

RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY OF KEY WEST, FLORIDA, RELATING TO THE COLLECTION AND DISPOSAL OF SOLID WASTE IN KEY WEST, FLORIDA; DESCRIBING THE METHOD OF ASSESSING SOLID WASTE COSTS AGAINST ASSESSED PROPERTY LOCATED WITHIN THE CITY OF KEY WEST; DETERMINING THE SOLID WASTE COST AND THE INITIAL SOLID WASTE SERVICE ASSESSMENTS, INCLUDING A NOT-TO-EXCEED RATE OF ASSESSMENT PER DWELLING UNIT FOR FIVE FISCAL YEARS AS FOLLOWS: FY 2014-\$319.05, FY 2015-\$329.67, FY 2016-\$340.65, FY 2017-\$351.99, FY 2018-\$363.72; 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. 13-09 (the "Ordinance"), which authorizes the imposition of annual Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities or programs against certain Assessed Property within the City; and

WHEREAS, a Solid Waste Service Assessment is being imposed upon all Residential Property within the City for Solid Waste management and disposal services and programs; and

WHEREAS, the imposition of a Solid Waste Service Assessment for Solid Waste collection and disposal services, facilities and programs is an equitable and efficient method of allocating and

apportioning Solid Waste Costs among parcels of Assessed Property located in the City; and

WHEREAS, the Commission desires to initiate an annual Solid Waste 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 Property within the City have failed to pay the costs of Solid Waste collection and disposal services, facilities 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 Solid Waste Service Assessments those amounts which are past due and delinquent from Solid Waste 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. 13-09, 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.

"*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 Solid Waste 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 58-100 of the City of Key West Code of Ordinances are hereby ratified and confirmed.

(B) Those Residential Properties which have failed to pay the cost of Solid Waste services and facilities have received a special benefit from the provision of these Solid Waste services and facilities. This special benefit received by these properties exceeds the amount due for the cost of providing such Solid Waste 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 Solid Waste 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 Solid Waste Cost among parcels of Residential 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 Dwelling Units 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 Solid Waste collection and disposal services to be provided to such property. The use of Solid Waste collection and disposal services, facilities, and programs and the negotiated Franchisee agreements to provide solid waste collection and disposal services are driven by the existence of a Dwelling Unit and the average occupant population.

(E) Apportioning the Solid Waste Costs for Solid Waste collection and disposal services provided to Residential Property within the City on a per Dwelling Unit basis is compatible with the Franchisee agreements negotiated by the City and 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 Solid Waste Costs.

SECTION 4. SOLID WASTE COLLECTION AND DISPOSAL SERVICES.

(A) Upon the imposition of Solid Waste Service Assessments for Solid Waste collection and disposal against Assessed Property located within the City, the City shall cause Solid Waste collection and disposal services to be provided to such

Assessed Property. Solid Waste Costs shall be paid from proceeds of the Solid Waste 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 Solid Waste collection and disposal services, facilities and programs in an amount not less than the Solid Waste Service Assessment upon such parcel, including any delinquencies or past due amounts for the prior provision of Solid Waste services and facilities provided to each Dwelling Unit during the Delinquency Period, computed in the manner set forth in this Initial Assessment Resolution.

SECTION 5. DETERMINATION OF SOLID WASTE COST; ESTABLISHMENT OF INITIAL SOLID WASTE SERVICE ASSESSMENTS.

(A) The Solid Waste Cost to be assessed and apportioned among benefited parcels for the Fiscal Year commencing October 1, 2013, is \$4,182,041. The approval of this Initial Assessment Resolution determines the amount of the Solid Waste Cost. The remainder of such Fiscal Year budget for Solid Waste services and facilities shall be funded from available City revenue other than Solid Waste Service Assessments.

(B) For the Fiscal Year in which Solid Waste Service Assessments for Solid Waste collection and disposal services, facilities and programs are imposed, 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. Only those parcels assigned an Improvement Code of "R" by the Property Appraiser on the Tax Roll shall be classified as Assessed Property. A rate of assessment equal to \$319.05 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. The rate of assessment per Dwelling Unit is not to exceed the following for each fiscal year:

Fiscal Year 2014 - \$319.05

Fiscal Year 2015 - \$329.67

Fiscal Year 2016 - \$340.65

Fiscal Year 2017 - \$351.99

Fiscal Year 2018 - \$363.72

(C) The rate of the Solid Waste Service Assessments established in this Initial Assessment Resolution, plus any delinquencies or past due amounts attributable to each Dwelling Unit for solid waste 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 Solid Waste Service Assessment 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 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 Solid Waste Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public. Such Solid Waste Service Assessment for each parcel of Assessed Property shall be computed by multiplying the assessment rate by the number of Dwelling Units on such parcel and adding any unpaid or



delinquent fees, charges, or assessments incurred during the Delinquency Period and due the City for Solid Waste collection and disposal services provided to such parcel.

(B) It is hereby ascertained, determined, and declared that the foregoing method of determining the Solid Waste Service Assessments for Solid Waste collection and disposal services (1) is a fair and reasonable method of apportioning the Solid Waste Cost among parcels of Assessed Property and (2) is an equitable and efficient mechanism to address payment delinquencies and recover funds advanced for Solid Waste 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 Solid Waste Service Assessments from affected property owners and (B) authorizing the imposition of such Solid Waste Service Assessments for Solid Waste collection and disposal 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 58-103 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 58-104 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.

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CRAIG CATES, MAYOR

ATTEST:

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CHERYL SMITH, CITY CLERK