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**CITY OF CORAL GABLES, FLORIDA**

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**MASTER SERVICE ASSESSMENT ORDINANCE**

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**FIRST READING \_\_\_\_\_, 2015**

**SECOND READING AND ADOPTION \_\_\_\_\_, 2015**

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## TABLE OF CONTENTS

## PAGE

### ARTICLE I INTRODUCTION

|               |                                         |   |
|---------------|-----------------------------------------|---|
| SECTION 1.01. | DEFINITIONS. ....                       | 2 |
| SECTION 1.02. | INTERPRETATION; TITLE AND CITATION..... | 6 |
| SECTION 1.03. | GENERAL FINDINGS.....                   | 7 |

### ARTICLE II ASSESSMENTS

|               |                                                              |    |
|---------------|--------------------------------------------------------------|----|
| SECTION 2.01. | GENERAL AUTHORITY. ....                                      | 9  |
| SECTION 2.02. | INITIAL ASSESSMENT RESOLUTION.....                           | 10 |
| SECTION 2.03. | INITIAL SERVICE ASSESSMENT ROLL. ....                        | 10 |
| SECTION 2.04. | NOTICE BY PUBLICATION.....                                   | 11 |
| SECTION 2.05. | NOTICE BY MAIL. ....                                         | 12 |
| SECTION 2.06. | ADOPTION OF FINAL ASSESSMENT RESOLUTION. ....                | 13 |
| SECTION 2.07. | ANNUAL ADOPTION PROCEDURES. ....                             | 14 |
| SECTION 2.08. | EFFECT OF FINAL ASSESSMENT RESOLUTIONS.....                  | 17 |
| SECTION 2.09. | LIEN OF SERVICE ASSESSMENTS. ....                            | 18 |
| SECTION 2.10. | REVISIONS TO SERVICE ASSESSMENTS.....                        | 19 |
| SECTION 2.11. | PROCEDURAL IRREGULARITIES. ....                              | 19 |
| SECTION 2.12. | CORRECTION OF ERRORS AND OMISSIONS.....                      | 20 |
| SECTION 2.13. | INTERIM ASSESSMENTS. ....                                    | 21 |
| SECTION 2.14. | AUTHORIZATION FOR EXEMPTIONS AND<br>HARDSHIP ASSISTANCE..... | 23 |

### ARTICLE III COLLECTION OF ASSESSMENTS

|               |                                        |    |
|---------------|----------------------------------------|----|
| SECTION 3.01. | METHOD OF COLLECTION.....              | 25 |
| SECTION 3.02. | ALTERNATIVE METHOD OF COLLECTION. .... | 26 |
| SECTION 3.03. | GOVERNMENT PROPERTY.....               | 28 |

### ARTICLE IV GENERAL PROVISIONS

|               |                         |    |
|---------------|-------------------------|----|
| SECTION 4.01. | ALTERNATIVE METHOD..... | 30 |
| SECTION 4.02  | REPEALER.....           | 30 |
| SECTION 4.03  | CODIFICATION. ....      | 30 |
| SECTION 4.04. | SEVERABILITY. ....      | 30 |
| SECTION 4.05. | EFFECTIVE DATE.....     | 31 |

**ORDINANCE NO. 2015-\_\_\_\_**

AN ORDINANCE OF THE CITY OF CORAL GABLES, FLORIDA, RELATING TO THE PROVISION OF SERVICES, FACILITIES AND PROGRAMS THROUGHOUT THE INCORPORATED AREAS OF CORAL GABLES, FLORIDA; AUTHORIZING THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS AGAINST PROPERTY; 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; PROVIDING FOR INTERIM ASSESSMENTS; AUTHORIZING HARDSHIP ASSISTANCE AND CERTAIN EXEMPTIONS; PROVIDING A PROCEDURE FOR COLLECTION OF SPECIAL ASSESSMENTS; PROVIDING A MECHANISM FOR THE IMPOSITION OF ASSESSMENTS ON GOVERNMENT PROPERTY; REPEALING ORDINANCE NO. 2009-37 CONCERNING FIRE PROTECTION ASSESSMENTS; PROVIDING FOR CODIFICATION; 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 2.07 hereof, establishing the rate at which a Service Assessment for a specific Fiscal Year will be computed.

**"Assessment Area"** means any of the areas created by resolution of the Commission pursuant to this Ordinance, that specially benefit from services, facilities, and/or programs provided by the City.

**"Assessed Property"** means all parcels of land included on the Assessment Roll that receive a special benefit from the delivery of the service or provision of the facility or program identified in the Initial Assessment Resolution or a Preliminary Assessment Resolution.

**"Assessment Roll"** means the special assessment roll relating to a Service Assessment, approved by a Final Assessment Resolution pursuant to Section 2.06 hereof or an Annual Assessment Resolution pursuant to Section 2.07 hereof.

**"Building"** means any structure, whether temporary or permanent, built for support, shelter or enclosure of persons, chattel, or property of any kind, including mobile homes. This term shall include the use of land in which lots or spaces are offered for use, rent or lease for the placement of mobile homes for residential purposes.

**"Building Permit"** means an official document or certificate issued by the City, under the authority of ordinance or law, authorizing the construction or siting of any

Building within the City. The term "Building Permit" shall also include set up or tie down permits for those structures or Buildings, such as a mobile home, that do not require a Building Permit in order to be constructed.

**"Certificate of Occupancy"** means the written certification issued by the City that a Building is ready for occupancy for its intended use. For the purposes of this Ordinance, a set up or tie down permit or its equivalent issued for a mobile home shall be considered a Certificate of Occupancy.

**"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 2.06 hereof, which shall confirm, modify or repeal the Initial Assessment Resolution and which shall be the final proceeding for the imposition of a Service 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 2.02 hereof, which shall be the initial proceeding for the identification of the service, facility, or program for which an assessment is to be made and for the imposition of a Service Assessment.

**"Maximum Assessment Rate"** means the maximum rate of assessment established by the Final Assessment Resolution for the service, facility, or program identified in the Initial Assessment Resolution.

**"Ordinance"** means this Master Service Assessment Ordinance, as amended from time-to-time.

**"Owner"** shall mean the Person reflected as the owner of Assessed Property on the Tax Roll.

**"Person"** means any individual, partnership, firm, organization, corporation, association, or any other legal entity, whether singular or plural, masculine or feminine, as the context may require.

**"Preliminary Assessment Resolution"** means the resolution described in Section 2.07 hereof initiating the annual process for updating the Annual Roll and directing the reimposition of Service Assessments pursuant to an Annual Assessment Resolution.

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

**"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 Assessment"** means a special assessment lawfully imposed by the City against Assessed Property to fund all or any portion of the Service Cost for a service, facility, or program providing a special benefit to property as a consequence of a logical relationship to the value, use, or characteristics of property identified in the Initial Assessment Resolution.

**"Service Cost"** means the amount necessary in any Fiscal Year to fund the provision of a defined service, facility, or program which provides a special benefit to Assessed Property, and can include, but not be limited to: (A) the cost of physical construction, reconstruction or completion of any required facility or improvement; (B) the costs incurred in any required acquisition or purchase; (C) the cost of all labor, materials, machinery, and equipment; (D) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (E) the cost of computer services, data processing, and communications; (F) the cost of all lands and interest therein, leases, property rights, easements, and franchises of any nature whatsoever; (G) the cost of any indemnity or surety bonds and premiums for insurance; (H) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (I) the cost of uniforms, training, travel, and per diem; (J) the cost of construction plans and specifications, surveys and estimates of costs; (K) the cost of engineering, financial, legal, and other professional services; (L) the costs of compliance with any contracts or agreements entered into by the City relating to the provision of said services; (M) all costs associated with the structure, implementation, collection, and

enforcement of the Service Assessments, including any service charges of the Clerk, Tax Collector, or Property Appraiser, and delinquent amounts from prior impositions, and amounts necessary to off-set discounts received for early payment of Service Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Service Assessments collected pursuant to Section 3.02 herein; (N) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of the service, facility, or program to be funded by the Service Assessment, and such other expenses as may be necessary or incidental to any related financing authorized by the Commission by subsequent resolution; (O) an amount for contingencies and anticipated delinquencies and uncollectible Service Assessments; and (P) reimbursement to the City or any other Person for any moneys advanced for any costs incurred by the City or such Person in connection with any of the foregoing items of Service Cost.

**"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.

**"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 "Master 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 Service Assessments authorized by this Ordinance shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(D) The Service 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 purpose of this Ordinance is to (1) provide procedures and standards for the imposition of Service Assessments within the City under the general home rule powers of a city to impose special assessments, and (2) authorize a procedure for the funding of public services, facilities, or programs providing a special benefit to subsequently identified property with the City.

## **ARTICLE II**

### **ASSESSMENTS**

#### **SECTION 2.01. GENERAL AUTHORITY.**

(A) The Commission is hereby authorized to impose an annual Service Assessment to fund all or any portion of the Service Cost on benefitted property at a rate of assessment based on the special benefit accruing to such property from the City's provision of the subsequently identified service, facility, or program. All Service Assessments shall be imposed in conformity with the procedures set forth in this Article II.

(B) The amount of the Service Assessment that is imposed each Fiscal Year against each parcel of Assessed Property shall be determined pursuant to an apportionment methodology based upon a classification of property designed to provide a fair and reasonable apportionment of the Service Cost among properties on a basis reasonably related to the special benefit provided by the service, facility, or program funded with assessment proceeds. Nothing contained in this Ordinance shall be construed to require the imposition of Service Assessments against Government Property.

(C) The Commission is hereby authorized to create Assessment Areas in accordance with the procedures set forth herein, to include Property located within the incorporated areas of the City that are benefitted by the services, facilities, and/or programs proposed for funding from the proceeds of Service Assessments to be levied or imposed to fund the Services Costs for said services, facilities and/or programs. 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 services, facilities, and/or programs being funded; 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 service, facility, and/or program to the property within the Assessment Area.

**SECTION 2.02. INITIAL ASSESSMENT RESOLUTION.** The initial proceeding for the imposition of a Service Assessment shall be the Commission's adoption of an Initial Assessment Resolution (A) containing a brief and general description of the services, facilities or programs to be provided; (B) determining the Service Cost to be assessed; (C) describing the method of apportioning the Service Cost and the computation of the Service Assessment for specific properties; (D) describing the boundaries of and creating an Assessment Area in the event the Commission elects to designate a geographic area within the City where the Commission provides the relevant services, facilities, and programs; (E) establishing an estimated assessment rate for the upcoming Fiscal Year; (F) establishing a Maximum Assessment Rate, if desired by the Commission; (G) authorizing the date, time, and place of a public hearing to consider the adoption of the Final Assessment Resolution for the upcoming Fiscal Year; and (H) directing the City Manager to (1) prepare the initial Assessment Roll, as required by Section 2.03 hereof, (2) publish the notice required by Section 2.04 hereof, and (3) mail the notice required by Sections 2.05 hereof.

**SECTION 2.03. INITIAL SERVICE ASSESSMENT ROLL.**

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

(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 the record of the Assessed Property, as shown on the Tax Roll;

(3) The amount of the Service Assessment to be imposed against each Assessed Property; and

(4) the estimated maximum annual Service 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 Service Assessment for each parcel of property can be determined by use of a computer terminal available to the public.

#### **SECTION 2.04. NOTICE BY PUBLICATION.**

(A) Upon completion of the Assessment Roll for the initial year and each year thereafter, 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 hold a public hearing and 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 Service Assessment; (2) a brief and general description of the services, facilities, or programs 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 2.06; (5) the method by which the Service 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 2.05. NOTICE BY MAIL.**

(A) In addition to the published notice required by Section 2.04, the Finance Director shall provide notice, or direct the provision of notice, of the proposed Service Assessment by first class mail to the Owner of each parcel of property subject to the Service Assessment.

(B) Such notice shall include (1) the purpose of the Service 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 unit of measurement applied to determine the Service Assessment; (4) the number of such 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 Service 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 a Service Assessment imposed by the Commission pursuant to this Ordinance. Notice by mail for Fiscal Years after the initial Fiscal Year shall be controlled by Section 2.07(F) hereof.

#### **SECTION 2.06. 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 Assessment Rate, if desired by the Commission, and set the rate of assessment to be imposed in the upcoming Fiscal Year; (D) approve the initial 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 service, facility or program to be provided or constructed and the Service Assessment is 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 Assessment Resolution for the initial Fiscal Year in which Service Assessments are imposed or reimposed hereunder.

#### **SECTION 2.07. ANNUAL ADOPTION PROCEDURES.**

(A) Annually, during the budget adoption process, the Commission shall determine whether to reimpose a Service Assessment for each Fiscal Year following the initial Fiscal Year. If the Commission elects to reimpose a Service Assessment, the procedures in this Section 2.07 shall be followed.

(B) The initial proceedings for the reimposition of an annual Service Assessment shall be the adoption of a Preliminary Assessment Resolution by the Commission: (1) containing a brief and general description of the services, facilities, or programs to be provided; (2) determining the Service Cost to be assessed for the upcoming Fiscal Year and the Assessment Area, if applicable; (3) establishing the estimated assessment rate for the upcoming Fiscal Year; (4) establishing or increasing a Maximum Assessment Rate, if desired by the Commission; (5) authorizing the date, time, and place of a public hearing to receive and consider comments from the public and consider the adoption of the Annual Assessment Resolution for the upcoming Fiscal Year; and (6) directing the Finance Director to (i) update the Assessment Roll, (ii) provide notice by publication and first class

mail to affected Owners in the event circumstances described in subsection (F) of this Section so require, and (iii) directing and authorizing any supplemental or additional notice deemed proper, necessary or convenient by the City.

(C) At the public hearing established in the Preliminary Assessment Resolution or to which an adjournment or continuance may be taken by the Commission, the Commission shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the Commission, adopt the Annual Assessment Resolution, which shall: (1) establish the rate of assessment to be imposed in the upcoming Fiscal Year and (2) approve the Assessment Roll for the upcoming Fiscal Year with such adjustments as the Commission deems just and right. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution, or any subsequent Preliminary Assessment Resolution, together with modifications, if any, that are provided and confirmed in the Final Assessment Resolution or any subsequent Annual Assessment Resolution.

(D) Nothing herein shall preclude the Commission from providing annual notification to all Owners of Assessed Property in the manner provided in Section 2.05 hereof or any other method as provided by law.

(E) The Commission may establish or increase a Maximum Assessment Rate in an Initial Assessment Resolution or Preliminary Assessment Resolution and confirm such Maximum Assessment Rate in the Final Assessment Resolution or Annual Assessment Resolution in the event notice of such Maximum Rate Assessment has been included in the notices required by Sections 2.04 and 2.05 hereof.

(F) In the event (1) the proposed Service Assessment for any Fiscal Year exceeds the rates of assessment adopted by the Commission, including a Maximum Assessment Rate, if any, that were listed in the notices previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (2) the purpose for which the Service Assessment is imposed or the use of the revenue from the Service Assessment is substantially changed from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, (3) Assessed Property is reclassified or the method of apportionment is revised or altered resulting in an increased Service Assessment from that represented by notice previously provided to the Owners of Assessed Property pursuant to Sections 2.04 and 2.05 hereof, or (4) 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 publication and first class mail to the Owners of such Assessed Property as provided by law. Such notice shall substantially conform with the notice requirements set forth in Sections 2.04 and 2.05 hereof and inform the Owner of the date, time, and place for the adoption of the Annual Assessment Resolution. The 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 a Service Assessment imposed by the Commission pursuant to this Ordinance.

(G) 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 Assessment Resolution, the adoption of the succeeding Annual Assessment 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 Service 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 Assessment Resolution. Nothing contained herein shall be construed or interpreted to affect the finality of any Service Assessment not challenged within the required 20-day period for those Service 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 Assessment Resolution.

(H) The Assessment Roll, as approved by the Annual Assessment Resolution, shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act, or if the alternative method described in Section 3.02 hereof is used to collect the Service 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 court, an adjustment shall be made on the Assessment Roll.

**SECTION 2.08. EFFECT OF FINAL ASSESSMENT RESOLUTION.** The adoption of the Final Assessment Resolution or Annual Assessment Resolution, as applicable, 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 Service 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 or Annual Assessment Resolution, as applicable. The Assessments for each Fiscal Year shall be established upon adoption of the Final Assessment Resolution or Annual Assessment Resolution, as applicable. The Assessment Roll, as approved by the Final Assessment Resolution or Annual Assessment Resolution, as applicable, shall be certified to the Tax Collector, or such other official as the Commission by resolution deems appropriate.

**SECTION 2.09. LIEN OF SERVICE ASSESSMENTS.**

(A) Upon adoption of the Annual Assessment Resolution for each Fiscal Year, Service 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, Service 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 2.10. REVISIONS TO SERVICE ASSESSMENTS.** If any Service 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 Service Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Commission has omitted 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 Service Assessment against any property benefited by the Service Costs, following as nearly as may be practicable, the provisions of this Ordinance and in case such second Service Assessment is annulled, vacated or set aside, the Commission may obtain and impose other Service Assessments until a valid Service Assessment is imposed.

**SECTION 2.11. PROCEDURAL IRREGULARITIES.** Any irregularity in the proceedings in connection with the levy of any Service Assessment under the provisions of this Ordinance shall not affect the validity of the same after the approval thereof, and any Service Assessment as finally approved shall be competent and sufficient evidence that such Service Assessment was duly levied, that the Service Assessment was duly made and adopted, and that all other proceedings adequate to such Service 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 2.11, any party objecting to a Service Assessment imposed pursuant to this Ordinance must file an objection with a court of competent jurisdiction within the time periods prescribed herein.

## **SECTION 2.12. CORRECTION OF ERRORS AND OMISSIONS.**

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

(B) When it shall appear that any Service Assessment should have been imposed under this Ordinance against a lot or parcel of property specially benefited by the provision of a service, facility, or program, but such property was omitted from the Assessment Roll, the Commission may, upon provision of appropriate notice as set forth in this Article, impose the applicable Service Assessment for the Fiscal Year in which such error is discovered, in addition to the applicable Service Assessment due for the prior two Fiscal Years. Such total Service Assessment shall become delinquent if not fully paid upon the expiration of 90 days from the date of the adoption of said resolution. The Service Assessment so imposed shall constitute a lien against such property equal in rank and dignity with the liens of all state, county, district, or municipal taxes and special assessments, and superior in rank and dignity to all other prior liens, mortgages, titles and claims in and to or against the real property involved and may be collected as provided in Article III hereof.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the Finance Director shall have the authority at any time, upon his or her own initiative or in response to a timely filed petition from the Owner of any Assessed Property, to correct any error in applying the

Service Assessment apportionment method to any particular property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction shall be considered valid ab initio and shall in no way affect the enforcement of the Service Assessment imposed under the provisions of this Ordinance. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the Finance Director and not, the Property Appraiser or Tax Collector.

(D) 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 correcting errors and insolvencies on the Tax Roll upon timely written request and direction of the Finance Director.

### **SECTION 2.13. INTERIM ASSESSMENTS.**

(A) An interim Service Assessment may be imposed against all property, for which a Certificate of Occupancy (or Building Permit, as determined by the Commission) is issued, after adoption of the Final Assessment Resolution or Annual Assessment Resolution. The amount of the interim Service Assessment shall be calculated upon a monthly rate, which shall be one-twelfth of the annual rate for such property computed in accordance with the Final Assessment Resolution or Annual Assessment Resolution for the Fiscal Year for which the interim Service Assessment is being imposed. Such monthly rate shall be imposed for each full calendar month remaining in the Fiscal Year. In addition to the monthly rate, the interim Service Assessment may also include an estimate of the subsequent Fiscal Year's Service Assessment.

(B) No Certificate of Occupancy (or Building Permit, as determined by the Commission) shall be issued until full payment of the interim Service Assessment is received by the City. Issuance of the Certificate of Occupancy (or Building Permit, as determined by the Commission) without the payment in full of the interim Service Assessment shall not relieve the Owner of such property of the obligation of full payment. Any interim Service Assessment not collected prior to the issuance of the Certificate of Occupancy (or Building Permit, as determined by the Commission) may be collected pursuant to the Uniform Assessment Collection Act as provided in Section 3.01 of this Ordinance or by any other method authorized by law. Any interim Service Assessment shall be deemed due and payable on the date the Certificate of Occupancy (or Building Permit, as determined by the Commission) was issued and shall constitute a lien against such property as of that date. Said lien shall be equal in rank and dignity with the liens of all state, county, district or municipal taxes and special assessments, and superior in rank and dignity to all other liens, encumbrances, titles and claims in and to or against the real property involved and shall be deemed perfected upon the issuance of the Certificate of Occupancy (or Building Permit, as determined by the Commission).

(C) In the event the Commission chooses to collect the interim Service Assessments at the time a Building Permit is issued, the following procedures shall apply:

(1) In the event a Building Permit expires prior to completion of the Building for which it was issued, and the applicant paid the interim Service Assessment at the time the Building Permit was issued, the applicant may within 90 days of the expiration of the Building Permit apply for a refund of the interim Service Assessment. Failure to

timely apply for a refund of the interim Service Assessment shall waive any right to a refund.

(2) The application for refund shall be filed with the City and contain the following:

- (a) The name and address of the applicant;
  - (b) The location of the property and the tax parcel identification number for the property which was the subject of the Building Permit;
  - (c) The date the Service Assessment was paid;
  - (d) A copy of the receipt of payment for the Service Assessment;
- and
- (e) The date the Building Permit was issued and the date of expiration.

(3) After verifying that the Building Permit has expired and that the Building has not been completed, the City shall refund the interim Service Assessment paid for such Building.

(4) A Building Permit which is subsequently issued for a Building on the same property which was subject of a refund shall pay the interim Service Assessment as required by this Section 2.13.

#### **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 a Service 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 a Service 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 Service Assessment.

(D) Any shortfall in the expected Service 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 Service Assessment imposed for any Fiscal Year, the sole and exclusive remedy shall be the imposition of a Service 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.

## **ARTICLE III**

### **COLLECTION OF ASSESSMENTS**

#### **SECTION 3.01. METHOD OF COLLECTION.**

(A) Unless directed otherwise by the Commission, the Service 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 a Service Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific tax parcel of benefited property 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 Service Assessment is supplanted and transferred to such current year's Service 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 Service Assessments by any other method which is authorized by law or provided by this Section 3.02 as follows:

(A) The City shall provide Service 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 Service Assessment, (2) a description of the unit of measurement used to determine the amount of the Service Assessment, (3) the number of units contained within the parcel, (4) the total amount of the Service Assessment imposed against the parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Service Assessment is due, and (7) a statement that the Service 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 Service 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 Service Assessments in the manner provided by law. A Service Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The City or its agent shall notify any property owner who is delinquent in payment of his or her Service Assessment within 60 days from the date such assessment

was due. Such notice shall state in effect that the City or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such property subject to a delinquent Service Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real property, or (2) cause an amount equivalent to the delinquent Service Assessment, not previously subject to collection using the uniform method under the Uniform Assessment Collection Act, to be collected on the tax bill for a subsequent year.

(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 any Person. The City or its agent may join in one foreclosure action the collection of Service Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent 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 Service Assessments and any other costs incurred by the City as a result of such delinquent Service 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 Service 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 the Uniform Assessment Collection Act and this Ordinance, and (2) any

existing lien of record on the affected parcel for the delinquent Service Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(F) Notwithstanding the Commission's use of an alternative method of collection, the Finance Director shall have the same power and authority to correct errors and omissions as provided to her or other City officials in Section 2.11 hereof.

(G) Any Commission action required in the collection of Service Assessments may be by resolution.

### **SECTION 3.03. 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 Service 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 Service Assessment, (2) a description of the unit of measurement used to determine the amount of the Service Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Service Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Service Assessment is due.

(C) Service Assessments imposed against Government Property shall be due on the same date as all other Service Assessments and, if applicable, shall be subject to the same discounts for early payment.

(D) A Service Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The City shall notify the Owner of any Government Property that is delinquent in payment of its Service 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 Service Assessments and any other costs incurred by the City as a result of such delinquent Service 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, any Service Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The Commission may contract for such billing services with any utility not owned by the City.

## **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) City of Coral Gables Ordinance No. 2009-37, concerning Fire Protection Assessments, is hereby repealed in its entirety and replaced with the procedures embodied herein.

(B) Any assessments imposed pursuant to Ordinance No. 2009-37 that are still outstanding shall continue to be imposed, collected, enforced, and expended pursuant to the terms of Ordinance No. 2009-37 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