

RESOLUTION NO. _____

A RESOLUTION OF THE CITY OF KEY WEST, FLORIDA, ESTIMATING THE COST OF STORMWATER MANAGEMENT SERVICE PROVIDED BY THE CITY'S STORMWATER UTILITY; DESCRIBING THE METHOD OF ASSESSING STORMWATER COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF KEY WEST; DETERMINING THE STORMWATER COST AND THE INITIAL STORMWATER SERVICE ASSESSMENTS, INCLUDING A NOT-TO-EXCEED RATE OF ASSESSMENT PER ESU FOR FIVE FISCAL YEARS AS FOLLOWS: FY 2014-\$94.82, FY 2015-\$97.47, FY 2016-\$100.20, FY 2017-\$103.01, FY 2018-\$105.89; DIRECTING THE PREPARATION OF AN ASSESSMENT ROLL; AUTHORIZING A PUBLIC HEARING AND DIRECTING THE PROVISION OF NOTICE THEREOF; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the City Commission (the "Commission") of the City of Key West, Florida (the City), has enacted Ordinance No. 13-10 (the "Ordinance"), which authorizes the imposition of annual Stormwater Service Assessments for Stormwater management services, infrastructure or programs against certain Assessed Property within the City; and

WHEREAS, a Stormwater Service Assessment is being imposed upon each and every residential developed property and nonresidential developed property, other than exempt property for Stormwater management services, infrastructure and programs; and

WHEREAS, the imposition of a Stormwater Service Assessment for Stormwater infrastructure, management and programs is an equitable and efficient method of allocating and apportioning Stormwater Costs among parcels of Assessed Property located in the City; and

WHEREAS, the Commission desires to initiate an annual Stormwater collection and disposal assessment program within the City, using the tax bill collection method for the Fiscal Year beginning on October 1, 2013; and

WHEREAS, the owners of certain Residential and Commercial Property within the City have failed to pay the costs of Stormwater management services, infrastructure and programs, even though such properties have specially benefited from the provision of these services, facilities and programs; and

WHEREAS, such past due amounts and delinquencies have become governmental obligations and have been paid by the City to the detriment of the City residents; and

WHEREAS, the Commission desires to include within the Stormwater Service Assessments those amounts which are past due and delinquent from Stormwater collection and disposal services provided to such properties; and

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

SECTION 1. AUTHORITY. This resolution is adopted pursuant to the provisions of Ordinance No. 13-10, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

SECTION 2. PURPOSE AND DEFINITIONS. This resolution constitutes the Initial Assessment Resolution as defined in the Ordinance. All capitalized words and terms not otherwise defined herein shall have the meanings set forth in the Ordinance. Unless the context indicates otherwise, words imparting the singular number, include the plural number, and vice versa. As used in this Initial Assessment Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires:

"*DOR Code*" means a property use code established in Rule 120-8.008, Florida Administrative Code, assigned by the Property Appraiser to Tax Parcels within the City.

"*Equivalent stormwater unit*" and "*ESU*" mean the average impervious area of residentially developed property per dwelling unit located within the city and as established by city commission resolution or ordinance as provided in this article.

"*ESU rate*" means a fee charged on each ESU as established by city commission resolution as provided in this article.

"*Improvement Codes*" mean the property use codes assigned by the Property Appraiser to Tax Parcels within the City.

"Tax Parcel" means a parcel of property located within the City to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

SECTION 3. LEGISLATIVE DETERMINATIONS OF SPECIAL BENEFIT AND FAIR APPORTIONMENT. It is hereby ascertained and declared that the Stormwater Costs provide a special benefit to the Assessed Property based upon the following legislative determinations:

(A) Upon the adoption of this Initial Assessment Resolution identifying the Assessed Property to be included in the Assessment Roll, the legislative determinations of special benefit ascertained and declared in Section 74-368 of the City of Key West Code of Ordinances are hereby ratified and confirmed.

(B) Those Residential and Commercial Properties which have failed to pay the cost of Stormwater services and facilities have received a special benefit from the provision of these Stormwater services and facilities. This special benefit received by these properties exceeds the amount due for the cost of providing such Stormwater services and facilities. The City has been required to fund these delinquent or past due amounts from other revenue sources to the detriment of the City residents. The inclusion of these delinquencies and past due amounts as part of the Stormwater Service Assessment is a fair

and equitable means to require that each Residential Property pays its fair share of the costs of the special benefit derived by such property.

(C) It is fair and reasonable to use the Improvement Codes and DOR Codes to apportion the Stormwater Cost among parcels of Residential and Commercial Property located within the City because: (1) the Tax Roll database employing the use of such property use codes is the most comprehensive, accurate, and reliable information readily available to determine the property use and number of ESUs for Improved Property within the City, and (2) the Tax Roll database is maintained by the Property Appraiser and is consistent with the coding of parcel designations on the Tax Roll which compatibility permits the development of an Assessment Roll in conformity with the requirements of the Uniform Assessment Collection Act.

(D) The size or value of Residential Property does not determine the scope and cost of Stormwater management services to be provided to such property. The use of Stormwater management, infrastructure, maintenance, and programs are driven by the calculation and collection of user fees based on the number of ESUs from our residential and commercial properties.

(E) Apportioning the Stormwater Costs for Stormwater collection and disposal services provided to Residential and Commercial Property within the City on a per ESU basis is

compatible with the use of the Tax Roll data base, is required to avoid cost inefficiency and unnecessary administration, and is a fair and reasonable method of apportioning Stormwater Costs.

SECTION 4. STORMWATER COLLECTION AND DISPOSAL SERVICES.

(A) Upon the imposition of Stormwater Service Assessments for Stormwater management against Assessed Property located within the City, the City shall cause Stormwater management services to be provided to such Assessed Property. Stormwater management Costs shall be paid from proceeds of the Stormwater Service Assessments.

(B) It is hereby ascertained, determined, and declared that each parcel of Assessed Property will be benefited by the City's provision of Stormwater management services, infrastructure and programs in an amount not less than the Stormwater Service Assessment upon such parcel, including any delinquencies or past due amounts for the prior provision of Stormwater management services, infrastructure, and maintenance provided to each Dwelling Unit during the Delinquency Period, computed in the manner set forth in this Initial Assessment Resolution.

SECTION 5. DETERMINATION OF STORMWATER COST; ESTABLISHMENT OF INITIAL STORMWATER SERVICE ASSESSMENTS.

(A) The Stormwater Cost to be assessed and apportioned among benefited parcels for the Fiscal Year commencing October

1, 2013, is \$2,119,416. The approval of this Initial Assessment Resolution determines the amount of the Stormwater Cost. The remainder of such Fiscal Year budget for Stormwater services and facilities shall be funded from available City revenue other than Stormwater Service Assessments.

(B) For the Fiscal Year in which Stormwater Service Assessments for Stormwater management services, facilities and programs are imposed, the Stormwater Cost shall be allocated among all parcels of Assessed Property, based upon each parcels' classification as Residential or Commercial Property and the number of ESUs for such parcels. A rate of assessment equal to \$94.82 for each ESU for Stormwater management services, plus any delinquency or past due amounts attributable to each ESU for Stormwater services and infrastructure, and maintenance provided. The rate of assessment per ESU is not to exceed the following for each fiscal year:

- Fiscal Year 2014 - \$94.82
- Fiscal Year 2015 - \$97.47
- Fiscal Year 2016 - \$100.20
- Fiscal Year 2017 - \$103.01
- Fiscal Year 2018 - \$105.89

(C) The rate of the Stormwater Service Assessments established in this Initial Assessment Resolution, plus any delinquencies or past due amounts attributable to each ESU for

Stormwater services and facilities incurred, shall be the rates applied by the City Manager in the preparation of the initial Assessment Roll for the Fiscal Year commencing October 1, 2013, as provided in Section 6 of this Initial Assessment Resolution.

SECTION 6. ASSESSMENT ROLL.

(A) The City Manager is hereby directed to prepare, or cause to be prepared, an initial Assessment Roll for the Fiscal Year beginning October 1, 2013, in the manner provided in the Ordinance. Such initial Assessment Roll shall contain the following:

(1) a summary description of all Assessed Property within the City conforming to the description contained on the Tax Roll,

(2) the name and address of the owner of record of each parcel as shown on the Tax Roll, and

(3) the amount of the initial Stormwater Service Assessment for Stormwater management services, plus any delinquency or past due amounts attributable to each ESU for Stormwater services and facilities provided during the Delinquency Period. The initial Assessment Roll shall be open to public inspection. The foregoing shall not be construed to require that the initial Assessment Roll be in printed form if the amount of the Stormwater Service Assessment for each parcel of property can be determined by use of a computer terminal

available to the public. Such Stormwater Service Assessment for each parcel of Assessed Property shall be computed for residential developed property as the ESU rate multiplied by the number of individual dwelling units existing on the property. The user fee for nonresidential developed property shall be the ESU rate multiplied by the numerical factor obtained by multiplying the gross area of a property by the runoff coefficient for that property. The minimum user fee for any nonresidential developed property shall be equal to the charge for one ESU rate.

(B) It is hereby ascertained, determined, and declared that the foregoing method of determining the Stormwater Service Assessments for Stormwater collection and disposal services (1) is a fair and reasonable method of apportioning the Stormwater Cost among parcels of Assessed Property and (2) is an equitable and efficient mechanism to address payment delinquencies and recover funds advanced for Stormwater collection and disposal services, facilities, and programs which are allocable to specific parcels of Assessed Property.

SECTION 7. AUTHORIZATION OF INTERIM SERVICE ASSESSMENT.

(1) An Interim Service Assessment may be imposed against all property, for which a Certificate of Occupancy (or Building Permit, as determined by the Commission) is issued, after adoption of the Final or Annual Assessment 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 Final or Annual Assessment 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 Certificate of Occupancy (or Building Permit, as determined by the Commission) shall be issued until full payment of the Interim Service Assessment is received by the City. Issuance of the Certificate of Occupancy (or Building Permit, as determined by the Commission) 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 Certificate of Occupancy (or Building Permit, as determined by the Commission) may be collected pursuant to the Uniform Assessment Collection Act or by any other method authorized by law. Any Interim Service Assessment shall be deemed due and payable on the date the Certificate of Occupancy (or Building Permit, as determined by the Commission) 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 Certificate of Occupancy (or Building Permit, as determined by the Commission).

(2) In the event the Commission chooses to collect the Interim Service Assessments at the time a Building Permit is issued, the following procedures shall apply:

(a) 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.

(b) 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.

(c) 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.

(d) 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.

SECTION 8. AUTHORIZATION OF PUBLIC HEARING. There is hereby established a public hearing to be held at 6:00 p.m. on September 5, 2013, at 510 Greene St, Key West, Florida, for the purpose of (A) receiving and considering any comments on the Stormwater Service Assessments from affected property owners and (B) authorizing the imposition of such Stormwater Service Assessments for Stormwater management and collection on the same bill as ad valorem taxes.

SECTION 9. NOTICE BY PUBLICATION. The City Manager shall publish a notice, as required by Section 74-370 of the City of Key West Code of Ordinances, in substantially the form

attached hereto as Appendix A. Such notice shall be published not later than August 15, 2013 in a newspaper generally circulated in Monroe County.

SECTION 10. NOTICE BY MAIL. The City Manager shall provide notice by first class mail to the Owner of each parcel of Assessed Property, as required by Section 74-371 of the City of Key West Code of Ordinances, in substantially the form attached hereto as Appendix B. Such notices shall be mailed not later than August 15, 2013.

SECTION 11. EFFECTIVE DATE. This Initial Assessment Resolution shall take 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 _____, 2013.

Authenticated by the Presiding Officer and Clerk of the Commission on _____ day of _____, 2013.

Filed with the Clerk on _____, 2013.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK