

**CITY OF MARATHON, FLORIDA
RESOLUTION 2010-91**

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, RELATING TO THE CONSTRUCTION OF ROADWAY IMPROVEMENTS FOR AVENUE K; IMPOSING THE ANNUAL CAPITAL IMPROVEMENT ASSESSMENTS; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS AND PROVIDING FOR AN EFFECTIVE DATE

WHEREAS, the City Council of the City of Marathon, Florida (the "City"), has enacted Article IV of Chapter 24 of the Code of Ordinances, City of Marathon, Florida (the "Code"), which authorizes the creation of assessment areas and the imposition of special assessment to fund the construction of local improvements to serve property located therein; and

WHEREAS, on July 14, 2009, the City Council adopted Resolution No. 2009-91 creating the Avenue K Assessment Area and establishing the method of assessing the cost of Capital Improvements against the real property that will be specially benefited thereby; and

WHEREAS, pursuant to the provisions of the Code, the City is required to adopt an Annual Assessment Resolution for each fiscal year to approve the assessment rolls for such fiscal year; and

WHEREAS, notice of a public hearing has been published and mailed, if required by the terms of the Code, which provides notice to all interested persons of an opportunity to be heard; the proof of publication being attached hereto as Exhibit "A;" and

WHEREAS, a public hearing was held on August 24, 2010, and comments and objections of all interested persons have been heard and considered as required by the terms of the Code; and

WHEREAS, the City has deemed it to be in the best interests of the citizens and residents within the City that the assessment continues to be imposed for the Fiscal Year beginning October 1, 2010; and

WHEREAS, as required by the Code, the Assessment Roll has been filed with the office of the City Manager.

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

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

Section 2. This Resolution is adopted pursuant to the Code, Resolution No. 2009-65, the Avenue K Improvements Initial Assessment Resolution (the "Initial Assessment Resolution"), Resolution No. 2009-91, the Avenue K Improvements Assessment Resolution (the "Final Assessment Resolution"), Sections 166.021 and 166.041, *Florida Statutes*, and other applicable provisions of law.

Section 3. (A) The Tax Parcels described in the updated 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.

(B) 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.

Section 4. The Assessment Roll, which is currently on file with the City Manager and incorporated herein by reference, is hereby approved.

Section 5. (A) 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.

(B) 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.

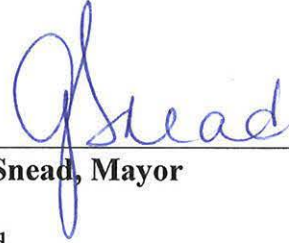
Section 6. The Assessments shall be collected pursuant to the Uniform Assessment Collection Act. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the City Manager shall cause the certification and delivery of the Assessment Roll to the Tax Collector by September 15, in the manner 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 Exhibit "B."

Section 7. If any clause, section, or other part or application of this Resolution is held by any court of competent jurisdiction to be unconstitutional or invalid, in part or application, it shall not affect the validity of the remaining portions or application of this Resolution.

Section 8. This Resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 24th DAY OF AUGUST, 2010.

THE CITY OF MARATHON, FLORIDA



Ginger Snead, Mayor

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

ATTEST:



Diane Clavier, City Clerk

(City Seal)

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



City Attorney

Exhibit A – Proof of Publication



CITY OF MARATHON, FLORIDA

9805 Overseas Highway, Marathon, Florida 33050

Phone: (305) 743-0033



NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF SPECIAL ASSESSMENTS FOR AVENUE K ROADWAY IMPROVEMENTS

Notice is hereby given that the City of Marathon, Florida, will conduct a public hearing to receive public comment on the existing special assessments for roadway improvements against certain parcels of property located within the Avenue K assessment area within the city and approve the special assessment roll. The hearing will be held at 5:30 p.m., or as soon thereafter as the matter can be heard, on August 24, 2010 at the Marathon Government Center, EOC Room, 2798 Overseas Highway, Marathon, Florida for the purpose of receiving public comment on the assessments and their collection on the tax bill. 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 were originally imposed in 2009 to fund construction of roadway improvements in the Avenue K assessment area. The assessment for each parcel of property is based on the number of lots attributable to such parcel. Unless prepaid, the annual assessment will include your share of the principal, interest and collection cost. The maximum annual assessment is estimated to be \$1,402 per lot. A more specific description is set forth in the Initial Assessment Resolution adopted by the City Council on June 9, 2009. Copies of the Initial Assessment Resolution, the plans and specifications for the roadway improvements, 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. The City Council intends to collect the assessments in not to exceed ten (10) annual assessments, the first of which was included on the ad valorem tax bill mailed in November 2009. Future annual assessments may be prepaid at the option of the property owner.

If you have any questions, please contact Community Services at (305)289-4104 or (305)289-4115.

CITY OF MARATHON, FLORIDA

Published Keynote 8/4/10

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)*

Wed. 8-4-2010

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 18 Day of August, 2010
(SEAL)

Beverly Traeger
Notary



Exhibit B – 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 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 Construction of Roadway Improvements for Avenue K (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 Monroe County Tax Collector by September 15, 2010.

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 31 day of August, 2010.

CITY OF MARATHON, FLORIDA

By: 
Mayor Ginger Snead

[TO BE DELIVERED TO TAX COLLECTOR PRIOR TO SEPTEMBER 15, 2010]