
CITY OF CORAL GABLES, FLORIDA

**CAPITAL PROJECT AND RELATED SERVICES
ASSESSMENT ORDINANCE**

FIRST READING MARCH 11, 2014

SECOND READING AND ADOPTION _____, 2014

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ORDINANCE NO. 2014-____

AN ORDINANCE OF THE CITY OF CORAL GABLES, FLORIDA, RELATING TO CAPITAL IMPROVEMENTS AND RELATED SERVICES PROVIDING A SPECIAL BENEFIT TO LOCAL AREAS WITHIN THE CITY; AUTHORIZING THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS TO FUND THE COST OF CAPITAL IMPROVEMENTS AND RELATED SERVICES PROVIDING A SPECIAL BENEFIT TO LOCAL AREAS WITHIN THE CITY; PROVIDING CERTAIN DEFINITIONS; PROVIDING FOR THE CREATION OF ASSESSMENT AREAS; PROVIDING A PROCEDURE TO IMPOSE SPECIAL ASSESSMENTS; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS AND FOR CORRECTION OF ERRORS AND OMISSIONS; PROVIDING THAT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLLS; AUTHORIZING HARDSHIP ASSISTANCE AND CERTAIN EXEMPTIONS; PROVIDING A PROCEDURE FOR VOLUNTARY ASSESSMENT PROGRAMS; PROVIDING A PROCEDURE FOR COLLECTION OF SPECIAL ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; REPEALING SECTIONS 58-19, 58-20, 58-22 THROUGH 58-49 AND 58-53 OF THE CITY OF CORAL GABLES CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF CORAL GABLES, FLORIDA:

ARTICLE I

INTRODUCTION

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

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

"Assessed Property" means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the Local Improvement or Related Services identified in the Initial Assessment Resolution.

"Assessment" means a special assessment imposed by the City pursuant to this Ordinance to fund the Project Cost of Local Improvements or the Service Cost of Related Services that provide a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in an Initial Assessment Resolution.

"Assessment Area" means any of the areas created by resolution of the Commission pursuant to Section 2.01 hereof, that specially benefit from a Local Improvement or Related Service.

"Assessment Roll" means the special assessment roll relating to Local Improvements or Related Services, 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, equivalent dwelling units, platted lots or parcels of record, vested lots, land area, improvement area, equivalent residential connections, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrency management regulations, property value or any other physical characteristic or reasonably expected use of the property that has a logical relationship to the Local Improvement or Related Service 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 Local 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 on any interfund or intrafund loan for such purposes.

"City" means the City of Coral Gables, Florida.

"City Manager" means the chief executive officer of the City or such person's designee.

"Clerk" means the City Clerk, or such person as may be duly authorized to act on such person's behalf.

"Commission" means the City Commission for the City.

"County" means Miami-Dade County, Florida.

"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.

"Finance Director" means the chief financial officer of the City or such person's designee.

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the next succeeding September 30, 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, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

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

"Local Improvement" means a capital improvement constructed or installed by the City for the special benefit of a neighborhood or other local area.

"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 Local Improvements and secured, in whole or in part, by proceeds of the Assessments.

"Ordinance" means this Capital Project and Related Service 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 pledged to secure the payment of such Obligations, and (C) any other legally available non-advaleorem revenue pledged, at the Commission's sole option, to secure the payment of such Obligations, as specified by the ordinance or resolution authorizing such Obligations.

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

"Property Appraiser" means the Property Appraiser of the County.

"Related Service" means the provision within an Assessment Area of operations and maintenance services or other Related Services that provide a special benefit to Assessed Property within an Assessment Area.

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

"Service Cost" means the amount necessary in any Fiscal Year to fund the provision of a Related Service that provides a special benefit to Assessed Properties within an Assessment Area, and shall include, but not be limited to all or any portion of the expenses that are properly attributable to Related Services and imposition of the related Assessments under generally accepted accounting principles, including, without limiting the generality of the foregoing, reimbursement to the City for any funds advanced for Related Services, and interest on any interfund or intrafund loan for such purpose.

"Tax Collector" means the Tax Collector of the County.

"Tax Roll" means the real property ad valorem tax assessment roll maintained by the Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

"Transaction Cost" means the costs, fees and expenses incurred by the City in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond and disclosure counsel; (C) the underwriters' discount; (D) the fees and disbursements of the City's financial advisor; (E) the costs of preparing and printing the Obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (H) any other costs of a similar nature incurred in connection with issuance of such Obligations.

"Uniform Assessment Collection Act" means Sections 197.3632 and 197.3635, 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; TITLE AND CITATION.

(A) 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 gender, unless the context indicates otherwise.

(B) This Ordinance, being necessary for the welfare of the inhabitants of the City, particularly the owners of property located within the Assessment Areas, shall be liberally construed to effect the purposes hereof.

(C) This Ordinance shall be known and cited as the "Capital Project and Related Service Assessment Ordinance."

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 has all powers of local self-government to perform municipal functions and render municipal services except when prohibited by law, and such power may be exercised by the enactment of legislation in the form of City ordinances.

(B) The Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the 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 by the City.

(C) The Assessments authorized by this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(D) The Assessments imposed pursuant to this Ordinance will be imposed by the Commission, not the Property Appraiser or Tax Collector. Any activity of the Property

Appraiser or Tax Collector under the provisions of this Ordinance shall be construed solely as ministerial.

(E) The City's existing Local Improvement Act, as codified generally in Article II of Chapter 58 of the Coral Gables Code of Ordinances, is based upon a pre-Municipal home rule statutory process for the imposition of assessments and does not currently comply with certain provisions of the Uniform Assessment Collection Act. Accordingly, in order to update and streamline the City's assessment procedures, the Local Improvement Act shall be repealed and replaced with this Ordinance.

ARTICLE II

ASSESSMENTS

SECTION 2.01. CREATION OF ASSESSMENT AREAS. The Commission is hereby authorized to create Assessment Areas in accordance with the procedures set forth herein to include property located within the incorporated area of the City. Each Assessment Area shall encompass only that property specially benefitted by the Local Improvements and Related Services proposed for funding from the proceeds of Assessments 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 Local Improvements and Related Services, a description of the Assessed Property to be included within the Assessment Area, and specific legislative findings that recognize the special benefit to be provided by each proposed Local Improvement and Related Service to property within the Assessment Area.

SECTION 2.02. ASSESSMENTS. The Commission is hereby authorized to impose Assessments against property located within an Assessment Area to fund the Project Cost of Local Improvements or the Service Cost of Related Services. 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 Assessment shall be the 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 Local Improvement or Related Service proposed for funding from proceeds of the Assessments; (C) estimate the Capital Cost, Service Cost, or Project Cost in the event Obligations are to be issued; (D) describe with particularity the proposed method of apportioning the Capital Cost, Service Cost, or Project 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; and (G) include specific legislative findings that recognize the fairness provided by the apportionment methodology.

SECTION 2.04. ASSESSMENT ROLL.

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

(1) a summary description of each parcel of Assessed Property (conforming to the description contained on the Tax Roll) subject to the Assessment;

(2) the name of the owner of record of the Assessed Property, as shown on the Tax Roll;

(3) the number of Assessment Units attributable to each parcel of Assessed Property; and

(4) the estimated maximum annual Assessment to become due in any Fiscal Year for each parcel of Assessed Property.

(B) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be available 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.

(A) Upon completion of the initial Assessment Roll, the Finance Director shall publish, or direct the publication of, once in a newspaper of general circulation within the City a notice stating that at a meeting of the Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned, or special meeting, the Commission will hear objections of all interested persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned initial Assessment Roll.

(B) The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (1) a geographic depiction of the property subject to the Assessment; (2) a brief and general description of the Local Improvement and Related Services to be provided; (3) the rate of Assessment including a Maximum Assessment Rate in the event one was adopted by in the Initial Assessment Resolution; (4) the procedure for objecting provided in section 2.07; (5) the method by which the Assessment will be collected; and (6) a statement that the initial Assessment Roll is available for inspection at the office of the City Clerk and all interested persons may ascertain the amount to be assessed against a parcel of Assessed Property at the office of the City Clerk.

SECTION 2.06. NOTICE BY MAIL.

(A) In addition to the published notice required by Section 2.05, the Finance Director shall provide notice, or direct the provision of notice, of the proposed Assessment by first class mail to the Owner of each parcel of property subject to the Assessment.

(B) Such notice shall include (1) the purpose of the Assessment; (2) the rate of assessment to be levied against each parcel of property, including a Maximum Assessment Rate in the event one was adopted by the Initial Assessment Resolution; (3) the Assessment Unit applied to determine the Assessment; (4) the number of such Assessment Units contained in each parcel of property; (5) the total revenue to be collected by the City from the Assessment; (6) a statement that failure to pay the Assessment will cause a tax certificate to be issued against the property or foreclosure proceedings to be instituted, either of which may result in a loss of title to the property; (7) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the Commission within 20 days of the notice; and (8) the date, time, and place of the hearing.

(C) 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 Owner at such address as is shown on the Tax Roll. Notice shall be deemed mailed upon delivery thereof to the possession of the United States Postal Service. The Finance Director 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 payment of an Assessment imposed by the Commission pursuant to this Ordinance.

SECTION 2.07. ADOPTION OF FINAL ASSESSMENT RESOLUTION.

(A) At the time named in such notice or to such time as an adjournment or continuance may be taken by the Commission, the Commission shall receive any written objections of interested persons and may then, or at any subsequent meeting of the Commission, adopt the Final Assessment Resolution which shall (A) create any Assessment Area; (B) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Commission; (C) establish the maximum amount of the Assessment for each Assessment Unit and levy the rate of assessment for the upcoming Fiscal Year; (D) approve the Assessment Roll, with such amendments as it deems just and right; and (E) determine the method of collection.

(B) The adoption of the Final Assessment Resolution by the Commission shall constitute a legislative determination that all parcels assessed derive a special benefit from the Local Improvement and Related Services to be provided or constructed and a legislative determination that the Assessments are fairly and reasonably apportioned among the properties that receive the special benefit. All written objections to the Final Assessment Resolution shall be filed with the Finance Director at or before the time or adjourned time of such hearing. The Final Assessment Resolution shall constitute the Annual Rate Resolution for the initial Fiscal Year in which Assessments are imposed or reimposed hereunder.

SECTION 2.08. ANNUAL ADOPTION PROCEDURES.

(A) Annually, during the budget adoption process, the Commission shall adopt an Annual Rate Resolution for each Fiscal Year in which Assessments will be imposed to fund the Capital Cost or Project Cost of a Local Improvement or Related Services. 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. Failure to adopt an Annual Assessment Resolution during the budget adoption process for a Fiscal Year may be cured at any time.

(B) In the event that the uniform method of collection provided for in the Uniform Assessment Collection Act is used and (1) the proposed Assessment for any Fiscal Year exceeds the Maximum Assessment Rate included in notice previously provided to the Owners of Assessed Property, (2) the method of apportionment is changed, (3) the purpose for which the Assessment is imposed is substantially changed from that represented by notice previously provided to the Owners of Assessed Property, (4) Assessed Property is reclassified in a manner which results in an increased Assessment from that represented by notice previously provided to the owners of Assessed Property, or (5) an Assessment Roll contains Assessed Property that was not included on the Assessment Roll approved for the prior Fiscal Year, notice shall be provided by first class mail to the Owner of such Assessed Property. Such supplemental notice shall substantially conform with the notice requirements set forth in Section 2.06 and inform the Owners of the date, time and place for the adoption of the Annual Rate Resolution. The failure of an Owner to receive such supplemental notice due to mistake or inadvertence shall not affect

the validity of the Assessment Roll nor release or discharge any obligation for payment of an Assessment imposed by the Commission pursuant to this Ordinance.

(C) As to any Assessed Property not included on an Assessment Roll approved by the adoption of the Final Assessment Resolution or a prior year's Annual Rate Resolution, the adoption of the succeeding Annual Rate Resolution shall be the final adjudication of the issues presented as to such Assessed Property (including, but not limited to, the determination of special benefit and fair apportionment to the Assessed Property, the method of apportionment and assessment, the rate of Assessment, the establishment or increase of a Maximum Assessment Rate, the Assessment Roll, and the levy and lien of the Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Commission action on the Annual Rate Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Assessment not challenged within the required 20-day period for those Assessments previously imposed against Assessed Property by the inclusion of the Assessed Property on an Assessment Roll approved in the Final Assessment Resolution or any subsequent Annual Rate Resolution.

(D) The Assessment Roll, as approved by the Annual Rate Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method is used to collect the Assessments, such other official as the Commission by resolution shall designate. If the Assessment against any property shall be sustained, reduced, or abated by the Commission, an adjustment shall be made on the Assessment Roll.

SECTION 2.09. EFFECT OF FINAL ASSESSMENT RESOLUTION. 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 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 approved by the Annual Assessment Resolution, shall be certified to the Tax Collector, or such other official as the 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. 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 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. 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 Miami-Dade County, Florida.

SECTION 2.11. REVISIONS TO ASSESSMENTS. If any Assessment made under the provisions of this Ordinance is either in whole or in part annulled, vacated or set aside by the judgment of any court of competent jurisdiction, or if the Commission is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Commission has failed to include any property on the Assessment Roll which property should have been so included, the Commission may take all necessary steps to impose a new Assessment against any property benefitted by the Local Improvement or Related Service, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Assessment is annulled, the 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 Commission, City Manager, Property Appraiser, Tax Collector, Clerk, or their respective deputies or employees, shall operate to release or discharge any obligation for payment of any Assessment imposed by the 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 Finance Director. 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 Commission will consider confirming the correction and offering the owner an opportunity to be heard.

(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.

SECTION 2.14. AUTHORIZATION FOR EXEMPTIONS AND HARDSHIP ASSISTANCE.

(A) The Commission, in its sole discretion, shall determine whether to provide

exemptions from payment of an Assessment for Government Property or other property whose use is wholly or partially exempt from ad valorem taxation under Florida law.

(B) The Commission, in its sole discretion, shall determine whether to provide a program of hardship assistance to City residents who are living below or close to the poverty level and are at risk of losing title to their homes as a result of the imposition of an Assessment.

(C) The Commission shall designate the funds available to provide any exemptions or hardship assistance. The provision of an exemption or hardship assistance in any one year shall in no way establish a right or entitlement to such exemption or assistance in any subsequent year and the provision of funds in any year may be limited to the extent funds are available and appropriated by the Commission. Any funds designated for exemptions or hardship assistance shall be paid by the City from funds other than those generated by the Assessment.

(D) Any shortfall in the expected Assessment proceeds due to any hardship assistance or exemption from payment of the Assessments required by law or authorized by the Commission shall be supplemented by any legally available funds, or combination of such funds, and shall not be paid for by proceeds or funds derived from the Assessments. In the event a court of competent jurisdiction determines any exemption or reduction by the Commission is improper or otherwise adversely affects the validity of the Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of an Assessment upon each affected Tax Parcel in the amount of the Assessment that would have been otherwise imposed save for such reduction or exemption afforded to such Tax Parcel by the Commission.

SECTION 2.15. VOLUNTARY ASSESSMENTS. A subdivision, neighborhood or other geographically defined area may voluntarily seek the imposition of an Assessment from the Commission through the following process:

(A) Upon the receipt of a petition signed by at least 51 percent of the Owners of property within a geographically defined area seeking the creation of an Assessment Area and imposition of an Assessment to fund the Capital Cost or Project Cost of Local Improvements and Related Services which will have a special benefit to the property within such area, the Commission may adopt a resolution providing for the development of an Assessment program and the preparation of a non-binding ballot to be sent to all Owners within the area asking whether they support or oppose the imposition of the Assessment. If required by subsequent resolution of the Commission, the petition shall be accompanied by an appropriate fee to recover the costs associated with identifying the costs of the proposed project or Related Service, developing a budget and an apportionment methodology, and preparing and mailing the straw ballot.

(B) Subsequent to approval of the resolution required by the Commission, City staff or a qualified expert retained by the City shall develop the requested Assessment program, including the identification of costs associated with the Local Improvements or Related Service, and development of a budget and apportionment methodology allocating such costs to the Owners of property in the proposed Assessment Area.

(C) Once the program has been developed, the City shall conduct a non-binding ballot election by mail. The ballot shall include a description of the proposed Local Improvements and Related Services, a statement that such Local Improvements and Related Services would be funded through imposition of an Assessment imposed on all

Owners of property that will benefit from such Local Improvements and Related Services, the proposed amount of the assessment along with the term of the assessment, and a deadline date for return of the ballot. At the end of the ballot, it shall include a question asking whether the Owner supports or opposes the imposition of the Assessment. Ballots shall be mailed to all property owners within the proposed Assessment Area that would be subject to the Assessment. Each tax parcel shall receive one ballot and be entitled to one vote.

(D) After the deadline date for receipt of the ballots, the City shall count the votes, and if at least 51 percent of the Owners who respond support imposition of the Assessment, the City may, but is not required to, move forward with the imposition of the Assessment as provided herein. In the event the Commission proceeds with the imposition of the Assessment, the City shall follow the procedures outlined herein, including, but not limited to sections 2.02-2.08.

(E) In the Commission's sole discretion, the Commission may approve the imposition of an Assessment for Local Improvements and Related Services even if the results of the ballot reveal that less than 51 percent of the Owners support imposition of the Assessment.

(F) Under no circumstances shall this Section be construed to require that the Commission receive a petition or conduct a ballot in order to impose Assessments, generally.

ARTICLE III

COLLECTION OF ASSESSMENTS

SECTION 3.01. METHOD OF COLLECTION.

(A) Unless directed otherwise by the 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 and 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 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 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 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, (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 Miami-Dade 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 foreclose 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 any 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 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 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) The County, any school district, or other governmental entity wholly, or partly within the City shall be subject to the same duties and liabilities regarding Assessments under this Ordinance affecting their Government Property that private property owners are subject to hereunder, and at the Commission's discretion, such Government Property may be subject to Assessments in all cases where the same property would be subject had it been owned by a non-governmental entity.

(B) 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.

(C) Assessments imposed against Governmental 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.

(D) 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.

(E) 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, 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.

(F) 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 Governmental Property. The Commission may contract for such billing services with any utility provider.

ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. 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 to 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.

SECTION 4.02 REPEALER.

(A) Sections 58-19, 58-20, 58-22 through 58-49 and Section 58-53 of the Coral Gables Code of Ordinances, entitled the Local Improvement Act, are hereby repealed in their entirety.

(B) Any assessments imposed pursuant to the Local Improvement Act that are still outstanding shall continue to be imposed, collected, enforced, and expended pursuant to the terms of the Local Improvement Act until paid in full and fully expended.

SECTION 4.03 CODIFICATION. It is the intention of the Commission that the provisions of this Ordinance shall become a part of the City's Code of Ordinances, as amended. The provisions of this Ordinance may be renumbered or relettered and that the word "ordinance" may be changed to "section," "article" or other appropriate word to accomplish such intention.

SECTION 4.04. SEVERABILITY. If any portion of this Ordinance is for any reason held or 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 4.05.EFFECTIVE DATE. This Ordinance shall take effect immediately upon its passage and adoption on second reading by the City Commission.

PASSED:_____

APPROVED:_____

(MUNICIPAL SEAL)

ATTEST:

City Clerk

APPROVED AS TO LEGAL SUFFICIENCY:

City Attorney