

**RESOLUTION NO. 2017-58**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, RELATING TO THE CONSTRUCTION OF WASTEWATER COLLECTION AND TREATMENT FACILITIES WITHIN SERVICE AREAS 1, 3, 4, 5, 6, 7, LITTLE VENICE & SUPPLEMENTAL ASSESSMENT PROGRAM AREA IN THE CITY OF MARATHON, FLORIDA; IMPOSING THE ANNUAL WASTEWATER SPECIAL ASSESSMENTS FOR THE FISCAL YEAR COMMENCING OCTOBER 1, 2017; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR THE 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 Marathon City Code (the “Code”), 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**, the imposition of a Wastewater Service Assessment for wastewater collection and treatment services, facilities and programs is an equitable and efficient method of allocating and apportioning Wastewater Costs among parcels of Assessable Property located in the City; and

**WHEREAS**, the City adopted Resolution 2008-96, (the “SA 4 & 6 Initial Assessment Resolution”), creating Service Areas 4 & 6 and describing the method of assessing the cost of Wastewater Collection and Treatment Facilities against the real property specially benefited thereby, and directing preparation of the tentative Assessment Roll and provision of the notices required by the Code; and

**WHEREAS**, after hearing comments and receiving objections of all interested parties at a duly noticed public hearing the City adopted Resolution 2008-107 imposing an Assessment Program to fund the Wastewater Collection and Treatment Facilities against the properties located in Service Areas 4 & 6, confirming their creation, approving the Assessment Roll and providing for the collection of the assessments within Service Areas 4 & 6 (the “SA 4 & 6 Final Assessment Resolution”); and

**WHEREAS**, the City adopted Resolution 2008-119, (the “Little Venice Initial Assessment Resolution”), creating the Little Venice Service Area and describing the method of assessing the cost of Wastewater Collection and Treatment Facilities against the real property specially benefited thereby, and directing preparation of the tentative Assessment Roll and provision of the notices required by the Code; and

**WHEREAS**, after hearing comments and receiving objections of all interested parties at a duly noticed public hearing the City adopted Resolution 2008-136, imposing an Assessment Program to fund the Wastewater Collection and Treatment Facilities against the properties located in the Little Venice Service Area, confirming its creation, approving the Assessment Roll and providing for the collection of the assessments within the Little Venice Service Area (the Little Venice Final Assessment Resolution”); and

**WHEREAS**, the City adopted Resolution 2009-66, (the “SA 1, 3, 5 & 7 Initial Assessment Resolution”), creating Service Areas 1, 3, 5, & 7 and describing the method of assessing the cost of Wastewater Collection and Treatment Facilities against the real property specially benefited thereby, and directing preparation of the tentative Assessment Roll and provision of the notices required by the Code; and

**WHEREAS**, after hearing comments and receiving objections of all interested parties at a duly noticed public hearing the City adopted Resolution 2009-90, imposing an Assessment Program to fund the Wastewater Collection and Treatment Facilities against the properties located in Service Areas 1, 3, 5, & 7, confirming their creation, approving the Assessment Roll and providing for the collection of the assessments within Service Areas 1, 3, 5, & 7 (the “SA 1, 3, 5, & 7 Final Assessment Resolution”); and

**WHEREAS**, the City adopted Resolution 2011-49, the Initial Assessment Resolution for the Supplemental Assessment Program (the “Initial Assessment Resolution”), creating the Supplemental Assessment Program Area and describing the method of assessing the cost of Wastewater Collection and Treatment Facilities against the real property specially benefited thereby, and directing preparation of the tentative Assessment Roll and provision of the notices required by the Code; and

**WHEREAS**, after hearing comments and receiving objections of all interested parties at a duly noticed public hearing the City adopted Resolution 2011-59 imposing a Supplemental Assessment Program to fund the Wastewater Collection and Treatment Facilities against the properties located in the Supplemental Assessment Program Area, confirming its creation, approving the Assessment Roll and providing for the collection of the assessments within the Supplemental Assessment Program area (the “Final Assessment Resolution”); and

**WHEREAS**, pursuant to 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**, this Resolution shall serve as the Annual Assessment Resolution for Fiscal Year 2017-2018, and the properties in Service Areas, 1, 3, 4, 5, 6 & 7, the Little Venice Service Area & Supplemental Assessment Program will be subject to the previously established special assessment amounts for the Assessment Programs; 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, the SA 4 & 6 Initial and Final Assessment Resolutions, the Little Venice Service Area Initial and Final Assessment Resolutions, the SA 1, 3, 5 & 7 Initial and Final Assessment Resolutions & Supplemental Assessment Resolutions, Section 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 SA 4 & 6 Initial and Final Assessment Resolutions, the Little Venice Service Area Initial and Final Assessment Resolutions, the SA 1, 3, 5 & 7 Initial and Final Assessment Resolutions & Supplemental Assessment Resolutions.

**Section 3. (A)** The Tax Parcels described in the updated Assessment Roll are hereby found to be specially benefited by construction of the Wastewater Improvements in the amount of the maximum annual Assessment set forth in the Assessment Roll. The methodology for computing annual Assessments described in the SA 4 & 6 Initial and Final Assessment Resolutions, the Little Venice Service Area Initial and Final Assessment Resolutions, the SA 1, 3, 5 & 7 Initial and Final Assessment Resolutions & Supplemental Assessment Resolutions, as amended, is hereby approved. The updated Assessment Roll includes additional EDUs assessed against various properties pursuant to written agreement between the City and the property owners.

**(B)** For the Fiscal Year beginning October 1, 2017, Annual Assessments computed in the manner described in the SA 4 & 6 Initial Assessment Resolution and SA 1, 3, 5 & 7 Initial Assessment Resolution, as amended, are hereby levied and re-imposed on all Tax Parcels described in the Assessment Roll at a maximum annual rate of \$415.00 per EDU, and a maximum annual rate of \$93.00 per Connection for a period not to exceed 20 years, commencing in November 2008 for Service Areas 4 & 6 and November 2009 for Service Areas 1, 3, 5, & 7. For the Fiscal Year beginning October 1, 2017, Annual Assessments computed in the manner described in the Little Venice Service Area Initial Assessment Resolution, as amended are hereby levied and re-imposed on all Tax Parcels within the 2002 Sub-Area described in the Assessment Roll at a maximum annual rate of \$308.82 per EDU for a period not to exceed 14 years, commencing in November 2008. For the Fiscal Year beginning October 1, 2017, Annual Assessments computed in the manner described in the Little Venice Service Area Initial Assessment Resolution, as amended are hereby levied and re-imposed on all Tax Parcels within the 2003 Sub-Area described in the Assessment Roll at a maximum annual rate of \$308.82 per EDU for a period not to exceed 15 years, commencing in November 2008.

**(C)** For the Fiscal Year beginning October 1, 2017, Annual Assessments computed in the manner described in the Supplemental Initial Assessment Resolution, as amended, are hereby levied and re-imposed on all Tax Parcels described in the Assessment Roll at a maximum annual rate of \$462.00 per EDU, and a maximum annual rate of \$104.00 per Connection for a period not to exceed 17 years, commencing in November 2011.

**Section 4.** The Assessment Roll for Service Areas 1, 3, 4, 5, 6 & 7, the Little Venice Service Area and Supplemental Assessment Resolutions 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, 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 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 titles and claims, until paid. The lien shall be deemed perfected upon adoption by the Council Annual Assessment Resolution and shall attach to the property included on the Assessment 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.

**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 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 8<sup>th</sup> DAY OF AUGUST, 2017.**

**THE CITY OF MARATHON, FLORIDA**

  
**Dr. Daniel Zieg, Mayor**

AYES: Coldiron, Bartus, Cook, Zieg  
NOES: None  
ABSENT: Senmartin  
ABSTAIN: None

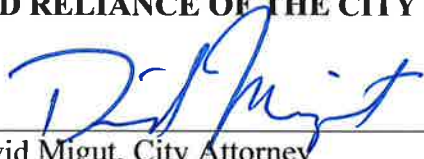
ATTEST:



\_\_\_\_\_  
City Clerk, Diane Clavier

(SEAL)

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



\_\_\_\_\_  
David Migut, City Attorney

**EXHIBIT "A"**  
**PROOF OF PUBLICATION**

**STATE OF FLORIDA  
COUNTY OF MONROE**

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Key West FL 33041  
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Extension...x219  
Fax.....305-295-8025  
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**Internet Division**  
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Tel 305-853-7277  
Fax 305-853-0556  
[freepress@floridakeys.com](mailto:freepress@floridakeys.com)

Before the undersigned authority personally appeared Paul Clarin, who on oath says that he is Publisher 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 Herring  
Collection of Special Assessments - Service 1, 3, 4, 5, 6,

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

July 18 & 22, 2017

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.



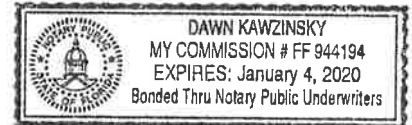
Signature of Affiant

Sworn and subscribed before me this 22 day of July, 2017

Notary Public:

Dawn Kawzinsky

Dawn Kawzinsky  
Expires: 1/4/2020



Notary Seal

Personally Known   x   Produced Identification \_\_\_\_\_  
Type of Identification Produced \_\_\_\_\_

**NOTICE OF HEARING TO IMPOSE  
AND PROVIDE FOR COLLECTION  
OF SPECIAL ASSESSMENTS FOR  
SERVICE AREAS 1, 3, 4, 5, 6 AND 7  
(Including Little Venice and the  
Supplemental Assessment Program)**



Notice is hereby given that the City of Marathon, Florida, will conduct a public hearing to receive public comment on the existing wastewater assessments against certain parcels of property located in the City and approve the special assessment roll for service areas 1, 3, 4, 5, 6, and 7 (including Little Venice and the Supplemental Assessment Program). The hearing will be held at 5:30 p.m., or as soon thereafter as the matter can be heard, on August 8, 2017 at the City of Marathon Council Chambers, 9805 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) 289-4130, at least five 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 2008, 2009, and 2011 to fund construction of wastewater collection and treatment facilities. The assessment for each parcel of property is based, in part, on the number of equivalent dwelling units attributable to such parcel, and, in part, on the number of connections 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 \$415 per EDU and \$93 per Connection for Service Areas 1, 3, 4, 5, 6 & 7, and Little Venice is levied at \$308.82 per connection. A more specific description is set forth in the Initial Assessment Resolution adopted by the City Council on June 24, 2008 and June 9, 2009. Copies of the Initial Assessment Resolution, the plans and specifications for the wastewater collection and treatment facilities, 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 twenty (20) 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 the Wastewater Utility at (305) 289-5005.

**CITY OF MARATHON, FLORIDA**

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