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**CITY OF MARATHON, FLORIDA**

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**COLLECTION OF SPECIAL ASSESSMENT TO FUND THE COST OF  
CAPITAL IMPROVEMENTS  
AVENUE K  
FINAL ASSESSMENT RESOLUTION**

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**ADOPTED JULY 14, 2009**

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**RESOLUTION NO. 2009-91**

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

**WHEREAS**, the City Council ("Council") of Marathon, Florida, enacted Ordinance No. 2006-019 on August 22, 2006 (the "Ordinance"), to provide for the creation of assessment areas and authorize the imposition of special assessments to fund the construction of local improvements to serve the property located therein; and

**WHEREAS**, on June 9, 2009, the Council adopted Resolution No. 2009-65, the Initial Assessment Resolution, proposing creation of the Avenue K Assessment Area and describing the method of assessing the cost of Capital Improvements against the real property that will be specially benefited thereby, and directing preparation of the tentative Assessment Roll and provision of the notices required by the Ordinance; and

**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 receiving objections of all interested parties; and

**WHEREAS**, the Assessment Roll has heretofore been filed with the office of the City Manager, as required by the Ordinance; and

**WHEREAS**, as required by the terms of the Ordinance, notice of a public hearing has been published and mailed to each property owner proposed to be assessed

notifying such property owner of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively; and

**WHEREAS**, a public hearing was held on July 14, 2009 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 MARATHON, MARATHON, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This Resolution is adopted pursuant to the Ordinance, the Initial Assessment Resolution, Sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** This Resolution is 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. CREATION OF ASSESSMENT AREA.** The Avenue K Assessment Area is hereby created to include the property described in Appendix D attached hereto and incorporated herein. The Assessment Area is created for the purpose of improving the use and enjoyment of property located therein by funding the construction of roadway and utility improvements.

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

**SECTION 5. APPROVAL OF ASSESSMENT ROLL.** The Assessment Roll, which is currently on file with the City Manager and incorporated herein by reference, is hereby approved.

## **SECTION 6. ASSESSMENTS.**

(A) The Tax Parcels described in the Assessment Roll are hereby found to be specially benefited by construction of the Roadway and Utility Improvements in the amount of the maximum annual Assessment set forth in the Assessment Roll. The methodology for computing annual Assessments described in the Initial Assessment Resolution, is hereby approved. Annual Assessments computed in the manner described in the Initial Assessment Resolution, are hereby levied and imposed on all Tax Parcels described in the Assessment Roll at a maximum annual rate of \$1,402 per lot for a period not to exceed 10 years, commencing in November 2009. The resulting Initial Prepayment Amount is \$9,495 per lot.

(B) Upon adoption of the Annual Assessment Resolution for each Fiscal Year:

(1) The Assessments shall constitute a lien against assessed property 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. The lien shall be deemed perfected upon adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(2) As to any Tax Parcel that is acquired by a public entity through condemnation, negotiated sale or otherwise prior to adoption of the next Annual Assessment Resolution, the Adjusted Prepayment Amount shall constitute a lien against assessed property 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. The lien shall be deemed perfected upon adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll upon adoption of the Annual Assessment Resolution.

**SECTION 7. COLLECTION OF ASSESSMENTS.** The Assessments shall be collected pursuant to the Uniform Assessment Collection Act. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the City Manager shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act. 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 E.

**SECTION 8. EFFECT OF FINAL ASSESSMENT RESOLUTION.** The adoption of this Final Assessment Resolution shall be the final adjudication of the issues presented herein and in the Initial Assessment Resolution, the Assessment Roll, the maximum annual Assessment, the levy and lien of the Assessments and the terms for prepayment of the Assessments unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of Council action on this Final Assessment Resolution.

**SECTION 9. PREPAYMENT NOTICE.** The City Manager is hereby directed to provide notice by first class mail to the owner of each Tax Parcel described in the Assessment Roll of the opportunity to prepay all future annual Assessments, without additional financing costs. The notice, in substantially the form attached as Appendix C, shall be mailed to each property owner at the address utilized for the notice provided

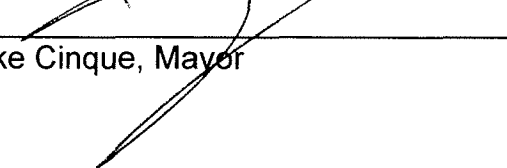
pursuant to Section 2.05 of the Initial Assessment Resolution.

**SECTION 10. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.


DULY ADOPTED this 14<sup>th</sup> day of July, 2009.

**THE CITY OF MARATHON FLORIDA**

(SEAL)


By:   
Mike Cinque, Mayor

ATTEST:

By:   
Diane Clavier, Clerk

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

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

By:   
City Attorney

**APPENDIX A  
PROOF OF PUBLICATION**



FLORIDA KEYS  
**KEYNOTER**

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)*

June 20, 2009

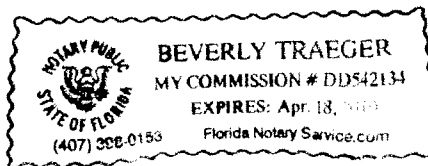
*See Reverse*

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.

Wayne Markham

Sworn to and subscribed before me this 6 Day of July, 2009  
(SEAL)

Beverly Traeger  
Notary





## **CITY OF MARATHON, FLORIDA**

9805 Overseas Highway, Marathon, Florida 33050  
Phone: (305) 743-0033

### **CITY OF MARATHON, FLORIDA** **NOTICE OF PUBLIC HEARING**

The Marathon City Council will hold a public hearing on Tuesday, **July 14, 2009**, at 5:30 p.m., at the Marathon Government Center, 2798 Overseas Highway.

The purpose of the public hearing is to consider and establish the total and annual non-ad valorem assessment rate for the Avenue K Assessment Area consisting of parcels along Avenue K. The purpose of the non-ad valorem assessment is to cover the costs to design and install roadway improvements to Avenue K. Each lot owner within the Avenue K Assessment Area would be charged a proportionate share of the road improvement costs. The pre-payment rate per lot will be \$9,495.

The annual assessment rate per lot (including financing costs) will be \$1,402.00 and will be imposed for 10 years commencing Fiscal Year 2009-10.

The annual assessment amounts will appear on the "non-ad valorem" portion of the 2009 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 9805 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.

Published Keynote 06/20/09

**APPENDIX B**  
**AFFIDAVIT OF MAILING**

## **AFFIDAVIT OF MAILING**

BEFORE ME, the undersigned authority, personally appeared Clyde Burnett, City Manager, who, after being duly sworn, depose and say:

1. Clyde Burnett, as City Manager of Marathon, Florida, (the "City") pursuant to the authority and direction received from the City Council of Marathon, Florida, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with Sections 2.04, 2.05, and 2.06 of the Capital Project and Related Service Assessment Ordinance adopted by the City Council on August 22, 2006 (the "Ordinance") and in conformance with the Collection of Special Assessment to Fund the Cost of Capital Improvements Avenue K Initial Assessment Resolution adopted by the City Council on June 9, 2009 (the "Initial Assessment Resolution"). The Initial Assessment Resolution directed and authorized notice by First Class Mail to all affected property owners.

2. Clyde Burnett is City Manager of the City of Marathon. He has caused the notices required by Section 2.06 of the Ordinance to be prepared in conformance with the Initial Assessment Resolution. An exemplary form of such notice is attached hereto. He has caused such individual notices for each affected property owner to be prepared and each notice included the following information: the purpose of the assessment; the total amount proposed to be levied against each parcel; 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; 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.

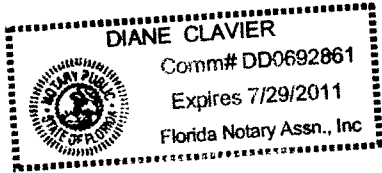
3. On or before June 23, 2009, he delivered and directed the mailing of the above-referenced notices by City Staff, in accordance with Section 2.06 of the Ordinance and the Initial Assessment Resolution by First Class Mail to each affected owner, at the addresses then shown on the real property assessment tax roll database maintained by the Monroe County Property Appraiser for the purpose of the levy and collection of ad valorem taxes. Notices to property owners receiving multiple individual notices were mailed, or caused to be mailed by City Staff on or before June 23, 2009.

FURTHER AFFIANTS SAYETH NOT.

  
Clyde Burnett, affiant

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 10 day of July, 2009 by Clyde Burnett, City Manager, Marathon, Florida. He is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.



Diane Clavier  
Printed Name: Diane Clavier  
Notary Public, State of Florida  
At Large  
My Commission Expires: 7-29-2011  
Commission No.: DD0692861

**APPENDIX C**

**FORM OF PREPAYMENT NOTICE**

City of Marathon  
9805 Overseas Highway  
Marathon, Florida 33050

RE: Avenue K Special Assessment (parcel number)

The City Council of Marathon, Marathon, Florida ("City"), recently established and approved a special assessment against property within the Avenue K Assessment Area to fund the construction of roadway and utility improvements to provide your property with access. This type of financing where the property owners participate in the cost of the program is used throughout Florida and is consistent with the policy of the City.

The assessments will be collected on the ad valorem tax bill, as authorized by Section 197.3632, Florida Statutes. The assessments will be payable in not to exceed ten (10) annual installments, the first of which shall be included on the ad valorem tax bill to be mailed in November, 2009. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

The City has initially financed this project with an internal loan, but will be pursuing long-term, permanent financing. This will permit the cost attributable to your property to be amortized over a period of not to exceed ten (10) years. However, you may choose to prepay your assessment in full at any time to avoid additional interest. The amount required to prepay the assessment on or prior to August 28, 2009, is \$9,495.

After August 28, 2009, the amount required to prepay the assessment will be increased to include additional interest on the permanent financing.

Please make checks for prepayment amounts payable to City of Marathon,



Attention: Finance Department, Marathon, Florida . Please be sure to either write the assessment parcel number (shown at the top of this letter) on your check or return this letter with your payment.

Assessment records and copies of applicable Ordinances and Resolutions passed by the City Council are on file at the offices of the City Manager, located at 9805 Overseas Highway, Marathon, Florida.

**CITY OF MARATHON, FLORIDA**

**APPENDIX D**  
**AVENUE K ASSESSMENT AREA**

## **DESCRIPTION OF AVENUE K ASSESSMENT 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**

**APPENDIX E**

**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 the City Council 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 roadway and utility improvements (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, 2009.

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 14 day of July, 2009.

**CITY OF MARATHON, FLORIDA**

By:   
Mike Cinque, Mayor

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