

ORDINANCE NO. 13-__

AN ORDINANCE OF THE CITY OF KEY WEST, FLORIDA AUTHORIZING THE ISSUANCE OF NOT TO EXCEED \$23,500,000 OF SEWER SYSTEM REFUNDING REVENUE BONDS FOR THE PURPOSE OF REFUNDING ALL OR A PORTION OF CERTAIN OUTSTANDING SEWER SYSTEM DEBT OF THE CITY AND PAYING COSTS OF ISSUANCE RELATED THERETO; PROVIDING FOR THE PAYMENT OF SUCH BONDS FROM NET REVENUES OF THE SEWER SYSTEM OF THE CITY; AMENDING ORDINANCE NO. 03-15; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA:

SECTION 1. AUTHORITY FOR THIS ORDINANCE. This Supplemental Ordinance is enacted pursuant to Chapter 166, Part II, Florida Statutes, the hereinafter defined Original Ordinance, and other applicable provisions of law.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared that:

(A) On September 21, 1999, the City of Key West, Florida (the "Issuer") duly adopted Resolution No. 99-346 which authorized the issuance of the Issuer's Sewer System Revenue Bonds in one or more series in an amount not to exceed \$23,000,000 to finance the cost of design, permitting, acquisition, construction, and reconstruction of improvements to the sewer system.

(B) The issuance of said bonds was subject to a bond referendum held on November 2, 1999, wherein a majority of the qualified electors of the Issuer approved the issuance of said bonds (the "1999 Referendum").

(C) Pursuant to the 1999 Referendum, on February 9, 2001, the Issuer entered into a Clean Water State Revolving Fund Construction Loan Agreement with the Florida Department of Environmental Protection (as amended, the "State Revolving Fund Loan") for the purpose of constructing certain wastewater treatment plant improvements in an amount equal to \$5,252,639.07, which then left authority under the 1999 Referendum at \$17,747,360.93.

(D) On June 17, 2003, the City of Key West, Florida (the "Issuer") enacted Ordinance No. 03-15 (the "Original Ordinance").

(E) Pursuant to the Original Ordinance, on July 23, 2003, the Issuer issued its Sewer System Refunding Revenue Bonds, Series 2003 to refinance prior indebtedness, which did not require any use of authority under the 1999 Referendum since it was a refunding for savings.

(F) Pursuant to the Original Ordinance and the 1999 Referendum, on February 14, 2012, the Issuer issued its Sewer System Revenue Bond, Series 2012 in the aggregate principal amount of \$4,065,000 (the "2012 Bond") for the purpose of repaying a grant made by the Florida Department of Emergency Management which had previously paid for sewer system capital improvements, which then left authority under the 1999 Referendum at \$13,682,360.93.

(G) The State Revolving Fund Loan is junior and subordinate in all respects to the 2003 Bonds and the 2012 Bond as to source of security.

(H) The Issuer deems it necessary and in the best interests of the Issuer and its sewer system customers to authorize the issuance of not exceeding \$23,500,000 Sewer System Refunding Revenue Bonds, Series 2013 (the "2013 Bonds") for the purpose of refunding all or a portion of the 2003 Bonds and/or the State Revolving Fund Loan for net present value savings, which will not require any use of authority under the 1999 Referendum since it would be a refunding for savings.

(I) The Original Ordinance provides for the issuance of Additional Parity Obligations (as such term is defined in the Original Ordinance) upon compliance with certain requirements therein.

(J) The principal of and interest on the 2013 Bonds shall be payable solely from the Net Revenues (as defined in the Original Ordinance) on parity and equal status with the 2012 Bond. The State Revolving Fund Loan, if not refinanced, would be junior and subordinate in all respects to the 2013 Bonds and the 2012 Bond as to source of security.

SECTION 3. AUTHORIZATION OF BONDS. The issuance by the Issuer of not exceeding \$23,500,000 of 2013 Bonds for the purpose and secured as specified above; to be dated, to bear interest at a rate or rates not exceeding the maximum legal rate per annum, to be payable, to mature, to be subject to redemption and to have such other characteristics as shall be provided by supplemental resolution of the City Commission prior to their delivery; is hereby authorized. Such supplemental resolution may set forth the fiscal details of the 2013 Bonds and other covenants and provisions necessary for the marketing, sale and issuance of the 2013 Bonds.

SECTION 4. AMENDMENT TO TAKE EFFECT UPON CONSENT OF THE REGISTERED OWNERS OF NOT LESS THAN A MAJORITY OF THE OUTSTANDING BONDS. The following amendment to the Original Ordinance will take effect upon the issuance of the 2013 Bonds, at which time the written consent of the registered owners of more than fifty-one percent in principal amount of the Bonds (as such term is defined in the original Ordinance) so affected and then outstanding will have been obtained. BY ACCEPTANCE OF THE 2013 BONDS, EACH REGISTERED OWNER THEREOF IS DEEMED TO HAVE CONSENTED TO THE PROSPECTIVE AMENDMENT CONTAINED IN THIS SECTION. Section 17(B)(3) of the Original Ordinance is hereby amended by adding a new paragraph to the end as follows:

The Issuer may also establish a separate subaccount in the Reserve Account for any series of Bonds and provide a pledge of such subaccount to the payment of such series of Bonds apart from the pledge provided herein. To the extent a series of Bonds is secured separately by a subaccount of the Reserve Account, the Registered Owners of such Bonds shall not be secured by any other moneys in the Reserve Account. Moneys in a separate subaccount of the Reserve Account shall be maintained at a level applicable to such series of Bonds secured by the subaccount as designated by the Supplemental Ordinance authorizing such series of Bonds as the Issuer deems appropriate, provided such level may not exceed the Reserve Account Requirement for such series of Bonds. Moneys deposited into the Reserve Account to replenish withdrawals therefrom shall be deposited in the Reserve Account and the separate subaccounts in the Reserve Account on a pro rata basis.

Further, a series of Bonds may be issued without being secured by the Reserve Account or any subaccount therein to the extent so provided by a Supplemental Ordinance.

SECTION 5. NO RESERVE ACCOUNT. The 2013 Bond shall not be secured by the Reserve Account or any subaccount therein.

SECTION 6. REPEAL OF INCONSISTENT PROVISIONS. All ordinances, resolutions or parts thereof in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 7. ORIGINAL ORDINANCE TO CONTINUE IN FORCE. The Original Ordinance, as amended hereby, and all the terms and provisions thereof, are and shall remain in full force and effect except as may otherwise amended and supplemented hereby.

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SECTION 8. EFFECTIVE DATE. This ordinance shall take effect immediately upon its final passage and adoption.

Read and passed on first reading at a regular meeting of the City Commission held on the 6th day of August, 2013.

Read and passed on final reading at a regular meeting held on the 20th day of August, 2013.

Authenticated by the presiding officer and Clerk of the Commission on the ____ day of _____, 2013.

Filed with the Clerk on _____, 2013.

CRAIG CATES, MAYOR

ATTEST:

CHERYL SMITH, CITY CLERK