ORDINANCE NO. 021 - 2017

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA, RELATING TO THE IMPOSITION OF SPECIAL ASSESSMENTS FOR A CANAL RESTORATION PROGRAM; CREATING AND ESTABLISHING A MONROE COUNTY CANALS MUNICIPAL SERVICE BENEFIT UNIT ("MSBU") TO FINANCE THE IMPROVEMENTS; AUTHORIZING THE IMPOSITION AND COLLECTION OF ASSESSMENTS AGAINST PROPERTY WITHIN THE UNINCORPORATED AREA OF MONROE COUNTY; ESTABLISHING THE PROCEDURES FOR IMPOSING ASSESSMENTS; ESTABLISHING PROCEDURES FOR NOTICE AND ADOPTION OF ASSESSMENT ROLLS; PROVIDING THAT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF THE ASSESSMENT ROLL; PROVIDING THAT THE LIEN FOR AN ASSESSMENT COLLECTED PURSUANT TO SECTIONS 197.3632 AND 197.3635, FLORIDA STATUTES, UPON PERFECTION, SHALL ATTACH TO THE PROPERTY ON THE PRIOR JANUARY 1, THE LIEN DATE FOR AD VALOREM TAXES; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT, OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES, AND CLAIMS; AUTHORIZING EXEMPTIONS AND HARDSHIP ASSISTANCE; PROVIDING PROCEDURES FOR COLLECTION OF ASSESSMENTS; AUTHORIZING THE ISSUANCE OF OBLIGATIONS SECURED BY ASSESSMENTS AND PROVIDING FOR THE TERMS THEREOF; PROVIDING THAT THE COUNTY'S TAXING POWER SHALL NOT BE PLEDGED; PROVIDING REMEDIES; DEEMING THAT PLEDGED REVENUES SHALL BE CONSIDERED TRUST FUNDS; PROVIDING FOR THE REFUNDING OF OBLIGATIONS; PROVIDING THAT THIS ORDINANCE IS AN ALTERNATIVE MEANS OF IMPLEMENTATION AND FOR SEVERABILITY; PROVIDING FOR THIS ORDINANCE TO BE LIBERALLY CONSTRUED; PROVIDING FOR CONFLICTS AND CODIFICATION; PROVIDING FOR INCLUSION IN THE MONROE COUNTY CODE; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF MONROE COUNTY, FLORIDA:
ARTICLE I

INTRODUCTION

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

"Annual Rate Resolution" means the resolution described in Section 3.08 establishing the rate at which an annual canal assessment for a specific year shall be computed. The final assessment resolution shall constitute the annual rate resolution for the initial fiscal year in which an annual canal Assessment is imposed or reimposed.

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

"Assessment" means a special assessment imposed by the County pursuant to this Ordinance to fund the Capital Cost or Project Cost, if obligations are issued, of Local Improvements or the Service Cost of 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. The term "Assessment" shall include Capital Assessments and Service Assessments.

"Assessment Area" means any of the areas created by resolution of the Board pursuant to Section 2.02 hereof, that specially benefit from a Local Improvement or service, facility, or program.

"Assessment Roll" means the special assessment roll relating to an Assessment approved by a Final Assessment Resolution pursuant to Section 3.06 hereof or an Annual Rate Resolution pursuant to Section 3.08 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: platted lots or parcels of record, vested lots, land area, improvement area, equivalent residential connections, equivalent residential units, permitted land use, trip generation rates, front footage, 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 service to be funded from proceeds of the Assessment.

"Board" means the Board of County Commissioners of the County.

"Capital Assessment" means a special assessment imposed by the County pursuant to this Ordinance to fund the Capital Cost or Project Cost, if obligations are issued, of Local Improvements 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.

"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 County for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"Clerk" shall mean the clerk of the circuit court for the county, ex-officio clerk of
the board, or such other person as may be duly authorized to act on such person's behalf.

"County" means Monroe County, Florida.

"County Administrator" means the chief administrative officer of the County, or such person's designee.

"Final Assessment Resolution" means the resolution described in Sections 3.06 hereof which shall confirm, modify, or repeal the Initial Assessment Resolution and which shall be the final proceeding for the initial imposition of an Assessment. "Fiscal Year" means that period commencing October 1st of each year and continuing through the next succeeding September 30th, or such other period as may be prescribed by law as the fiscal year for the County.

"Government Property" means property owned by the United States of America or any agency thereof, the State of Florida or any agency thereof, a county, a special district or a municipal corporation.

"Initial Assessment Resolution" means the resolution described in Sections 3.02 hereof which shall be the initial proceeding for the identification of the service, facility, program, or Local Improvement for which an Assessment is to be made and for the imposition of an Assessment.

"Local Improvement" means a canal restoration improvement project that has been constructed or installed by the County for the special benefit of a neighborhood or other Assessment Area.

"Maximum Assessment Rate" means the maximum rate of assessment established by the Final Assessment Resolution for the service, facility, program, or Local Improvement identified in the Initial Assessment Resolution.
"Obligations" means bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases, reimbursable advances by the County, 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 Ordinance, as it may be 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.

"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-ad valorem revenue pledged, at the Board's sole option, to secure the payment of such Obligations, as specified by the ordinance or resolution authorizing such Obligations.

"Preliminary Rate" means the rates published for adoption as described in Section 3.08 hereof initiating the annual process for updating the annual Assessment Roll and directing the reimposition of Assessments pursuant to an Annual Rate Resolution.

"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
Board 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 Monroe County.

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

"Service Assessment" means a special assessment imposed by the County pursuant to this Ordinance to fund the Service Cost of 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.

"Service Cost" means all or any portion of the expenses that are properly attributable to operations and maintenance of a Local Improvement and imposition and collection of related Assessments under generally accepted accounting principles.

"Tax Collector" means the Tax Collector of Monroe 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 County 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 counsel; (C) the underwriters' discount; (D) the fees and disbursements of the County'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, as amended from time-to-time, or any successor statutes authorizing the collection of non-ad valorem assessments on the same bill as ad valorem taxes, and any applicable regulations promulgated thereunder.

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

SECTION 1.03. FINDINGS.

It is hereby ascertained, determined, and declared that:

(A) Pursuant to Article VIII, section 1, Florida Constitution, and sections 125.01 and 125.66, Florida Statutes, the County has all powers of local self-government to perform county functions and to render county and municipal services in a manner not inconsistent with law and such power may be exercised by the enactment of county ordinances, including but not limited to the power pursuant to Section 125.01, Florida Statutes, to establish municipal service benefit units to provide recreation, transportation and other essential facilities.

(B) The Assessments to be imposed pursuant to this Ordinance shall constitute
non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(C) The Assessments to be imposed pursuant to this Ordinance are imposed by the Board, not the Property Appraiser or Tax Collector. The duties of the Property Appraiser and Tax Collector under the Uniform Assessment Collection Act are ministerial.

(D) The purposes of this Ordinance are to: (1) provide procedures and standards for the imposition of Assessments within the County by resolution under the general home rule powers of a county to impose special assessments; and (2) authorize a procedure for the funding of public services, facilities, programs, or Local Improvements providing special benefit to subsequently identified property within the County.

ARTICLE II
GENERAL PROVISIONS

SECTION 2.01. CREATION OF MONROE COUNTY CANALS MUNICIPAL SERVICE BENEFIT UNIT.

(A) Pursuant to F.S. 125(1)(q) and (r), the Monroe County Canals Municipal Service Benefit Unit (MSBU) is hereby created to accomplish the improvements contemplated herein. The boundaries of the MSBU shall consist of all of the unincorporated area within Monroe County.

(B) Each municipality with the county may request to be included within the boundaries of the MSBU. A certified copy of the resolution adopted by the municipality requesting inclusion in the MSBU must be received by the county prior to June 1 and shall be effective beginning the next fiscal year. Upon being included, all provisions of
this ordinance shall apply within the boundary of such municipality.

SECTION 2.02. CREATION OF ASSESSMENT AREA.

(A) The Board is hereby authorized to create Assessment Areas in accordance with the procedures set forth in Section3.02 and 3.06. The Assessments Areas shall contain property located within the County that is specially benefitted by the services, facilities, programs, or Local Improvements proposed for funding from the proceeds of Assessments to be imposed therein.

(B) 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, programs, or Local Improvements, a description of the property to be included within the Assessment Area, and specific legislative findings that recognize the special benefit to be provided by each proposed service, facility, program, or Local Improvements to property within the Assessment Area.

SECTION 2.02. 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 Board is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Board has omitted to include any property on the Assessment Roll which property should have been so included, the Board may take all necessary steps to impose a new Assessment against any property benefited by the Service Costs, Capital Costs or Project Costs, following as nearly as may be practicable, the provisions of this Ordinance, and in case such second Assessment is annulled, vacated, or set aside, the Board may obtain and impose other Assessments until a valid Assessment is
imposed.

SECTION 2.03. PROCEDURAL IRREGULARITIES. Any informality or 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, 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 2.04. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, County Administrator, their deputies, employees, or designees, shall operate to release or discharge any obligation for payment of an Assessment imposed by the Board under the provision of this Ordinance.

(B) When it shall appear that any Assessment should have been imposed under this Ordinance against a lot or parcel of property specially benefited by the provision of a service, facility, program, or Local Improvement, but such property was omitted from the Assessment Roll, the Board may, upon provision of appropriate notice as set forth in this Article, impose the applicable Assessment. Such total Assessment shall become delinquent if not fully paid upon the expiration of 60 days from the date of the adoption of said resolution. The 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 VI hereof.

(C) The County Administrator 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 Assessment apportionment method to any particular property not otherwise requiring the provision of notice pursuant to the Uniform Assessment Collection Act. Any such correction that reduces an Assessment shall be considered valid ab initio 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 3.05 hereof, as applicable, providing the date, time and place that the Board will consider confirming the correction and offering the owner an opportunity to be heard. All requests from affected property owners for any such changes, modifications or corrections shall be referred to, and processed by, the County Administrator 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 County Administrator.

SECTION 2.05. LIEN OF ASSESSMENTS.
(A) Upon the adoption of the Assessment Roll, all Assessments 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. Except as otherwise provided by law, such lien shall be superior in dignity to all other prior liens, mortgages, titles, and claims, until paid.

(B) The lien for an Assessment shall be deemed perfected upon adoption by the Board of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable. The lien for an Assessment collected under the Uniform Assessment Collection Act shall attach to the property as provided by law. The lien for an Assessment collected under the alternative method of collection provided in Section 5.02 shall be deemed perfected upon adoption by the Board of the Final Assessment Resolution or the Annual Rate Resolution, whichever is applicable, and shall attach to the property on such date of adoption.

ARTICLE III
ASSESSMENTS

SECTION 3.01. GENERAL AUTHORITY.

(A) The Board is hereby authorized to impose an annual Assessment to fund all or any portion of the Capital Cost, Project Cost, or Service Cost on benefitted property at a rate of assessment based on the special benefit accruing to such property from the County's provision of the subsequently identified service, facility, or program.

(B) The amount of the 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 Capital Cost, Project Cost or Service Cost among properties on a basis reasonably related to the special benefit provided by the service, facility, or program funded with Assessment proceeds.

(C) All Service Assessments shall be imposed in conformity with the procedures set forth in this Article III.

SECTION 3.02. INITIAL ASSESSMENT RESOLUTION. The first step for the initial imposition of a Service Assessment shall be the Board's adoption of an Initial Assessment Resolution (A) describing the property to be located within any proposed Assessment Area; (B) containing a brief and general description of the services, facilities, or programs to be provided; (C) determining the Capital Cost, Project Cost or Service Cost to be assessed; (D) describing the method of apportioning the Capital Cost, Project Cost or Service Cost and the computation of the Assessments for specific properties; (E) establishing an estimated assessment rate for the upcoming Fiscal Year; (F) establishing a Maximum Assessment Rate, if desired by the Board; (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 County Administrator to (1) prepare the initial Assessment Roll, as required by Section 3.03 hereof, (2) publish the notice required by Section 3.04 hereof, and (3) mail the notice required by Section 3.05 hereof.

SECTION 3.03. ASSESSMENT ROLL.

(A) The County Administrator shall prepare, or direct the preparation of, the initial Assessment Roll for the Assessments, which shall contain the following:

(1) A summary description of all Assessed Property conforming to the description contained on the Tax Roll;

(2) The name of the Owner of the Assessed Property;
(3) The number of Assessment Units attributable to each parcel;
(4) The estimated maximum annual assessment for each Assessment Unit; and
(5) The amount of the Service Assessment to be imposed against each Assessed Property.

(B) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be available in the office of the County Administrator 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 3.04. NOTICE BY PUBLICATION. Upon completion of the initial Assessment Roll, the County Administrator shall publish notice of a public hearing to adopt the Final Assessment Resolution and approve the aforementioned initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

SECTION 3.05. NOTICE BY MAIL.

(A) For the initial Fiscal Year in which an Assessment is imposed by the Board against Assessed Property pursuant to the Uniform Assessment Collection Act and in addition to the published notice required by Section 3.04, the County Administrator shall provide notice of the proposed Service Assessment by first class mail to the owner of each parcel of property subject to a Service Assessment.

(B) The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

(C) Notice shall be deemed mailed upon delivery thereof to the possession of
the United States Postal Service. 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 Board pursuant to this Ordinance.

(D) Notice by mail for Fiscal Years after the initial Fiscal Year shall be controlled by Section 3.08(D) hereof.

SECTION 3.06. FINAL ASSESSMENT RESOLUTION.

(A) At a public hearing named in the notices required by Sections 3.04 and 3.05 or to such time as an adjournment or continuance may be taken by the Board, after receiving oral or written objections of interested persons, the Board may then, or at any subsequent meeting of the Board, 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 Board; (C) establish the Maximum Assessment Rate, if desired by the Board 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) All parcels assessed shall derive a special benefit from the service, facility, or program to be provided or constructed and the Service Assessment shall be fairly and reasonably apportioned among the properties that receive the special benefit.

(C) The initial assessment roll as approved by the Final Assessment Resolution shall be delivered to the Tax Collector as required by the Uniform Assessment Collection Act.

(D) The Final Assessment Resolution shall constitute the Annual Rate
Resolution for the initial Fiscal Year in which Assessments are imposed or reimposed hereunder.

SECTION 3.07. EFFECT OF FINAL ASSESSMENT RESOLUTION.

Assessments for the initial Fiscal Year shall be established upon adoption of the 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 method of apportionment and assessment, the Maximum Assessment Rate, the initial rate of assessment, the initial 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 twenty (20) days from the date of Board action on the Final Assessment Resolution. The initial Assessment Roll, as approved by the Final Assessment Resolution, shall be delivered to the Tax Collector, or the Property Appraiser if so directed by the Tax Collector, or if an alternative method is used to collect the Service Assessments, such other official as the Board by resolution shall designate.

SECTION 3.08. ADOPTION OF ANNUAL RATE RESOLUTION.

(A) The board shall adopt an Annual Rate Resolution during its budget adoption process for each fiscal year following the initial fiscal year for which a service assessment is imposed hereunder. The Annual Rate Resolution shall approve the assessment roll for the upcoming fiscal year. The Assessment Roll shall be prepared in accordance with the method of apportionment set forth in the Initial Assessment Resolution together with modifications, if any, and as confirmed in the Final Assessment Resolution.

(B) The Board shall hold a public hearing to adopt the Annual Rate Resolution and the annual assessment roll for the ensuing fiscal year. At the public hearing, the
Board shall hear comments and objections from owners and other members of the public as to the Preliminary Rate and proposed assessments. The Board shall make such increase, decrease or revision to any proposed Assessment as it shall deem necessary or appropriate. In addition, the Board shall make such changes, modifications or additions as necessary to conform the preliminary annual assessment roll with the adopted rate resolution and this article. The Board may continue said public hearing to a date and time certain without the necessity of further public notice to allow prior to final adoption increases, decreases or revisions to the Preliminary Rate or for such other reason deemed necessary in the sole discretion of the board. Upon completion of such public hearing the Board may approve the Annual Rate Resolution.

(C) Notice of the public hearing for the Annual Rate Resolution shall be published in a newspaper of general circulation within the county, at least twenty (20) days prior to the public hearing. The published notice shall contain at least the following information: the name of the local governing board; a geographic depiction of the property subject to the assessment; the proposed schedule of the assessment; the fact that the assessment will be collected by the tax collector; and a statement that all affected property owners have the right to appear at the public hearing and the right to file written objections within 20 days of the publication of the notice.

(D) In the event that the uniform method of collection provided for in the Uniform Assessment Collection Act is used and:

(1) The proposed service assessment for any fiscal year exceeds the maximum assessment rate included in notice previously provided to the owners of assessable property pursuant to sections 3.04 and 3.05 hereof,
(2) The method of apportionment is changed or the purpose for which
the assessment is imposed is substantially changed from that
represented by the notice previously provided to the owners of
assessable property pursuant to sections 3.04 and 3.05 hereof,

(3) Assessable property is reclassified in a manner that results in an
increased assessment beyond that represented by notice
previously provided to the owners of assessable property pursuant
to sections 3.04 and 3.05 hereof, or

(4) an assessment roll contains assessable property that was not
included on the assessment roll approved for the prior fiscal year,

then notice shall be provided by first class mail to the owners of such assessable
property. Such supplemental notice shall substantially conform with the notice
requirements set forth in section 3.04 and 3.05 hereof and shall inform the property
owner of the date and place for the adoption of the annual rate resolution. The failure of
the 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 a service assessment imposed by the board pursuant to this article.

(E) 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 are initiated in a court of competent jurisdiction to secure relief within twenty (20) days from the date of the Board 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.

(F) 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. If the Assessment against any property shall be sustained, reduced, or abated by the court, an adjustment shall be made on the Assessment Roll.

ARTICLE IV

COLLECTION AND USE OF ASSESSMENTS

SECTION 4.01. METHOD OF COLLECTION.

(A) Unless otherwise directed by the Board, the Assessments shall be collected pursuant to the Uniform Assessment Collection Act, and the County shall comply with all applicable provisions of the Uniform Assessment Collection Act. 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 Assessment Collection Act for any specific parcel of benefitted property may include an amount equivalent to the payment delinquency, delinquency fees and recording costs for prior years' assessment for a comparable service, facility, program, or Local Improvement provided, (1) the collection method used in connection with the prior year's assessment did not employ the use of the Uniform Assessment Collection Act, (2) notice is provided to the Owner, and (3) any lien on the affected parcel for the prior year's assessment is supplanted and transferred to such Assessment upon certification of a non-ad valorem roll to the Tax Collector by the County.

SECTION 4.02. GOVERNMENT PROPERTY. In lieu of using the Uniform Assessment Collection Act to collect Assessments from Government Property, the County may elect to use any other method authorized by law or provided by this Section as follows:

(A) The County 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 unit of measurement used to determine the amount of the Assessment, (3) the number of units contained within the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Assessment is due.

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

(C) An Assessment shall become delinquent if it is not paid within 30 days from
the date any installment is due. The County 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 that the County will initiate a mandamus or other appropriate judicial action to compel payment.

(D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the County, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the County as a result of such delinquent Assessments and the same shall be collectible as a part of or in addition to, the costs of the action.

(E) As an alternative to the foregoing, an Assessment imposed against Government Property may be collected on the bill for any utility service provided to such Government Property. The Board may contract for such billing services with any utility not owned by the County.

ARTICLE V

ISSUANCE OF OBLIGATIONS

SECTION 5.01. GENERAL AUTHORITY.

(A) Upon adoption of the Final Assessment Resolution imposing Capital Assessments to fund a Local Improvement or at any time thereafter, the Board shall have the power and is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of Obligations to fund the Project Cost thereof.
(B) If issued, the principal of and interest on each series of Obligations shall be payable from Pledged Revenue. At the option of the Board, the County may agree, by resolution, to budget and appropriate funds to make up any deficiency in the reserve account established for the Obligations or in the payment of the Obligations, from other non-ad valorem revenue sources. The Board may also provide, by resolution, for a pledge of or lien upon proceeds of such non-ad valorem revenue sources for the benefit of the holders of the Obligations. Any such resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

SECTION 5.02. TERMS OF THE OBLIGATIONS. If issued, the Obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by resolution of the Board, and may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions, all as may be fixed by the Board. Said Obligations shall mature not later than 40 years after their issuance. The Board shall determine by resolution the form of the Obligations, the manner of executing such Obligations, and shall fix the denominations of such Obligations, the place or places of payment of the principal and interest, which may be at any bank or trust company within or outside of the State of Florida, and such other terms and provisions of the Obligations as it deems appropriate. The Obligations may be sold at public or private sale for such price or prices as the Board shall determine by resolution. The Obligations may be delivered to any contractor to pay for construction of the Local Improvements or may be sold in such manner and for such price as the Board may determine by resolution to be for the best interests of the County.

SECTION 5.03. VARIABLE RATE OBLIGATIONS. At the option of the Board,
Obligations may bear interest at a variable rate.

SECTION 5.04. TEMPORARY OBLIGATIONS. Prior to the preparation of definitive Obligations of any series, the Board may, under like restrictions, issue interim receipts, interim certificates, or temporary Obligations, exchangeable for definitive Obligations when such Obligations have been executed and are available for delivery. The Board may also provide for the replacement of any Obligations which shall become mutilated, destroyed or lost. Obligations may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Ordinance.

SECTION 5.05. ANTICIPATION NOTES. In anticipation of the sale of Obligations, the Board may, by resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the Obligations, the proceeds of the Capital Assessments, the proceeds of the notes and such other legally available money as the Board deems appropriate by resolution. Said notes shall mature within five years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The Board may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

SECTION 5.06. TAXING POWER NOT PLEDGED. Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the County within the meaning of the Constitution of the State of Florida, but such Obligations shall be payable only from Pledged Revenue in the manner provided herein and by the resolution authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the County to levy or to pledge any form of ad valorem
taxation whatever therefore. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the County to pay any such Obligations or the interest thereon or to enforce payment of such Obligations or the interest thereon against any property of the County, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County, except the Pledged Revenue.

SECTION 5.07. TRUST FUNDS. The Pledged Revenue received pursuant to the authority of this Ordinance shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the resolution authorizing issuance of the Obligations. Such Pledged Revenue may be invested by the County, or its designee, in the manner provided by the resolution authorizing issuance of the Obligations. The Pledged Revenue upon receipt thereof by the County shall be subject to the lien and pledge of the holders of any Obligations or any entity other than the County providing credit enhancement on the Obligations.

SECTION 5.08. REMEDIES OF HOLDERS. Any holder of Obligations, except to the extent the rights herein given may be restricted by the resolution authorizing issuance of the Obligations, may, whether at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State of Florida or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the County.

SECTION 5.09. REFUNDING OBLIGATIONS. The County may, by resolution of the Board, issue Obligations to refund any Obligations issued pursuant to this Ordinance, or any other obligations of the County theretofore issued to finance the
Project Cost of a Local Improvement and provide for the rights of the holders hereof. Such refunding Obligations may be issued in an amount sufficient to provide for the payment of the principal of, redemption premium, if any, and interest on the outstanding Obligations to be refunded. If the issuance of such refunding Obligations results in an annual Assessment that exceeds the estimated maximum annual Capital Assessments set forth in the notice provided pursuant to Section 4.05 hereof, the Board shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article IV of this Ordinance.

ARTICLE VI

MISCELLANEOUS PROVISIONS

SECTION 6.01. APPLICABILITY. This Ordinance and the Board’s authority to impose assessments pursuant hereto shall be applicable throughout the County.

SECTION 6.02. ALTERNATIVE METHOD.

(A) This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby 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. This Ordinance, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the Board from directing and authorizing, by resolution, the combination with each other of (1) any supplemental or additional notice deemed proper, necessary, or convenient by the County, (2) any notice required by this Ordinance, or (3) any notice required by law, including the Uniform Assessment Collection Act.
SECTION 6.03. LIBERALLY CONSTRUED. This Ordinance, being necessary for the welfare of the inhabitants of the County, particularly the owners of property located therein, shall be liberally construed to effect the purposes hereof.

SECTION 6.04. SEVERABILITY. The provisions of this Ordinance are severable; and if any section, subsection, sentence, clause or provision is held invalid by any court of competent jurisdiction, the remaining provisions of this Ordinance shall not be affected thereby.

SECTION 6.05. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 6.06. CODIFICATION. It is the intention of the Board, and it is hereby ordained that the provisions of this Ordinance shall become and be made a part of the Code of Monroe County in a new Article VI within Chapter 26 ("Waterways"); that the sections of this Ordinance may be renumbered or relabeled to accomplish such intentions; and that the word "Ordinance" shall be changed to "Section" or "Article" or other appropriate word.

SECTION 6.07. EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State of the State of Florida within 10 days of enactment and shall take effect upon filing with said department.
PASSED AND ADOPTED by the Board of County Commissioners of Monroe County, Florida at a regular meeting held on the 18th day of October, 2017.

Mayor George Neugent  Yes
Mayor Pro Tem David Rice  Yes
Commissioner Danny Kolhage  Yes
Commissioner Heather Carruthers  Yes
Commissioner Sylvia Murphy  No

(SEAL)
Attest: KEVIN MADOK, CLERK

BY:  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS
OF MONROE COUNTY, FLORIDA

BY:  
Mayor George Neugent

MONROE COUNTY ATTORNEY
APPROVED AS TO FORM

PEDRO J. MERCADO
ASSISTANT COUNTY ATTORNEY
Date  10/25/17

FILED FOR RECORD
2017 OCT 25 AM 11:53

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