RESOLUTION 14-45

CITY OF MARCO ISLAND, FLORIDA

INITIAL ASSESSMENT RESOLUTION
FOR
WATER SYSTEM IMPROVEMENTS
(UNDEVELOPED PROPERTY)

Adopted September 8, 2014

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RESOLUTION 14-45

A RESOLUTION OF THE CITY COUNCIL OF MARCO ISLAND, FLORIDA, RELATING TO THE FUNDING OF WATER FACILITIES AND IMPROVEMENTS THROUGH THE IMPOSITION OF SPECIAL ASSESSMENTS; PROVIDING FOR THE IMPOSITION OF SPECIAL ASSESSMENTS AGAINST UNDEVELOPED PROPERTY BENEFITTED BY THE PROVISION AND AVAILABILITY OF SUCH WATER FACILITIES AND IMPROVEMENTS; DESCRIBING THE REAL PROPERTY SUBJECT TO ASSESSMENT; ESTIMATING THE CAPITAL COST AND PROJECT COST OF THE WATER SYSTEM IMPROVEMENTS TO BE PAID FOR AND FUNDED BY THE ASSESSMENT; ESTABLISHING THE METHOD OF APPORTIONING SUCH PROJECT COST AMONG SPECIALLY BENEFITTED REAL PROPERTY; DIRECTING THE ASSESSMENT COORDINATOR TO PREPARE A PRELIMINARY ASSESSMENT ROLL; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF MARCO ISLAND, FLORIDA, AS FOLLOWS:

ARTICLE I

DEFINITIONS AND CONSTRUCTION

SECTION 1.01. DEFINITIONS. As used in this Initial Assessment Resolution, the following terms shall have the following meanings, unless the context hereof otherwise requires.

"**Assessed Parcel**" means a Tax Parcel subject to the Assessment provided for hereunder.

"**Assessment**" means a special assessment (sometimes characterized as a non-ad valorem assessment) imposed by the City against property included on the Assessment Roll to pay for and fund a portion of the Project Cost of Water System Improvements, computed in the manner described in Article III hereof.

"**Assessment Area**" means the area within which the City may impose Assessments as provided for hereunder to fund Water System Improvements, as described in Section 3.01 hereof.

"**Assessment Coordinator**" means the City Manager of the City, or his or her designee responsible for coordinating Assessments as provided herein.

"**Assessment Ordinance**" means City Ordinance No. 99-1, codified in the City Code in Sections 2-281 through 2-379, as may be amended from time to time, or its successor in function.

"**Assessment Roll**" means a non-ad valorem assessment roll relating to the Project Cost of the Water System Improvements.

"**Capacity Improvements**" means the water system facilities and ancillary capital improvements constructed or acquired by the City including, but not limited to, the acquisition, installation construction, retrofitting and provision of storage, pumping, filtration and desalination facilities and all appurtenances thereto and related infrastructure, together with land or easement acquisition costs, which will provide for the increased demand for potable water generated by new users and the growth presented by

development of currently undeveloped Tax Parcels. Capacity Improvements shall be deemed Local Improvements as such term is defined in the Assessment Ordinance.

"**Capital Cost**" means that portion of the expenses associated with the preparation, planning, acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) and financing of the Water System Improvements and the imposition of the Assessments under generally accepted accounting principles which are properly attributable to the real property included on the Assessment Roll including reimbursement to the City for any funds advanced for Capital Costs and interest on any interfund or intrafund loan for such purposes.

"**City**" means the City of Marco Island, Florida.

"**City Code**" means the Code of Laws and Ordinances of the City of Marco Island, Florida.

"**Collection Cost**" means the estimated cost to be incurred by the City during any Fiscal Year in connection with the implementation, administration, collection, and enforcement of Assessments, including, without limiting the generality of the foregoing, any service charges of the Tax Collector or Property Appraiser pursuant to the Uniform Assessment Collection Act or other general law and amounts necessary to off-set any applicable statutory discounts for the early payment of ad valorem taxes and non-ad valorem assessments.

"**Council**" means the City Council of the City.

"**Equivalent Residential Connection**" or "**ERC**" means a unit of measurement used to approximate the average demand for water service presented by a single-family residential dwelling unit.

"**Final Assessment Resolution**" means the resolution described in the Assessment Ordinance that confirms, modifies, or repeals this Initial Assessment Resolution.

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

"**Impact Fee Ordinance**" means the City ordinances providing for the imposition of impact fees as codified in Sections 52-53, et seq., of the City Code or its successor in function as the context may reasonably require, together with any amendments thereto and any resolutions adopted thereunder.

"**Impact Fee Study**" means the City of Marco Island, Florida Water and Wastewater Capital Facilities Fee Study by Public Resources Management Group, Inc., dated September 26, 2006, which the City Council considered in adopting the Impact Fee Ordinance.

"**Main Extension Improvements**" means the water system facilities and ancillary capital improvements constructed or acquired by the City including, but not limited to, the acquisition, installation construction, retrofitting and provision of water main extensions, together with land or easement acquisition costs, which will provide for the increased

demand for potable water generated by new users and the growth presented by development of currently undeveloped Tax Parcels. Main Extension Improvements shall be deemed Local Improvements as such term is defined in the Assessment Ordinance.

"**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 acquisition and improvement of the Utility System, including Water System Improvements.

"**Project Cost**" means (A) the Capital Cost, (B) the Collection Cost, and (C) any other costs or expenses related thereto.

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

"**State**" means the State of Florida.

"**Tax Parcel**" means a parcel of property to which the Property Appraiser has assigned a distinct ad valorem property tax identification number.

"**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.

"**Undeveloped Property**" means Tax Parcels which the Property Appraiser has assigned a Florida Department of Revenue code or categorization indicating the parcel is vacant or not improved with buildings or structures, or which are otherwise reasonably determined by the Assessment Coordinator to be substantially undeveloped and capable of future development. The Assessment Coordinator may extend the determination as to

whether Tax Parcels comprise Undeveloped Property after verification, field research, and/or the presentation of competent, substantial evidence by an affected property owner.

"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.

"Utility System" means the utility system owned and operated by the City which provides potable water and wastewater services.

"Water System Improvements" means the Capacity Improvements and the Main Extension Improvements.

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 Resolution; and the term "hereafter" means after, and the term "heretofore" means before, the effective date of this Resolution. Words of any gender include the correlative words of the other gender, unless the sense indicates otherwise.

SECTION 1.03. FINDINGS. It is hereby ascertained, determined and declared as follows:

(A) The City has acquired and created the Utility System for the purpose of providing potable water and wastewater services within and adjacent to the municipal boundaries of the City.

(B) The presence of the Utility System enhances and benefits the environment and the health, safety, and welfare of landowners and persons inhabiting the City and adjacent unincorporated areas through the provision, *inter alia*, of municipally provided and professionally maintained potable water and wastewater services.

(C) The City has established an impact fee program through adoption of the Impact Fee Ordinance which provides for, among other things, the imposition of impact fees for water main extension in the amount of $446 per ERC and impact fees for water plant capacity in the amount of $3,740 per ERC.

(D) Such impact fees are imposed in order to fund growth related or expansion-related capital expenditures associated with the additional water utility facilities necessary to serve new growth, and are typically paid for in full no later than the issuance of a certificate of occupancy for the construction or expansion of the affected building.

(E) The City has incurred considerable indebtedness by issuing various Obligations to finance acquisition of the Utility System and the expansion necessary to ensure service capability for all Tax Parcels throughout the City. Such Obligations are being repaid primarily through the monthly rates collected from customers of the Utility System.

(F) The City also incurs ongoing expenses associated with reserving and maintaining Utility System capacity to ensure the availability of potable water service to Undeveloped Property when the owners thereof commence development.

(G) The Council desires to create the Assessment Area to fund, in part, the acquisition and construction of the proportionate share of the Water System Improvements necessary to serve new users and growth presented by development of previously undeveloped Tax Parcels.

(H) The Utility System essentially serves an island or geographically isolated coastal community with a relatively definite and limited potential build-out, which is largely developed, and the Utility System has been acquired, constructed, improved and substantially sized to serve all anticipated development, including Undeveloped Property.

(I) Although the City could wait for development of Undeveloped Property to occur and collect impact fees in the indeterminate future, it is fair and reasonable for the City to ask and require such owners to begin to pay what is an equivalent thereto over a period of years in as much as the capital infrastructure comprising the Water System Improvements (and the capacity to serve afforded thereby) is readily available, increases the value of Undeveloped Property presently, and payment therefor need not be deferred as a matter of law nor as a matter of equity with regard to both the owners thereof and all other owners of developed property which have already or are presently contributing to the costs of underwriting Water System Improvements and the Utility System.

(J) The City is authorized by Article VIII, Section 2 of the State Constitution, Section 166.021, Florida Statutes, the Assessment Ordinance, the Uniform Assessment Collection Act, and other applicable provisions of law, to provide for the imposition and collection of charges in the form of special assessments; such impositions are also sometimes characterized as non-ad valorem assessments.

(K) The Assessment Ordinance provides the procedure for establishing assessment areas within which to impose and collect Assessments to finance local improvements such as the Water System Improvements.

(L) The acquisition, development, construction, installation, delivery, availability and funding of the Water System Improvements provides a special benefit to all property capable of development within the Assessment Area by facilitating the development and/or redevelopment of such property.

(M) The acquisition, development, construction, installation, delivery and funding of the Water System Improvements makes available and accommodates increased consumption and demand for potable water from individual parcels through connection to the Utility System, thereby providing a special benefit to such parcels.

(N) The acquisition, construction, availability and funding of the Water System Improvements increases and enhances the use, enjoyment, marketability and value of Assessed Parcels, thereby providing a special benefit to such parcels.

(O) The Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Water System Improvements by fairly and reasonably allocating the estimated cost thereof among specially benefited Assessed Parcels.

(P) The Assessments provided for herein are necessary so that the funding of the Water System Improvements is shared on a more contemporaneous basis by the owners of Undeveloped Property, and no longer deferred indefinitely.

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ARTICLE II

NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED CAPITAL COST AND PROJECT COST. The estimated Capital Cost for the Water System Improvements to be allocated among Undeveloped Property within the Assessment Area shall equal the number of Tax Parcels which comprise Undeveloped Property multiplied by an amount equivalent to the sum of (1) the City's impact fee for water main extension ($446), (2) the City's impact fee for water plant capacity ($3,740), and (3) an additional 1% of such amounts as a reasonable margin to pay or reimburse the City for the costs and expenses of preparation, planning, development and implementation of the assessment program contemplated hereunder. The estimated Project Cost for the Water System Improvements shall consist of the Capital Cost, the Collection Cost any other costs or expenses related thereto. The Project Cost identified herein will be substantially funded through the imposition of Assessments against Undeveloped Property located in the Assessment Area which is specially benefitted by the Water System Improvements in the manner set forth in Article III hereof.

SECTION 2.02. ASSESSMENT ROLL.

(A) The Assessment Coordinator is hereby directed to prepare a preliminary Assessment Roll for Water System Improvements in the manner provided in the Assessment Ordinance.

(B) The Assessment Coordinator shall compute and allocate the Assessments for Water System Improvements among Undeveloped Property within the Assessment Area as reflected on the Tax Roll in conformity with Article III hereof.

(C) The Assessment Roll shall be maintained on file in the offices of the City Manager 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 Tax Parcel can be determined by use of a computer terminal or internet access available to the public.

SECTION 2.03. PUBLIC HEARING. A public hearing will be conducted by the Council at 5:30 PM on October 6, 2014, at the Community Meeting Room, 51 Bald Eagle Drive, Marco Island, Florida, to consider imposition of the Assessments for Water System Improvements.

SECTION 2.04. NOTICE BY PUBLICATION. Upon completion of the materials required by Section 2.02 hereof, the Assessment Coordinator shall publish a notice of the public hearing authorized by Section 2.03 hereof in the manner and the time provided in the Assessment Ordinance. Such notice shall be in substantially the form attached hereto as Appendix A.

SECTION 2.05. NOTICE BY MAIL. Upon completion of the materials required by Section 2.02 hereof, the Assessment Coordinator shall, at the time and in the manner specified in the Assessment Ordinance, provide first class mailed notice of the public

hearing authorized by Section 2.03 hereof to each property owner proposed to be assessed at the address indicated on the Tax Roll. Such notice shall be in substantially the form attached hereto as Appendix B.

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ARTICLE III

ASSESSMENTS

SECTION 3.01. DESCRIPTION OF PROPOSED ASSESSMENT AREA. The proposed Assessment Area shall include the entire area of the City, a description of which is included in Appendix C attached hereto.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Assessments shall be imposed against Undeveloped Property reasonably capable of development located within the Assessment Area, the annual amount and term of which shall be computed for each Tax Parcel in accordance with this Article III. When imposed, the Assessment for each Fiscal Year shall constitute a lien upon such Tax Parcels as provided in the Assessment Ordinance.

SECTION 3.03. APPORTIONMENT APPROACH.

(A) The assessment approach contemplated hereunder provides for the levy of Assessments against each parcel of Undeveloped Property reasonably capable of development in a principal amount equal to the sum of the City's impact fee for one (1) ERC for water main extension ($446) plus the City's impact fee for one (1) ERC for water plant capacity ($3,740), together with an additional 1% of such amounts as a reasonable margin to pay or reimburse the City for the costs and expenses of preparation, planning, development and implementation of the assessment program contemplated hereunder. Notwithstanding its size or current approved land use, each parcel of Undeveloped

Property shall be attributed one (1) ERC for Main Extension Improvements and one (1) ERC for Capacity Improvements, as described in the Impact Fee Study and the Impact Fee Ordinance.

(B) The Assessment Roll shall be prepared, and ERCs shall be attributed to each Tax Parcel, based on each Tax Parcel's status as Undeveloped Property as of the effective date of this Resolution. Subsequent merger, combination or aggregation of Tax Parcels shall not result in a lesser number of ERCs being attributed to the Tax Parcels involved in the merger. In the event two (2) or more Tax Parcels which constitute Undeveloped Property as of the effective date hereof are subsequently merged, combined or aggregated, then the total number of ERCs attributed to such parcels shall be attributed to and accounted for among the Tax Parcel(s) resulting from the merger. It is the express intent of Council that owners of Undeveloped Property shall not avoid contributing a fair share of the costs associated with acquisition and expansion of the Utility System by merging Tax Parcels subject to Assessments hereunder.

(C) Each annual installment of the Assessment shall include interest at the rate of 4.33% per annum which represents the average rate of interest paid by the City on the several outstanding Obligations issued to finance acquisition of the Utility System and the expansion necessary to ensure service capability for all Tax Parcels throughout the City, which Obligations are being repaid primarily through the monthly rates collected from customers of the Utility System. Each annual installment of the Assessment shall also

include a pro rata share of the Collection Costs; provided, however, that Collection Costs shall not exceed eight percent (8%) of the annual Assessment.

(D) The determination as to whether a Tax Parcel is Undeveloped Property shall be made using best available data prior to adoption of the Final Assessment Resolution or Annual Assessment Resolution in subsequent Fiscal Years (e.g. Property Appraiser information, aerial images, visual inspection or data deemed reliable by the Assessment Coordinator). In preparing the preliminary Assessment Roll provided for in Section 2.02 hereof, the Assessment Coordinator is hereby authorized to conduct such inspection and make such inquiries and determinations as are reasonably necessary in order to exclude from the Assessment Roll those parcels of Undeveloped Property which, because of their location or physical characteristics, are constrained from development or otherwise not subject to development in the future. Such excluded parcels may include, by way of example only, submerged parcels, rights of way, borrow pits or any other parcel for which, either through the coding system employed by the Property Appraiser, visual inspection or other means, it becomes apparent to the Assessment Coordinator that such parcel is not reasonably capable of development, cannot be developed or otherwise will not have a need for connection to the Utility System.

(E) The Assessment Coordinator is further directed to exclude from the Assessment Roll parcels of Undeveloped Property which comprise Government Property as such term is defined in the Assessment Ordinance, unless such Government Property is

leased for private use. Provided, however, that Government Property excluded from the Assessments contemplated hereunder shall not be exempt from the payment of impact fees imposed by the City pursuant to the Impact Fee Ordinance except as provided in the Impact Fee Ordinance or as required by law.

(F) The Assessment will be collected over a period of ten (10) years in accordance with Section 4.01 hereof. In the event the owner of an Assessed Parcel applies for a building permit prior to conclusion of the ten (10) year Assessment term contemplated herein, such owner will be required to pay water-related impact fees as provided for in the Impact Fee Ordinance (together with any other applicable impact fees imposed thereunder), but will receive a credit against such water-related impact fees in an amount equal to the Assessment paid hereunder (exclusive of (1) the 1% margin imposed in accordance with Paragraph (A) above for the purpose of paying or reimbursing the City for costs and expenses of preparation, development and implementation of the assessment program contemplated hereunder, and (2) Collection Costs and the 4.33% annual interest imposed in accordance with paragraph (C) above). In the event such owner ever seeks a building permit for density above one (1) ERC, the owner will be required to pay additional impact fees for such additional ERCs in the amounts and in the manner set forth in the Impact Fee Ordinance. The Assessments imposed hereunder and any prepayment shall be final, without any other credit, refund, recalculation, adjustment or reapportionment in the

event the Impact Fee Ordinance is subsequently amended to provide for a reduction in the amount of the water-related impact fees imposed by the City.

(G) Notwithstanding anything herein to the contrary, only those Tax Parcels comprising Undeveloped Property within the Assessment Area shall be subject to an Assessment for Water System Improvements.

(H) Upon demonstration by the owner of any Tax Parcel which would otherwise be subject to Assessment hereunder that such Tax Parcel is incapable of development and therefore will not otherwise need connection to the Utility System, such owner may enter into a restrictive covenant agreement with the City providing a covenant which runs with, touches and concerns the land that the Tax Parcel will not be developed, in which case the Tax Parcel will be released from the Assessment upon recording same in a form satisfactory to the City at the owner's expense in the Official Records of Collier County, Florida. The restrictive covenant agreement shall be in substantially the form attached hereto as Appendix D, with such changes as may be approved by counsel for the City, and completed in a manner satisfactory to counsel for the City.

SECTION 3.04. MANDATORY PREPAYMENT UPON SALE OR TRANSFER FOR VALUE. If at any time a Tax Parcel subject to the Assessment is sold or otherwise is transferred for other than nominal consideration, the payment of the Assessment shall be accelerated and due and payable in full for such Tax Parcel. Nominal consideration shall mean a transfer only requiring minimum documentary stamp taxes. Failure to timely pay

such accelerated amount shall entitle the City to use any means to collect same, including the extension and certification of the remaining balance and all Collection Costs associated therewith on a subsequent or later Assessment Roll. Upon adoption and imposition of the Assessments provided for herein, the Assessment Coordinator may provide additional constructive notice thereof in the Official Records of Collier County, Florida.

SECTION 3.05. ADJUSTMENT AFTER PREPAYMENT UPON SUBSTANTIAL IMPROVEMENT OF TAX PARCEL. In the event any Assessment is prepaid for any Tax Parcel, or portion thereof, and the Tax Parcel is subsequently developed or reconstructed with more ERCs than attributed at the time of prepayment, the owner of the Tax Parcel shall then be subject to additional impact fees in accordance with the Impact Fee Ordinance.

SECTION 3.06. IMPACT FEE ORDINANCE. Although the amount of the Assessments contemplated hereunder is based in part upon the impact fees imposed by the City pursuant to the Impact Fee Ordinance, the Assessments are intended to be non-ad valorem assessments within the meaning of the Uniform Assessment Collection Act and special assessments within the meaning of Article X, Section 4 of the Florida Constitution. Accordingly, the Assessments (1) are not and shall not be deemed to be "impact fees" or "capital facilities fees" within the meaning of the Impact Fee Ordinance, the Impact Fee Study or general law, and (2) except as expressly provided herein, are not and shall not be subject to the provisions set forth in the Impact Fee Ordinance applicable to impact fees

(including but not limited to developer contribution credits, alternative fee calculations, installment payments, collection upon default, exemptions, deferrals and waivers) but shall instead be subject to and governed by the provisions set forth herein and in the Assessment Ordinance.

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ARTICLE IV

GENERAL PROVISIONS

SECTION 4.01. METHOD OF COLLECTION. Affected property owners will have the option of prepaying the Assessment in full and thereby avoiding annual financing costs and Collection Costs. If no prepayment is made, the Assessments will be collected in ten (10) annual installments, each corresponding with the City's Fiscal Year. Unless determined otherwise by subsequent resolution, the City shall direct bill the Assessment installment for the Fiscal Year commencing October 1, 2014 pursuant to Section 4.02 of the Assessment Ordinance, and for each Fiscal Year thereafter, commencing in November 2015, the annual installment shall be collected on the ad valorem tax bill by the Collier County Tax Collector, as authorized by the Uniform Assessment Collection Act. The amount certified for collection pursuant to the Uniform Assessment Collection Act for each Tax Parcel may include payment delinquencies from prior annual installments which were direct billed by the City for such Tax Parcel, if any.

SECTION 4.02. SEVERABILITY. If any clause, section or provision of this Resolution shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said Resolution shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 4.03. EFFECTIVE DATE. This Resolution shall take effect immediately upon its adoption.

DULY ADOPTED this 8th day of September, 2014.

CITY COUNCIL OF
MARCO ISLAND, FLORIDA

By: _____
Kenneth E. Honecker, Chairman

(SEAL)

Attest:

By: _____
Laura M. Litzan, City Clerk

APPENDIX A

FORM OF NOTICE TO BE PUBLISHED

NOTICE OF PUBLIC HEARING TO IMPOSE AND PROVIDE FOR COLLECTION OF NON-AD VALOREM ASSESSMENTS IN THE CITY OF MARCO ISLAND, FLORIDA

[INSERT GEOGRAPHICAL DEPICTION OF THE CITY]

The City of Marco Island, Florida hereby gives notice pursuant to Section 3.04 of City Ordinance No. 99-01 (the "Assessment Ordinance") that the City Council will conduct a public hearing to consider the levy and collection of special assessments, sometimes referred to as non-ad valorem assessments, against certain undeveloped property within the City to pay for and fund the acquisition or construction of water system improvements, including improvements related to water main extension and water plant capacity. The hearing will be held at 5:30 PM on October 6, 2014 at the Community Meeting Room, 51 Bald Eagle Drive, Marco Island, Florida, for the purpose of receiving public comment on the proposed special assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within twenty (20) days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at 50 Bald Eagle Drive, Marco Island, Florida, at least forty-eight (48) hours prior to the date of the hearing.

Each parcel of property subject to the assessment will be attributed one (1) equivalent residential connection ("ERC") for water extension and one (1) ERC for water plant capacity within the meaning and in the amounts set forth in Resolution No. 14-____ (the "Initial Assessment Resolution") adopted by the City Council on September 8, 2014. The assessment for each affected parcel will therefore be based on one (1) ERC for water main extension and one (1) ERC for water plant capacity and will include costs incurred by the City in developing and implementing the assessment program, annual collection of the assessment and presently providing water capacity in the utility system for the benefit of the assessed property. A more specific description of the assessment program and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution. Copies of the Assessment Ordinance, the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the City Clerk.

Affected property owners will have the option of prepaying the assessment in full and thereby avoiding annual financing and collection costs. If no prepayment is made, the assessments will be collected in ten (10) annual installments corresponding with the City's fiscal year which commences each October 1. For the fiscal year commencing October 1, 2014, the City anticipates direct billing of the assessment to affected property owners pursuant to Section 4.02 of the Assessment Ordinance. For each fiscal year thereafter, commencing in November 2015, the annual installments are anticipated to be collected on the ad valorem tax bill by the Collier County Tax Collector, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact _____ at (239) 389-5000.

CITY COUNCIL OF MARCO ISLAND, FLORIDA

[To be published on or before September 16, 2014]

APPENDIX B

FORM OF NOTICE TO BE MAILED

[CITY OF MARCO ISLAND LETTERHEAD]

_____, 2014

[Property Owner Name]
[Street Address]
[City, State and zip]

Re: Parcel Number [Insert Number]
Property Address [Insert if Available]
Undeveloped Property Water Assessments

Dear Property Owner:

The City of Marco Island, Florida (the "City") hereby gives notice pursuant to Section 3.05 of City Ordinance No. 99-01 (the "Assessment Ordinance") that the City Council will conduct a public hearing to consider the levy and collection of special assessments, sometimes referred to as non-ad valorem assessments, against certain undeveloped property within the City, including the parcel identified above (the "Subject Parcel"), to pay for and fund the acquisition or construction of water system improvements, including improvements related to water main extension and water plant capacity, and the reservation and maintenance of water capacity in the City's utility system. The hearing will be held at 5:30 PM on October 6, 2014 at the Community Meeting Room, 51 Bald Eagle Drive, Marco Island, Florida, for the purpose of receiving public comment on the proposed special assessments. All affected property owners have a right to appear at the hearing and to file written objections with the City Council within twenty (20) days of this notice. If a person decides to appeal any decision made by the City Council with respect to any matter considered at the hearing, such person will need a record of the proceedings and may need to ensure that a verbatim record is made, including the testimony and evidence upon which the appeal is to be made. In accordance with the Americans with Disabilities Act, persons needing a special accommodation or an interpreter to participate in this proceeding should contact the City Clerk at 50 Bald Eagle Drive, Marco Island, Florida, at least forty-eight (48) hours prior to the date of the hearing.

Each parcel of property subject to the assessment will be attributed one (1) equivalent residential connection ("ERC") for water main extension and one (1) ERC for water plant capacity within the meaning and in the amounts set forth in Resolution No. 14-____ (the "Initial Assessment Resolution") adopted by the City Council on September 8, 2014. The assessment for each affected parcel will therefore be based on one (1) ERC for water main extension and one (1) ERC for water plant capacity and will include costs incurred by the City in developing and implementing the assessment program, annual collection of the assessment and presently providing water capacity in the utility system for the benefit of the assessed property. Information concerning the amount of the proposed assessment for the Subject Parcel is set forth below. The City estimates that it will collect a total principal amount of revenue from the assessment over ten (10) years of $_____.

A more specific description of the assessment program and the method of computing the assessment for each parcel of property are set forth in the Initial Assessment Resolution. Copies of the Assessment Ordinance, the Initial Assessment Resolution and the preliminary Assessment Roll are available for inspection at the office of the City Clerk.

Affected property owners will have the option of prepaying the assessment in full and thereby avoiding annual financing and collection costs. If no prepayment is made, the assessments will be collected in ten (10) annual installments corresponding with the City's fiscal year which commences each October 1. For the fiscal year commencing October 1, 2014, the City anticipates direct billing of the assessment to affected property owners pursuant to Section 4.02 of the Assessment Ordinance. For each fiscal year thereafter, commencing in November 2015, the annual installments are anticipated to be collected on the ad valorem tax bill by the Collier County Tax Collector, as authorized by Section 197.3632, Florida Statutes. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title.

If you have any questions, please contact _____ at (239) 389-5000.

CITY COUNCIL OF MARCO ISLAND, FLORIDA

* * * * * * * * * *

[Property Owner Name]
Parcel Number [Insert Number]
Property Address [Insert if Available]

Total number of water main extension ERCs
attributed to property: 1
Total number of water plant capacity ERCs
attributed to property: 1

Assessment for main extension:	$ 446
Assessment for plant capacity:	$ 3,740
Program administration cost:	$ 42
Total principal balance of assessment:	$4,228

Number of annual payments:	10
Maximum annual payment:*	$____

* Inclusive of annual interest and collection costs. See the Initial Assessment Resolution for further information concerning interest and collection costs.

----- SEND NO MONEY NOW. THIS IS NOT AN INVOICE. -----

[To be mailed on or before September 16, 2014]

APPENDIX C

DESCRIPTION OF ASSESSMENT AREA

The entirety of lands within the city limits of the City of Marco Island, Florida, including with particularity the following:

A Corporate Line lying offshore from Marco Island, in portions of Township 52 South, Range 26 East, Collier County, Florida, which line is described as follows: From the corner common to Sections 17, 18, 19, and 20, Township 52 South, Range 26 East, run Westerly along the line common to said Sections 18 and 19 to a point 2,640 feet offshore in the Gulf of Mexico from the Mean High Tide Line Section 18 and the point of beginning. From said point of beginning, run Southerly 2,640 feet offshore from the Mean High Tide Line of Marco Island, past the Southerly point of said Island to the mouth of Caxambas Pass, thence run Northeasterly in the waters of Caxambas Pass to the center line of the channel of said Caxambas Pass; thence run Easterly along the centerline of the channel of Caxambas Pass, to a point intersecting a marked channel running Northerly towards Barfield Bay; thence run Northerly along the centerline of said channel to a point 300 feet offshore in Barfield Bay from the Mean High Tide Line of the Easterly end of lands formerly known as J. M. Barfield Subdivision, thence run Northerly, Easterly, and Southerly, 300 feet offshore in Barfield Bay from the Mean High Tide Line of Marco Island to intersection with the centerline of Blue Hill Creek; thence run Southeasterly along the centerline of Blue Hill Creek to a point 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island; thence continue Northerly, Easterly, and Southerly 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island to centerline of the aforementioned Blue Hill Creek, thence run Northeasterly along the centerline of Blue Hill Creek, but to a point intersecting the line common to Range 26 East and Range 27 East, Township 52 South, Collier County, Florida; thence run Northerly along the line common to said Range 26 and 27, but to a point intersecting the centerline of the channel of the Big Marco River, thence Northerly, Northwesterly, and Westerly along the centerline of the aforementioned Big Marco River and out through the marked Capri Pass, being 2,640 feet offshore from the Mean High Tide Line of Marco Island; thence run Southwesterly, Southerly, and Southeasterly 2,640 feet offshore from the Mean High Tide Line of Marco Island to the point of Beginning lying along the East-West line common to Sections 18 and 19, Township 52 South; Range 26 East.

Together with the following:

All that part of Township 52 South, Range 26 East, Collier County, Florida, being more particularly described as follows:
COMMENCING at the corner common to Sections 17, 18, 19, and 20, Township 52 South, Range 26 East, Collier County, Florida; thence run Westerly along the line common to Sections 18 and 19 to an intersection with a line which lies 2,640 feet offshore in the Gulf of Mexico and parallel with the Mean High Tide Line of Marco Island; thence run Southerly along a line which lies 2,640 feet offshore in the Gulf of Mexico and parallel with the Mean High Tide Line of Marco Island to the southerly point of Marco Island at the mouth of Caxambas Pass and the POINT OF BEGINNING of

the Annexation Parcel herein described; thence run Northeasterly in the waters of Caxambas Pass to the center line of the channel of said Caxambas Pass; thence run Easterly along the centerline of the channel of Caxambas Pass to a point intersecting a marked channel running Northerly towards Barfield Bay; thence run Northerly along the centerline of said channel to a point 300 feet offshore in Barfield Bay from the Mean High Tide Line of the Easterly end of lands formerly known as J. M. Barfield Subdivision; thence run Northerly, Easterly, and Southerly 300 feet offshore in Barfield Bay from the Mean High Tide Line of Marco Island to the intersection with the centerline of Blue Hill Creek; thence run Southeasterly along the centerline of Blue Hill Creek to a point 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island; thence continue Northerly, Easterly, and Southerly 300 feet offshore in Blue Hill Bay from the Mean High Tide Line of Marco Island to the centerline of aforementioned Blue Hill Creek; thence run Northeasterly along the centerline of Blue Hill Creek to a point intersecting the line common to Range 26 East and Range 27 East, Township 52 South, Collier County, Florida; thence run Southerly along the line common to said Range 26 East and Range 27 East to a line defined by the following two pairs of coordinates: N=571301.20 E=443476.15 and N=570492.74 E=441254.92; thence run along said line S.70°00'00"W. to the Mean High Tide Line of Ramsey Key; thence run southwesterly along said Mean High Tide Line of Ramsey Key to a line defined by the following two pairs of coordinates: N=569786.12 E=439722.64 and N=569346.13 E=439159.48; thence run along said line S.52°00'00"W. to the Mean High Tide Line of Helen Key; thence run Westerly and Southwesterly along said Mean High Tide Line of Helen Key to a line defined by the following two pairs of coordinates: N=568234.97 E=434316.36 and N=568623.84 E=432865.08; thence run along said line N.75°00'00"W. to the Mean High Tide Line of Fred Key; thence run Northwesterly and Westerly along said Mean High Tide Line of Fred Key to a line defined by the following two pairs of coordinates: N=569403.31 E=428843.50 and N=569403.31 E=427323.02; thence run along said line N.90°00'00"W. to the Mean High Tide Line of Curry Island; thence run Northwesterly along said Mean High Tide Line of Curry Island to a line defined by the following two pairs of coordinates: N=570231.46 E=425376.10 and N=570531.67 E=424255.68; thence run along said line N.75°00'00"W. to the Mean High Tide Line of Allen Key; thence run Northwesterly and Westerly along said Mean High Tide Line of Allen Key to a line defined by the following two pairs of coordinates: N=570787.53 E=422263.74 and N=570787.53 E=420743.25; thence run along said line N.90°00'00"W. to the Mean High Tide Line of Kice Island; thence run Northwesterly, Westerly and Southeasterly along said Mean High Tide Line of Kice Island to an intersection with a line which lies 2,640 feet offshore in Caxambas Pass and the Gulf of Mexico and parallel with the Mean High Tide Line of Marco Island; thence run Westerly and Northwesterly along a line which lies 2,640 feet offshore in Caxambas Pass and the Gulf of Mexico and parallel with the Mean High Tide Line of Marco Island to the POINT OF BEGINNING of the Parcel herein described.

APPENDIX D

FORM OF RESTRICTIVE COVENANT AGREEMENT

[RECORDING INFORMATION]

_____[Space Above This Line For Recording Data] _____

RESTRICTIVE COVENANT AGREEMENT FOR SPECIAL ASSESSMENTS

THIS RESTRICTIVE COVENANT AGREEMENT ("Agreement") is entered into this ____ day of _____, 2014, between the City of Marco Island, Florida (the "City"), 50 Bald Eagle Drive, Marco Island, Florida and [name/address], its successors and assigns (the "Owner").

WHEREAS, the Owner owns certain real property located within the boundaries of the City, more fully described by legal description and Collier County Property Appraiser Parcel ID number(s) in Exhibit "A", attached hereto (the "Subject Property"); and

WHEREAS, the City has provided for the acquisition, construction, delivery, financing, reservation and maintenance of capacity in the City's water and wastewater utility system for the benefit of, and to provide future utility service to, undeveloped property within the City which is made developable by such capacity; and

WHEREAS, the City has adopted Resolution No. 14-_____ (the "Initial Assessment Resolution") and Resolution No. 14-_ (the "Final Assessment Resolution", and together with the Initial Assessment Resolution, the "Assessment Resolutions") providing for the levy of special assessments (the "Assessments") against certain undeveloped property within the City in order to recover the costs associated with the acquisition, construction, delivery, financing, reservation and maintenance of such utility system capacity; and

WHEREAS, the Subject Property is reasonably classified as undeveloped and thus would otherwise be subject to the Assessments contemplated by the Assessment Resolutions; and

WHEREAS, the Assessment Resolutions provide for the exclusion of certain undeveloped property from the Assessment if the owner of such undeveloped property executes a restrictive covenant agreement providing the owner's covenant that the property will not be developed and therefore will not need connection to the utility system; and

WHEREAS, the Owner therefore wishes to enter into this Agreement and provide its covenant herein to the City that the Subject Property is incapable of development and shall not be developed, thereby effectuating release of the Subject Property from the Assessment which would otherwise be imposed pursuant to the Assessment Resolutions; and

WHEREAS, by execution hereof, the Owner acknowledges that because of the restrictions on the sizing and availability of the capacity improvements, the City is unable to give any assurance whatsoever that any excess or unallocated capacity will ever be available to the Owner, and that development of the Subject Property may be restricted or impossible, now and in the future, by virtue of this Agreement.

NOW THEREFORE, in consideration of $1 and other good and valuable consideration exchanged among the parties, and being fully aware of the foregoing, the Owner hereby agrees and covenants with the City as follows:

1. Recitals. The Recitals set forth above are hereby incorporated into this Agreement.

2. Representations of the Owner. The Owner hereby covenants that it is lawfully seized and in possession of the Subject Property and that it has good and lawful right to enter into this Agreement and that mortgagees holding prior liens on the Property shall be required to join in this Agreement ("Exhibit "A"), and that this Agreement shall run with, touch and concern the Subject Property.

3. Release of Subject Property from Assessment. By execution hereof, the Owner on behalf of himself, his heirs, assigns and successors in interest agrees that (1) the Subject Property cannot be and shall not be developed to an extent that would otherwise require connection to or service from the City's water and wastewater utility system, (2) to the extent that development of the Subject Property occurs in the future, the development will be such that connection to the utility system will not be required, and (3) if connection of the Subject Property to the utility system is ever required or desired to enable development of such property, connection will be subject to the availability of future capacity and the payment of applicable impact fees as set forth in Section 4 below.

4. Future Capacity. In the event future capacity is available, and the Owner or any successor thereto seeks a building permit for development of the Subject Property, the Owner agrees to pay all applicable impact fees required by the City's applicable impact fee provisions in order to receive such building permit. If the Owner develops the Subject Property after execution of this Agreement, Owner acknowledges responsibility for payment in full of the greater of the Assessment imposed under the Assessment Resolutions or the impact fees due under Sections 52-53, et seq., of the City Code of Ordinances or its successor in function as the context may reasonably require, together with any amendments thereto and any resolutions adopted thereunder (the "Impact Fee Ordinance") at such time and in such manner as required by the Impact Fee Ordinance. Failing payment thereof, Owner consents to the imposition of a single non-ad valorem assessment against the Subject Property substantially in accordance with the terms and conditions of the Assessment Resolutions.

5. Development Approval. Nothing in this Agreement relates to, or should be

construed as, an agreement on the part of the City to approve or effectuate any request or consideration associated with development approvals for the Subject Property.

6. Recording and Effect. This Agreement shall be recorded in the public records of Collier County, Florida at the Owner's expense, which shall then evidence that the Subject Property is excluded from the Assessments as provided herein.

CITY OF MARCO ISLAND, FLORIDA

By: _____
Guillermo Polanco, Finance Director

(SEAL)

ATTEST:

_____
Laura Litzan, City Clerk

Approved as to Form:

_____
Burt L. Saunders, City Attorney

STATE OF FLORIDA
COUNTY OF COLLIER

Sworn to and subscribed before me this ____ day of _____ 2014.

_____
(Notary Public - State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____
Identification_____

OWNER:

WITNESSES:

_____

OWNER(S):

(Signature)_____
(Print Name)_____

_____ (Signature) _____
(Print Name)_____

_____ (Signature)_____
(Print Name)_____

STATE OF FLORIDA
COUNTY OF COLLIER

Sworn to and subscribed before me this ____ day of _____ 2014.

_____
(Notary Public - State of Florida)

_____
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known _____
Identification_____

OWNER MAILING ADDRESS:

_____
_____
_____

SUBJECT PROPERTY SITUS ADDRESS (SUBJECT TO DEED RESTRICTION):

_____
_____

EXHIBIT "A"

DESCRIPTION OF SUBJECT PROPERTY

PARCEL ID NO. _____

OFFICIAL RECORDS BOOK _____, PAGE _____

LEGAL DESCR: _____

_____

_____

"ADDITIONAL" PARCEL(S) JOINED TO PARENT PARCEL

PARCEL ID NO. _____

OFFICIAL RECORDS BOOK _____, PAGE _____

LEGAL DESCR: _____

_____

_____

PARCEL ID NO. _____

OFFICIAL RECORDS BOOK _____, PAGE _____

LEGAL DESCR: _____

_____

_____

PARCEL ID NO. _____

OFFICIAL RECORDS BOOK _____, PAGE _____

LEGAL DESCR: _____

_____

_____

(Add additional pages, if necessary)

EXHIBIT "B"

FOR MORTGAGE COMPANY (IF APPLICABLE)

****

RE:

PARCEL ID NOS:

_____

_____

_____

SUBJECT PROPERTY SITUS ADDRESS
(SUBJECT TO DEED RESTRICTION):

_____

_____

WITNESSES:

_____

_____

MORTGAGEE JOINDER (If Applicable)

(Signature)_____

(Print Name)_____

(Title)_____

STATE OF _____
COUNTY OF_____

Sworn to and subscribed before me this ____ day of _____ 2014.

_____
(Notary Public - State of Florida)

_____
(Print, Type, or Stamp Commissioned
Name of Notary Public)
Personally Known _____
Identification_____