

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

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF KEY WEST, FLORIDA, RELATING TO THE PROVISION OF STORMWATER SERVICES; IMPOSING STORMWATER SERVICE ASSESSMENTS AGAINST CERTAIN REAL PROPERTY WITHIN THE CITY OF KEY WEST; APPROVING THE STORMWATER ASSESSMENT ROLL FOR THE STORMWATER SERVICE ASSESSMENTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS,** the City Commission of Key West, Florida, has enacted Ordinance No. 13-10, the Stormwater Assessment Ordinance (the "Ordinance"), relating to Stormwater Management, which authorizes the annual imposition of Stormwater Service Assessments against real residential property specifically benefited by the City's Stormwater Management Services; and

**WHEREAS,** the imposition of a Stormwater Service Assessment is an equitable and efficient method of allocating and apportioning the cost of the City's Stormwater Management Service among parcels of property that are specially benefited thereby; and

**WHEREAS,** on August 6, 2013 the City Commission adopted Resolution No.13-197 the Initial Assessment Resolution For Stormwater Management Services (the "Initial Assessment Resolution"), and on September 5, 2013 the City Commission adopted Resolution No. 13-228 (the "Final Assessment Resolution") identifying the area within which the City provides Stormwater Management Services and those properties to be specifically benefited by the City's Stormwater Management Services ( the "Stormwater Service Area"), describing the method of assessing the cost of the City's Stormwater Management Services ( the "Stormwater Service Cost") against Developed Property located within the Stormwater Service Area, and

**WHEREAS**, pursuant to the provisions of Ordinance Section 74-372, the City is required to adopt and Annual Rate Resolution for each fiscal year to approve the Stormwater Assessment Roll for such fiscal year; and

**WHEREAS**, the Stormwater Assessment Roll has heretofore been filed with the office of the City Manager, as provided in Ordinance Section 74-369 of the Ordinance; and

**WHEREAS**, as required by the terms of Ordinance Sections 74-370 and 74-101, notice of a public hearing has been published and mailed to each property owner proposed to be charged a Stormwater 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 74-362.

**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 Ordinance, the Initial Assessment Resolution, the Final Assessment Resolution, sections 166.021 and 166.041, Florida Statutes, and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** This resolution is the Annual Rate Resolution for the imposition of Stormwater Service Assessments. All capitalized terms in this resolution shall have meanings defined in the Ordinance.

**SECTION 3. APPROVAL OF STORMWATER ASSESSMENT ROLL.** The Stormwater Assessment Roll, which is currently on file in the office of the City Manager and incorporated herein by reference, is hereby approved.

**SECTION 4. STORMWATER SERVICE ASSESSMENTS.**

- (A) It is hereby ascertained, determined, and declared that each parcel of Assessed Property within the Stormwater Service Area will be specially benefited by the City's provision of Stormwater Management Services in an amount not less than the Stormwater Service Assessment total for such parcel. 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 and the Initial Assessment Resolution from the Stormwater Management Services to be provided and a legislative determination that the Stormwater Service Assessments are fairly and reasonably apportioned among the residential properties that receive the special benefit.
- (B) The method for computing and apportioning the Stormwater Service Assessments described in the Initial Assessment Resolution is hereby approved.

(C) For the Fiscal Year beginning October 1, 2015, the estimated Stormwater Service Cost of \$2,287,014 shall be allocated among all parcels of Assessed Property, based upon each parcels number of Net ESUs. The rate of assessment for each ESU for Stormwater, plus any delinquency or past due amounts attributable to each Parcel for Stormwater services and facilities provided for Fiscal Year 2015-16 is \$98.65. The annual rate of assessment is hereby imposed for each Tax Parcel of Developed Property. A maximum assessment rate of \$105.89 per Net ESU is hereby approved for future fiscal years. This amount can be imposed in future fiscal years without additional notice, but is not required to be imposed. Stormwater Service Assessments for Stormwater Management Services in the amounts set forth in the Stormwater Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in the Stormwater Assessment Roll.

(D) The above rates of assessment are hereby approved. Except as otherwise provided herein, Stormwater Service Assessments for Stormwater Management Services in the amounts set forth in the updated Stormwater Assessment Roll, as herein approved, are hereby levied and imposed on all parcels of Assessed Property described in such Stormwater Assessment Roll for the Fiscal Year beginning October 1, 2015.

(E) The Stormwater Service Assessments shall constitute a lien upon the Tax Parcels 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. The lien for the Stormwater Service Assessments shall be deemed perfected upon adoption by the City Commission of this Annual Rate Resolution and shall attach to the property included on the Stormwater Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(F) The amount any Tax Parcel has as an outstanding delinquent Stormwater Assessment as of August 2015 for the Stormwater Assessment imposed is hereby approved and levied on said Tax Parcels. These delinquent Stormwater 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, 2015.

#### **SECTION 5. COLLECTION OF STORMWATER SERVICE ASSESSMENTS.**

The Stormwater Service Assessments shall be collected pursuant to the Uniform Assessment Collection Act, as provided in Section 74-376 of the City's Code of Ordinances. The City Manager is hereby authorized and directed to certify and deliver or cause the certification and delivery of the Stormwater Assessment Roll for the Stormwater Service Assessments to the Tax Collector by September 15, in the manner prescribed by Section 197.3632, Florida Statutes. The Stormwater Roll for the Stormwater Service Assessments, as delivered to the Tax Collector, shall be accompanied by a Certificate to Non-Ad Valorem Assessment Roll in substantially the form attached hereto as Appendix C.

#### **SECTION 6. 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 Stormwater Assessment Roll and the levy and lien of the Stormwater 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 Annual Rate Resolution.

**SECTION 7. 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 \_\_\_\_\_, 2015

Authenticated by the presiding officer and Clerk of the Commission on \_\_\_\_\_, 2015

Filed with the Clerk \_\_\_\_\_, 2015

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

Vice Mayor Mark Rossi \_\_\_\_\_

Commissioner Teri Johnston \_\_\_\_\_

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

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

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

Commissioner Tony Yaniz \_\_\_\_\_

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

ATTEST:

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