
CITY OF MARATHON, FLORIDA

MASTER SERVICE ASSESSMENT ORDINANCE

FIRST READING JULY 9, 2002

SECOND READING AND ADOPTION JULY 30, 2002

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ORDINANCE NO. 02-07-13

AN ORDINANCE RELATING TO THE PROVISION OF PUBLIC SERVICES AND FACILITIES IN THE CITY OF MARATHON, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF SERVICE ASSESSMENTS AGAINST PROPERTY WITHIN THE INCORPORATED AREA OF THE CITY OF MARATHON, PROVIDING CERTAIN DEFINITIONS AND DEFINING THE TERM "SERVICE ASSESSMENT"; ESTABLISHING THE PROCEDURES FOR IMPOSING SERVICE ASSESSMENTS; PROVIDING THAT SERVICE ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A SERVICE ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; PROVIDING PROCEDURES FOR COLLECTION OF SERVICE ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; AND PROVIDING AN EFFECTIVE DATE.

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA:**

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**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MARATHON,
FLORIDA:**

ARTICLE I
INTRODUCTION

SECTION 1.01. DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

"Annual Rate Resolution" means the resolution described in Section 2.08 hereof, establishing the rate at which a Service Assessment for a specific Fiscal Year will be computed.

"Assessable Property" means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the service or provision of the facility or program identified in the Initial Assessment Resolution.

"Assessment Roll" means the special assessment roll relating to a Service Assessment approved by a Final Assessment Resolution pursuant to Section 2.06 hereof or an Annual Rate Resolution pursuant to Section 2.08 hereof.

"Building" means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel or property of any kind. This term shall include mobile homes or any vehicles serving in any way the function of a building.

"Building Permit" means an official document or certificate issued by the City, under the authority of ordinance or law, authorizing the construction or siting of any Building within the City. The term "Building Permit" shall also include set up or tie down permits for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

"City" means the City of Marathon, Florida.

"City Council" means the governing body of the City of Marathon, Florida.

"City Manager" means the chief administrative officer of the City, or such person's designee.

"County" means Monroe County, Florida.

"Final Assessment Resolution" means the resolution described in Section 2.06 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of a Service Assessment.

"Fiscal Year" means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City.

"Government Property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Assessment Resolution" means the resolution described in Section 2.02 hereof which shall be the initial proceeding for the identification of the service, facility, or program for which an assessment is to be made and for the imposition of a Service Assessment.

"Maximum Assessment Rate" means the maximum rate of assessment established by the Final Assessment Resolution for the service, facility, or program identified in the Initial Assessment Resolution.

"Ordinance" means this Master Service Assessment Ordinance, as amended from time-to-time.

"Owner" shall mean the Person reflected as the owner of Assessable Property on the Tax Roll.

"Person" means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

"Preliminary Rate Resolution" means the resolution described in Section 2.08 hereof initiating the annual process for updating the Annual Roll and directing the reimposition of Service Assessments pursuant to an Annual Rate Resolution.

"Property Appraiser" means the Property Appraiser of Monroe County.

"Service Assessment" means a special assessment lawfully imposed by the City against Assessable Property to fund all or any portion of the Service Cost for a service, facility, or program providing a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in the Initial Assessment Resolution.

"Service Cost" means the amount necessary in any Fiscal Year to fund the provision of an identified service, facility, or program which provides a special benefit to Assessable Property, and can include, but not be limited to: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of

any nature whatsoever; (G) the cost of any indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the City relating to the provision of said services; (M) all costs associated with the structure, implementation, collection, and enforcement of the Service Assessments, including any service charges of the Clerk, Tax Collector, or Property Appraiser and amounts necessary to off-set discounts received for early payment of Service Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Service Assessments collected pursuant to Section 3.02 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of the service, facility, or program to be funded by the Service Assessment, and such other expenses as may be necessary or incidental to any related financing authorized by the City Council by subsequent resolution; (O) an amount for contingencies and anticipated delinquencies and uncollectible Service Assessments; and (P) reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing items of Service Cost.

"Tax Collector" means the Tax Collector of Monroe County.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, Florida Statutes, as amended from time-to-time, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

SECTION 1.03. FINDINGS. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the City has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law and such power may be exercised by the enactment of city ordinances.

(B) The annual Service Assessments to be imposed pursuant to this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(C) The Service Assessments to be imposed pursuant to this Ordinance are imposed by the City Council, not the County, Property Appraiser or Tax Collector. The

duties of the Property Appraiser and Tax Collector under the Uniform Assessment Collection Act are ministerial.

(D) The purpose of this Ordinance is to: (1) provide procedures and standards for the imposition of Service Assessments within the City by resolution under the general home rule powers of a municipality to impose special assessments, and (2) authorize a procedure for the funding of public services, facilities, or programs providing special benefit to subsequently identified property within the City.

ARTICLE II

ANNUAL SERVICE ASSESSMENTS

SECTION 2.01. GENERAL AUTHORITY.

(A) The City Council is authorized to impose an annual Service Assessment to fund all or any portion of the Service Cost upon benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of a service, facility, or program. All Service Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the annual Service Assessment imposed each Fiscal Year against each parcel of Assessable Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Service Cost among properties on a basis reasonably related to the special benefit provided by the service, facility, or program funded with assessment proceeds. Nothing contained in this Ordinance shall be construed to require the imposition of Service Assessments against Government Property.

SECTION 2.02. INITIAL PROCEEDINGS. The initial proceeding for the imposition of a Service Assessment shall be the City Council's adoption of an Initial Assessment Resolution (A) containing a brief and general description of the services, facilities or programs to be provided, (B) determining the Service Cost to be assessed, (C) describing the method of apportioning the Service Cost and the computation of the Service Assessment for specific properties, (D) establishing an estimated assessment rate for the upcoming Fiscal Year, (E) establishing a Maximum Assessment Rate, if desired by the City

Council; (F) authorizing the date, time, and place of a public hearing to consider the adoption of the Final Assessment Resolution for the upcoming Fiscal Year; and (G) directing the City Manager to (1) prepare the initial Assessment Roll, as required by Section 2.03 hereof, (2) publish the notice required by Section 2.04 hereof, and (3) mail the notice required by Sections 2.05 hereof.

SECTION 2.03. INITIAL SERVICE ASSESSMENT ROLL. The City Manager shall prepare, or direct the preparation of, the initial Assessment Roll, which shall contain the following:

(A) A summary description of all Assessable Property conforming to the description contained on the Tax Roll.

(B) The name of the Owner of the Assessable Property.

(C) The amount of the Service Assessment to be imposed against each such lot or parcel of Assessable Property.

SECTION 2.04. NOTICE BY PUBLICATION. Upon completion of the initial Assessment Roll and each year thereafter, the City Manager shall publish notice of a public hearing to adopt the Final Assessment Resolution and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

SECTION 2.05. NOTICE BY MAIL. For the initial Fiscal Year in which a Service Assessment is imposed by the City Council against Assessable Property pursuant to the Uniform Assessment Collection Act and in addition to the published notice required by Section 2.04, the City Manager shall provide notice of the proposed Service Assessment

by first class mail to the owner of each parcel of property subject to the Service Assessment. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. Failure of the Owner to receive such notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Service Assessment imposed by the City Council pursuant to this Ordinance. Notice by mail for Fiscal Years after the initial Fiscal Year shall be controlled by Section 2.08(C) hereof.

SECTION 2.06. ADOPTION OF FINAL ASSESSMENT RESOLUTION. At the time named in such notice or to such time as an adjournment or continuance may be taken by the City Council, the City Council shall receive any written objections of interested persons and may then, or at any subsequent meeting of the City Council, adopt the Final Assessment Resolution which shall (A) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (B) establish the Maximum Assessment Rate, if desired by the City Council, and set the rate of assessment to be imposed in the upcoming Fiscal Year; (C) approve the initial Assessment Roll, with such amendments as it deems just and right; and (D) determine the method of collection. All parcels assessed shall derive a special benefit from the service, facility, or program to be provided or constructed and the Service Assessment shall be fairly and reasonably apportioned between the properties that receive the special benefit. All objections to the Final Assessment Resolution shall be made in writing, and filed with the City Manager at or before the time or adjourned time of such hearing. The

Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which service Assessments are imposed or reimposed hereunder.

SECTION 2.07. EFFECT OF FINAL ASSESSMENT RESOLUTION. The Service Assessments for the initial Fiscal Year shall be established upon adoption of the Final Assessment Resolution. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the method of apportionment and assessment, the Maximum Assessment Rate, the initial rate of assessment, the initial Assessment Roll, and the levy and lien of the Service Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Council action on the Final Assessment Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method is used to collect the Service Assessments, such other official as the City Council by resolution shall designate.

SECTION 2.08. ADOPTION OF ANNUAL RATE RESOLUTION.

(A) The City Council shall adopt an Annual Rate Resolution during its budget adoption process for each Fiscal Year following the initial Fiscal Year for which a Service Assessment is imposed hereunder.

(B) The initial proceedings for the adoption of an Annual Rate Resolution shall be the adoption of a Preliminary Rate Resolution in accordance with Section 2.02 hereof. The Annual Rate Resolution shall approve the Assessment Roll for the upcoming Fiscal Year. The Assessment Roll shall be prepared in accordance with the method of apportionment

set forth in the Initial Assessment Resolution or most recent Preliminary Rate Resolution together with modifications, if any, and as confirmed in the Final Assessment Resolution or most recent Annual Rate Resolution.

(C) In the event that the uniform method of collection provided for in the Uniform Assessment Collection Act is used and (1) the proposed Service Assessment for any Fiscal Year exceeds the Maximum Assessment Rate included in notice previously provided to the Owners of Assessable Property pursuant to Sections 2.04 and 2.05 hereof, (2) the method of apportionment is changed or the purpose for which the Service Assessment is imposed is substantially changed from that represented by notice previously provided to the Owners of Assessable Property pursuant to Sections 2.04 and 2.05 hereof, (3) Assessable Property is reclassified in a manner which results in an increased Service Assessment from that represented by notice previously provided to the owners of Assessable Property pursuant to Sections 2.04 and 2.05 hereof, or (4) an Assessment Roll contains Assessable Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by first class mail to the owners of such Assessable Property. Such supplemental notice shall substantially conform with the notice requirements set forth in Section 2.05 hereof and inform the Owner of the date and place for the adoption of the Annual Rate Resolution. The failure of the Owner to receive such supplemental notice due to mistake or inadvertence, shall not affect the validity of the Assessment Roll nor release or discharge any obligation for payment of a Service Assessment imposed by the City Council pursuant to this Ordinance.

(D) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method is used to collect the Service Assessments, such other official as the City Council by resolution shall designate. If the Service Assessment against any property shall be sustained, reduced, or abated by the City Council, an adjustment shall be made on the Assessment Roll.

SECTION 2.09. LIEN OF SERVICE ASSESSMENTS. Upon the adoption of the Assessment Roll, all Service Assessments shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid. The lien for a service Assessment shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for a Service Assessment collected under the Uniform Assessment Collection Act shall attach to the property as provided by law. The lien for a Service Assessment collected under the alternative method of collection provided in Section 3.02 shall be deemed perfected upon adoption by the City Council of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

SECTION 2.10. REVISIONS TO SERVICE ASSESSMENTS. If any Service Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the City Council is

satisfied that any such service Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Council has omitted to include any property on the Assessment Roll which property should have been so included, the City Council may take all necessary steps to impose a new Service Assessment against any property benefited by the Service Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Service Assessment is annulled, vacated, or set aside, the City Council may obtain and impose other Service Assessments until a valid Service Assessment is imposed.

SECTION 2.11. PROCEDURAL IRREGULARITIES. Any informality or irregularity in the proceedings in connection with the levy of any Service Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Service Assessment as finally approved shall be competent and sufficient evidence that such Service Assessment was duly levied, that the Service Assessment was duly made and adopted, and that all other proceedings adequate to such Service Assessment were duly had, taken, and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section, any party objecting to a Service Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, City Manager, City Council, their deputies, employees, or designees, shall operate to release or discharge any obligation for payment of a Service Assessment imposed by the City Council under the provision of this Ordinance.

(B) When it shall appear that any Service Assessment should have been imposed under this Ordinance against a lot or parcel of property specially benefited by the provision of a service, facility, or program, but such property was omitted from the Assessment Roll, the City Council may, upon provision of appropriate notice as set forth in this Article, impose the applicable Service Assessment for the Fiscal Year in which such error is discovered, in addition to the applicable Service Assessment due for the prior two Fiscal Years. Such total Service Assessment shall become delinquent if not fully paid upon the expiration of 90 days from the date of the adoption of said resolution. The service Assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved and may be collected as provided in Article III hereof.

(C) The City Manager shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the owner of any property subject to a Service Assessment, to correct any error in applying the Service Assessment apportionment method to any particular parcel of property not otherwise requiring the

provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Service Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager and not, the Property Appraiser or Tax Collector.

(D) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications, or corrections thereto shall be made in accordance with the procedures applicable to correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the City Manager.

SECTION 2.13. INTERIM ASSESSMENTS.

(A) An interim Service Assessment may be imposed against all property for which a Building Permit is issued after adoption of the Annual Rate Resolution. The amount of the interim Service Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Annual Rate Resolution for the Fiscal Year for which the interim Service Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Service Assessment may also include an estimate of the subsequent Fiscal Year's Service Assessment. No Building Permit shall be issued until full payment of the interim Service Assessment is received by the City. Issuance of the Building Permit without the payment in full of the interim Service Assessment shall not relieve the Owner of such property of the

obligation of full payment. Any interim Service Assessment not collected prior to the issuance of the Building Permit may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 3.01 of this Ordinance or by any other method authorized by law. Any interim Service Assessment shall be deemed due and payable on the date the Building Permit was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Building Permit.

(B) In the event a Building Permit expires prior to completion of the Building for which it was issued, and the applicant paid the interim Service Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Service Assessment. Failure to timely apply for a refund of the interim Service Assessment shall waive any right to a refund.

(C) The application for refund shall be filed with the City and contain the following:

- (1) The name and address of the applicant;
- (2) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;
- (3) The date the Service Assessment was paid;
- (4) A copy of the receipt of payment for the Service Assessment; and
- (5) The date the Building Permit was issued and the date of expiration.

(D) After verifying that the Building Permit has expired and that the Building has not been completed, the City shall refund the interim Service Assessment paid for such Building.

(E) A Building Permit which is subsequently issued for a Building on the same property which was subject of a refund shall pay the interim Service Assessment as required by this Section 2.13.

ARTICLE III

COLLECTION AND USE OF SERVICE ASSESSMENTS

SECTION 3.01. METHOD OF COLLECTION.

(A) Unless otherwise directed by the City Council, the Service Assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

(B) The amount of a Service Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's assessment for a comparable service, facility, or program provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the Uniform Assessment Collection Act, (2) notice is provided to the Owner, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Service Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION. In lieu of utilizing the Uniform Assessment Collection Act, the City may elect to collect the Service Assessments by any other method which is authorized by law.

SECTION 3.03. GOVERNMENT PROPERTY. In lieu of using the Uniform Assessment Collection Act to collect Service Assessments from Government Property, the

City may elect to use any other method authorized by law or provided by this Section as follows:

(A) The City shall provide Service Assessment bills by first class mail to the Owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Service Assessment, (2) a description of the unit of measurement used to determine the amount of the Service Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Service Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Service Assessment is due.

(B) Service Assessments imposed against Government Property shall be due on the same date as all other Service Assessments and, if applicable, shall be subject to the same discounts for early payment.

(C) A Service Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The City shall notify the Owner of any Government Property that is delinquent in payment of its Service Assessment within 60 days from the date such assessment was due. Such notice shall state that the City will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including

reasonable attorney fees, in collection of such delinquent Service Assessments and any other costs incurred by the City as a result of such delinquent Service Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, a Service Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The City Council may contract for such billing services with any utility not owned by the City.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. APPLICABILITY. This Ordinance and the City Council's authority to impose assessments pursuant hereto shall be applicable throughout the City.

SECTION 4.02. ALTERNATIVE METHOD.

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the City Council from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the City, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Assessment Collection Act.

SECTION 4.03. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 4.04. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption on the second and final reading.

The foregoing Ordinance as offered by Councilman Bartus, who moved for its adoption. This motion was seconded by Councilman Greenman, and upon being put to a vote, the vote was as follows:

Mayor John Bartus Yes

Vice Mayor Randy Mearns Yes

Councilman Frank Greenman Yes

Councilman John Repetto Yes

Councilman Pete Worthington Yes

PASSED on first reading this 9th day of July, 2002.

The foregoing Ordinance as offered by Councilman Greenman, who moved for its adoption. This motion was seconded by Councilman Mearns, and upon being put to a vote, the vote was as follows:

Mayor John Bartus Yes

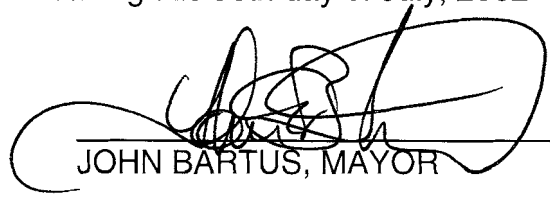
Vice Mayor Randy Mearns Yes

Councilman Frank Greenman Yes

Councilman John Repetto Yes

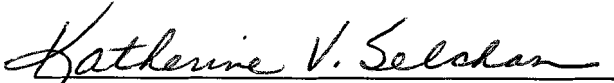
Councilman Pete Worthington Yes

PASSED AND ADOPTED on second reading this 30th day of July, 2002



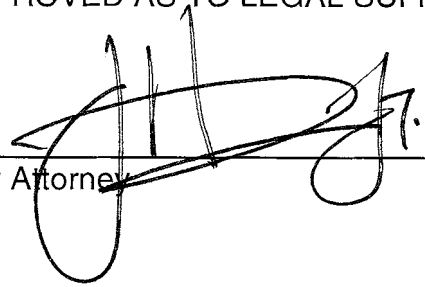
JOHN BARTUS, MAYOR

ATTEST:



Katherine V. Selchan
City Clerk

APPROVED AS TO LEGAL SUFFICIENCY:



City Attorney

SCANNED

8/7/02 #6140 KSV

Nabors, Giblin & Nickerson, P.A.

Attorneys at Law
Suite 200
1500 Mahan Drive
Tallahassee, Florida 32308

Telephone (850)224-4070
Telecopy (850)224-4073

July 22, 2002

Via Electronic Mail & Overnight Delivery

Nina L. Boniske
Weiss Serota Helfman Pastoriza & Guedes, P.A.
2665 South Bayshore Drive
Suite 420
Miami, Florida 33133

Re: City of Marathon Solid Waste Assessments

Dear Nina:

Pursuant to your request for explanatory material on the process the City of Marathon will follow in imposing an assessment, this letter provides detailed information regarding the necessary implementation steps required for the City of Marathon (City) to collect the solid waste special assessments using the ad valorem tax bill for Fiscal Year 2002-03.

The City has been collecting the solid waste assessments using a separate bill for the past two years. The City's current assessment program is compatible with the tax bill collection method authorized by section 197.3632, Florida Statutes (the Uniform Method). This compatibility requires an approach that piggybacks the electronic information and format used by county property appraisers in developing the ad valorem tax roll.

Pursuant to the Master Service Assessment Ordinance that will be adopted on July 30, 2002, an initial assessment resolution will be required to be adopted by the City. Such initial assessment resolution will, among other things, briefly describe the solid waste assessment program, the method of apportionment, set a public hearing date for final consideration, and direct and authorize the mailed and published notifications to those property owners included on an initial assessment roll. The initial assessment resolution is scheduled for adoption on July 30, 2002, also.

Statutory requirements provide that a service assessment roll must be adopted at a public hearing between June 1 and September 15 so the tax collector can merge it with the ad valorem tax roll and mail a single bill for the combined collection of assessments and ad valorem taxes. At least 20 days prior to the public hearing, the

City must publish notice of the hearing in a newspaper of general circulation within the City's boundaries and by individual first class United States mail to the owners of property subject to the assessment.

The City has the authority to utilize the Truth-In-Millage (TRIM) notice to notify property owners of their respective solid waste assessment amount, upon agreement by the property appraiser. The City has obtained the permission of the Monroe County Property Appraiser to use the TRIM notice for the first class notification. It is expected that the TRIM notices will be mailed no later than August 21, 2002. If the Property Appraiser cannot meet this deadline, the City (through Government Services Group, Inc.) will have to mail a separate first class notice to every affected property owner by the same date.

After the public hearing scheduled tentatively for September 10, 2002, the City will adopt a final assessment resolution which, among other things, will confirm the initial assessment resolution, approve the rate of assessments, approve the assessment roll, and direct and authorize the method of collection.

Once the final assessment resolution is adopted, the City will certify the assessment roll to the Monroe County Tax Collector by September 15 to be collected along with ad valorem taxes. Any minor modifications, corrections or errors must be made in accordance with the procedure applicable to the correction of errors on the tax roll, upon written direction from the City to the Monroe County Tax Collector.

Collection of the special assessments and taxes begins in November when the uniform method of collection is employed. A taxpayer is not allowed to pay the taxes due without also paying the special assessment. Failure to pay the special assessments and taxes will result in the issuance of a tax certificate and may result in the sale of a tax deed, no earlier than two years after initial failure to pay.

If the special assessment is to be collected for a period of more than one year or is to be amortized over a number of years, the local government is required to so specify in the notice and is not required to annually adopt the special assessment roll. However, for special assessments whose rates vary among types of property, the property owners must be notified annually if their special assessments increases beyond the noticed amount and the local government must annually adopt a roll.

The following table provides the implementation schedule.

Public Hearing to adopt Ordinance authorizing imposition of non-valorem assessments	July 30, 2002
City Council adopts Initial Assessment Resolution	July 30, 2002
GSG transmits file to Monroe County Property Appraiser for TRIM notices	August 1, 2002
Publish Notices of Public Hearing to adopt Final Assessment Resolution	August 20, 2002
Property Appraiser mails TRIM Notices to affected property owners	August 20, 2002
Public Hearing to adopt Final Assessment Resolution	September 10, 2002
City certifies Non-Ad Valorem Assessment Roll to Monroe County Tax Collector	By September 15, 2002

I hope you find this information helpful. Please let me know if you require any additional assistance.

Very truly yours,

Heather J. Encinosa

Heather J. Encinosa

HJE\sib

cc: Craig Wrathell, City Manager
Moyer, Ward, Wrathell & Associates, City Clerk