

ORDINANCE NO. 1031

AN ORDINANCE OF THE CITY OF MARIANNA, FLORIDA CREATING CHAPTER 23 OF THE CODE TO PROVIDE FOR CAPITAL IMPROVEMENT AND ESSENTIAL SERVICES ASSESSMENTS; REPEALING ORDINANCES IN CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR CODIFICATION; AND PROVIDING FOR AN EFFECTIVE DATE.

NOW THEREFORE BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MARIANNA, FLORIDA THAT:

Section 1. Chapter 23 of the Code of Ordinances is adopted to read as follows:

Chapter 23 CAPITAL IMPROVEMENT AND ESSENTIAL SERVICES ASSESSMENTS

ARTICLE I. - INTRODUCTION
ARTICLE II. - ASSESSMENTS
ARTICLE III. - COLLECTION OF ASSESSMENTS
ARTICLE IV. - ISSUANCE OF OBLIGATIONS
ARTICLE V. - GENERAL PROVISIONS

ARTICLE I. INTRODUCTION

SECTION 1.01. DEFINITIONS.
SECTION 1.02. INTERPRETATION.

SECTION 1.01. DEFINITIONS.

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

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

"Assessment" may include Capital Costs or Service Costs, or any combination of those costs, associated with review, planning, investigation, analysis, permitting, notice, enforcement, remediation, improvement, provision of services, demolition or removal, or any combination of those, to abate a public nuisance.

"Assessment Area" means any of specific areas created by resolution of the Commission pursuant to Section 2.02 hereof, that specially benefit from Capital Improvements or Essential Services.

"Assessment Coordinator" means the City Manager or such person's designee.

"Assessment Roll" means the special assessment roll relating to Capital Improvements or Essential Services containing the information specified in Section 2.04 hereof, approved by a Final Assessment Resolution or an Annual Assessment Resolution pursuant to Section 2.07 or Section 2.08 hereof.

"Assessment Unit" means the apportionment unit 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 and not limitation, one or a combination of the following: front footage, land area, improvement area, equivalent residential connections or units, permitted land use, trip generation rates, rights to future trip generation capacity under applicable concurrency management regulations, property value or any other physical characteristic or reasonably expected use of the property that is related to the Capital Improvements or Essential Services to be funded from proceeds of the Assessment.

"Capital Asset" means property, plant and equipment and intangible assets intended or likely to produce benefits or relieve burdens in future accounting periods beyond the current period.

"Capital Cost" means all or any portion of the costs that are properly attributable to the acquisition, design, permitting, preparation, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of a Capital Asset under generally accepted accounting principles; and including reimbursement to the City for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

"Capital Improvements" means one or more Capital Assets acquired, designed, permitted, prepared, constructed, installed or reconstructed, renewed or replaced (including demolition, environmental mitigation and relocation) in whole or in part by the City which provide a special benefit to, or relieve a burden attributable to, lands within an Assessment Area.

"City" means the City of Marianna, Florida.

"Commission" means the City Commission of the City of Marianna, Florida.

"Essential Services" means the services, facilities, or programs which provide a special benefit to, or relieve a burden attributable to, lands within an Assessment Area.

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

"Fiscal Year" means the period commencing on October 1 of each year and continuing through the following September 30, or such other period as may be prescribed by law as the Fiscal Year for the City.

"Government Property" means property owned by the United States of America, the State of Florida, a county, a special district, a municipal corporation, or any of their respective agencies or political subdivisions.

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

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

"Ordinance" means this Capital Improvement and Essential Services Assessment Ordinance.

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

"Property Appraiser" means the Jackson County Property Appraiser.

"Resolution of Intent" means the resolution expressing the Commission's intent to collect Assessments on the ad valorem tax bill required by the Uniform Assessment Collection Act. **"Service Cost"** means all or any portion of the expenses that are properly attributable to the provision of Essential Services under generally accepted accounting principles; and including reimbursement to the City for any funds advanced for such expenses and interest on any interfund or intrafund loan for such purposes.

"Tax Collector" means the Jackson County Tax Collector.

"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.

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 importing either gender include the correlative words of the other gender unless the context indicates otherwise.

ARTICLE II. ASSESSMENTS

- SECTION 2.01. AUTHORITY.
- SECTION 2.02. CREATION OF ASSESSMENT AREAS.
- SECTION 2.03. INITIAL ASSESSMENT RESOLUTION.
- SECTION 2.04. ASSESSMENT ROLL.
- SECTION 2.05. NOTICE BY PUBLICATION.
- SECTION 2.06. NOTICE BY MAIL.
- SECTION 2.07. ADOPTION OF FINAL RESOLUTION.
- SECTION 2.08. ANNUAL ASSESSMENT RESOLUTION.
- SECTION 2.09. EFFECT OF ASSESSMENT RESOLUTIONS.
- SECTION 2.10. PREPAYMENT OF ASSESSMENTS.
- SECTION 2.11. LIEN OF ASSESSMENTS.
- SECTION 2.12. REVISIONS TO ASSESSMENTS.
- SECTION 2.13. PROCEDURAL IRREGULARITIES.
- SECTION 2.14. CORRECTION OF ERRORS AND OMISSIONS.

SECTION 2.01. AUTHORITY.

The Commission is hereby authorized to impose Assessments against property located within an Assessment Area to fund the Capital Cost or Service Cost of Capital Improvements or Essential Services incurred by the City. If more than once parcel is assessed, then the Assessment shall be computed in a manner that fairly and reasonably apportions the Capital Costs or Service Costs among the parcels of property within an Assessment Area, based upon objectively determinable Assessment Units related to the value, use or physical characteristics of the property, except that where the special benefit or burden relief provided by a Capital Improvement or Essential Service is provided predominately to a single parcel of property, the resolution shall uniquely assess only that parcel the Capital Cost or Service Cost thereof, as in the case of the Capital Cost to abate a public nuisance on a single parcel of property.

SECTION 2.02. CREATION OF ASSESSMENT AREAS.

The Commission is hereby authorized to create Assessment Areas by resolution. Each Assessment Area shall encompass only that property specially benefited by the Capital Improvements or Essential Services proposed for funding from the proceeds of Assessments to be imposed therein. The resolution creating each Assessment Area shall include brief descriptions of the proposed Capital Improvements or Essential Services, a description of the property to be included within the Assessment Area, and specific legislative findings that recognize the special benefit or burden relief to be provided by each proposed Capital Improvement or Essential Service to property within the Assessment Area. Properties in any Assessment Area need not be adjacent or contiguous to any other property in an Assessment Area. A resolution may assess only one parcel of property.

SECTION 2.03. INITIAL ASSESSMENT RESOLUTION.

The initial proceeding for imposition of an Assessment shall be the Commission's adoption of an Initial Assessment Resolution. The Initial Assessment Resolution shall:

- (A) describe the Capital Improvements or Essential Services proposed for funding from proceeds of the Assessments;
- (B) estimate, or if known state the Service Cost or Capital Cost;
- (C) if more than one parcel of property is assessed, describe with particularity the proposed method of apportioning the Service Cost or Capital Cost among the parcels of property located within the Assessment Area, such that the owner of any parcel of property can objectively determine the amount of the Assessment, based upon its value, use or physical characteristics; and
- (D) include specific legislative findings that recognize the equity provided by the apportionment methodology or, if applicable, that recognize the equity provided by assessing a predominately benefited or relieved, individual parcel the Capital Cost or Service Cost uniquely attributable to that parcel.

SECTION 2.04. ASSESSMENT ROLL.

- (A) The Assessment Coordinator shall prepare a preliminary Assessment Roll that contains the following information:
 - (1) a summary description of each parcel of property (conforming to the description contained on the Tax Roll) subject to the Assessment;

- (2) the name of the owner of record of each parcel, as shown on the Tax Roll;
 - (3) the number of Assessment Units attributable to each parcel;
 - (4) if applicable, the estimated maximum annual Assessment to become due in any Fiscal Year for each Assessment Unit; and
 - (5) if applicable, the estimated maximum annual Assessment to become due in any Fiscal Year for each parcel.
- (B) Copies of the Initial Assessment Resolution and the preliminary Assessment Roll shall be on file in the office of the Assessment Coordinator and open to public inspection. The foregoing shall not be construed to require that the Assessment Roll be in printed form if the amount of the Assessment for each parcel of property can be determined by use of a computer terminal or otherwise accessible through the internet or similar data base.

SECTION 2.05. NOTICE BY PUBLICATION.

After filing the Assessment Roll in the office of the Assessment Coordinator, as required by Section 2.04(B) hereof, the Assessment Coordinator shall publish once in a newspaper of general circulation within the City a notice stating that at a meeting of the Commission on a certain day and hour, not earlier than 20 calendar days from such publication, which meeting shall be a regular, adjourned or special meeting, the Commission will hear objections of all interested persons to the Final Assessment Resolution and approval of the Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act.

SECTION 2.06. NOTICE BY MAIL.

In addition to the published notice required by Section 2.05 hereof, the Assessment Coordinator shall provide notice of the proposed Assessment by first class mail to the owner of each parcel of property subject to the Assessment. The mailed notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Notice shall be mailed at least 20 calendar days prior to the hearing to each property owner at such address as is shown on the Tax Roll on the twentieth calendar day prior to the date of mailing. Notice shall be deemed mailed upon delivery thereof to the possession of the U.S. Postal Service. The Assessment Coordinator may provide proof of such notice by affidavit.

SECTION 2.07. ADOPTION OF FINAL RESOLUTION.

At the time named in such notice, or to which an adjournment or continuance may be taken, the Commission shall receive written objections and hear testimony of interested persons and may then, or at any subsequent meeting of the Commission, adopt the Final Assessment Resolution which shall:

- (A) confirm, modify or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the Commission;
- (B) establish the maximum amount of the Assessment for each Assessment Unit;
- (C) approve the Assessment Roll, with such amendments as it deems just and right; and
- (D) determine the method of collecting the Assessments.

SECTION 2.08. ANNUAL ASSESSMENT RESOLUTION.

The Commission shall adopt an Annual Assessment Resolution during its budget adoption process for each Fiscal Year in which Assessments will be imposed to approve the Assessment Roll for such Fiscal Year. The Final Assessment Resolution shall constitute the Annual Assessment Resolution for the initial Fiscal Year. The Assessment Roll, as prepared in accordance with the Initial Assessment Resolution and confirmed or amended by the Final Assessment Resolution, shall be confirmed or amended by the Annual Assessment Resolution to reflect the then applicable portion of the cost of the Capital Improvements or Essential Services, or both, to be paid by Assessments. If the proposed Assessment for any parcel of property exceeds the maximum amount established in the notice provided pursuant to Section 2.05 hereof or if an Assessment is imposed against property not previously subject thereto, the Commission shall provide notice to the owner of such property in accordance with Sections 2.05 and 2.06 hereof and conduct a public hearing prior to adoption of the Annual Assessment Resolution.

SECTION 2.09. EFFECT OF ASSESSMENT RESOLUTIONS.

The adoption of the Final Assessment Resolution or of an annual Assessment requiring notice as provided in Section 2.08 hereof, shall be the final adjudication of the issues presented (including, but not limited to, the apportionment methodology, the rate of assessment, the maximum annual Assessment of each parcel, the adoption of the Assessment Roll and the levy and lien of the Assessments), unless proper steps are initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the Commission's adoption of the Final Assessment Resolution. The Assessments for each Fiscal Year shall be established upon adoption of the Annual Assessment Resolution. If the Assessments are to be collected pursuant to the Uniform Assessment Collection Act, the Assessment Roll, as approved by the Annual Assessment Resolution, shall be certified to the Tax Collector.

SECTION 2.10. PREPAYMENT OF ASSESSMENTS.

- (A) The Assessment imposed against any parcel of property to fund Capital Improvements shall be subject to prepayment at the option of the property owner, as follows:
- (1) Prior to the issuance of Obligations, the Assessment Coordinator shall provide first class mailed notice to the owner of each parcel of property subject to the Assessment of the Commission's intent to issue such Obligations. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth day following the date on which the notice is delivered to the possession of the U.S. Postal Service), or such later date as the Commission may allow in its sole discretion, the owner of each parcel of property subject to the Assessment shall be entitled to prepay the total Assessment obligation.
 - (2) Following the date specified in the notice provided pursuant to Section 2.10(A) hereof, or such later date as the Commission may allow in its sole discretion, the owner of each parcel of property subject to the Assessment shall be entitled to prepay the total remaining Assessment upon payment of an amount equal to the sum of (a) such parcel's share of the principal amount of Obligations then outstanding, (b) the premium associated with redemption of such parcel's share of the principal amount of Obligations then outstanding, and (c) interest on such parcel's share of the principal amount of Obligations then outstanding, from the most recent date to which interest has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required by the ordinance or resolution authorizing issuance of such Obligations; provided however, that during any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next

date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the Assessments imposed against any parcel of property by the amount of the Assessment certified for collection with respect to such parcel.

- (B) At the City's election, the Assessment imposed against any parcel of property may be subject to acceleration and mandatory prepayment if at any time a tax certificate has been issued and remains outstanding in respect of such property. In such event, the amount required for mandatory prepayment shall be the same as that required for an optional prepayment authorized by Section 2.10(B) hereof.
- (C) The amount of all prepayments computed in accordance with this Section 2.10 shall be final. The City shall not be required to refund any portion of a prepayment if (1) the Capital Cost is less than the amount upon which such prepayment was computed, or (2) annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 2.11. LIEN OF ASSESSMENTS.

- (A) Upon adoption of the Annual Assessment Resolution for each Fiscal Year, Assessments to be collected under the Uniform Assessment Collection Act shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected upon adoption by the Commission of the Annual Assessment Resolution and shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes.
- (B) Upon adoption of the Final Assessment Resolution, Assessments to be collected under the alternative method of collection provided in Section 3.02 hereof shall constitute a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments. Except as otherwise provided by law, such lien shall be superior in dignity to all other liens, titles and claims, until paid. The lien shall be deemed perfected on the date notice thereof is recorded in the Official Records of Jackson County, Florida.

SECTION 2.12. 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, or if the Commission is satisfied that any such Assessment is so irregular or defective that the same cannot be enforced or collected, or if the Commission has omitted the inclusion of any property on the Assessment Roll which property should have been so included, the Commission may take all necessary steps to impose a new Assessment against any property benefited by the Capital Improvement or Essential Service, following as nearly as may be practicable the provisions of this Ordinance, and in case such second Assessment is annulled, the Commission may levy and impose other Assessments until a valid Assessment is imposed.

SECTION 2.13. 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 proceedings related to such Assessment were duly had, taken and performed as required by this Ordinance; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby. Notwithstanding the provisions of this Section 2.13, 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 2.14. CORRECTION OF ERRORS AND OMISSIONS.

- (A) No act of error or omission on the part of the Commission, Assessment Coordinator, Property Appraiser, Tax Collector, or their deputies or employees, shall operate to release or discharge any obligation for payment of any Assessment imposed by the Commission under the provisions of this Ordinance.
- (B) The number of Assessment Units attributed to a parcel of property may be corrected at any time by the Assessment Coordinator. Any such correction which reduces an Assessment shall be considered valid from the date on which the Assessment was imposed and shall in no way affect the enforcement of the Assessment imposed under the provisions of this Ordinance. Any such correction which increases an Assessment or imposes an assessment on omitted property shall first require notice to the affected owner at the address shown on the Tax Roll notifying the owner of the date, time and place that the Commission will consider confirming the correction and offering the owner an opportunity to be heard.
- (C) After the Assessment Roll has been delivered to the Tax Collector in accordance with the Uniform Assessment Collection Act, any changes, modifications or corrections thereto shall be made in accordance with the procedures applicable to errors and insolvencies for ad valorem taxes.

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ARTICLE III. COLLECTION OF ASSESSMENTS

- SECTION 3.01. METHOD OF COLLECTION.
- SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION.
- SECTION 3.03. RESPONSIBILITY FOR ENFORCEMENT.
- SECTION 3.04. GOVERNMENT PROPERTY.

SECTION 3.01. METHOD OF COLLECTION.

Unless directed otherwise by the Commission, Assessments (other than Assessments imposed against Government Property) shall be collected pursuant to the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions thereof, including but not limited to (1) entering into a written agreement with the Property Appraiser and the Tax Collector for reimbursement of necessary expenses, (2) certifying the Assessment Roll to the Tax Collector, and (3) adopting a Resolution of Intent after publishing weekly notice of such intent for four consecutive weeks preceding the hearing. The Resolution of Intent 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 (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.

SECTION 3.02. ALTERNATIVE METHOD OF COLLECTION.

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

- (A) The City shall provide Assessment bills by first class mail to the owner of each affected parcel of property, other than Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the Assessment Units used to determine the amount of the Assessment, (3) the number of Assessment Units attributable to the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Assessment is due, and (7) a statement that the Assessment constitutes a lien against assessed property equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments.
- (B) A general notice of the lien resulting from imposition of the Assessments shall be recorded in the Official Records of Jackson County, Florida. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.
- (C) The City shall have the right to appoint or retain an agent to foreclose and collect all delinquent Assessments in the manner provided by law. An Assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The City or its agent shall notify any property owner who is delinquent in payment of an Assessment within sixty (60) days from the date such Assessment was due. Such notice shall state in effect that the City or its agent will initiate a foreclosure action and cause the foreclosure of such property subject to a delinquent Assessment in a method now or hereafter provided by law for foreclosure of mortgages on real estate, or otherwise as provided by law.
- (D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any foreclosure action as described herein shall be included in any judgment or decree rendered therein. At the sale pursuant to decree in any such action, the City may be the purchaser to the same extent as an individual person or corporation. The City may join in one foreclosure action the collection of Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent property owners whose property is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City and its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of or in addition to, the costs of the action.
- (E) In lieu of foreclosure, any delinquent Assessment and the costs, fees and expenses attributable thereto, may be collected pursuant to the Uniform Assessment Collection Act; provided however, that (1) notice is provided to the owner in the manner required by law and this Ordinance, and (2) any existing lien of record on the affected parcel for the delinquent Assessment is supplanted by the lien resulting from certification of the Assessment Roll or to the Tax Collector.

SECTION 3.03. RESPONSIBILITY FOR ENFORCEMENT.

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

SECTION 3.04. GOVERNMENT PROPERTY.

- (A) If Assessments are imposed against Government Property, the City shall provide Assessment bills by first class mail to the owner of each affected parcel of Government Property. The bill or accompanying explanatory material shall include (1) a brief explanation of the Assessment, (2) a description of the Assessment Units used to determine the amount of the Assessment, (3) the number of Assessment Units attributable to the parcel, (4) the total amount of the parcel's Assessment for the appropriate period, (5) the location at which payment will be accepted, and (6) the date on which the Assessment is due.
- (B) Assessments imposed against Government Property shall be due on the same date as Assessments against other property within the Assessment Area and, if applicable, shall be subject to the same discounts for early payment.
- (C) An Assessment shall become delinquent if it is not paid within thirty (30) days from the due date. The City shall notify the owner of any Government Property that is delinquent in payment of its Assessment within sixty (60) days from the date such Assessment was due. Such notice shall state in effect that the City will initiate a mandamus or other appropriate judicial action to compel payment.
- (D) All costs, fees and expenses, including reasonable attorney fees and title search expenses, related to any mandamus or other action as described herein shall be included in any judgment or decree rendered therein. All delinquent owners of Government Property against which a mandamus or other appropriate action is filed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City or its agents, including reasonable attorney fees, in collection of such delinquent Assessments and any other costs incurred by the City as a result of such delinquent Assessments including, but not limited to, costs paid for draws on a credit facility and the same shall be collectible as a part of, or in addition to, the costs of the action.
- (E) 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 Commission may also contract for such billing services with any utility not owned by the City.

ARTICLE IV. ISSUANCE OF OBLIGATIONS

- SECTION 4.01. GENERAL AUTHORITY.
- SECTION 4.02. TERMS OF THE OBLIGATIONS.
- SECTION 4.03. VARIABLE RATE OBLIGATIONS.
- SECTION 4.04. TEMPORARY OBLIGATIONS.
- SECTION 4.05. ANTICIPATION NOTES.
- SECTION 4.06. TAXING POWER NOT PLEDGED.
- SECTION 4.07. TRUST FUNDS.
- SECTION 4.08. REMEDIES OF HOLDERS.
- SECTION 4.09. REFUNDING OBLIGATIONS.

SECTION 4.01. GENERAL AUTHORITY.

- (A) The Commission shall have the power and is hereby authorized to provide by ordinance or resolution, at one time or from time to time in series, for the issuance of Obligations to fund Capital Improvements and any amounts to be paid or accrued in connection with issuance of such Obligations including but not limited to capitalized interest, transaction costs and reserve account deposits.
- (B) The principal of and interest on each series of Obligations shall be payable from Pledged Revenue. At the option of the Commission, the City may agree, by ordinance or 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 Commission may also provide, by ordinance or 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 ordinance or resolution shall determine the nature and extent of any pledge of or lien upon proceeds of such non-ad valorem revenue sources.

SECTION 4.02. TERMS OF THE OBLIGATIONS.

The Obligations shall be dated, shall bear interest at such rate or rates, shall mature at such times as may be determined by ordinance or resolution of the Commission, and may be made redeemable before maturity, at the option of the City, at such price or prices and under such terms and conditions, all as may be fixed by the Commission. Said Obligations shall mature not later than forty (40) years after their issuance. The Commission shall determine by ordinance or 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 Commission shall determine by ordinance or resolution. The Obligations may be delivered to any contractor to pay for the provision of Capital Improvements or may be sold in such manner and for such price as the Commission may determine by ordinance or resolution to be for the best interests of the City.

SECTION 4.03. VARIABLE RATE OBLIGATIONS.

At the option of the Commission, Obligations may bear interest at a variable rate.

SECTION 4.04. TEMPORARY OBLIGATIONS.

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

SECTION 4.05. ANTICIPATION NOTES.

In anticipation of the sale of Obligations, the Commission may, by ordinance or resolution, issue notes and may renew the same from time to time. Such notes may be paid from the proceeds of the Obligations, the proceeds of the Assessments, the proceeds of the notes and such other legally available moneys as the Commission deems appropriate by ordinance or resolution. Said notes shall mature within five (5) years of their issuance and shall bear interest at a rate not exceeding the maximum rate provided by law. The Commission may issue Obligations or renewal notes to repay the notes. The notes shall be issued in the same manner as the Obligations.

SECTION 4.06. TAXING POWER NOT PLEDGED.

Obligations issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation or pledge of the full faith and credit of the City within the meaning of the

Constitution of the State of Florida, but such Obligations shall be payable only from Pledged Revenue and, if applicable, proceeds of the Assessments, in the manner provided herein and by the ordinance or resolution authorizing the Obligations. The issuance of Obligations under the provisions of this Ordinance shall not directly or indirectly obligate the City to levy or to pledge any form of ad valorem taxation whatsoever. No holder of any such Obligations shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the City to pay any such Obligations or the interest thereon or to enforce payment of such Obligations or the interest thereon against any property of the City, nor shall such Obligations constitute a charge, lien or encumbrance, legal or equitable, upon any property of the City, except the Pledged Revenue.

SECTION 4.07. TRUST FUNDS.

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

SECTION 4.08. REMEDIES OF HOLDERS.

Any holder of Obligations, except to the extent the rights herein given may be restricted by the ordinance or 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 or granted hereunder or under such ordinance or resolution, and may enforce and compel the performance of all duties required by this part, or by such ordinance or resolution, to be performed by the City.

SECTION 4.09. REFUNDING OBLIGATIONS.

The City may, by ordinance or resolution of the Commission, issue Obligations to refund any Obligations issued pursuant to this Ordinance, or any other obligations of the City issued to finance Capital Improvements, 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 Assessments set forth in the notice provided pursuant to Section 2.06 hereof, the Commission shall provide notice to the affected property owners and conduct a public hearing in the manner required by Article III of this Ordinance.

ARTICLE V. GENERAL PROVISIONS

SECTION 5.01. SEVERABILITY.
SECTION 5.02. ALTERNATIVE METHOD.

SECTION 5.01. 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 5.02. ALTERNATIVE METHOD.

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 health, safety and welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

Section 2. All ordinances or parts of ordinances in conflict herewith are repealed to the extent of such conflict.

Section 3. The appropriate officers and agents of the City are authorized and directed to codify, include and publish in electronic format the provisions of this Ordinance within the City of Marianna Code, and unless a contrary ordinance is adopted within ninety (90) days following such publication, the codification of this Ordinance shall become the final and official record of the matters herein ordained. Section numbers may be assigned and changed whenever necessary or convenient.

Section 4. This Ordinance shall take effect immediately upon passage.

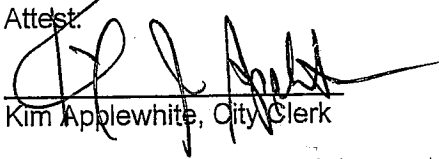
PASSED, APPROVED AND ADOPTED at the regular meeting of the City Commission of the City of Marianna, Florida, this 3rd day of February, 2015.

CITY OF MARIANNA



Rico Williams, Mayor/Commissioner

Attest.


Kim Applewhite, City Clerk