

**CITY OF MARATHON, FLORIDA
RESOLUTION NO. 2010-73**

A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, RELATING TO THE CONSTRUCTION OF STORMWATER COLLECTION AND TREATMENT FACILITIES IN THE CITY OF MARATHON, FLORIDA; ESTABLISHING TERMS AND CONDITIONS OF PROPOSED SPECIAL ASSESSMENTS TO FUND STORMWATER UTILITY COSTS AGAINST ASSESSABLE PROPERTY LOCATED WITHIN THE CITY OF MARATHON, FLORIDA; DETERMINING THE STORMWATER UTILITY COST AND THE INITIAL STORMWATER UTILITY SERVICE ASSESSMENTS; ESTABLISHING A PUBLIC HEARING TO CONSIDER THE IMPOSITION OF THE PROPOSED ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Marathon, Florida (“City”) has enacted Article IV of Chapter 24 and Article II of Chapter 34 of the Marathon City Code (“Code”), which establish a Stormwater Utility and authorizes 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 is being imposed upon all Property within the City; 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 initiate an annual Stormwater Utility assessment program within the City, using the tax bill collection method for the Tax Year beginning on November 1, 2010.

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 Initial Assessment Resolution as defined in the Code. 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 Initial 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 Initial Assessment Resolution and the estimated Stormwater Utility Service Assessments established in Section 5 of this Initial 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 and are fairly and reasonably apportioned among all benefitted properties based upon the following legislative determinations:

A. The City has enacted the Code to provide for the creation of assessment areas and authorize the imposition of Assessments to fund construction of Local Improvements to serve the properties located therein.

B. The Stormwater System constitutes a Local Improvement, as defined in the Code, and enables the City to provide stormwater treatment to the properties in the Assessment Area.

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

D. 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.

E. 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.

F. The construction of the Stormwater System 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 the property by providing: (1) access to the Stormwater System to the owners and occupants of the property for the proper, safe and cost effective treatment and disposal of stormwater generated on such property, which improves the utilization, marketability, and development potential of said properties; (2) better, consistent and environmentally compliant stormwater treatment service to owners and occupants; (3) the enhancement of environmentally responsible use and enjoyment of property; and (4) the protection of property values and the health and safety of owners and occupant of property.

G. The Council hereby finds that each property within the Assessment Area will be benefited by the Stormwater System in an amount not less than the Assessment imposed against such property, as computed in the manner set forth in this Resolution.

H. 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 Tax Year commencing November 1, 2010.

A. The approval of the Estimated Stormwater Utility Service Assessment Rate Schedule by adoption of this Initial Assessment Resolution determines the amount of the Stormwater Cost. The remainder of the cost of the Stormwater System shall be funded from available City revenue other than Stormwater Utilities Service Assessments.

B. For the 2010 Tax 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 (\$120.00) for each ERU for Stormwater collection and disposal services is hereby approved for Tax Year 2010.

C. The Stormwater Utility Assessment Rate of sixty dollars (\$120.00) per ERU is hereby established to fund the specified Stormwater Cost determined to be assessed in Tax Year 2010 beginning November 1, 2010. The estimated Stormwater Cost for Tax Year 2010 is twenty three million two hundred fifteen thousand four hundred eighty-five dollars (\$23,215,485).

D. The rate of the Stormwater Utility Service Assessments established in this Initial Assessment Resolution shall be the rates applied by the City Manager in the preparation of the initial Assessment Roll for the Tax Year commencing November 1, 2010, as provided in Section 6 of this Initial Assessment Resolution.

E. Assessments shall be imposed against Assessed 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 Section. When imposed, the Assessment for each Tax Year shall constitute a lien upon the Real Estate Parcels located in the Assessment Area, pursuant to Section 24-120 of the Code.

Section 6. The City Manager is hereby directed to prepare a final estimate of the Capital Cost of the Stormwater System and to prepare the preliminary Assessment Roll in the manner provided in the Code. The City Manager shall apportion the Project Cost among the parcels of real property within the Assessment Area as reflected on the Tax Roll as provided herein. 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 Real Estate Parcel 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. A public hearing will be conducted by the City Council at 5:30 p.m. on August 24, 2010, at the Marathon Government Center, EOC Room, 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.

Upon completion of the materials required by Section 6 hereof, the City Manager shall publish a notice of the public hearing authorized herein in the manner and the time provided in Section 24-115 of the Code. Such notice shall be in substantially the form attached hereto and incorporated herein as Exhibit "A."

Section 8. The proposed Assessment Area shall include all of the property in the City, as described in Exhibit "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 the Stormwater System.

Section 9. 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 24-134 of the Code.

Section 10. If any clause, section, or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

Section 11. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 27th DAY OF JULY, 2010.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

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

ATTEST:

Diane Clavier
Diane Clavier, City Clerk

(City Seal)

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

[Signature]
City Attorney

EXHIBIT A

FORM OF NOTICE TO BE PUBLISHED

To Be Published on or before August 3, 2010

[MAP OF ASSESSMENT AREA]

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

Notice is hereby given that the City of Marathon, Florida, will conduct a public hearing to consider the imposition of special assessments against certain parcels of property located in the City. The hearing will be held at 5:30 p.m., or as soon thereafter as the matter can be heard, on August 24, 2010 Marathon Government Center, EOC Room, 2798 Overseas Highway, Marathon, Florida, for the purpose of receiving public comment on the proposed Assessment Area and assessments. In accordance with the Americans with Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the City at (305)289-5020, at least seven days prior to the public hearing. All affected property owners have a right to appear at the hearing and to file written objections with the City within 20 days of this notice. If a person wishes 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 have been proposed to fund construction of stormwater collection and treatment facilities. The assessment for each parcel of property will be based, in part, on the number of equivalent residential units attributable to such parcel. The annual assessment will include your share of the principal, interest and collection cost. The maximum annual assessment is estimated to be \$120.00 per ERU. A more specific description is set forth in the Initial Assessment Resolution adopted by the City Council on July 27, 2010. Copies of the Initial Assessment Resolution, the plans and specifications for the Stormwater System, and the preliminary Assessment Roll are available for inspection at the offices of the City Manager, located at 9805 Overseas Highway, Marathon, Florida.

The assessments will be collected on the ad valorem tax bill, 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 Community Services at (305)289-5009.

CITY OF MARATHON, FLORIDA

EXHIBIT C

ASSESSMENT AREA DESCRIPTION

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.