

ORDINANCE NO. C-10-12

AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT LAUDERDALE, FLORIDA, AMENDING CHAPTER 25, STREETS AND SIDEWALKS, ARTICLE IV, POLES, WIRES AND CONDUITS, TO PROVIDE FOR UNDERGROUNDING OF UTILITY FACILITIES; AUTHORIZING AND PROVIDING A PROCEDURE FOR THE IMPOSITION AND COLLECTION OF SPECIAL ASSESSMENTS AGAINST PROPERTY BENEFITING FROM UNDERGROUND UTILITY FACILITIES; PROVIDING DEFINITIONS INCLUDING A DEFINITION FOR THE TERM "UNDERGROUND UTILITY LINE ASSESSMENT"; PROVIDING CRITERIA FOR DESIGNATION OF AN UNDERGROUND SPECIAL ASSESSMENT AREA; PROVIDING THAT ASSESSMENTS CONSTITUTE A LIEN ON ASSESSED PROPERTY UPON ADOPTION OF A FINAL ASSESSMENT ROLL; PROVIDING THAT A PERFECTED LIEN SHALL BE EQUAL IN RANK AND DIGNITY WITH THE LIENS OF ALL STATE, COUNTY, DISTRICT OR MUNICIPAL TAXES AND ASSESSMENTS AND SUPERIOR IN DIGNITY TO ALL OTHER PRIOR LIENS, MORTGAGES, TITLES AND CLAIMS; AUTHORIZING THE USE OF CITY FUNDS FOR PLANS AND SPECIFICATIONS; REQUIRING PROPERTY OWNERS TO CONNECT TO UNDERGROUND UTILITY LINE FACILITIES WHEN SERVICE IS AVAILABLE; PROHIBITING THE PLACEMENT OF OVERHEAD UTILITIES AFTER UNDERGROUND FACILITIES ARE INSTALLED; PROVIDING FOR SEVERABILITY AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. That Article IV, Poles, Wires and Conduits, of Chapter 25, Streets and Sidewalks, of the Unified Land Development Regulations ("ULDR") is hereby amended to create a new Division 2, Undergrounding, to read as follows:

CHAPTER 25 STREETS AND SIDEWALKS

ARTICLE IV. POLES, WIRES AND CONDUITS

DIVISION 1. GENERALLY

Sec. 25-121. Authority of city engineer to direct placing and removing.

...

Sec. 25-122. Removal of condemned poles.

...

Sec. 25-123. Poles uses jointly by several concerns.

...

DIVISION 2. UNDERGROUNDING

Sec. 25-124. DEFINITIONS. As used in this Article, the following words and terms shall have the following meanings, unless the context clearly otherwise requires:

"Application" means the written request by an Association for the City to install Underground Utility Line Facilities in accordance with the provisions of Section 25-129.4

"Assessment Plat" means a map of the proposed USAA with a legal description of the boundaries.

"Assessed Property" means all Parcels included on the Assessment Roll that receive a special benefit from the provision of Underground Utility Line Facilities identified in the Declaration Resolution or a subsequent Final Assessment Resolution.

"Assessment Roll" means the special assessment roll relating to an Underground Utility Line Assessment approved by a Final Assessment Resolution pursuant to Section 25-129.12 hereof.

"Association" means a group of interested Owners wishing to institute a UULA for a USAA pursuant to the provisions of this ARTICLE IV, Division 2. An Association may include but not be limited to a homeowners association or safe neighborhood improvement district authorized by law to pursue such activity. Only one Association may represent a proposed USAA. If more

than one group applies for a proposed USAA or part of an Area, the Application will not proceed until agreement is reached between the groups regarding the Association and Representative for an Area for purposes of proceeding with an UULA.

"Below Ground" means below the natural grade of the ground.

"Binding Estimate" means the final estimate prepared by FP&L for the cost of undergrounding FP&L utilities within a proposed USAA. The Binding Estimate does not include estimates associated with "Other Costs".

"Bonds" mean bonds, notes or any other forms of indebtedness.

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

"City Clerk" means the Clerk of the City Commission.

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

"City Manager" means the chief administrative officer of the City, designated by the City Commission to be responsible for coordinating Underground Utility Line Assessments, or such person's designee.

"Contract Documents" mean the Agreement between the City and Contractor, Conditions of the Contract (General, Supplementary and other Conditions), drawings, specifications, addenda issued prior to execution of the Contract, other documents listed in the Agreement and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive or (4) a written order for a minor change in the Work issued by the Engineer. Unless specifically enumerated in the Agreement, the Contract Documents do not include other documents such as bidding requirements (advertisement or invitation to bid, Instructions to Bidders, sample forms, the Contractor's bid or portions of Addenda relating to bidding requirements).

"Coordinating Consultant" means a licensed professional qualified, as determined by the PWD, to coordinate the implementation of a UULA which includes but is not limited to obtaining (1) preliminary and final cost estimates of each and every aspect of the implementation a UULA; (2) preliminary and final Plans from FP&L and Other Utilities; (3) final construction plans which combines all Plans; interfacing with an Association regarding all aspects of the UULA; assisting the Representative to obtain all easements or other agreements or conveyances from Owners required to implement the UULA; coordinating the procurement of and contract with a

Contractor to construct all aspects of the construction and activation of the Underground Utility Line Facilities; restoration of the public right of way and private properties; reviewing and preparing a report explaining all agreements that must be approved by the City in order to construct and activate the Underground Utility Line Facilities.

"Contractor" means the entity contracting with City for the construction of the Underground Utility Line Facilities.

"County" means Broward County, Florida.

"Declaration Resolution" means the resolution described in Section 25-129.5 hereof which shall be the initial Resolution for the identification of the total Underground Utility Line Assessed Cost for which an assessment is to be made, the imposition of an Underground Utility Line Assessment and the date set for a public hearing to consider a Final Assessment Resolution.

"Division means the provisions of this Ordinance codified in the Code of Ordinances of the City of Fort Lauderdale under CHAPTER 25, STREETS AND SIDEWALKS, ARTICLE IV. POLES, WIRES AND CONDUITS, DIVISION 2. UNDERGROUNDING.

"Final Assessment Resolution" means the resolution described in Section 25-129.12 hereof which shall confirm, modify, or repeal the Declaration Resolution and which shall be the final Resolution adopted for the imposition of Underground Utility Line Assessments.

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

"FP&L" means Florida Power and Light, a corporation organized and existing under the laws of the State of Florida providing electric power throughout the City of Fort Lauderdale, Florida pursuant to a franchise agreement Adopted October 20, 2009 pursuant to City Ordinance No. C-09-26 and accepted by FP&L on October 29, 2009.

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

"Initial Assessment Roll" means a preliminary assessment roll in accordance with the method of assessment provided for in a Declaration Resolution showing the Parcels proposed to be assessed and the amount of the benefit to and the assessment against each Parcel, and if said

assessment is to be paid in installments and the number of annual installments in which the assessment is divided.

“Nonbinding Ball Park Estimate” means the preliminary estimate prepared by FP&L for the cost of undergrounding utilities within a proposed USAA.

"Ordinance" means this Underground Utility Line Facilities Ordinance.

“Other Costs” means all costs and expenses other than the costs included in the Binding Estimate including but not limited to Other Utilities costs, costs of restoration of right-of-way or Parcels, Coordinating Consultant fees and cost of Easements or other conveyances. The Binding Estimate and Other Costs added together make up the UULAC.

“Other Utilities” or “Other Utility Companies” means utility companies other than FP&L with overhead or Below Ground utility lines or facilities located within a proposed USAA that may be relocated Below Ground or may share the area where overhead lines will be relocated and which may include but not be limited to telephone, internet and cable, gas, water and sewer.

"Owner" shall mean a natural Person with fee simple title to a Parcel proposed to be included in a UULA as reflected on the Tax Roll on the date provided herein. For purposes of this Division, if a Parcel is owned by a trust, the designated trustee shall be considered the Owner. If a Parcel is owned by tenants in common, each tenant shall be considered for a one-half vote will be considered the Owner. If a Parcel is owned by tenants by the entirety, either owner shall be considered the Owner and if owned as a life estate, the natural person with the possessory interest shall be considered the Owner. If a unit is owned by a corporation, limited liability company, limited partnership or similar entity, the authorized agent for such entity shall be considered the Owner. The Owner may designate in writing a natural person to act on an Owner's behalf.

“Parcel” means a development site made up of one or more lots with a single principle building as defined by the ULDR or a vacant lot or lots of a size that could support a single development in accordance with the ULDR. If a proposed USAA has one or more condominiums, cooperatives, townhouses or similar buildings with multiple owners of units within the building or buildings on a single Parcel, for purposes of determining seventy percent (70%) of the Owners within the proposed USAA as provided in Section 25-129.4(F), each unit shall be considered and counted as one Parcel. The total number of Parcels in a proposed USAA shall be determined by the PWD. One Owner shall be counted for each Parcel. A determination shall be made by the PWD in the event of a dispute.

"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.

"Petition" means the petition prepared by the PWD, mailed to Owners within a proposed USAA in order to determine a level of approval within an area to implement a UULF.

"Plans and Specifications" or "Plans" mean the final graphic illustrations of the Contract Documents depicting the design, location and dimensions of the Work, generally including drawings, elevations, sections, details, schedules and diagrams.

"Preliminary Plans" mean the Plans normally provided at a 30%, 60% and 90% completion level for review and comment.

"Property Appraiser" means the Broward County Property Appraiser.

"Public Works Director" or "PWD" means the director of the City's Public Works Department or his designee.

"Qualified Area" means an area considered for the undergrounding of overhead utility lines that meets the FPL Tariff providing for a 25% Contribution In Aid of Construction ("CIAC") for municipalities as evidenced by FP&L in writing.

"Reimbursement Resolution" means a Resolution approving 1) preparation of plans and specifications 2) securing the services of a Coordinating Consultant to facilitate the process to approve an UULA as provided in this Division 3) authorization to expend City funds in an identified amount necessary to prepare the Plans and Study and pay for the services to be provided by the Coordinating Consultant to coordinate all activities and prepare all documents necessary to bring the UULA to the City Commission for a public hearing to consider adoption of a Final UULA Assessment 4) providing for the reimbursement for these costs and fees from special assessments revenues collected in the event the City approves a UULA for the proposed USAA in accordance with this Division all as more further provided in Section 25-129.4(G).

"Representative" means one natural person who has been authorized by an Association to apply to the City to participate in the installation of UULF and to represent the Association with respect to the Application (hereinafter "Representative").

"Study" means a report prepared by a qualified licensed and registered engineer or Property Appraiser, or both, regarding the special benefit to the Parcels located in a proposed USAA; the

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amount of benefit; a fair and equitable apportionment of the total cost to the individual Parcels within a proposed USAA; a certification that the assessment proposed to be imposed on Parcels within a proposed USAA would be less than the benefit to the Parcels to be assessed, such Study to be presented to the City Commission at the time a Declaration Resolution is considered and placed on file with the City Clerk.

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

"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. When this Division requires the names and addresses of Owners in accordance with the Tax Roll it shall mean the most current tax roll in effect prior to the date when the names and addresses of the Owners are provided to the Public Works Director in accordance with Section 25-129.4(E).

"ULDR" means the Unified Land Development Regulations, the land development regulations for the City of Fort Lauderdale.

"Underground Special Assessment Area" or "USAA" means the area that includes the Parcels designated by the City to receive the benefit of and be assessed for Underground Utility Line Facilities in accordance with the provisions of this Division and has been designated a Qualified Area by FP&L.

"Underground Utility Line Assessment" or "UULA" means a special assessment lawfully imposed by the City Commission against Assessed Property to fund all or any portion of the cost of the provision of Underground Utility Line Facilities providing a special benefit to Parcels within the USAA as a consequence of possessing a logical relationship to the value, use, or characteristics of the Assessed Property.

"Underground Utility Line Assessed Cost" or "UULAC" means the amount determined by the City Commission to be assessed to fund all or any portion of the cost of the provision of Underground Utility Line Facilities which provide a special benefit to Assessed Property, and shall include, but not be limited to, the following components: (A) the cost of all informational materials, marketing, promotion and advocacy within the USAA (B) the cost incurred in any required acquisition or purchase; (C) the cost of taking down existing overhead utility line facilities and constructing new Underground Utility Line Facilities including but not limited to the cost of relocating existing underground facilities which must be moved in order to accommodate the relocation of the overhead lines; (D) the cost of all lands, property, rights, easements, and franchises acquired; (E) the cost of all labor, materials, machinery, and equipment; (F) financing

charges, interest prior to and during construction and for 1 year after completion of construction; (G) costs and fees associated with the issuance and sale of special assessment bonds (H) the cost of fuel, parts, supplies, maintenance, repairs, and utilities; (I) the cost of computer services, data processing, and communications; (J) the cost of physical construction, reconstruction, restoration of right-of-way,, Parcels or both, or completion of any required facility or improvement; (K) the cost of any indemnity or surety bonds and premiums for insurance; (L) the cost of salaries, volunteer pay, workers' compensation insurance, or other employment benefits; (M) the cost of disconnecting from overhead utility facilities and connecting to UULF from the overhead utility facilities to the meter on a Parcel; (N) cost of Plans and Specifications preliminary and final for both design and construction; (O) surveys and estimates of costs and of revenues; (P) the cost of the Study and the fee for a Coordinating Consultant; (Q) the cost of engineering, financial, legal, and other professional services including outside consultants and staff working for the City; (R) the costs of compliance with any contracts or agreements entered into by the City to provide Underground Utility Line Facilities; (S) all costs associated with the structure, implementation, collection, and enforcement of the Underground Utility Line Assessments, including any service charges of the Tax Collector, or Property Appraiser and amounts necessary to off-set discounts received for early payment of Underground Utility Line Assessments pursuant to the Uniform Assessment Collection Act or for early payment of Underground Utility Line Assessments collected pursuant to Section 25-131.2 herein; (T) all other costs and expenses necessary or incidental to the acquisition, provision, or construction of Underground Utility Line Facilities and such other expenses as may be necessary or incidental to any related financing authorized by the City Commission by subsequent resolution; (U) a reasonable amount for contingency and anticipated delinquencies and uncollectible Underground Utility Line Assessments; and (V) reimbursement to the City or any other natural Person for any moneys advanced for any costs incurred by the City or such natural Person in connection with any of the foregoing components of Underground Utility Line Assessed Cost.

“Underground Utility Line Facilities” or “UULF” means the equipment, poles lines and other appurtenant facilities associated with the provision of electrical, telephone, internet, cable television or other services provided through a similar line. The term shall also include any accessory or appurtenant facilities whether above or below ground associated with or appurtenant to the Underground Utility Line Facilities including but not limited to transition poles.

“Underground Utility Line Facilities Program” or “Program” means the City approved program for the implementation of UULF in a USAA as defined herein, the cost of said UULF to be paid for through special assessments as described in this Section 25-129.

"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 as

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the same may be amended from time to time.

"Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment and services provided or to be provided by the Contractor to fulfill the Contractor's obligations.

Sec. 25-125. 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 Division; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Division. Words of any gender include the correlative words of the other genders, unless the sense indicates otherwise.

Sec. 25-126. GENERAL FINDINGS. It is hereby ascertained, determined, and declared that:

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

(B) The City Commission may exercise any governmental, corporate, or proprietary power for a municipal purpose except when expressly prohibited by law, and the City Commission may legislate on any subject matter on which the Florida Legislature may act, except those subjects described in (a), (b), (c), and (d) of Section 166.021 (3), Florida Statutes. The subject matter of paragraphs (a), (b), (c), and (d) of Section 166.021(3), Florida Statutes, are not relevant to the imposition of assessments related to Underground Utility Line Facilities, of the City.

(C) The purpose of this Article IV, Division 2 is to: (1) require Owners within an USAA where UULF have been constructed to relocate all utilities on or over a Parcel to Below Ground and require connection to UULF upon installation; (2) provide procedures and standards for the imposition of Underground Utility Line Assessments under the general home rule powers of a municipality to impose special assessments; (3) authorize a procedure for the funding of Underground Utility Line Facilities providing special benefits to property within the City; and (4) legislatively determine the special benefit provided to Assessed Property from the provision of the Underground Utility Line Facilities.

(D) The Underground Utility Line Assessments to be imposed using the procedures

provided in Section 25-129 shall constitute non-ad valorem assessments within the meaning and intent of the Uniform Assessment Collection Act.

(E) The Underground Utility Line Assessments to be imposed using the procedures provided in Section 25-129 are imposed by the City Commission, not the Broward County Board of County Commissioners, Property Appraiser or Tax Collector. The duties of the Property Appraiser and Tax Collector under the provisions of this Section 25-129 and the Uniform Assessment Collection Act are ministerial.

Sec. 25-127. LEGISLATIVE DETERMINATIONS OF PUBLIC PURPOSE AND SPECIAL BENEFIT. It is hereby ascertained and declared that Underground Utility Line Facilities are in the best interests of the public and provide a special benefit to Parcels located within an USAA based upon the following legislative determinations:

(A) Underground Utility Line Facilities possess a logical relationship to the use and enjoyment of Parcels within an USAA by: (1) improving the aesthetics of an area by removing above-ground utility poles, lines and above-ground appurtenances from view; (2) improve visibility along public rights-of-way; (3) protect the utility facilities from damage due to vehicular impact; (4) reduce obstructions in the path of vehicles driving off of a right-of-way; (5) providing an environment that has a better chance of maintaining utility services during and after extreme weather conditions; (6) providing greater reliability under normal conditions; (7) facilitating fewer wind outages with lower costs to utility providers for restoration outages due to wind, translating into lower costs for utility customers; (8) safer environment after storms when overhead poles are toppled and wiring becomes loose and exposed; (9) reduce interference with the existing tree canopies; and (10) increased property values.

Sec. 25-128. UNDERGROUNDING AND CONNECTION REQUIREMENTS.

(A) Within three (3) months of adoption of a Final Assessment Resolution as provided in Section 25-129.12, each Owner is required to take such actions needed to install conduit and pull the electrical and other utility service(s) through the conduit in order to be ready for connection to the Underground Utility Line Facilities and activation of service as provided in Section 25-128(B).

(B) Within five (5) months after written notice is given by the PWD that utility service is available to that Parcel from the Underground Utility Line Facilities, Owner shall connect to the UULF and permit FP&L and Other Utilities to activate the meter to the new underground utility services.

(C) If UULF have been constructed in an area, an Owner of a Parcel shall direct all future FP&L and Other Utility utilities proposed to be located within the USAA or other area where utilities have been placed Below Ground. Poles, overhead wires and associated overhead structures shall not be permitted over Owner's Parcel except as specifically provided in this Section 25-128 (E).

(D) If UULF have been constructed in an area, an Owner of a Parcel within a USAA proposing to locate Other Utilities on or over their Parcel or other area where utilities have been placed underground, must place such utilities Below Ground. Poles, overhead wires and associated overhead structures shall not be permitted on or over Parcel except as specifically provided in this Section 25-128(E).

(E) Unless otherwise provided in the Final Assessment Resolution establishing a USAA, this Division shall not apply to the following types of facilities:

- (1) Poles and associated overhead structures and lines used exclusively for street lighting or signalization.
- (2) Transition poles from a USAA to utility lines facilities outside the USAA.
- (3) Overhead wires connecting to buildings on the perimeter of a USAA when such wires originating in an area from which poles, overhead wires and associated overhead structures are not prohibited.
- (4) Temporary poles, overhead wires and associated overhead structures located on a Parcel used solely during the course of construction on that Parcel.
- (5) Overhead wires to provide temporary or emergency service subject to the written approval of the PWD.
- (6) Poles, supports wires and associated overhead structures necessary for the operation of electrically driven mass transit systems.

(F) It shall be declared unlawful for any Owner of a Parcel to fail to convert its overhead utility facilities to the UULF in accordance with this Section 25-128. The Owner is subject to prosecution pursuant to section 1-6, City Code of Ordinances for violation of this Section.

SECTION 25-129
UNDERGROUND UTILITY LINE ASSESSMENTS

Sec. 25-129.1. FINDINGS AND SUPPORT FOR UNDERGROUND UTILITY LINE ASSESSMENT.

(A) The propriety of the Underground Utility Line Assessment and all declarations of special benefit, methods of apportionment shall be based on the findings of provided in this Division and facts provided for a proposed USAA in the Study.

(B) Certain residential communities have expressed to the City their desire and support for the establishment of a Program to permit conversion of above-ground utility facilities to Below Ground utility facility lines and the funding of such conversion through the imposition of a special assessment. A demonstration of support for a proposed UULA will be required as evidenced by a petition signed by at least seventy percent (70%) of the Owners of Parcels within a proposed USAA.

Sec. 25-129.2. GENERAL AUTHORITY. The City Commission is hereby authorized to impose an Underground Utility Line Assessment to fund all or any portion of the Underground Utility Line Assessed Cost upon benefited Parcels at a rate of assessment based on the special benefit accruing to such Parcel from the provision of Underground Utility Line Facilities. All Underground Utility Line Assessments shall be imposed in conformity with the procedures set forth in this Section 25-129.

Sec. 25-129.3. MAXIMUM RATE OF ASSESSMENT AND METHOD OF APPORTIONMENT.

The method of apportionment to be used in determining the Underground Utility Line Assessment for each Parcel Owner shall be based on such method as the governing body of the municipality may prescribe designed to provide a fair and reasonable apportionment of the Underground Utility Line Assessed Cost among properties on a basis reasonably related to the special benefit provided by Underground Utility Line Facilities funded with assessment proceeds.

Sec. 25-129.4. INITIATION OF PROCESS.

(A) An Association wishing to institute a UULA within a proposed USAA may initiate the review and implementation of a UULA by filing an Application with the Public Works Director of the City of Fort Lauderdale in accordance with the provisions of this Division.

- (B) An Application for a UULA shall contain the following:
- (1) Identification of the boundaries of and the name of platted subdivisions within the proposed UULA including the identification of any street or alley within the proposed area.
 - (2) A map of the proposed Assessment Plat UULA area showing each property proposed to be assessed.
 - (3) Name and address of a natural person who has been authorized by the Association to represent the group with respect to the application (hereinafter "Representative").

(C) The Public Works Director shall submit the Application to FP&L for its determination whether the proposed USAA is a Qualified Area and to request FP&L to provide to the Public Works Director a Nonbinding Ball Park Estimate of the cost to implement the undergrounding of FP&L utility lines within the proposed USAA.

(D) When FP&L advises the PWD that the proposed area is a Qualified Area and provides its Nonbinding Ball Park Estimate of the cost of implementing the undergrounding of FP&L utility lines within the proposed USAA, the following shall occur:

- (1) The PWD shall submit the Application to all Other Utilities with above or Below Ground Utility Facilities in the Qualified Area. The PWD shall request that Other Utilities with utilities in the proposed USSA provide their preliminary estimate for relocating their facilities underground or their acknowledgement that there is no objection to undergrounding existing utility facilities.

If the proposed USSA is not a Qualified Area, the PWD shall advise the Representative who may resubmit such additional information needed to the PWD until the criteria to be a Qualified Area is met.

- (2) When estimates from all Other Utilities have been received by the City, an estimate of the Underground Utility Line Assessed Cost shall be determined and a proposed allocation for each Parcel within the proposed USAA shall be made. The estimate of the UULAC shall include the following:

- i. The preliminary estimate for the cost of Preliminary Plans and final Plans and Specifications and Contract Documents provided by FP&L and the Other Utilities or such other consultant capable of providing such documents.
 - ii. Estimated construction cost.
 - iii. Estimated right-of-way restoration costs including repaving of the rights-of-way and restoring sidewalks, landscaping and drainage within the rights-of-way.
 - iv. The estimated cost of laying the required conduit leading from the public right of way and ending at the meter box located on the Parcel if Owner has agreed in writing to permit City's Contractor to construct the conduit on the Parcel,.
 - v. The estimated cost of restoration of Parcel damage as a result of the installation of the conduit on the Parcel if Owner has agreed in writing to permit City's Contractor to construct the conduit on the Parcel.
 - vi. Estimated costs of obtaining any required Easements or other conveyances or Agreements.
 - vii. Estimated cost of a Coordinating Consultant to coordinate all activities and prepare all documents necessary to bring the UULA to the City Commission for a public hearing to consider adoption of a Final UULA Assessment.
 - viii. Estimated terms for payment of the special assessment.
- (3) A Petition for signature by an Owner of a Parcel within a proposed USAA shall be prepared by the PWD. The Petition shall include the following:
- i. that a UULA is being considered for an area where the Owner's Parcel is located.
 - ii. identification of the preliminary estimate of the total UULAC as identified in subsection (D) (2) of this Section 25-129. The preliminary

estimate shall include the estimate if the 25% Contribution in Aid of Construction is applied by FP&L and the estimate without the 25% Contribution in Aid of Construction is applied.

iii. That 100% of the Parcels must be converted to the UULF within 6 months of completion of the UULF in order for the 25% discount to apply. That if 100% of the Parcels are not converted within this time period, the Parcels shall be assessed for the total cost without the 25% discount.

iv. that the preliminary estimates are subject to change when final Plans are prepared. Further, the estimates for work on a Parcel will be a ballpark estimate and subject to verification on a Parcel by Parcel review by the Coordinating Consultant.

v. the estimates do not include costs for the following:

(a) Unless an Owner agrees as provided in (D)(2)(iv) and (v), the cost for each Owner to complete connection and activation of the UULF which will require the Owner to secure the services of a licensed electrician or other professional at a cost to the Owner; and

(b) The existing electrical meter box on the building(s) on the property will be required to meet the provisions of the Florida Building Code that are in effect at the time the electrical work is provided and this may mean that wiring from the existing meter box to the service connection point may need to be replaced and brought into compliance with the provisions of the Florida Building Code then in effect at a cost to be born by the Owner; and

(c) If the Owner does not agree in writing to permit City's Contractor to construct the conduit on the Parcel, the cost of the Owner securing the services of a contractor to lay the required conduit leading from the public right of way and ending at the meter box located on the Parcel and the cost of restoration of the Parcel damage as a result of the installation of the conduit on the Parcel.

(4) The Petition shall include a statement that by signing this Petition, the Owner requests and agrees to:

i to the construction and activation of Underground Utility Line Facilities in the proposed USAA.

ii. the Underground Utility Line Facilities shall be paid for by Parcel Owners within the USAA through the City imposing a special assessment on the Parcels in the proposed USAA and by the Parcel Owner signing the Petition that the Parcel Owner will pay a special assessment in the estimated amount identified in the Petition, and acknowledges that their property will be subject to a special assessment lien to secure payments due in an amount as approved by Resolution adopted by the City Commission, subject to interest and payable over a period of time as provided in the adopted Final Assessment Resolution approved by the City Commission after a public hearing. All Parcel Owners will be notified of the date and time of the public hearing at least twenty (20) days prior to the public hearing.

iii. to the extent possible, UULF will be located in the public right-of-way. However, if not possible, a utility easement measuring 10'x 10' or greater on the ground on the Owner's Parcel may be needed for placement of a utility box measuring approximately feet by 3 feet and 30 to 48 inches high.

iv. The Petition shall be mailed to all Parcel Owners by the PWD with a postage paid, return envelope. The Petition must be returned within six (6) months of PWD mailing.

(5) The Petition as described in subsection (3) and (4) may be modified by the PWD to include any facts or representations that may be applicable to a proposed USAA.

(E) The Petitions shall be delivered to the PWD, along with a copy of the Tax Roll to verify that the names of the Owners on the Petition correspond with the Owners on the most current Tax Roll. The PWD may consider any other evidence provided that may contradict the information provided on the Tax Roll in order to identify and verify the Owner of a Parcel within a proposed USAA but reliance on the information contained in the Tax Roll is valid.

(F) In order for the City to proceed with consideration of a UULA, the Representative must submit Petitions signed by at least seventy percent (70%) of the Owners within the proposed USAA. For purposes of calculation the percentage, each

Parcel shall be counted as one Owner.

(G) Upon receipt of Petitions verified as provided in (E), a Reimbursement Resolution shall be placed on a City Commission agenda to approve:

- (1) proposed boundaries of and the name of platted subdivisions within the proposed USSA;
- (2) preparation of Plans and Specifications;
- (3) an agreement between the City and Coordinating Consultant to facilitate the process to obtain approval of an UULA as provided in this Section 25-129.
- (4) authorization to expend City funds in an identified amount necessary to prepare the Plans and Study and pay for the services to be provided by the Coordinating Consultant to coordinate all activities and prepare all documents necessary to bring the UULA to the City Commission for a public hearing to consider adoption of a Final UULA.
- (5) reimbursement for the costs and fees described in this subsection (G) along with other costs and fees associated with implementation of UULF from special assessment revenues collected in the event the City approves a UULA for the proposed USAA in accordance with this Section 25-129.

It is within the sole discretion of the City Commission to approve or not approve the Reimbursement Resolution. Approval of the Reimbursement Resolution is contingent upon the identification and approval of funds needed to pay for the costs associated with the implementation of a UULA.

If approved, the Reimbursement Resolution shall be recorded in the public records of Broward County as notice to Owners of the pending Application to implement a UULA.

If a Reimbursement Resolution is not approved, the City Commission may take whatever action it deems appropriate with regard to the Application for a UULF.

(H) Upon adoption of a Reimbursement Resolution, an agreement with the Coordinating Consultant to perform the services as provided in this Section shall take effect. The Coordinating Consultant shall prepare or facilitate the final Plans and Specifications and Study. The Coordinating Consultant will also conduct a Parcel by Parcel estimate of the cost of work necessary to lay the conduit on each Parcel and the cost to restore each Parcel after the conduit has been laid.

(I) Upon completion of the Plans and Specifications, Study and installation and restoration on each Parcel estimates, a final estimate of the total cost and identification of the benefit each Parcel shall receive and the apportioned share of the total cost among the Owners shall be made. There shall be an estimate that includes the 25% CIAC discount, and one without the 25% CIAC discount.

(J) Regardless of the provisions of this Division 2, an Underground Utility Line Assessment Facilities may be constructed in any area of the City upon the request of the City Commission.

Sec. 25-129.5. INITIAL PROCEEDINGS. Upon City's receipt of the final estimates of the total cost and the Petitions required by Section 25-129, the initial proceeding for the imposition of a Underground Utility Line Assessment shall be by the adoption of a Resolution by the City Commission declaring the intent to install Underground Utility Line Facilities ("Declaration Resolution"). The Declaration Resolution shall include the following: (1) a brief and general description of the Underground Utility Line Facilities proposed to be provided and a legal description of the property subject to the special assessment (2) identifying the boundaries of the USAA and the street or streets where the existing utility lines are located and the location for the proposed Underground Utility Line Facilities (3) the total estimated Underground Utility Line Assessed Cost; (4) the portion of the total cost to be paid with an Underground Utility Line Assessment (5) the method of apportioning the Underground Utility Line Assessed Cost and the computation of the Underground Utility Line Assessment for each Parcel, (6) the manner in which the special assessment shall be made (7) when the assessments are to be paid (8) what if any part shall be apportioned to be paid from general improvement fund of the municipality; (9) directing the City Manager to (a) prepare the Initial Assessment Roll, (b) publish the notice, and (c) mail the notice all as required by Section 25-129 using information then available from the Tax Roll.

Sec. 25-129.6 ASSESSMENT PLAT. At the time of the adoption of the Declaration Resolution provided for in Section 25-129.5, there shall be on file with the City Clerk an Assessment Plat showing the area to be assessed, with Plans and Specifications, and an estimate of the cost of the proposed improvement, which Assessment Plat, Plans and Specifications and estimate shall be open to the inspection of the public.

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Sec. 25-129.7. **Reserved**

Sec. 25-129.8. INITIAL ASSESSMENT ROLL.

(A) Upon the adoption of a Declaration Resolution, the City Manager shall prepare, or direct the preparation of, the Initial Assessment Roll in accordance with the method of assessment provided in the Declaration Resolution which such Initial Assessment Roll 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 each Parcel comprising the Assessed Property.
- (3) The amount of the benefit to and the Underground Utility Line Assessment to be imposed against each such Parcel within the Assessed Property.
- (4) If the assessments are to be paid in installments, the number of annual installments in which the assessment is divided.

(B) The Initial Assessment Roll shall be retained by the City Manager and shall be 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 Underground Utility Line Assessment for each Parcel can be determined by use of a computer terminal available to the public.

Sec. 25-129.9. PUBLICATION OF INITIAL ASSESSMENT ROLL. Upon completion of the Initial Assessment Roll, the City shall by resolution fix a time and place at which the Owners or any other persons interested therein may appear before said governing authority to be heard regarding the proposed UULA. Notice shall be provided as described in Section 25-129.10 and 25-129.11. If an Initial Assessment Roll has been prepared at the time the Declaration Resolution is adopted, the Declaration Resolution may contain the date and time for the public hearing and a separate Resolution shall not be required.

Sec. 25-129.10. NOTICE BY PUBLICATION. Upon completion of the Initial Assessment Roll, the City Manager 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 City 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 City Commission will hear objections of all interested

persons to the Final Assessment Resolution which shall establish the rate of assessment and approve the aforementioned Initial Assessment Roll. The published notice shall conform to the requirements set forth in the Uniform Assessment Collection Act. Such notice shall include (A) a geographic depiction of the Parcels subject to the Underground Utility Line Assessment; (B) a brief and general description of the Underground Utility Line Facilities to be provided; (C) the rate of assessment; (D) the procedure for objecting; (E) the method by which the Underground Utility Line Assessment will be collected; and (F) a statement that the Initial Assessment Roll is available for inspection at the office of the City Manager and all interested persons may ascertain the amount to be assessed against a Parcel of Assessed Property at the office of the City Manager.

Sec 25-129.11. NOTICE BY MAIL. In addition to the published notice required by Section 25-129.10, the City Manager shall provide notice, or direct the provision of notice, of the proposed Underground Utility Line Assessment by first class mail to the Owner of each Parcel subject to the Underground Utility Line Assessment. Such notice shall include (A) the purpose of the Underground Utility Line Assessment; (B) the rate of assessment to be levied against each Parcel including the Maximum Assessment Rate; (C) the unit of measurement applied to determine the Underground Utility Line Assessment; (D) the number of such units contained in each Parcel; (E) the total revenue to be collected by the City from the Underground Utility Line Assessment; (F) a statement that failure to pay the Underground Utility Line 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; (G) a statement that all affected Owners have a right to appear at the hearing and to file written objections with the City Commission within 20 days of the notice; and (H) the date, time, and place of the hearing. 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 City Manager 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 Underground Utility Line Assessment imposed by the City Commission pursuant to this Division.

Sec. 25-129.12. ADOPTION OF FINAL ASSESSMENT RESOLUTION. At the day and time named in such notice, or to which an adjournment or continuance may be taken by the City Commission, the City Commission shall receive any oral or written objections of interested persons and may then, or at any subsequent meeting of the City Commission adopt the Final Assessment Resolution which shall (A) confirm, modify, or repeal the Declaration Resolution with such amendments, if any, as may be deemed appropriate by the City Commission; (B)

establish the rate of assessment to be imposed in the upcoming Fiscal Year; (C) approve the initial Assessment Roll, with such amendments as it deems just and right; and (D) determine the method of collection. The adoption of the Final Assessment Resolution by the City Commission shall constitute a legislative determination that all Parcels assessed derive a special benefit from the Underground Utility Line Facilities, facilities, or programs to be provided or constructed and a legislative determination that the Underground Utility Line Assessments are fairly and reasonably apportioned among the Parcels that receive the special benefit. All written objections to the Final Assessment Resolution shall be filed with the City Manager at or before the time or adjourned time of such hearing. The City Commission may make any adjustments to the Declaration Resolution it deems appropriate based on any written or oral objections filed by the Owners of Parcels within the USAA prior to the time of adoption of the Final Assessment Resolution.

Sec. 25-129.13. EFFECT OF FINAL ASSESSMENT RESOLUTION.

(A) The Underground Utility Line Assessments 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 determination of special benefit and fair apportionment to the Assessed Property; the method of apportionment and assessment; the rate of assessment; the Assessment Roll; and the levy and lien of the Underground Utility Line Assessments), unless proper steps shall be initiated in a court of competent jurisdiction to secure relief within 20 days from the date of the City Commission action on the Final Assessment Resolution. The Assessment Roll, as approved by the Final 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 25-131.2 hereof is used to collect the Underground Utility Line Assessments, such other official as the City Commission by resolution shall designate.

(B) Upon adoption of the Final Assessment Resolution, the City shall secure bids from contractors for the construction of the UULF. The bids submitted shall be compared with the final estimate submitted by FP&L and Other Utilities, and the Public Works Director shall seek City Commission approval for an agreement between the City and the lowest responsible bidder and the construction contract between City and the contractor shall take effect. Upon completion of the UULF, notice shall be provided to Owners to convert to the UULF within the time set out in the notice. In the event all Owners convert their service within the time required, the City Commission shall consider a Resolution acknowledging that the UULF are complete, that the 25% CIAC discount applies and the final Special Assessment shall be modified to reflect the UULA at the discounted amount. If the 25% CIAC discount does not apply, the final Special Assessment shall be accepted at the non-discounted amount. In either case, upon

completion of the UULF, the City shall credit to each of the assessments the difference in the assessment as originally made, approved and confirmed, and the proportionate part of the actual cost of the UULF to be paid by special assessments as finally determined upon the completion of the UULF, but in no event shall the final assessments exceed the amount of the benefits originally assessed.

Sec. 25-129.14. LIEN OF UNDERGROUND UTILITY LINE ASSESSMENTS. Upon the approval of the Final Assessment Resolution, Underground Utility Line Assessments for the relevant USAA shall constitute a lien against Assessed 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. The lien for an Underground Utility Line Assessment shall be deemed perfected upon adoption by the City Commission of the Final Assessment Resolution. The lien for an Underground Utility Line Assessment collected under the Uniform Assessment Collection Act shall attach to the property included on the Assessment Roll as of the prior January 1, the lien date for ad valorem taxes imposed under the Tax Roll. The lien for an Underground Utility Line Assessment collected under the alternative method of collection provided in Section 25-131.2 shall be deemed perfected upon adoption by the City Commission of the Final Assessment Resolution, and shall attach to the property on such date of adoption.

Sec. 25-129.15. TIME AND METHOD OF PAYMENT. The special assessments shall be payable at the time and in the manner stipulated in the Final Assessment Resolution providing for the improvement, shall bear interest, at a rate not to exceed eight percent (8%) per year, or, if Bonds are issued pursuant to Section 25-130, at a rate not to exceed one percent (1%) above the rate of interest at which the improvement Bonds authorized pursuant to this Section and used for the improvement are sold, from the date of the acceptance of the improvement; and may, by the resolution aforesaid be made payable in equal annual installments over a period not to exceed 30 years to which, if not paid when due, there shall be added a penalty at the rate of twelve percent (12%) per annum simple interest, until paid. However, the assessments may be paid without interest at any time within 30 days after the UULF are completed and a resolution accepting same has been adopted by the City Commission.

Sec. 25-129.16. LEGAL PROCEEDINGS INSTITUTED UPON FAILURE OF PROPERTY OWNER TO PAY SPECIAL ASSESSMENT OR INTEREST WHEN DUE; FORECLOSURE; SERVICE OF PROCESS. Each annual installment provided for in Section 25-129.15 shall be paid upon the dates specified in the Final Assessment Resolution, with interest upon all deferred payments, until the entire amount of said assessment has been paid, and upon the failure of any Owner to pay any annual installment due, or any part thereof, or any annual interest upon

deferred payments, the City Commission shall cause to be brought the necessary legal proceedings by a bill in chancery to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including a reasonable attorney's fees, to be assessed as part of the costs and in the event of default in the payment of any installment of an assessment, or any accrued interest on said assessment, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In the foreclosure of any special assessment service of process against unknown or nonresident defendants may be had by publication, as now provided by law in other chancery suits. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the property involved in said proceedings as now provided by law in suits to foreclose mortgages; or, in the alternative, said proceeding may be instituted and prosecuted under Chapter 173, Florida Statutes.

Sec. 25-129-17. REVISIONS TO UNDERGROUND UTILITY LINE ASSESSMENTS. If any Underground Utility Line Assessment made under the provisions of this Section 25-129 is either in whole or in part annulled, vacated, or set aside by the judgment of any court, or if the City Commission is satisfied that any such Underground Utility Line Assessment is so irregular or defective that the same cannot be enforced or collected, or if the City Commission has failed to include or omitted any property on the Assessment Roll which property should have been so included, the City Commission may take all necessary steps to impose a new Underground Utility Line Assessment against any Parcel benefited by the Underground Utility Line Facilities, following as nearly as may be practicable, the provisions of this Section 25-129 and in case such second Underground Utility Line Assessment is annulled, vacated, or set aside, the City Commission may obtain and impose other Underground Utility Line Assessments until a valid Underground Utility Line Assessment is imposed.

Sec 25-129.18. PROCEDURAL IRREGULARITIES. Any informality or irregularity in the proceedings in connection with the levy of any Underground Utility Line Assessment under the provisions of this Division shall not affect the validity of the same after the approval thereof, and any Underground Utility Line Assessment as finally approved shall be competent and sufficient evidence that such Underground Utility Line Assessment was duly levied, that the Underground Utility Line Assessment was duly made and adopted, and that all other proceedings adequate to such Underground Utility Line Assessment were duly had, taken, and performed as required by this Division; and no variance from the directions hereunder shall be held material unless it be clearly shown that the party objecting was materially injured thereby.

Sec. 25-129.19. CORRECTION OF ERRORS AND OMISSIONS.

(A) No act of error or omission on the part of the Property Appraiser, Tax Collector, City

Manager, City Commission, or their deputies or employees, shall operate to release or discharge any obligation for payment of an Underground Utility Line Assessment imposed by the City Commission under the provisions of this Division.

(B) When it shall appear that any Underground Utility Line Assessment should have been imposed under this Section 25-129 against a Parcel specially benefited by the provision of Underground Utility Line Facilities, but such Parcel was omitted from the Assessment Roll or was not listed on the Tax Roll as an individual Parcel as of the effective date of the Assessment Roll approved by the Final Assessment Resolution the City Commission may, upon provision of a notice by mail provided to the Owner of the omitted Parcel in the manner and form provided in Section 25-129.11, impose the applicable Underground Utility Line Assessment for the Fiscal Year in which such error is discovered. Such Underground Utility Line Assessment shall constitute a lien against Assessed 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, shall be collected as provided in Section 25-131 hereof, and shall be deemed perfected on the date of adoption of the resolution imposing the omitted or delinquent assessments.

(C) Prior to the delivery of the Assessment Roll to the Tax Collector in accordance with the Uniform Assessment Collection Act, the City Manager 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 Parcel subject to a Underground Utility Line Assessment, to recalculate the special assessment on the Parcel based upon presentation of competent and substantial evidence, and correct any error in applying the Underground Utility Line Assessment apportionment method to any particular Parcel 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 Underground Utility Line Assessment imposed under the provisions of this Division. All requests from affected Owners for any such changes, modifications or corrections shall be referred to, and processed by, the City Manager 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 City Manager.

Sec. 25-130. BONDS. Bonds may be issued to an amount not exceeding the amount of liens assessed for the cost of improvements to be paid by special assessment. After the

adoption of the Final Assessment Resolution as provided by Section 25-129.12 the City Commission may by resolution or ordinance authorize the issuance of Bonds, and if applicable, to be designated "Improvement Bonds, series No. _____," in an amount not in excess of the aggregate amount of said liens levied for such improvements. Said Bonds shall be payable from a special and separate fund, to be known as the "Improvement fund, series No. _____," which shall be used solely for the payment of the principal and interest of said "Improvement Bonds, series No. _____" and for no other purpose. Said fund shall be deposited in a separate bank account; and all the proceeds collected by the city from the principal, interest, and penalties of said liens shall be deposited and held in said fund. Said Bonds so issued shall never exceed the amount of liens assessed, and said Bonds shall mature not later than 2 years after the maturity of the last installment of said liens. Said Bonds shall bear certificates signed by the clerk of the municipality certifying that the amount of liens levied, the proceeds of which are pledged to the payment of said Bonds, are equal to the amount of the Bonds issued. The Bonds may be delivered to the contractor in payment for his or her work or may be sold at public or private sale for not less than 95 percent of par and accrued interest, the proceeds to be used in paying for the cost of the work. Said Bonds shall not be a general obligation of the city, but shall be payable solely out of said assessments, installments, interest, penalties, provided that said Bonds may be secured by any other revenues that may be legally available for such purpose. Any surplus remaining after payment of all Bonds and interest thereon shall revert to the city and be used for any municipal purpose. Bonds issued under this section may be refunded from time to time as provided in this section.

SECTION 25-131
COLLECTION OF UNDERGROUND UTILITY LINE ASSESSMENTS

SECTION 25-131.1.METHOD OF COLLECTION.

(A) The Underground Utility Line Assessments may be collected pursuant to the uniform method provided in the Uniform Assessment Collection Act, and the City shall comply with all applicable provisions of the Uniform Assessment Collection Act. Any hearing or notice required by this Division may be combined with any other hearing or notice required by the Uniform Assessment Collection Act or other provision of law.

(B) The amount of a Underground Utility Line Assessment to be collected using the uniform method pursuant to the Uniform Assessment Collection Act for any specific 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 did not employ the use of the uniform method of collection authorized by 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 Parcel for the prior year's assessment is supplanted and transferred to such Underground Utility Line Assessment upon certification of a non-ad valorem roll to the Tax Collector by the City.

SECTION 25-131.2.ALTERNATIVE METHOD OF COLLECTION. In lieu of utilizing the Uniform Assessment Collection Act, the City Commission may elect to collect the Underground Utility Line Assessments by any other method which is authorized by law or under the alternative collection method provided by this Section:

(A) The City Commission shall provide Underground Utility Line Assessment bills by first class mail to the Owner of each affected Parcel. The bill or accompanying explanatory material shall include (1) a brief explanation of the Underground Utility Line Assessment, (2) a description of the unit of measurement used to determine the amount of the Underground Utility Line Assessment, (3) the number of units contained within the Parcel, (4) the total amount of the Underground Utility Line Assessment imposed against the Parcel for the appropriate period, (5) the location at which payment will be accepted, (6) the date on which the Underground Utility Line Assessment is due, and (7) a statement that the Underground Utility Line 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 Underground Utility Line Assessments shall be recorded in the Official Records of the County. Nothing herein shall be construed to require that individual liens or releases be filed in the Official Records.

(C) The City Commission shall have the right to foreclose and collect all delinquent Underground Utility Line Assessments in the manner provided by law for the foreclosure of mortgages on real property or appoint or retain an agent to institute such foreclosure and collection proceedings. An Underground Utility Line Assessment shall become delinquent if it is not paid within 30 days from the date any installment is due. The City Commission or its agent shall notify any Owner who is delinquent in payment of his or her Underground Utility Line Assessment within 60 days from the date such assessment was due. Such notice shall state in effect that the City Commission or its agent will either (1) initiate a foreclosure action or suit in equity and cause the foreclosure of such Assessed Property subject to a delinquent Underground Utility Line 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 Underground Utility Line 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 at both the trial and appellate levels 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 natural Person. The City Commission or its agent may join in one foreclosure action the collection of Underground Utility Line Assessments against any or all property assessed in accordance with the provisions hereof. All delinquent Owners whose Parcel is foreclosed shall be liable for an apportioned amount of reasonable costs and expenses incurred by the City Commission and its agents, including reasonable attorney fees, in collection of such delinquent Underground Utility Line Assessments and any other costs incurred by the City Commission as a result of such delinquent Underground Utility Line Assessments 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 Underground Utility Line 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 Division, and (2) any existing lien of record on the affected Parcel for the delinquent Underground Utility Line Assessment is supplanted by the lien resulting from certification of the Assessment Roll, as applicable, to the Tax Collector.

(F) Notwithstanding the City Commission's use of an alternative method of collection, the City Manager shall have the same power and authority to correct errors and omissions as provided to him or other City officials in Section 25-129.19 hereof.

(G) Any City Commission action required in the collection of Underground Utility Line Assessments may be by resolution.

SECTION 25-132 GENERAL PROVISIONS

SECTION 25-132.1. APPLICABILITY. This Division and the City Commission's authority to impose assessments pursuant hereto shall be applicable throughout the City as specified in the Initial Assessment Roll.

SECTION 25-132.2. ALTERNATIVE METHOD.

(A) This Division 2 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 Division, being necessary for the welfare of the inhabitants of the City, shall be liberally construed to effect the purposes hereof.

(B) Nothing herein shall preclude the City Commission 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 City, (2) any notice required by this Division, or (3) any notice required by law, including the Uniform Assessment Collection Act.

SECTION 2. SEVERABILITY. The provisions of this Division 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 Division shall not be affected thereby.

SECTION 3. EFFECTIVE DATE. This Division shall take effect immediately upon its passage and adoption.

PASSED FIRST READING this 16th day of March, 2010.
PASSED SECOND READING this 18th day of May, 2010.

ATTEST:

Mayor
JOHN P. "JACK" SEILER

City Clerk
JONDA K. JOSEPH