

COUNCIL AGENDA STATEMENT



Meeting Date: August 10, 2021  
To: Honorable Mayor & Members of the City Council  
From: Dan Saus, Utilities Director  
Through: George Garrett, City Manager

Agenda Item: **Resolution 2021-63**, Imposing The Annual Stormwater Utility Special Assessments For Fiscal Year Commencing October 1, 2021; Approving The Assessment Roll; Providing For Collection Of The Assessments; And Providing For An Effective Date

BACKGROUND & JUSTIFICATION:

This resolution will continue the Stormwater Assessment program adopted by the City in 2005. Annually, Government Services Group (GSG) updates the assessment rolls and submits to the Monroe County tax collector on behalf of the City.

The stormwater assessment rate will continue to be \$120 per equivalent residential unit (ERU). The annual public hearing has been advertised to take place at this City Council meeting, August 10, 2021. The public hearing allows property owners an opportunity to address the City Council about the assessment program. Following approval by the Council, the assessment rolls will be delivered to the Monroe County Tax Collector for the 2021 taxable year as a non-ad valorem assessment.

CONSISTENCY CHECKLIST:

	Yes	No
1. Comprehensive Plan	<u>X</u>	___
2. Other – 2010 Sewer Mandate	<u>X</u>	___
3. Not applicable	___	___

FISCAL NOTE:

The resolutions will allow the City to collect non-ad valorem assessments through the tax collector.

RECOMMENDATION:

Approval of Resolution

**RESOLUTION NO. 2021-63**

**A RESOLUTION OF THE CITY OF MARATHON, FLORIDA, IMPOSING THE ANNUAL STORMWATER UTILITY SPECIAL ASSESSMENTS FOR FISCAL YEAR COMMENCING OCTOBER 1, 2021; APPROVING THE ASSESSMENT ROLL; PROVIDING FOR COLLECTION OF THE ASSESSMENTS; AND PROVIDING FOR AN EFFECTIVE DATE**

**WHEREAS**, the City Council of the City of Marathon, Florida (the “City”) enacted Article II of Chapter 24 and Article III of Chapter 34 of the Code of Ordinances, City of Marathon, Florida (the “Code”), which established a Stormwater Utility and authorize the imposition of annual Stormwater Utility Service Assessments for Stormwater Utility services, facilities or programs against certain Assessable Property within the City; and

**WHEREAS**, the imposition of a Stormwater Utility Service Assessment for stormwater collection and treatment services, facilities and programs is an equitable and efficient method of allocating and apportioning Stormwater Costs among parcels of Assessable Property located in the City; and

**WHEREAS**, a Stormwater Utility Service Assessment was initially imposed upon all property within the City commencing October 1, 2005, which rate was established by Resolution 2005-107 (the “Initial Assessment Resolution”); and

**WHEREAS**, this Resolution shall serve as the Annual Assessment Resolution for Fiscal Year 2016-2017, and the Assessable Property in the City will be subject to the previously established special assessment amount for the Stormwater Utility; and

**WHEREAS**, as required by the Code the Assessment Roll has been filed with the office of the City Manager, and a notice of public hearing has been published; the proof of publication being attached hereto as Exhibit “A.”

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, AS FOLLOWS:**

**Section 1.** This Resolution is adopted pursuant to the Code, Sections 166.021 and 166.041, *Florida Statutes*, and other applicable provisions of law.

**Section 2.** This Resolution is the Annual Assessment Resolution as defined in the Code. All capitalized terms in this Resolution shall have the meanings defined in the Code, and the Initial Assessment Resolution.

**Section 3.** (A) It is hereby ascertained and declared that each parcel of the Assessed Property within the City will be specially benefited by the City's provision of stormwater utility services in an amount not less than the Stormwater Utility Service Assessment for such parcel, computed in the same manner set forth in the Initial Assessment 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 Code and the Initial Assessment Resolution from the City's stormwater utility and a legislative determination that the Stormwater Utility Service Assessments are fairly and reasonably apportioned among the properties that receive the special benefit as set forth in the Initial Rate Resolution.

(B) The method for computing and apportioning the Stormwater Utility Service Assessments described in the Initial Assessment Resolution is hereby approved.

(C) For Fiscal Year 2021-2022 the Stormwater Cost shall be allocated among all parcels of Assessed Property, based upon each parcel's classification as Non-Residential, Residential, and Unimproved Property and the number of ERUs for such properties. A rate of assessment equal to one hundred-twenty dollars (\$120.00) for each ERU for Stormwater collection and disposal services is hereby approved.

(D) The Stormwater Utility Service Assessment Rate of one hundred-twenty dollars (\$120.00) per ERU is hereby established to fund the specified Stormwater Cost determined to be assessed in Fiscal Year 2021-2022.

**Section 4.** The Stormwater Assessment Roll currently on file in the office of the City Manager and incorporated herein by reference is hereby approved.

**Section 5.** (A) The Stormwater Utility Service Assessments shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, counties, district or municipal taxes and other 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 shall be deemed perfected upon adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.

(B) As to any Property that is acquired by a public entity through condemnation, negotiated sale or otherwise prior to adoption of the next Annual Assessment Resolution, the Adjusted Prepayment Amount shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other 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 shall be deemed perfected upon adoption by the Council of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll upon adoption of the Annual Assessment Resolution.

**Section 6.** The Assessments shall be collected pursuant to the Uniform Assessment Collection Act; provided however, that any Assessment against Government Property shall be collected pursuant to Section 24-134 of the Code. Upon adoption of the Annual Assessment Resolution for each Fiscal Year, the City Manager shall cause the certification and delivery of

the Assessment Roll to the Tax Collector by September 15, in the manner prescribed by the Uniform Assessment Collection Act.

**Section 7.** If any clause, section, or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

**Section 8.** This resolution shall take effect immediately upon its adoption.

**PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MARATHON, FLORIDA, THIS 10<sup>TH</sup> DAY OF AUGUST, 2021.**

**THE CITY OF MARATHON, FLORIDA**

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**Mayor Luis Gonzalez**

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

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City Clerk, Diane Clavier

(SEAL)

**APPROVED AS TO FORM AND LEGALITY FOR THE USE  
AND RELIANCE OF THE CITY OF MARATHON, FLORIDA ONLY:**

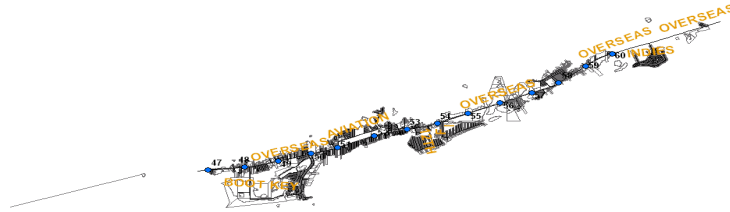
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Steve Williams, City Attorney

**EXHIBIT "A"**  
**PROOF OF PUBLICATION**

**To Be Published No Later than July 20, 2021**

**NOTICE OF HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF  
SPECIAL ASSESSMENTS**



Notice is hereby given that the City of Marathon, Florida, will conduct a public hearing to consider the imposition of special assessments against certain parcels of property located in the City. The hearing will be held at 5:30 p.m., or as soon thereafter as the matter can be heard, on August 10, 2021 at the City of Marathon Council Chambers, 9805 Overseas Highway, Marathon, Florida, for the purpose of receiving public comment on the proposed Assessment Area and assessments. In accordance with the Americans with Disabilities Act, if you are a person with a disability who needs any accommodation in order to participate in this proceeding, you are entitled, at no cost to you, to the provision of certain assistance. Please contact the City at (305) 289-4130, at least five days prior to the public hearing. All affected property owners have a right to appear at the hearing and to file written objections with the City within 20 days of this notice. If a person wishes to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made.

The assessments have been proposed to fund the on-going maintenance of stormwater collection and treatment facilities. The assessment for each parcel of property will be based, in part, on the number of equivalent residential units attributable to such parcel. The maximum annual assessment is estimated to be \$120.00 per ERU. A more specific description is set forth in the Preliminary Assessment Resolution adopted by the City Council on July 27, 2010. Copies of the Preliminary Assessment Resolution and the preliminary Assessment Roll are available for inspection at the offices of the City Manager, located at 9805 Overseas Highway, Marathon, Florida.

The assessments will be collected on the non-ad valorem tax bill, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. If you have any questions, please contact Stormwater Utility at (305) 289-5005.

CITY OF MARATHON, FLORIDA