

Sponsored by: Hernstadt

**CITY OF MARATHON, FLORIDA  
RESOLUTION NO. 2011-64**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA,  
IMPOSING THE ANNUAL STORMWATER UTILITY SPECIAL  
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") enacted Article II of Chapter 24 and Article III of Chapter 34 of the Code of Ordinances, City of Marathon, Florida (the "Code"), 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 initially imposed upon all Property within the City commencing October 1, 2005, which rate was established by Resolution 2005-107 ("Initial Assessment Resolution"); 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 9, 2011, 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 2011-2012 fiscal year; 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, 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 Code, Sections 166.021 and 166.041, *Florida Statutes*, and other applicable provisions of law.

**Section 3.** This resolution constitutes the Annual Assessment Resolution as defined in the Code. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Code and Initial Rate Resolution.

**Section 4.** The Stormwater Assessment Roll, which is currently on file in the office of the City Manager and incorporated herein by reference, is hereby approved.

**Section 5.** (A) It is hereby ascertained and declared that each parcel of the Assessed Property within the City will be specially benefited by the City's provision of stormwater utility services in an amount not less than the Stormwater Utility Service Assessment for such parcel, computed in the same manner set forth in the Initial Assessment Resolution. Adoption of this Annual Rate Resolution constitutes a legislative determination that all parcels assessed derive a special benefit in a manner consistent with the legislative declarations, determinations and findings as set forth in the Code and the Initial Assessment Resolution from the City's stormwater utility and a legislative determination that the Stormwater Utility Service Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the Initial Rate Resolution.

(B) The method for computing and apportioning the Stormwater Utility Service Assessments described in the Initial Assessment Resolution is hereby approved.

(C) For the 2011-2012 fiscal year in which Stormwater Utility 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 parcel's classification as Non Residential, Residential, and Unimproved Property and the number of ERUs for such properties. A rate of assessment equal to one hundred-twenty dollars (\$120.00) for each ERU for Stormwater collection and disposal services is hereby approved.

(D) The Stormwater Utility Service 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 fiscal year 2011-2012. The estimated Stormwater Cost for fiscal year 2011 is \$1,052,160.

**Section 6.** (A) The Stormwater Utility Service 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 Property 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.

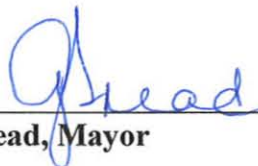
**Section 7.** The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided however, that any Assessment against Government Property shall be collected pursuant to Section 24-134 of the Code. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the 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.

**Section 8.** 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 9.** This resolution shall take effect immediately upon its adoption.


**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 9<sup>th</sup> DAY OF AUGUST, 2011.**

**THE CITY OF MARATHON, FLORIDA**

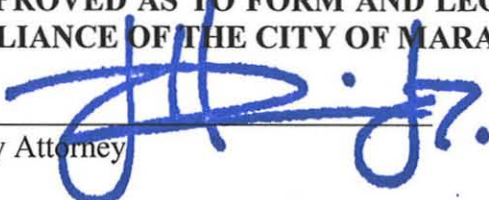
  
\_\_\_\_\_  
**Ginger Snead, Mayor**

AYES: Ramsay, Keating, Cinque, Worthington, Snead  
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:**

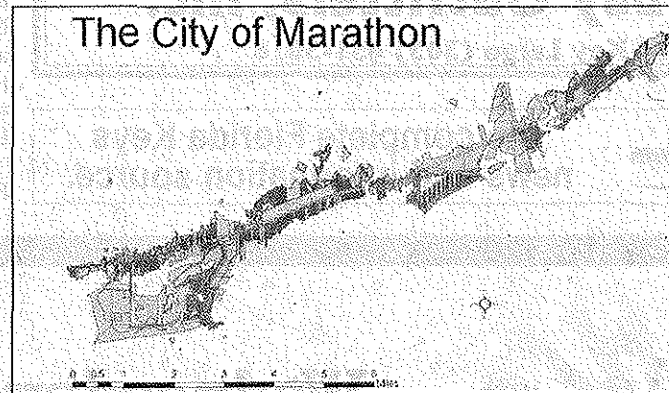
  
\_\_\_\_\_  
City Attorney

**EXHIBIT "A"**



## 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**

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 9, 2011, 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 the on-going maintenance 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 maximum annual assessment is estimated to be \$120.00 per ERU. A more specific description is set forth in the Preliminary Assessment Resolution adopted by the City Council on July 27, 2010. Copies of the Preliminary Assessment Resolution 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 Stormwater Utility at (305)289-5005.

CITY OF MARATHON, FLORIDA  
Published Keynote 7/20/11

# 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)*

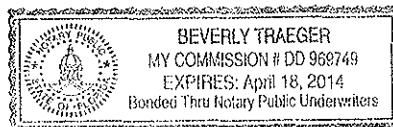
7/20/11

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*

Wayne Markham  
Sworn to and subscribed before me  
this 20 Day of July, 2011  
(SEAL)

Beverly Traeger  
Notary



**EXHIBIT "B"**

## AFFIDAVIT OF MAILING

BEFORE ME, the undersigned authority, personally appeared Roger T. Hernstadt and Sandi Melgarejo, who, after being duly sworn, depose and say:

1. Roger T. Hernstadt, as City Manager of the City of Marathon, Florida, (the "City") pursuant to the authority and direction received from the City Council of the City of Marathon, Florida, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with Article II of Chapter 24 and Article III of Chapter 34 of the Code of Ordinances, City of Marathon and section 197.3632, Florida Statutes.

2. Sandi Melgarejo is Project Coordinator for GSG. GSG has caused the notices to be prepared in conformance with the Florida Statutes. An exemplary form of such notice is attached hereto. GSG 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 July 19, 2011, GSG caused the mailing of the above-referenced notices in accordance with the Florida Statutes, 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.

FURTHER AFFIANTS SAYETH NOT.

  
\_\_\_\_\_  
Roger T. Hernstadt, affiant

  
\_\_\_\_\_  
Sandi Melgarejo, affiant

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 2 day of August, 2011 by Roger T. Hernstadt, City Manager, City of Marathon, Florida. He is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.



Donna M. Cofano  
Printed Name: Donna M. Cofano  
Notary Public, State of Florida

At Large  
My Commission Expires: 8-26-2011  
Commission No.: DD679666

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 1st day of August, 2011 by Sandi Melgarejo, Project Coordinator, Government Services Group, Inc., a Florida corporation. She is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.



Tammy Peters  
Printed Name: Tammy Peters  
Notary Public, State of Florida

At Large  
My Commission Expires: 2013  
Commission No.: DD921344

City of Marathon  
9805 Overseas Hwy  
Marathon, FL 33050

CITY OF MARATHON, FLORIDA

NOTICE OF HEARING TO IMPOSE AND  
PROVIDE FOR COLLECTION OF STORMWATER SERVICES  
NON-AD VALOREM ASSESSMENTS

NOTICE DATE: JULY 19, 2011

PALMENBERG BRUCE  
2470 DOLPHIN DR  
MARATHON, FL 33050-2858

*Sequence # 1*

*Alt Key # 9096710*

*Legal Description: WLY PT LT 4 KEY COLONY SUB NO 1 PB3-  
107 KEY VACA OR506-1052 OR846-1703/04 OR1107-729/30  
OR1606-2236 OR1606-2247/50AFF OR2478-239/253*

**\*\*\*\*\* NOTICE TO PROPERTY OWNER\*\*\*\*\***

Dear Property Owner:

In 2005, the City of Marathon (the "City") enacted an ordinance to create a Stormwater Utility and provide a dedicated funding source for stormwater management. Since 2005, a Stormwater Service Assessment has been imposed on properties within the City to assist in providing this dedicated funding source and the Stormwater Service Assessment has been included on the ad valorem property tax bill mailed each November. The Stormwater Service Assessments are based upon the estimated amount of stormwater runoff generated by impervious surface on the property. Impervious surfaces include the roof top, patios, driveways, parking lots and similar areas. Single family residential and vacant properties are assigned one Equivalent Residential Unit (ERU) and other properties are assigned an ERU value based on the proportion of their impervious area to the impervious area that is characteristic of single family residential properties in the City. The number of ERUs assigned to your property is provided below. The annual Stormwater Service Assessment rate for the upcoming fiscal year and for future fiscal years will be \$120.00 for each ERU.

It is estimated that the City will collect \$1,055,000 from the Stormwater Service Assessments. These funds will be used for operation and maintenance of the City's stormwater system, planning for future stormwater improvements and to implement improvements with citywide benefits.

The following is a summary of the non-ad valorem special assessments being imposed on the above parcel for the fiscal year beginning October 1, 2011.

The above parcel is subject to the stormwater assessment:

The total number of ERUs on the above parcel is 1.

The annual stormwater assessment for the above parcel is \$120.00 for fiscal year commencing October 1, 2011.

The maximum annual stormwater service assessment for the above parcel is \$120.00 for the City's fiscal year commencing October 1, 2011, and each fiscal year thereafter.

The City Council will hold a public hearing at 5:30 p.m., or as soon thereafter as the matter can be heard, on August 9, 2011, at the Marathon Government Center, 2798 Overseas Highway, Marathon, Florida, to receive comments on the proposed Stormwater Service Assessments, including their collection on the ad valorem tax bill. You are invited to attend and participate in the hearing. You may also file written objections with the City Council within twenty (20) days of the date of this notice. If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you 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. In accordance with the Americans with Disabilities Act, if you need a special accommodation or an interpreter to participate in this proceeding, please contact the City at (305) 289-5020 at least seven days prior to the public hearing.

Copies of the assessment program documentation are available for inspection at the offices of the City Manager and the Public Works Division, both located at 9805 Overseas Highway, Marathon, Florida.

Because the Stormwater Service Assessment will be collected by the Tax Collector of Monroe County, pursuant to Chapter 197, Florida Statutes, failure to pay the Stormwater Service Assessment will cause a tax certificate to be issued against the assessed property which may result in a loss of title to your property.

If you have any questions regarding the number of ERUs assigned to your property or the amount of the Stormwater Service Assessment, please contact the City Stormwater Utilities Department at (305) 289-4115.

CITY OF MARATHON, FLORIDA

**\*\*\*\*\* THIS IS NOT A BILL\*\*\*\*\***

**CERTIFICATE  
TO  
NON-AD VALOREM ASSESSMENT ROLLS**

I HEREBY CERTIFY that, I am the Mayor of the City of Marathon, or authorized agent of the City of Marathon, Florida (the "City"); as such I have satisfied myself that all property included or includable on the **Marathon Stormwater Non-Ad Valorem Assessment Roll** for the aforesaid 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 the property listed therein have been made pursuant to law.

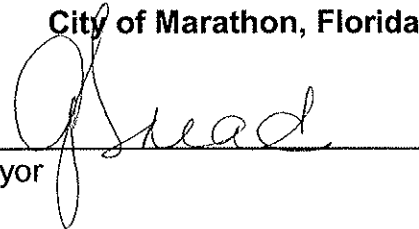
I FURTHER CERTIFY that, in accordance with the Uniform Assessment Collection Act, this certificate and the herein described Non-Ad Valorem Assessment Roll will be delivered to the Monroe County Tax Collector by September 15, 2011.

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 the 9 day of September 2011.

**City of Marathon, Florida**

By:

Mayor

A handwritten signature in black ink, appearing to read "J. Mead", is written over a horizontal line. The signature is cursive and somewhat stylized.