LEGISLATIVE FINDINGS. It is hereby ascertained, determined and declared that:

(A) The City Council of the City of Marathon, Florida, has enacted the Ordinance to provide for the creation of assessment areas and authorize the imposition of Assessments to fund the construction of Local Improvements to serve the property located therein.

(B) The Roadway Construction constitutes a Local Improvement, as defined in the Ordinance, and enables the City to provide roadway construction to Improved and Unimproved Property located within the Assessment Area.

(C) The Council desires to create the Assessment Area to fund construction of the Roadway Construction which is necessary to provide roadway construction to properties in the Assessment Area.

(E) The construction of such Roadway Construction will provide a special benefit to the property located within the Assessment Area and will possess a logical relationship to the use and enjoyment of Improved Property by providing: (1) egress/ingress to the owners and occupants of Improved Property; and (2) the protection of property values and the health and safety of the owners and occupants of Improved Property.

(F) The Council hereby finds and determines that the Assessments to be imposed in accordance with this Resolution provide an equitable method of funding construction of the Roadway Construction by fairly and reasonably allocating the cost to specially benefitted property based upon the equal access.

**ARTICLE II
NOTICE AND PUBLIC HEARING**

SECTION 2.01. ESTIMATED CAPITAL COST AND PROJECT COST.

(A) The estimated total Capital Cost for the Roadway Construction is \$235,695. The City will contribute \$108,426 in Transportation Impact fees towards the total Capital Cost. The remaining Capital Cost for the Roadway Construction is \$ 127,269.

(B) The estimated total Project Cost, after deducting the City's contributions, for the Roadway Construction is \$139,054. The Project Cost of the Roadway Construction will be funded through the imposition of Assessments against property located in the Assessment Area in the manner set forth in Article III hereof.

SECTION 2.02. ASSESSMENT ROLL. The City Manager is hereby directed to prepare a final estimate of the Capital Cost of Roadway Construction and to prepare the preliminary Assessment Roll in the manner provided in the Ordinance. The City Manager shall apportion the Project Cost among the parcels of real property within the Assessment Area as reflected on the Tax Roll in conformity with Article III hereof. The estimate of Capital Cost and the Assessment Roll shall be maintained on file in the offices of the City Manager and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each Tax Parcel can be determined by use of a computer terminal available to the public.

SECTION 2.03. PUBLIC HEARING. A public hearing will be conducted by the Council at 6:30 p.m. on September 12, 2006, at 2798 Overseas Highway, Marathon, Florida, to consider (A) creation of the Assessment Area, (B) imposition of the Assessments, and (C) collection of the Assessments pursuant to the Uniform Assessment Collection Act.

SECTION 2.04. NOTICE BY PUBLICATION. Upon completion of the materials required by Section 2.02 hereof, the City Manager shall publish a notice of the public hearing authorized by Section 2.03 hereof in the manner and the time provided in Section 2.05 of the Ordinance. Such notice shall be in substantially the form attached hereto as Appendix A.

SECTION 2.05. NOTICE BY MAIL. Upon completion of the materials required by Section 2.02 hereof, the City Manager shall, at the time and in the manner specified in Section 2.06 of the Ordinance, provide first class mailed notice of the public hearing authorized by Section 2.03 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll. Such notice shall be in substantially the form attached hereto as Appendix B.

**ARTICLE III
ASSESSMENTS**

SECTION 3.01. DESCRIPTION OF PROPOSED ASSESSMENT AREA.

The proposed Avenue K Assessment Area shall include the property described in Appendix C attached hereto and incorporated herein. The Assessment Area is proposed for the purpose of improving the use and enjoyment of property located therein by funding the construction of Roadway Construction to provide egress/ingress.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Assessments shall be imposed against property located within the Assessment Area for each Fiscal Year in which Obligations remain outstanding, the amount of which shall be computed in accordance with this Article III. When imposed, the Assessment for each Fiscal Year shall constitute a lien upon the Tax Parcels located in the Assessment Area, pursuant to the Ordinance.

SECTION 3.03. PREPAYMENT AMOUNTS.

An Initial Prepayment Amount for each Tax Parcel located within the Assessment Area shall be calculated as the amount computed by dividing the total Project Cost for the Roadway Construction by the number of Tax Parcels within the Assessment Area.

SECTION 3.04. COMPUTATION OF ASSESSMENTS. Assessments will be imposed for each Fiscal Year in which Obligations remain outstanding, and collected on the ad valorem tax bill in the manner authorized by the Uniform Assessment Collection Act. The annual Assessment shall be computed for each Tax Parcel in the manner set forth in this Section 3.04.

(A) ANNUAL DEBT SERVICE COMPONENT. The Annual "Debt Service Component" shall be computed for each Fiscal Year for each Tax Parcel in the following manner:

(1) For each Fiscal Year in which the Obligations will be outstanding, the "Annual Debt Service Amount" shall be computed as the amount which would be payable in accordance with a debt service schedule prepared based on an interest rate equivalent to the current annual return on the City's investments of excess funds.

(B) COLLECTION COST COMPONENT. The "Collection Cost Component" shall be computed each Fiscal Year for each Tax Parcel by dividing the total Collection Cost by the number of Tax Parcels within the Assessment area for which the Assessment remains outstanding.

(C) STATUTORY DISCOUNT AMOUNT. The "Statutory Discount Amount" shall be computed for each Tax Parcel as the amount allowed by law as the maximum discount for early payment of ad valorem taxes and non-ad valorem assessments, such amount to be calculated by deducting (1) the sum of (a) the Annual Debt Service Component and (b) the Collection Cost Component, from (2) the amount computed by dividing (a) the sum of (i) the Annual Debt Service Component and (ii) the Collection Cost Component, by (b) 0.96. The City, at its option, may charge all or any portion of the Statutory Discount Amount to the Assessments.

(D) ASSESSMENT. The annual Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Debt Service Component, (2) the Collection Cost Component and (3) the Statutory Discount Amount.

SECTION 3.05. INITIAL PREPAYMENT OPTION.

(A) The City Manager shall provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the owner's option to prepay all future annual Assessments. On or prior to the date specified in such notice, the owner of each Tax Parcel subject to the Assessment shall be entitled to prepay all future annual Assessments, upon payment of the Initial Prepayment Amount.

(B) The amount of all prepayments made pursuant to this Section 3.05 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the actual Capital Cost of the Roadway Construction is less than the estimated Capital Cost upon which the Initial Prepayment Amount was computed, (2) the actual Project Cost of the Roadway Construction is less than the estimated Project Cost upon which the Initial Prepayment Amount was computed, or (3) the annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 3.06. ADDITIONAL PREPAYMENT OPTION.

(A) Following the date specified in the notice provided pursuant to Section 3.05(A) hereof, or such later date as the Council may allow in its sole discretion, the owner of each Tax Parcel subject to the Assessments shall be entitled to prepay all future unpaid annual Assessments upon payment of an amount equal to the sum of (1) the Initial Prepayment Amount for such Tax Parcel, and (2) interest on the Initial Prepayment Amount from the date specified on the notice provided pursuant to Section 3.05(A) hereof to the date of such prepayment.

(B) The amount of all prepayments made pursuant to this Section 3.05 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost of the Roadway Construction is less than the amount upon which such Adjusted Prepayment Amount was computed, (2) the Project Cost of the Roadway Construction is less than the amount upon which such Prepayment Amount was computed, or (3) annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 3.07. MANDATORY PREPAYMENT.

(A) The owner of a Tax Parcel subject to the Assessment shall immediately prepay all future unpaid annual Assessments for such Tax Parcel if (1) the Tax Parcel is acquired by a public entity through condemnation, negotiated sale or otherwise, or (2) a tax certificate has been issued and remains outstanding in respect of the Tax Parcel and the City, at its sole option, elects to accelerate the Assessment.

(B) The amount required to prepay the future unpaid annual Assessments will be equal to the sum of 1) the Initial Prepayment Amount for such Tax Parcel, and (2) interest on the Initial Prepayment Amount from the date specified on the notice provided pursuant to Section 3.05(A) hereof to the date of such prepayment.

(C) During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

**ARTICLE IV
GENERAL PROVISIONS**

SECTION 4.01. METHOD OF COLLECTION. The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided however, that any Assessment against Government Property shall be collected pursuant to Section 4.04 of the Ordinance.

SECTION 4.02. SEVERABILITY. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of this Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the City of Marathon, Florida, this 22 day of August, 2006.

THE CITY OF MARATHON, FLORIDA

By: 
Christopher M. Bull

ATTEST:

By: *Diane Clavier*
Diane Clavier, Clerk

(Seal)

APPROVED AS TO FORM AND
LEGALITY FOR THE USE AND
RELIANCE OF THE CITY OF
MARATHON, FLORIDA, ONLY:

By: *[Signature]*
City Attorney

APPENDIX A

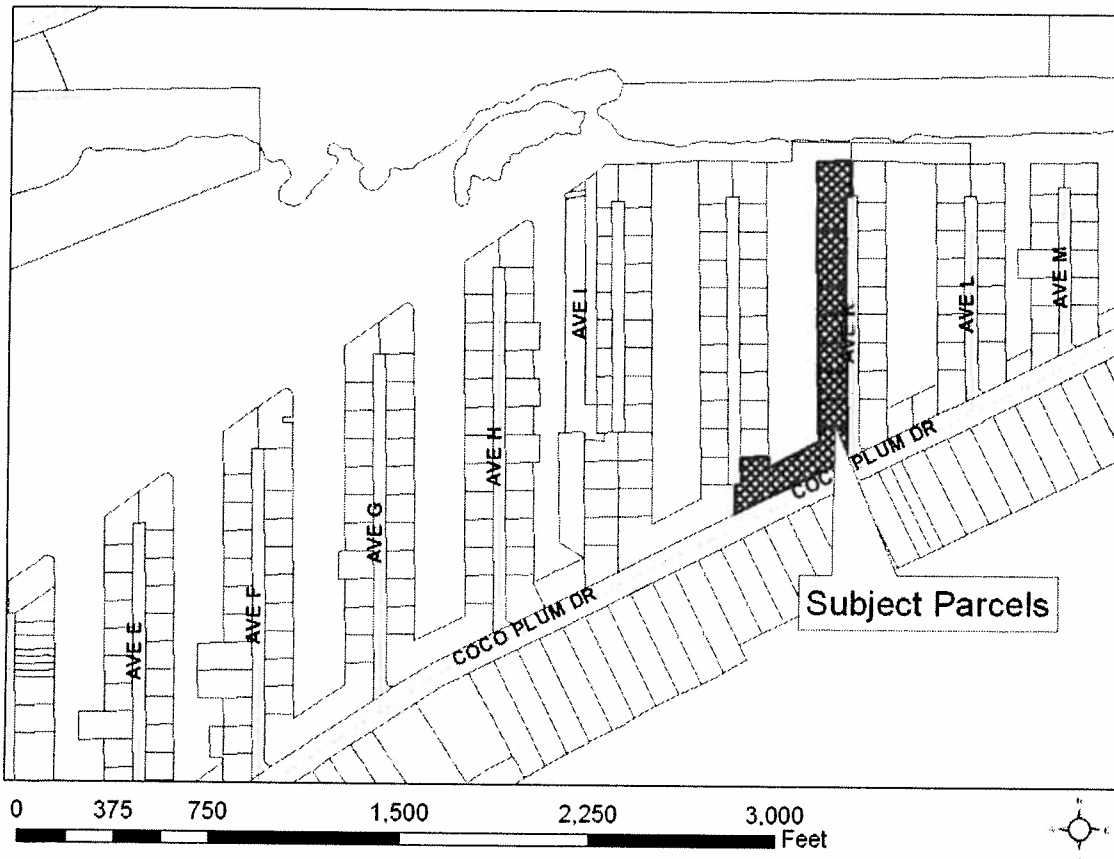
FORM OF NOTICE TO BE PUBLISHED



CITY OF MARATHON, FLORIDA NOTICE OF PUBLIC HEARING

The Marathon City Council will hold a public hearing on Tuesday, **September 12 2006**, at 6:30 p.m., at the Marathon Government Center, 2798 Overseas Highway.

The purpose of the public hearing is to consider and establish an annual and total rate for the Special Taxing Unit for parcels along Avenue K. The Special Taxing Unit will cover the costs to design and install Avenue K. Each lot owner would be charged a proportionate share of the road improvement costs. The pre-payment rate per lot will be \$13,905. The financed rate per lot will be \$19,687.



These are the amounts that will appear on the “non-ad valorem” portion of the 2006 tax bill and future bills and collected by the Monroe County Tax Collector unless changed by the City Council.

Interested parties may appear at the public hearing(s) and be heard with respect to the proposed item. All affected property owners have the right to appear and be heard at a public hearing before the City Council, and have the right to file written objections with the City within twenty (20) days of the date of this published notice. Information is available from the City of Marathon Planning Department located at 10045-55 Overseas Highway, Marathon, Florida, Monday through Friday between the hours of 8:00 am and 5:00 pm.

At the hearing, the City Council will consider comments and objections to the special assessments, and will approve the assessment roll as final. Upon the filing of such assessment roll with the Monroe County Tax Collector, the assessments shall stand as legal, valid, and binding liens, co-equal with the lien of all state, county, district, and municipal taxes, superior in dignity to all other liens, titles, and claims, until paid.

Pursuant to Section 286.0105, Florida Statutes, if a person decides to appeal any decision made by the City Council with respect to any matter considered at such hearing or meeting, one will need a record of the proceedings and for such purpose that person may need to ensure that a verbatim record of the proceedings is made; such record includes the testimony and evidence upon which the appeal is to be based.

ADA Assistance: Anyone needing special assistance at the City Council hearing due to disability should contact the City of Marathon at (305) 743-0033 at least two days prior thereto.

Please Publish on Tuesday, August 15 and Saturday August 19, 2006
Please Return an Affidavit of Publication to:
City of Marathon Community Services Department
10045-55 Overseas Highway, Marathon, Florida 33050

APPENDIX B

FORM OF NOTICE TO BE MAILED

August 11, 2006

(Name)
(Mailing Address)
Mailing Address)

RE: (Lot and Block, Coco Plum Beach Subdivision, Plat Book 4, Page 166, Monroe County Public Records)

Dear Resident:

On December 13, 2005, the City of Marathon adopted Resolution 2005-169 (copy attached) electing to use the uniform method of collecting non-ad valorem special assessments levied on lots 11 through 20, Avenue K for Avenue K road improvements; stating a need for such levy; providing for the mailing of this resolution; and providing for an effective date.

The purpose of the assessment is to construct Avenue K so building permits may be obtained by the property owners. There will be 10 lots on Avenue K in the assessed area. Each lot will be assessed an equal amount.

Your property has been assessed \$19,687 at \$1,969 annually for a total of \$19,687. These funds will be collected as a non-advalorem assessment on your property tax bill. We estimate the annual collection from this assessment for the City of Marathon to be \$19,687. You may prepay the assessment on or before September 14, 2006, for a total amount of \$13,905.

Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. All property owners in the affected area have a right to appear at the Public Rate Hearing on September 15, 2006, at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida, at 6:30 p.m., and to file written objections with the City of Marathon within 20 days of the date of this notice.

Sincerely,

Michael H., Puto
City Manager - City of Marathon

APPENDIX C

DESCRIPTION OF AVENUE K ROADWAY CONSTRUCTION AREA

DESCRIPTION OF AVENUE K ROADWAY CONSTRUCTION AREA

The Avenue K Assessment Area shall consist of the following properties located within the incorporated area of the City, as identified by parcel identification number provided by the Monroe County Property Appraiser:

PARCEL NUMBERS

00365340-000000

00365350-000000

00365360-000000

00365370-000000

00365380-000000

00365390-000000

00365400-000000

00365410-000000

00365420-000000

00365430-000000