

RESOLUTION NO. 2015-77

A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, IMPOSING THE ANNUAL STORMWATER UTILITY SPECIAL ASSESSMENTS FOR FISCAL YEAR COMMENCING OCTOBER 1, 2015; 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, the imposition of a Stormwater Utility Service Assessment for stormwater collection and treatment services, facilities and programs is an equitable and efficient method of allocating and apportioning Stormwater Costs among parcels of Assessable Property located in 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 (the "Initial Assessment Resolution"); and

WHEREAS, this Resolution shall serve as the Annual Assessment Resolution for Fiscal Year 2015-2016, and the Assessable Property in the City will be subject to the previously established special assessment amount for the Stormwater Utility; and

WHEREAS, as required by the Code the Assessment Roll has been filed with the office of the City Manager, and a notice of public hearing has been published; the proof of publication being attached hereto as Exhibit "A."

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

Section 1. This Resolution is adopted pursuant to the Code, Sections 166.021 and 166.041, *Florida Statutes*, and other applicable provisions of law.

Section 2. This Resolution is the Annual Assessment Resolution as defined in the Code. All capitalized terms in this Resolution shall have the meanings defined in the Code, and the Initial Assessment Resolution.

Section 3. (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 Fiscal Year 2015-2016 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 2015-2016.

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

Section 5. (A) The Stormwater Utility Service Assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, counties, 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 6. 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 7. 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 8. This resolution shall take effect immediately upon its adoption.

PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 28TH DAY OF JULY, 2015.

THE CITY OF MARATHON, FLORIDA



Chris Bull, Mayor

AYES: Keating, Kelly, Senmartin, Zieg, Bull
NOES: None
ABSENT: None
ABSTAIN: None


ATTEST:



City Clerk, Diane Clavier

(SEAL)

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



Dirk Smits, City Attorney

EXHIBIT "A"
PROOF OF PUBLICATION

PO Box 1800
Key West FL 33041
Office....305-292-7777
Extension...x219
Fax.....305-295-8025
legals@keysnews.com

INTERNET PUBLISHING
keywest.com
keysnews.com
floridakeys.com
key-west.com
Web Design Services

NEWSPAPERS
The Citizen
Florida Keys Free Press

MARKETING SERVICES
Commercial Printing
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FLORIDA KEYS OFFICES
Printing / Main Facility
3420 Northside Drive
Key West, FL
33040-1800
Tel 305-292-7777
Fax 305-294-0768
citizen@keywest.com

Internet Division
Tel 305-292-1880
Fax 305-294-1699
sales@keywest.com

Upper Keys Office
91731 Overseas Hwy
Tavernier, FL 33070
Tel 305-853-7277
Fax 305-853-0556
freepress@floridakeys.com

**STATE OF FLORIDA
COUNTY OF MONROE**

Before the undersigned authority personally appeared Tommy Todd, who on oath says that he is Advertising Director of the Key West Citizen, a daily newspaper published in Key West, in Monroe County, Florida; that the attached copy of advertisement, being a legal notice in the matter of

Notice of Hearing

Collection of Special Assessments

was published in said newspaper in the issue(s) of

July 4, 2015

Affiant further says that the Key West Citizen is a newspaper published in Key West, in said Monroe County, Florida and that the said newspaper has heretofore been continuously published in said Monroe County, Florida every day, and has been entered as second-class mail matter at the post office in Key West, in said Monroe County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and 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.


Signature of Affiant

Sworn and subscribed before me this 4 day of July, 2015

Notary Public:

Dawn Kawzinsky

Dawn Kawzinsky
Expires: 1/4/16



DAWN KAWZINSKY
NOTARY PUBLIC
STATE OF FLORIDA
Comm# EE157233
Expires 1/4/2016

Notary Seal

Personally Known x Produced Identification _____
Type of Identification Produced _____

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 July 28, 2015 at the Marathon Government Center, 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 non-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

