

6-4-13
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REVISED
ORDINANCE

ORDINANCE NO. C-13-14

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, RELATING TO THE PROVISION OF MASS TRANSPORTATION SYSTEMS INCLUDING FACILITIES, SERVICES, AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF FORT LAUDERDALE, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF TRANSPORTATION ASSESSMENTS AGAINST PROPERTY; PROVIDING CERTAIN DEFINITIONS ESTABLISHING A PROCEDURE FOR IMPOSING TRANSPORTATION ASSESSMENTS; PROVIDING THAT TRANSPORTATION ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR A TRANSPORTATION ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES AND CLAIMS; AUTHORIZING THE IMPOSITION OF INTERIM ASSESSMENTS; PROVIDING A PROCEDURE FOR COLLECTION OF TRANSPORTATION ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA:

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ARTICLE I
INTRODUCTION

SECTION 1.01. DEFINITIONS. As used in this Ordinance, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

“Annual Assessment Resolution” means the resolution described in Section 2.08 hereof, approving an Assessment Roll for a specific Fiscal Year.”

“Assessment” means a special assessment imposed by the City pursuant to this Ordinance to fund the Project Cost of Transportation Improvements.

“Assessment Area” means any of the areas created by resolution of the Commission pursuant to Section 2.01 hereof, that specially benefit from a Transportation Improvement.

“Assessment Bill” means a statement provided to the owner of each affected parcel of property within the Assessment Area indicating the specified amount owed further described in Sections 3.02(A) and 3.04(A) hereof.

“Assessment Roll” means the special assessment roll relating to Transportation Improvements, approved by a Final Assessment Resolution pursuant to Section 2.07 hereof or an Annual Assessment Resolution pursuant to Section 2.08 hereof.

“Assessment Unit” means the unit or criteria utilized to determine the Assessment for each parcel of property, as set forth in the Initial Assessment Resolution. “Assessment Units” may include, by way of example only and not limitation, one or a combination of the following: front footage, platted lots or parcels of record, land area, improvement area, equivalent residential connections, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrently management regulations, property value or any other physical characteristic or reasonably expected use of the property that is related to the Transportation Improvement to be funded from proceeds of the Assessment.

“Capital Cost” means all or any portion of the expenses that are properly attributable to the acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of Transportation

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Improvements and imposition of the related Assessments under generally accepted accounting principles; and including reimbursement to the City for any funds advanced for Capital Cost and interest of any interfund or intrafund loan for such purposes.

"City" means the City of Fort Lauderdale, Florida.

"City Attorney" means City Attorney appointed by the City Commission in accordance with Section 4.10 of the City Charter of the City of Fort Lauderdale.

"City Clerk" means the City Clerk of the City appointed by the City Commission in accordance with Section 4.13 of the City Charter of the City of Fort Lauderdale.

"City Commission" means the City Commission of the City of Fort Lauderdale, Florida.

"City Manager" means the administrative head of the municipal government of the City, appointed by the City Commission, or such person's designee.

"County Commission" means the Board of County Commissioners of Broward County, Florida.

"Director of Finance" means the Director of the Finance Department of the City, or such person's designee.

"Final Assessment Resolution" means the resolution described in Section 2.07 hereof, which shall confirm, modify or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of an Assessment.

"Fiscal Year" means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the City.

"Government Property" means property owned by the United States of America, a sovereign state or nation, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions, and used for governmental purposes.

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"Initial Assessment Resolution" means the resolution described in Section 2.03 hereof, which shall be the initial proceeding for the imposition of an Assessment.

"Obligations" means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases, reimbursable advances by the City, or any other obligation issued or incurred to finance any portion of the Project Cost of Transportation Improvements and secured, in whole or in part, by proceeds of the Assessments.

"Ordinance" means this transportation assessment ordinance.

"Pledged Revenue" means, as to any series of Obligations, (A) the proceeds of such Obligations, including investment earnings, (B) proceeds of the Assessments, including proceeds from the sale of tax certificates and investment earnings, pledged to secure the payment of such Obligations, and (C) any other legally available non-ad valorem revenue pledged, at the City Commission's sole option, to secure the payment of such Obligations, as specified by the ordinance ~~and~~ or resolution authorizing such Obligations.

"Project Cost" means (A) the Capital Cost of a Transportation Improvement, (B) the transaction cost associated with the Obligations which financed the Transportation Improvement, (C) interest accruing on such Obligations for such period of time as the City deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations which financed the Transportation Improvement, and (E) any other costs or expenses related thereto.

"Property Appraiser" means the Broward County Property Appraiser.

"Resolution of Intent" means the resolution expressing the City Commission's intent to collect Assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act.

"Tax Collector" means the Department of Finance and Administrative Services as described in Section 3.06 of the Broward County Charter.

"Transportation Improvement" means a capital improvement constructed or installed by or on behalf of the City to provide mass transportation services for the special benefit of a neighborhood or other local area.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635,

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Florida Statutes, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

SECTION 1.02. INTERPRETATION. Unless the context indicates otherwise, words importing the singular number include the plural number, and vice versa; the terms "hereof," "hereby," "herein," "hereto," "hereunder" and similar terms refer to this Ordinance; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Ordinance. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

SECTION 1.03. GENERAL FINDINGS. It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 2(b), Florida Constitution, and sections 166.021 and 166.041, Florida Statutes, the City Commission has all powers of local self-government to perform municipal functions and to render municipal services in a manner not inconsistent with law, and such power may be exercised by the enactment of City ordinances.

(B) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of section 166.021(3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of section 166.021(3), Florida Statutes, are not relevant to the imposition of Assessments to fund the Project Cost of Transportation Improvements.

(C) ~~The purpose of this Ordinance is to (1) provide~~ procedures and standards for the imposition of citywide Transportation Assessments under the general home rule powers of a municipality to impose special assessments; and (2) authorize a procedure for the funding of transportation services, facilities, or programs providing special benefits to property within the City.

(D) The annual Assessments imposed using the procedures provided in this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

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(E) The Assessments imposed using the procedures provided in this Ordinance are imposed by the City Commission, not the County Commission, Property Appraiser or Tax Collector. The duties of the Property Appraiser and Tax Collector under the provisions of this Ordinance and the Uniform Assessment Collection Act shall be construed solely as ministerial.

ARTICLE II ASSESSMENTS

SECTION 2.01. CREATION OF ASSESSMENT AREAS. The City Commission is hereby authorized to create Assessment Areas in accordance with the procedures set forth herein. Each Assessment Area shall encompass only that property specially benefitted by the Transportation Improvements proposed for funding from the proceeds of Assessment to be imposed therein. Either the Initial Assessment Resolution proposing each Assessment Area or the Final Assessment Resolution creating each Assessment Area shall include brief descriptions of the proposed Transportation Improvements, a description of the property to be included within the Assessment Area, and specific legislative findings that recognize the special benefit to be provided by each proposed Transportation Improvement to property within the Assessment Area.

SECTION 2.02. ASSESSMENTS. The City Commission is hereby authorized to impose Assessments against property located within an Assessment Area to fund the Project Cost of Transportation Improvements. The Assessments shall be computed in a manner that fairly and reasonably apportions the Project Cost among the parcels of property within the Assessment Area, based upon objectively determinable Assessment Units.

SECTION 2.03. INITIAL ASSESSMENT RESOLUTION. The initial proceeding for creation of an Assessment Area and imposition of ~~an~~ Assessments shall be the City Commission's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall (A) describe the property to be located within the proposed Assessment Area; (B) describe the Transportation Improvement proposed for funding from proceeds of the Assessments; (C) estimate the Capital Cost or Project Cost; (D) describe with particularity the proposed method of apportioning the Capital Cost or Project Cost among the parcels of property located within the proposed Assessment Area, ~~such that the Cost among the parcels of property located within the proposed Assessment Area,~~ such that the owner of any parcel of property can objectively determine the number of Assessment Units and the amount of the Assessment; (E) describe the provisions, if any, for acceleration and prepayment of the Assessment; (F) describe the provisions, if any, for reallocating the Assessment upon future subdivision or

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other changes in condition that affects the method of apportioning the Capital Cost or Project Cost; and (G) include specific legislative findings that recognize the fairness provided by the apportionment methodology.

SECTION 2.04. ASSESSMENT ROLL.

(A) The City Manager shall prepare a preliminary Assessment Roll that contains the following information:

- (1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Assessment;
- (2) the name of the owner of record of each parcel, as shown on the Tax Roll;
- (3) the number of Assessment Units attributable to each parcel;
- (4) the estimated maximum annual Assessment to become due in any Fiscal Year for each Assessment Unit; and
- (5) the estimated maximum annual Assessment to become due in any Fiscal Year for each parcel.

(B) Copies of the Initial Assessment Resolution and preliminary Assessment Roll shall be on file in the office of the City Clerk and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

SECTION 2.05. NOTICE BY PUBLICATION. After filing the preliminary Assessment Roll in the office of the City Clerk, as required by Section 2.04(B) hereof, the City Clerk shall publish once in a newspaper of general circulation within the City a notice stating that at a public hearing of the City Commission will be held on a certain day and hour, not earlier than 20 calendar days from such publication, at which hearing the City Commission will receive written comments and hear testimony from all interested persons regarding creation of the Assessment Area and adoption of the Final Assessment Resolution. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

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SECTION 2.06. NOTICE BY MAIL. In addition to the published notice required by Section 2.05, the City Clerk shall provide notice of the proposed Assessments by first class mail to the owner of each parcel of property subject to the Assessments. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the Tax Roll within ninety (90) days prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The City Clerk may provide proof of such notice by affidavit. Failure of the owner to receive such notice due to mistake or inadvertence shall not affect the validity of the Assessment Roll nor release or discharge any obligation for the payment of an Assessment imposed on such parcel by the City Commission pursuant to this Ordinance.

SECTION 2.07. ADOPTION OF FINAL ASSESSMENT RESOLUTION. At the time named in such notice, or such time to which an adjournment or continuance may be taken, the City Commission shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the City Commission, adopt the Final Assessment Resolution which shall (A) create the Assessment Area; (B) confirm, modify or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Commission; (C) establish the maximum amount of ~~the~~ an Assessment for each Assessment Unit; (D) approve the Assessment Roll, with such amendments as it deems just and right; and (E) determine the method of collection. Following adoption of the Final Assessment Resolution but prior to the date on which the Assessment Roll is certified for collection pursuant to Article III hereof, the City Commission may obtain a written legal opinion that the Assessments have been validly imposed from the Office of the City Attorney, an attorney-at-law or firm of attorneys of recognized standing in matters pertaining to local governmental law; provided however, that the failure to obtain such opinion shall not invalidate the Assessments or affect the factual findings made by the City Commission in connection therewith.

SECTION 2.08. ANNUAL ASSESSMENT RESOLUTION. During its budget adoption process and prior to September 15 of each year, the City Commission shall adopt an Annual Assessment Resolution for each Fiscal Year in which Assessments will be imposed to approve the Assessment Roll for such Fiscal Year. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year. The Assessment Roll shall be prepared in accordance with the Initial Assessment Resolution, as confirmed or amended by the Final Assessment Resolution. If the proposed Assessment for any parcel of property exceeds

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the maximum amount established in the notice provided pursuant to Section 2.06 hereof or if an Assessment is imposed against property not previously subject thereto, the City Commission shall provide notice to the owner of such property in accordance with Sections 2.05 and 2.06 hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution. Failure to adopt an Annual Assessment Resolution during the budget adoption process for a Fiscal Year may be cured at any time.

SECTION 2.09. EFFECT OF ASSESSMENT RESOLUTIONS. The adoption of the Final Assessment Resolution shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the adoption of the Assessment Roll and the levy and lien of the Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of City Commission adoption of the Final Assessment Resolution. The Assessments for each Fiscal Year shall be established upon adoption of the Annual Assessment Resolution. The Assessment Roll, as provided by the Annual Assessment Resolution, shall be certified to the Tax Collector, or such other official as the City Commission by resolution deems appropriate.

SECTION 2.10. LIEN OF ASSESSMENTS.

(A) Upon adoption of the Annual Assessment Resolution for each Fiscal Year, Assessments to be collected under the Uniform Assessment Collection Act 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 City Commission 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) Upon adoption of the Final Assessment Resolution, Assessments to be collected under any alternative method of collection provided in Section 3.02 hereof 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 on the date notice thereof is recorded in the Official Records of Broward County, Florida.

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SECTION 2.11. REVISIONS TO ASSESSMENTS. If any Assessment made under the provisions of the Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court, or if the City Commission is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to include any property on the Assessment Roll which property should have been so included, the City Commission may take all necessary steps to impose a new Assessment against any property benefitted by the Transportation Improvement, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Assessment is annulled, the City Commission may obtain and impose other Assessments until a valid Assessment is imposed.

SECTION 2.12. PROCEDURAL IRREGULARITIES. Any irregularity in the proceedings in connection with the levy of any Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Assessment as finally approved shall be competent and sufficient evidence that such Assessment was duly levied, that the Assessment was duly made and adopted, and that all other proceedings adequate to such Assessment were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section 2.12, any party objecting to an Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

SECTION 2.13. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the City Commission, Director of Finance, City Manager, Property Appraiser, Tax Collector, City Clerk, or their respective deputies or employees, shall operate to release or discharge any obligation for payment of any Assessment imposed by the City Commission under the provisions of this Ordinance.

(B) The number of Assessment Units attributed to a parcel of property may be corrected at any time by the City Manager. Any such correction which reduces an Assessment shall be considered valid from the date on which the Assessment was imposed and shall in no way affect the enforcement of the Assessment imposed under the provisions of this Ordinance. Any such correction which increases an Assessment or imposes an assessment on omitted property shall first require notice to the affected owner in the manner described in Section 2.06 hereof, providing the date, time and place that the City Commission will consider confirming the correction and offering the owner an opportunity to be heard.

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(C) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

ARTICLE III COLLECTION OF ASSESSMENTS

SECTION 3.01. METHOD OF COLLECTION.

(A) Unless directed otherwise by the City Commission, Assessments (other than Assessments imposed against Government Property) shall be collected pursuant to the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions thereof. The Resolution of Intent required by the Uniform Assessment Collection Act may be adopted either prior to or following the Initial Assessment Resolution; provided however, that the Resolution of Intent must be adopted prior to January 1 (or March 1 with consent of the Property Appraiser or Tax Collector) of the year in which the Assessments are first collected on the ad valorem tax bill. Any hearing or notice required by this Ordinance may be combined with any other hearing or notice required by the Uniform Assessment Collection Act.

(B) The amount of an Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific tax parcel may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for a prior year's Assessment for a comparable service, facility, or program provided, (1) the ~~collected~~ collection method used in connection with the prior year's Assessment was not made pursuant to the Uniform Assessment Collection Act, (2) notice is provided to the owner as required under the Uniform Assessment Collection Act, and (3) any lien on the affected tax parcel for the prior year's Assessment is supplanted and transferred to such current year's Assessment upon certification of the Assessment Roll to the Tax Collector by the City.

SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION. In lieu of using the Uniform Assessment Collection Act, the City may elect to collect the Assessment by any other method which is authorized by law or provided by this Section 3.02 as follows:

(A) The City shall provide Assessment Bills by first class mail to the owner of

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each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the Assessment Units used to determine the amount of the Assessment, (3) the number of Assessment Units attributed to the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Assessment is due, and (7) a statement that the Assessment constitutes 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.

(B) A general notice of the lien resulting from imposition of the Assessments shall be recorded in the Official Records of Broward County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City shall have the right to appoint or retain an agent to foreclosure and collect all delinquent Assessments in the manner provided by law. An Assessment shall become delinquent if it is not paid within 30 days from the due date. The City or its agent shall notify any property owner who is delinquent in payment of an Assessment within 60 days from the date such Assessment was due. Such notice shall state in effect that the City or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in such action, the City may be the purchaser to the same extent as an individual person or corporation. The City may join in one foreclosure action the collection of Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) In lieu of foreclosure, any delinquent Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law

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and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Assessment is supplanted by the lien resulting from certification of the Assessment Roll to the Tax Collector.

SECTION 3.03. RESPONSIBILITY FOR ENFORCEMENT. The City and its agent, if any, shall maintain the duty to enforce the prompt collection of all Assessments by the means provided herein. The duties related to collection of Assessments may be enforced at the suit of any holder of Obligations in a court of competent jurisdiction by mandamus or other appropriate proceedings or actions.

SECTION 3.04. GOVERNMENT PROPERTY.

(A) If Assessments are imposed against Government Property, the City shall provide Assessment Bills by first class mail to the owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the Assessment Units used to determine the amount of the Assessment, (3) the number of Assessment Units attributable to the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Assessment is due.

(B) Assessments imposed against Government Property shall be due on the same date as Assessments against other property within the Assessment Area and, if applicable, shall be subject to the same discounts for early payment.

(C) An Assessment shall become delinquent if it is not paid within 30 days from the due date. The City shall notify the owner of any Government Property that is delinquent in payment of its Assessment within 60 days from the date such Assessment was due. Such notice shall state in effect that the City will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent Assessments including, but not limited to,

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costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, an Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The City may contract for such billing services with any utility provider.

ARTICLE IV ISSUANCE OF OBLIGATIONS

SECTION 4.01. GENERAL AUTHORITY.

(A) Upon adoption of the Final Assessment Resolution imposing Assessments to fund a Transportation Improvement or at any time thereafter, the City Commission shall have the power and is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of Obligations to fund the Project Cost thereof.

(B) The principal of and interest on each series of Obligations shall be payable from Pledged Revenue. At the option of the City Commission, the City may agree, by resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the Obligations or in the payment of the Obligations, from other non-ad valorem revenue sources. The City Commission may also provide, by resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the Obligations. Any such resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

SECTION 4.02. TERMS OF THE OBLIGATIONS. The Obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by resolution of the City Commission, and may be made redeemable before maturity, at the option of the City, at such price or prices under such terms and conditions, all as may be fixed by the City Commission. Said Obligations shall mature not later than 40 years after their issuance. The City Commission shall determine by resolution the form of the Obligations, the manner of executing such Obligations, and shall fix the denominations of such Obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the Obligations as it deems appropriate. The Obligations may be sold at public or private sale for such price or

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prices as the City ~~Council~~ Commission shall determine by resolution. The Obligations may be delivered to any contractor to pay for construction of the Transportation Improvements or may be sold in such manner and for such price as the City Commission shall determine by resolution. ~~The Obligations may be delivered to any contractor to pay for construction of the Transportation Improvements or may be sold in such manner and for such price as the City Commission may determine by resolution~~ to be for the best interests of the City.

SECTION 4.03. VARIABLE RATE OBLIGATIONS. At the option of the City Commission, Obligations may bear interest at a variable rate:

SECTION 4.04. TEMPORARY OBLIGATIONS. Prior to the preparation of definitive Obligations of any series, the City Commission may, under like restrictions, issue interim receipts, interim certificates, or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The City Commission may also provide for the replacement of any Obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Ordinance.

SECTION 4.05. ANTICIPATION NOTES. In anticipation of the sale of Obligations, the City Commission may, by resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the Obligations, the proceeds of the Assessments, the proceeds of the notes and such other legally available moneys as the City Commission deems appropriate by resolution. Said notes shall mature within five years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The City Commission may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

SECTION 4.06. TAXING POWER NOT PLEDGED. Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the City within the meaning of the Constitution of the State of Florida, but such Obligations shall be payable only from Pledged Revenue in the manner provided herein and by the resolution authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the City to levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the City to pay any such Obligations or the interest therein or to enforce payment of such Obligations or the interest

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thereon against any property of the City, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, except the Pledged Revenue.

SECTION 4.07. TRUST FUNDS. The Pledged Revenue received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the resolution authorizing issuance of the Obligations. Such Pledged Revenue may be invested by the City, or its designee, in the manner provided by the resolution authorizing issuance of the Obligations. The Pledged Revenue upon receipt thereof by the City shall be subject to the lien and pledge of the holders of any Obligations or any entity other than the City providing credit enhancement on the Obligations.

SECTION 4.08. REMEDIES OF HOLDERS. Any holder of Obligations, except to the extent the rights herein given may be restricted by the resolution authorizing issuance of the Obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State of Florida or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the City.

SECTION 4.09. REFUNDING OBLIGATIONS. The City may, by resolution of the City Commission, issue Obligations to refund any Obligations issued pursuant to this Ordinance, or any other obligations of the City ~~therefore~~ theretofore issued to finance the Project Cost of a Transportation Improvement, and provide for the rights of the holders thereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be refunded. If the issuance of such refunding Obligations results in an annual Assessment that exceeds the estimated maximum annual Assessments set forth in the notice provided pursuant to Section 2.06 hereof, the City Commission shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article II of this Ordinance.

ARTICLE V GENERAL PROVISIONS

SECTION 5.01. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the imposition and collection of Assessments and shall be regarded as supplemental and additional powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence.

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SECTION 5.02. SEVERABILITY. If any portion of this Ordinance is for any reason declared to be unconstitutional, inoperative or void, such holding shall not affect the remaining portions of this Ordinance. If this Ordinance or any provision thereof shall be held to be inapplicable to any person, property or circumstances, such holding shall not affect its applicability to any other person, property or circumstances.

SECTION 5.03. CONFLICTS. All Ordinances or parts of Ordinances previously adopted which are in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 5.04. EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption.

PASSED FIRST READING this the 16th day of April, 2013.

PASSED SECOND READING this the _____ of _____, 2013.

Mayor
JOHN P. "JACK" SEILER

ATTEST:

City Clerk
JONDA K. JOSEPH

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