

**RESOLUTION NO. 17-\_\_\_\_\_**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN THE CITY OF KEY WEST, FLORIDA; IMPOSING SOLID WASTE SERVICE ASSESSMENTS AGAINST CERTAIN REAL RESIDENTIAL PROPERTY LOCATED WITHIN THE CITY OF KEY WEST, FLORIDA, APPROVING THE SOLID WASTE ASSESSMENT ROLL FOR THE SOLID WASTE SERVICE ASSESSMENTS; CONFIRMING THE PRELIMINARY ASSESSMENT RESOLUTION FOR FISCAL YEAR 2017-2018; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City Commission of Key West, Florida, has enacted Ordinance No. 13-09 (the "Ordinance"), which authorizes the imposition of annual Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs against real residential property specifically benefited by the City's Solid Waste Management Services; and

**WHEREAS**, the imposition of a Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities or programs for each Fiscal Year is an equitable and efficient method of allocating and apportioning Solid Waste Costs among parcels of Assessed Property;

**WHEREAS**, the City Commission desires to reinstate an assessment program for Solid Waste collection and disposal services, facilities or programs within the City using the tax bill collection method for the Fiscal Year beginning on October 1, 2017; and

**WHEREAS**, the City Commission, on August 1, 2017, adopted Resolution No. 17-195 (the "Preliminary Rate Resolution"), containing a brief and general description of the Solid Waste collection and disposal services, facilities or programs to be provided to Assessed Property, describing the method of apportioning the Solid Waste Cost to compute the Solid Waste Service

Assessment for Solid Waste collection and disposal services, facilities or programs against Residential Property, designating a rate of assessment, and directing preparation of the Assessment Roll and provision of the notice required by the Ordinance; and

WHEREAS, in order to re-impose Solid Waste Assessments for the Fiscal Year beginning October 1, 2017, the Ordinance requires the City to adopt an Annual Rate Resolution which establishes the rate of assessment and approves the Assessment Roll for the upcoming Year, with such amendments as the Commission deems appropriate, after hearing comments and objections of all interested parties; and

WHEREAS, the Solid Waste Assessment Roll has heretofore been filed with the office of the City Manager, as provided in Section 58-107 of the Ordinance; and

WHEREAS, as required by the terms of Ordinance Sections 58-103 and 58-104, notice of a public hearing has been published and mailed to each property owner proposed to be charged a Solid Waste Service Assessment, notifying such property owner of the opportunity to be heard; the proof of publication and an affidavit of mailing are attached hereto as Appendices A and B respectively; and

WHEREAS, a public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by the Ordinance Section 58-105.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION FOR KEY WEST, FLORIDA, AS FOLLOWS:**

**SECTION 1. AUTHORITY.** This resolution is adopted pursuant to the provisions of the Solid Waste Service Assessment Ordinance (13-09), the Initial Assessment Resolution (13-196), the Final Assessment Resolution (13-227), and the Preliminary Rate Resolution (17-195), sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** This resolution is the Annual Rate Resolution as defined in the Ordinance. All capitalized terms in this resolution shall have meanings defined in the Ordinance and the Initial Assessment Resolution.

**SECTION 3. RE-IMPOSITION OF SOLID WASTE COLLECTION AND DISPOSAL ASSESSMENTS.**

- (A) The parcels of Assessed Property described in the Assessment Roll, which is hereby approved, are hereby found to be specially benefited by the City's provision of Solid Waste collection and disposal services, facilities or programs described in the Preliminary Rate Resolution, in the amount of the Solid Waste Service Assessment set forth in the updated Assessment Roll, a copy of which was present at the above referenced public hearing and is incorporated herein by reference. It is hereby ascertained, determined and declared that each parcel of Assessed Property within the City will be benefited by the City's provision of Solid Waste collection and disposal services, facilities or programs in an amount not less than the Solid Waste Service Assessments for such parcel, computed in the manner set forth in the Preliminary Rate 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 Ordinance, the Initial Assessment Resolution, the Final Assessment Resolution, and the Preliminary Rate Resolution from the Solid Waste Management Services to be provided and a legislative determination that the Solid Waste Service Assessments are fairly and reasonably

apportioned among the residential properties that receive the special benefit as set forth in the Preliminary Rate Resolution.

(B) The method for computing Solid Waste Service Assessments described in the Preliminary Rate Resolution is hereby approved.

(C) For the Fiscal Year beginning October 1, 2017, the Solid Waste Cost shall be allocated among all parcels of Assessed Property, based upon each parcels' classification as Residential Property and the number of Dwelling Units for such parcels. The Solid Waste Cost for Fiscal Year 2017-18 is estimated to be \$4,291,583. The rate of assessment for each Dwelling Unit for Solid Waste collection and disposal services, plus any delinquency or past due amounts attributable to each Dwelling Unit for Solid Waste services and facilities provided for Fiscal Year 2017-18 is \$305.63. The maximum rate of assessment for each Dwelling Unit for Solid Waste collection and disposal services, plus any delinquency or past due amounts attributable to each Dwelling Unit for Solid Waste services and facilities provided for future fiscal years is \$393.08.

(D) Any shortfall in the expected Solid Waste Service Assessment proceeds due to any reduction or exemption from payment of the Solid Waste Service Assessments required by law or authorized by the City Commission shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Solid Waste Service Assessments.

(D) The above rates of assessment are hereby approved. Except as otherwise provided herein, Solid Waste Service Assessments for Solid Waste Management Services in the amounts set forth in the updated Solid Waste Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Residential Property described in such Solid Waste

Assessment Roll for the Fiscal Year beginning October 1, 2017.

(E) The Solid Waste Service Assessments shall constitute a lien upon the Assessed Property so assessed equal in rank and dignity with the liens of all state, county, district or municipal taxes and 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.

(F) The amount any Tax Parcel has as an outstanding delinquent Solid Waste Assessment as of August 2017 for the Solid Waste Assessment imposed is hereby approved and levied on said Tax Parcels. These delinquent Solid Waste Assessments shall be included on the Assessment Roll to be collected along with the applicable rate for that Tax Parcel for the Fiscal Year beginning October 1, 2017.

(G) The Assessment Roll, as herein approved shall be delivered to the Tax Collector for collection using the tax bill collection method in the manner prescribed by the Ordinance. The Assessment Roll, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantiality the form attached hereto as Appendix C.

#### **SECTION 4. CONFIRMATION OF PRELIMINARY RATE RESOLUTION.**

The Preliminary Rate Resolution is hereby confirmed..

#### **SECTION 5. EFFECT OF ADOPTION OF RESOLUTION.**

The adoption of this Annual Rate Resolution shall be the final adjudication of the issues presented herein (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the Solid Waste Assessment Roll and the levy and lien of the Solid Waste Service Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of this Final Assessment Resolution.

**SECTION 6. EFFECTIVE DATE.** That this Resolution shall go in to effect immediately upon its passage and adoption and authentication by the signature of the presiding officer and the Clerk of the Commission.

Passed and adopted by the City Commission at a meeting held this \_\_\_\_\_ day of \_\_\_\_\_, 2017

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_, 2017

Filed with the Clerk \_\_\_\_\_, 2017

Mayor Craig Cates \_\_\_\_\_

Commissioner Samuel Kaufman \_\_\_\_\_

Commissioner Clayton Lopez \_\_\_\_\_

Commissioner Richard Payne \_\_\_\_\_

Commissioner Margaret Romero \_\_\_\_\_

Commissioner Billy Wardlow \_\_\_\_\_

Commissioner Jimmy Weekley \_\_\_\_\_

\_\_\_\_\_  
CRAIG CATES, MAYOR

ATTEST:

\_\_\_\_\_  
CHERYL SMITH, CITY CLERK

**Appendix A**  
**PROOF OF PUBLICATION**

# **NOTICE OF HEARING TO RE-IMPOSE AND PROVIDE FOR COLLECTION OF SOLID WASTE SERVICE SPECIAL ASSESSMENTS**

Notice is hereby given that the City of Key West, will conduct a public hearing to consider re-imposing solid waste service assessments for the fiscal year beginning October 1, 2017, against certain improved residential properties located within the incorporated area of the City to fund the cost of solid waste collection and disposal services, facilities and programs provided to such properties and to authorize collection of such assessments on the tax roll.

The public hearing will be held at a Special City Commission meeting at 8:00 p.m. on September 8, 2017, City Hall, 1300 White St., Key West, Florida, for the purpose of receiving public comment on the proposed assessments. All affected property owners have a right to appear at the hearing and to be heard in person or by a representative of the City Commission within 20 calendar days of the date of this notice. If a person desires to appear, any action made by the City Commission with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to submit a written record of the proceedings, including testimony and evidence upon which the appeal is made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City at (305) 909-8951, at least seven days prior to the date of the hearing.

The rate of assessment for Fiscal Year 2017-18 shall be \$310.00 per dwelling unit plus any unpaid or delinquent charges for solid waste services. The maximum rate of assessment for future fiscal years shall be \$363.06 per dwelling unit for solid waste services.

The total annual solid waste assessment revenue to be collected within the City is estimated to be \$4,291,583. Copies of the Solid Waste Service Assessment Ordinance (Ordinance No. 13-06) of the City and the Resolution initiating the annual process of updating the Assessment Roll and re-imposing the Solid Waste Service Assessments, and the updated Assessment Roll for the upcoming fiscal year are available for inspection at the City Clerk's office, located at 1300 White St., Key West, Florida.

If you have any questions, please contact City Hall at (305) 909-3902, Monday through Friday between 8:00 a.m. and 4:45 p.m.

The assessments will be collected on the ad valorem tax bill to be mailed in November 2017. As authorized by section 197.0632, Florida Statute, failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a lien for the City.

Tel 305-853-7277  
Fax 305-853-0556  
freepress@floridakeys.com

## **STATE OF FLORIDA COUNTY OF MONROE**

ersigned authority personally appeared Paul Clarin, who on is Publisher of the Key West Citizen, a daily newspaper by West, in Monroe County, Florida; that the attached copy of being a legal notice in the matter of

Notice of Hearing to Re-Impose  
Collection of Solid Waste Service Assessments

and said newspaper in the issue(s) of

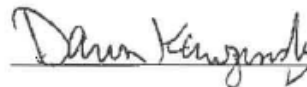
August 9, 2017

says that the Key West Citizen is a newspaper published in Monroe County, Florida and that the said newspaper has continuously published in said Monroe County, Florida every entered as second-class mail matter at the post office in Key West County, Florida, for a period of 1 year next preceding on of the attached copy of advertisement; and affiant further either paid nor promised any person, firm or corporation any commission or refund for the purpose of securing this publication in the said newspaper.

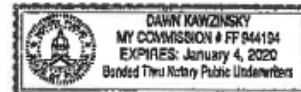
  
Signature of Affiant

Sworn and subscribed before me this 9 day of August, 2017

Notary Public:



Dawn Kawzinsky  
Expires: 1/4/2020



Notary Seal

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



**Appendix B**  
**AFFIDAVIT OF MAILING**

## **AFFIDAVIT OF MAILING**

BEFORE ME, the undersigned authority, personally appeared James K. Scholl and Tammy Peters, who, after being duly sworn, depose and say:

1. James K. Scholl, as City Manager for the City of Key West, Florida (the "City"), pursuant to that certain Notice to Proceed involving Government Services Group, Inc. ("GSG") and the authority and direction received from the City Commission, timely directed the preparation of the Assessment Roll and the preparation, mailing, and publication of notices in accordance with Ordinance No. 13-09, the Solid Waste Assessment Ordinance adopted by the City Commission on June 18, 2013 (the "Assessment Ordinance") and in conformance with the Solid Waste Preliminary Rate Resolution adopted by the City Commission on August 1, 2017 (the "Preliminary Rate Resolution").

2. Tammy Peters is Office Manager for GSG. GSG has caused the notices required by the Assessment Ordinance to be prepared in conformance with the Preliminary Rate Resolution. 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 August 16, 2017, GSG caused the mailing of the above-referenced notices, in accordance with the Assessment Ordinance and the Preliminary Rate Resolution 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.

\_\_\_\_\_  
James K. Scholl, affiant

\_\_\_\_\_  
Tammy Peters, affiant

STATE OF FLORIDA  
COUNTY OF MONROE

The foregoing Affidavit of Mailing was sworn to and subscribed before me this \_\_\_\_\_ day of August, 2017 by James K. Scholl, City Manager, Key West, Florida. He is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Florida

At Large  
My Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing Affidavit of Mailing was sworn to and subscribed before me this \_\_\_\_\_ day of August, 2017 by Tammy Peters, Office Manager, Government Services Group, Inc., a Florida corporation. She is personally known to me or has produced \_\_\_\_\_ as identification and did take an oath.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public, State of Florida  
At Large  
My Commission Expires: \_\_\_\_\_  
Commission No.: \_\_\_\_\_

## **Appendix C**

### **Certificate to Non-Ad Valorem Assessment Roll**

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

I HEREBY CERTIFY that, I am the Mayor of the City of Key West, or authorized agent of the City of Key West, Florida (the "City"); as such I have satisfied myself that all property included or includable on the Key West Solid Waste 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, 2017.

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 \_\_\_\_ day of \_\_\_\_\_, 2017.

**City of Key West, Florida**

By: \_\_\_\_\_  
Mayor