

**CITY OF MARATHON, FLORIDA
RESOLUTION NO. 2009-121**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA,
RELATING TO THE ADOPTION OF A STORMWATER UTILITY
SPECIAL ASSESSMENT RATE FOR THE FISCAL YEAR
COMMENCING NOVEMBER 1, 2009, IN THE CITY OF MARATHON,
FLORIDA; AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City Council of the City, of Marathon, Florida (the "City") enacted Ordinance No. 2002-17-04 and Ordinance No. 2005-10 (the "Ordinances"), which establish a Stormwater Utility and authorize the imposition of annual Stormwater Utility Service Assessments for Stormwater Utility services, facilities or programs against certain Assessable Property within the City; and

WHEREAS, a Stormwater Utility Service Assessment was imposed upon all Property within the City commencing October 1, 2005, which rate was established by Resolution 2005-107 as an initial rate; and

WHEREAS, the imposition of a Stormwater Utility Service Assessment for Stormwater Utility Services, facilities and programs is an equitable and efficient method of allocating and apportioning Stormwater Utility Costs among parcels of Assessable Property located in the City; and

WHEREAS, the City Council desires to adopt an annual Stormwater Utility assessment rate within the City, using the tax bill collection method for the Fiscal Year beginning on November 1, 2009.

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

Section 1. The above recitals are true and correct and are incorporated herein by this reference.

Section 2. This resolution is adopted pursuant to the provisions of Ordinance No. 2005-10, Ordinance No. 2002-17-04, Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

Section 3. This resolution constitutes the Annual Assessment Resolution for fiscal year commencing November 1, 2009. 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 Annual Assessment Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

“Assessed Property” means “non-residential property,” “residential property” and “unimproved property.”

“DOR Code” means a property use code established in Rule 12D-8.008, Florida Administrative Code, assigned by the Property Appraiser to Tax Parcels within the City.

“Dwelling Unit” or **“Residential Unit”** Any residential space identified for habitation by members of the same family or as classified by the city building code.

“Equivalent Residential Unit (ERU)” means a unit of construction consisting of one (1) dwelling unit (whether single-family, condominium, mobile home, or townhouse unit) for residential purposes; or for commercial or industrial sites, an impervious area equal to four thousand seven hundred sixty nine (4,769) square feet.

“Estimated Stormwater Utility Service Assessment Rate Schedule” means Stormwater Utility Costs determined in Section 5 of this Annual Assessment Resolution and the estimated Stormwater Utility Service Assessments established in Section 5 of this Annual Assessment Resolution.

“Nonresidential property” means any developed property not otherwise defined as residential.

“Residential Property” means any lot or parcel existing in the City or in the future annexation reserve area as defined in the City’s comprehensive plan developed exclusively for residential purposes including, but not limited to, single-family homes, manufactured homes, multifamily, apartment buildings and condominiums, transient rentals such as hotels and motels, and floating structures.

“Stormwater” means any stormwater runoff, and surface runoff and drainage.

“Stormwater system” means the system of conveyances used for collecting, storing and transporting stormwater owned by the City of Marathon but not including any facilities intended to be used in accordance with applicable law for collecting and transporting sanitary or other wastewater.

“Stormwater Utility Cost” or **“Stormwater Cost”** means the amount necessary to fund the city’s Stormwater Utility Services that are allocable to Assessed Property during a Fiscal Year and shall include, but not be limited to: (A) the cost, whether direct or indirect, of all services, programs or facilities provided by the City, or through contractual arrangements with the City relating to Stormwater management and disposal activities; (B) the cost of any indemnity or surety bonds and premiums for insurance; (C) the cost of salaries, volunteer pay, workers’ compensation insurance, or other employment benefits; (D) the cost of computer services, data processing, and communications; (E) the cost of training, travel and per diem; (F) the recovery of unpaid or delinquent fees or charges advanced by the City and due for Stormwater management and disposal services, programs or facilities allocable to specific parcels; (G) the cost of engineering, financial, legal or other professional services; (H) all costs associated with the structure, implementation, collection, and enforcement of the Stormwater Utility Service Assessments or a prior year’s assessment for a comparable service, facility or

program, including any service charges of the Tax Collector or Property Appraiser; (I) all other costs and expenses necessary or incidental to the acquisition, provision, or delivery of the services, programs or facilities funded by the Stormwater Utility Service Assessment, and such other expenses as may be necessary or incidental to any related financing authorized by the City Council; (J) a reasonable amount for contingency and anticipated delinquencies and uncollectible Stormwater Utility Service Assessments; and (K) reimbursement to the City or any other Person for any monies advanced for any costs incurred by the City or such Person in connection with any of the foregoing items of Stormwater Cost.

“Stormwater Utility Service Assessments” means a special assessment lawfully imposed by the City against Assessable Property to fund all or any portion of the Stormwater Cost, providing a special benefit to property as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessable Property.

“Undeveloped Property” means property, which has not been altered from its natural state by the addition of any improvements such as a building, structure, and impervious surface, change of grade or landscaping.

Section 4. It is hereby ascertained and declared that the Stormwater Costs provide a special benefit to the Assessable Property based upon the following legislative determinations:

A. Non-Residential, Residential and Unimproved Property generate or are capable of generating Stormwater.

B. It is fair and reasonable to use the DOR Codes to apportion the Stormwater Cost among parcels of Assessable Property located within the City because: (1) the Tax Roll database employing the use of such property use codes is the most comprehensive, accurate, and reliable information readily available to determine the property use and number of Dwelling Units or ERUs within the City, and (2) the Tax Roll database is maintained by the Property Appraiser and is consistent with the coding of parcel designations on the Tax Roll which compatibility permits the development of an Assessment roll in conformity with the requirements of the Uniform Assessment Collection Act.

C. The size or value of Assessable Property does not determine the scope and cost of Stormwater collection and disposal services to be provided to such property. The use of Stormwater collection and disposal services, facilities, and programs are driven by the amount of Stormwater created by the property.

D. Apportioning the Stormwater Costs for Stormwater collection and disposal services provided to Assessable Property within the City on a per ERU basis is compatible with the City’s provision of those services and the use of the Tax Roll data base, is required to avoid cost inefficiency and unnecessary administration, and is a fair and reasonable method of apportioning Stormwater Costs.

Section 5. The Stormwater Cost is to be assessed and apportioned among benefited parcels for the Fiscal Year commencing November 1, 2009.

A. The approval of the Estimated Stormwater Utility Service Assessment Rate Schedule by adoption of this Annual Assessment Resolution determines the amount of the Stormwater Cost. The remainder of such Fiscal Year budget for Stormwater services and facilities shall be funded from available City revenue other than Stormwater Utilities Service Assessments.

B. For the Fiscal Year in which Stormwater Service Assessments for Stormwater collection and disposal services, facilities and programs are imposed, the Stormwater Cost shall be allocated among all parcels of Assessed Property, based upon each parcels' classification as Non Residential, Residential and Unimproved Property and the number of ERUs for such properties. A rate of assessment equal to sixty dollars (\$60.00) for each ERU for Stormwater collection and disposal services is hereby approved for Fiscal Year 2009 — 2010.

C. The Stormwater Utility Assessment Rate of one hundred twenty dollars (\$120.00) per ERU is hereby established to fund the specified Stormwater Cost determined to be assessed in the Fiscal Year beginning November 1, 2009. The estimated Stormwater Cost for fiscal year 2009-2010 is One million seven hundred fifty-two thousand five hundred two dollars (\$1,752,502).

D. The rate of the Stormwater Utility Service Assessments established in this Annual Assessment Resolution shall be the rates applied by the City Manager in the preparation of the annual Assessment Roll for the Fiscal Year commencing November 1, 2009, as provided in Section 7 of this Annual Assessment Resolution.

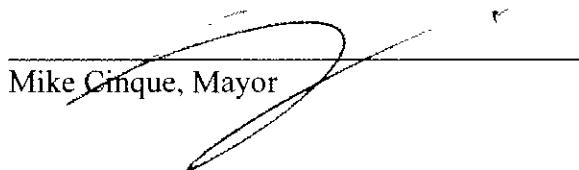
Section 6. The City Manager is hereby directed to prepare, or cause to be prepared, an Annual Assessment Roll for the Fiscal Year beginning November 1, 2009, in the manner provided in the Ordinance. Such annual Assessment Roll shall contain the following: (1) a summary description of all Assessable Property within the City conforming to the description contained on the Tax Roll, (2) the name and address of the owner of record of each parcel as shown on the Tax Roll, and (3) the amount of the annual Stormwater Utility Service Assessment for Stormwater collection and disposal services. The annual Assessment Roll shall be open to public inspection. The foregoing shall not be construed to require that the annual Assessment Roll be in printed form if the amount of the Stormwater Utility Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public. Such Stormwater Utility Service Assessment for each parcel of Assessable Property shall be computed by multiplying the assessment rate by the number of ERU's on such parcel.

It is hereby ascertained, determined, and declared that the foregoing method of determining the Stormwater Utility Service Assessments for Stormwater collection and disposal services (1) is a fair and reasonable method of apportioning the Stormwater Cost among parcels of Assessable Property and (2) is an equitable and efficient mechanism to address payment delinquencies and recover funds advanced for Stormwater collection and disposal services, facilities, and programs which are allocable to specific parcels of Assessable Property.

Section 7. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED by the City Council of the city of Marathon, Florida, this 9th day of September, 2009.

THE CITY OF MARATHON, FLORIDA



Mike Cinque, Mayor

AYES: Ramsay, Snead, Worthington, Vasil, Cinque
NOES: None
ABSENT: None
ABSTAIN: None

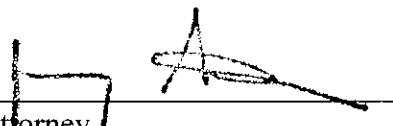
ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

EXHIBIT "A"

EXHIBIT "B"
CITY OF MARATHON, FLORIDA
MORE PARTICULARLY DESCRIBED

AS

Land description.--The corporate boundaries of the city shall be as follows: from the East end of the Seven Mile Bridge (approximately Mile Marker 47) to the West end of the Tom's Harbor Bridge (approximately Mile Marker 60), including, but not limited to, the entire islands of Knight Key; Hog Key; Vaca Key; Stirrup Key; Boot Key; Crawl Key; East Sister's Island; West Sister's Island; Fat Deer Key; Long Point Key; Deer Key; Little Deer Key; Little Crawl Key; Grassy Key; the unincorporated areas of Monroe County commonly known as Marathon and Coco Plum; all land filled in between the islands, including all islands connected by U.S. 1, Overseas Highway and roadways connecting thereto; and all adjacent islands not connected by roadways within the boundaries of Monroe County between Mile Marker 47 and Mile marker 60, specifically excluding all areas within the boundaries of the City of Key Colony Beach, all of the above being within the boundaries of Monroe County, Florida.

Published Twice Weekly
Marathon, Monroe County, Florida

PROOF OF PUBLICATION

**STATE OF FLORIDA
COUNTY OF MONROE**

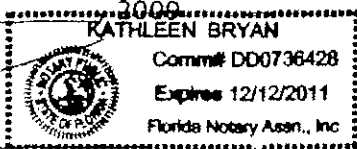
Before the undersigned authority personally appeared **WAYNE MARKHAM** who on oath, says that he is **PUBLISHER of the FLORIDA KEYS KEYNOTER**, a twice weekly newspaper published in Marathon, in Monroe County, Florida: that the attached copy of advertisement was published in said newspaper in the Issues of: *(date(s) of publication)*

August 8, 15, 22, 29, 2009

Affiant further says that the said FLORIDA KEYS KEYNOTER is a newspaper published at Marathon, in said Monroe County, Florida, and that the said newspaper has heretofore been continuously published in said Monroe County, Florida, twice each week (on Wednesday and Saturday) and has been entered as a second class mail matter at the post office in Marathon, in Monroe County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement. The 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(s) and that The Florida Keys Keynoter is in full compliance with Chapter 50 of the Florida State Statutes on Legal and Official Advertisements.

*See
Reverse*

Sworn to and subscribed before me
this *1* Day of *Sept*
(SEAL)



Notary



CITY OF MARATHON, FLORIDA

1905 Overseas Highway, Marathon, Florida 33050
Phone: (889) 743-6223

CITY OF MARATHON CITY COUNCIL NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the City of Marathon City Council will conduct a Public Hearing on September 2, 2009 at 9:30 p.m. or as soon thereafter as possible, at the Marathon Government Center, 2708 Overseas Highway, Marathon, Florida to hear the following:

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, RELATING TO THE ADOPTION OF A STORMWATER UTILITY SPECIAL ASSESSMENT RATE FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2009, IN THE CITY OF MARATHON, FLORIDA; AND PROVIDING AN EFFECTIVE DATE

All interested persons are invited to attend the meeting and participate in the discussion. Written comments may be open to the City of Marathon, 2708 Overseas Hwy, Marathon, FL 33050. The above resolution can be inspected at the city clerk's office, located at 1905 Overseas Highway, Marathon, Florida.

Pursuant to Section 218.01(4), 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 (889) 743-6223 at least two days prior to the date.

Please contact the City Clerk at (889) 743-6223 if you would like to receive any of the items for the agenda of the City of Marathon meeting by email.

For more information, call (889) 743-6223 or visit www.marathonfl.com