RESOLUTION NO. 10-34

A RESOLUTION OF THE CITY COUNCIL OF MARCO ISLAND, FLORIDA, RELATING TO THE CONSTRUCTION AND FUNDING OF WASTEWATER IMPROVEMENTS; DESCRIBING THE PROPERTY TO BE LOCATED WITHIN THE ESTATES ASSESSMENT AREA AND THE WASTEWATER IMPROVEMENTS TO BE CONSTRUCTED THEREIN; ESTIMATING THE COST OF THE WASTEWATER IMPROVEMENTS; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE WASTEWATER IMPROVEMENTS AGAINST REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED; AUTHORIZING EXTRAORDINARY PAYMENT ALTERNATIVES; DIRECTING THE CITY MANAGER 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.

"**Adjusted Prepayment Amount**" means (A) the amount required to prepay the Assessment for each Tax Parcel located in the Estates Assessment Area (1) following

issuance of the Original Obligations, as computed pursuant to Section 3.04(B) hereof and revised annually pursuant to Section 3.05(I) hereof, and (2) following issuance of any Refunding Obligations, as computed pursuant Section 3.04(C) hereof and revised annually pursuant to Section 3.05(I) hereof; and (B) the comparable prepayment amounts computed and revised for each Tax Parcel against which a special assessment has been imposed to finance other Utility System improvements, if any, funded from proceeds of the Obligations.

"**Annual Debt Service Component**" means the amount computed for each Tax Parcel pursuant to Section 3.05(E) hereof.

"**Annual Debt Service Factor**" means the factor computed pursuant to Section 3.04(D) hereof

"**Assessment**" means a special assessment (sometimes characterized as a non-ad valorem assessment) imposed by the City against property located within the Estates Assessment Area to respectively fund the Project Cost of Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements to serve the Estates Assessment Area and related expenses, computed in the manner described in Section 3.05 hereof.

"**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 respectively to the Project Cost of the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements and related expenses.

"**Capital Cost**" means respectively all or any portion of the expenses that are properly attributable to the assessment program preparation, planning, acquisition, design, construction, installation, reconstruction, renewal or replacement (including demolition, environmental mitigation and relocation) of the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements and the respective imposition of the Assessments under generally accepted accounting principles; and including reimbursement to the City for any funds advanced for Capital Cost and interest on any interfund or intrafund loan for such purposes.

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

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

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

"**Collection Cost**" means the estimated cost to be incurred by the City during any Fiscal Year in connection with the collection of Assessments.

"**Collection Cost Component**" means the amount computed for each Tax Parcel pursuant to Section 3.05(F) hereof.

"**Estates Assessment Area**" means the area subject to the special assessments contemplated herein, as described in Section 3.01 hereof.

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

"**Debt Service Amount**" means the amount computed pursuant to Section 3.05(A) hereof.

"**Deferred Payment Agreement**" means an agreement described in Section 3.09 hereof authorized by City Resolution No. 06-46, by and between the City and all of the record owners of any property subjected to Assessments which provides for the alternative payment or funding of an amount equivalent to the Initial Prepayment Amount by the City on behalf of the owner, and alternatively evidences and governs the repayment of such amount as an alternative and consensual special assessment.

"**Equivalent Residential Connection**" or "**ERC**" means a unit of measurement that approximates the average demand of an individually metered 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 for the Estates Assessment Area.

"**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.

"**Funding Agreement**" means the agreement pursuant to which the City agrees to deliver the Obligations against payment therefor by the purchaser or underwriter of such Obligations.

"**Initial Prepayment Amount**" means the amount computed pursuant Section 3.04(A) hereof for each Tax Parcel located in the Estates Assessment Area to prepay an Assessment prior to issuance of the Original Obligations.

"**Modified Debt Service Amount**" means the amount computed pursuant to Section 3.05(C) hereof.

"**Obligations**" means Original Obligations or Refunding Obligations. For the purpose of computing the Assessments as provided in Article III hereof, and wherever the context so requires, the term shall only include that portion of any Obligations attributable to the Assessments respectively imposed for the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements within the Estates Assessment Area

"**On-site Performance Based Wastewater Treatment System**" means a wastewater system located upon and serving property subject to an Assessment meeting operational criteria as defined in Rule 64E-6.025(1) or (2), Florida Administrative Code, or its successor in function.

"**Original Obligations**" means a series of bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligations of the City issued or incurred to finance any portion of the Project Cost of the

Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements and which may be secured, in whole or in part, by proceeds of the Assessments.

"**Prepayment Modification Factor**" means the factor computed pursuant to Section 3.05(B) hereof.

"**Project Cost**" means respectively (A) the Capital Cost of the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements, (B) the Transaction Cost associated with the Obligations attributable to the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements, (C) interest accruing on such Obligations for such period of time as the City deems appropriate, (D) the debt service reserve fund or account, if any, established for the Obligations attributable to the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements, and (E) any other costs or expenses related thereto.

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

"**Refunding Obligations**" means a series of bonds or other evidence of indebtedness including but not limited to, notes, commercial paper, capital leases or any other obligations of the City issued or incurred to refund all or any portion of the Original Obligations or any indebtedness issued to refinance the Original Obligations.

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

"**Statutory Discount Amount**" means the amount computed for each Tax Parcel pursuant to Section 3.05(G) hereof.

"**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.

"**Transaction Cost**" means the costs, fees and expenses incurred by the City in connection with the issuance and sale of any series of Obligations, including but not limited to (A) rating agency and other financing fees; (B) the fees and disbursements of bond counsel or special assessment counsel; (C) the underwriters' discount; (D) the fees and disbursements of the City's financial advisor; (E) the costs of preparing and printing the Obligations, the preliminary official statement, the final official statement, and all other documentation supporting issuance of the Obligations; (F) the fees payable in respect of any municipal bond insurance policy; (G) administrative, development, credit review, and all other fees associated with any pooled commercial paper or similar interim financing program; and (G) any other costs of a similar nature incurred in connection with issuance of such Obligations.

"**Uniform Assessment Collection Act**" means Sections 197.3632 and 197.3635, Florida Statutes, 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 public wastewater utility system owned and operated by the City which provides central wastewater collection, treatment, and disposal facilities and services.

"**Wastewater Collection Improvements**" shall be deemed a local improvement as such term is defined in the Assessment Ordinance, and means the wastewater collection facilities and ancillary capital improvements to be constructed by the City, including but not limited to, the acquisition, installation construction, retrofitting and provision of gravity lines, force mains, pump or lift stations and associated subdivision type infrastructure necessary to service the Estates Assessment Area, together with land or easement acquisition costs, which will provide for collection of wastewater generated within the Estates Assessment Area. The Wastewater Collection Improvements do not include Wastewater Treatment Capacity Improvements.

"**Wastewater Treatment Capacity Improvements**" shall be deemed local improvements as such term is defined in the Assessment Ordinance, and means the wastewater transmission, treatment, disposal and reuse facilities and ancillary capital improvements to be constructed by the City including, but not limited to, major transmission, treatment plant, and reuse disposal facilities, together with land or easement acquisition costs, which will receive, accommodate, treat and dispose of the additional

wastewater generated by new users, growth and the construction of Wastewater Collection Improvements within the Estates Assessment Area. Wastewater Treatment Capacity Improvements do not include Wastewater Collection 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 that:

(A) The City has acquired and created the Utility System for the purpose of providing central wastewater collection, treatment, and disposal facilities and 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 central wastewater collection, treatment, disposal and reuse facilities and services.

(C) The City has initiated an expansion program for the Utility System with the intent to construct, in a series of phases to be determined from time to time, within geographic areas served by, or capable of being served by, the Utility System, Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements in order to provide central wastewater service to owners of vacant parcels and owners and users of parcels served by on-site sewage treatment and disposal systems including, but not limited to, septic tanks and cess pits located within the City and adjacent unincorporated areas served by the Utility System, based on funding availability and physical and economic feasibility.

(D) The City is embarking upon the expansion of the Utility System to equitably, ecologically and economically manage the collection and disposal of wastewater and improve the water quality within and surrounding the City. 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 removes environmental burdens created by inadequate, obsolete or poorly maintained on-site sewage treatment and disposal systems, and will serve to end the proliferation of on-site sewage treatment disposal systems.

(E) The Council desires to create the Estates Assessment Area to fund, in part, the construction of the proportionate share of the Wastewater Collection Improvements therein and the proportionate share of the Wastewater Treatment Capacity Improvements the City anticipates will be needed to serve the Estates Assessment Area.

(F) 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.

(G) The Assessment Ordinance provides the procedure for establishing assessment areas within which to impose and collect Assessments to finance local improvements such as the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements.

(H) The development, construction, installation, delivery and funding of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements will improve the environmentally sound use and enjoyment of property located within the Estates Assessment Area by providing a centralized means of collecting and disposing of treated wastewater generated within the Estates Assessment Area through the Utility System in a manner that diminishes and relieves the environmental burdens created by less effective means of treating wastewater currently in use, thereby providing a special benefit to such property.

(I) The development, construction, installation, delivery and funding of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements

provides a special benefit to all property capable of development within the Estates Assessment Area by facilitating the development and/or redevelopment of such property.

(J) The development, construction, installation, delivery and funding of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements will immediately increase the available utility and use of every parcel served by reducing the area of land needed to facilitate the location of on-site sewage treatment facilities thereon, thereby providing a special benefit to such property.

(K) The construction of Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements will make available and accommodate increased consumption and demand for wastewater collection, treatment and disposal from individual parcels through connection to the Utility System, thereby providing a special benefit to such property.

(L) The Estates Assessment Area is substantially composed of similarly sized platted single family dwelling lots which allow a relatively high level of certainty in the design and sizing of Wastewater Collection Improvements required to serve the Estates Assessment Area, regardless of the size of single family dwelling units located on or built thereon. Accordingly, it is fair and reasonable to use an equivalent residential connection method for computing Assessments to fund Wastewater Collection Improvements within the Estates Assessment Area based upon one (1) equivalent residential connection for each

single family dwelling or subdivided residential building lot capable of development with a single family dwelling, regardless of the size of the dwelling unit or lot.

(M) Unlike the relatively homogenous design and sizing requirements presented by platted single family dwelling lots, parcels capable of non-residential or multi-family development may be developed more intensely. Accordingly, it is fair and reasonable to allocate multiple ERCs to non-residential or multi-family parcels based upon estimated average daily flow of wastewater when computing Assessments for Wastewater Collection Improvements.

(N) The use of an equivalent residential connection method of computing Assessments to fund Wastewater Treatment Capacity Improvements within the Estates Assessment Area based upon a modest square footage demand is fair to impacted landowners who developed or purchased property before the advent of the provision and enforcement of mandatory connection of central wastewater collection and disposal facilities, but allows for the City to reasonably impose and adjust the amount of assessments commensurate with the future treatment and disposal demand caused by substantial reconstruction or redevelopment of impacted parcels or new construction on vacant parcels in excess of the modest square footage demand factor used to determine one (1) equivalent residential connection and used to allocate the Assessment for Wastewater Treatment Capacity Improvements. As well, it is fair and reasonable to allocate multiple

ERCs to non-residential or multi-family parcels based on estimated average daily flow of wastewater when computing Assessments for Water Treatment Capacity Improvements.

(O) A substantial portion of the City has been improved with residential dwellings, many of which are connected to on-site sewage treatment and disposal systems, and it is fair and reasonable to develop an apportionment approach for Wastewater Treatment Capacity Improvements otherwise generally consistent with the City's method of imposing impact fees, but which takes into consideration the distinctions between improved parcels with existing dwelling units, the consequences of voluntary substantial reconstruction or redevelopment of improved parcels, and voluntary development of vacant or unimproved parcels capable of improvement.

(P) The Assessments to be imposed in accordance with this Resolution provide an equitable method of funding the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements by fairly and reasonably allocating the estimated Capital Cost and Project Cost to specially benefited property.

(Q) Pursuant to City Resolution No. 06-46, owners of property located in Assessment Areas to be established after 2007 were given the opportunity to "lock-in" construction costs for the wastewater improvements and thereby avoid increased construction costs resulting from inflation and/or the passage of time.

(R) The lock-in of construction costs was effectuated at the option of eligible property owners through the execution of a Deferred Payment Agreement (for Future Assessment Areas), the form of which was approved by City Resolution No. 07-08.

(S) Tax parcels located within the Estates Assessment Area, the owners of which have elected to enter into Deferred Payment Agreements (for Future Assessment Areas), are subject to the Assessments provided for herein (unless such Assessments have been prepaid in full). The owners of such Tax Parcels have merely committed to pay the Assessments in an alternative fashion.

(T) As provided in City Resolution No. 06-46, any shortfall in the Project Cost provided for herein which results from owners of property within the Estates Assessment Area having availed themselves of the alternative payment options offered by a Deferred Payment Agreement (for Future Assessment Areas) shall be underwritten solely by other legally available revenues of the City (which may include but are not limited to utility rates collected from all Utility System ratepayers and interest or investment earnings on all funds advanced to the City by property owners who entered into such agreements) and not by Assessments imposed on other Tax Parcels within the Estates Assessment Area.

ARTICLE II

NOTICE AND PUBLIC HEARING

SECTION 2.01. ESTIMATED CAPITAL COST AND PROJECT COST.

(A) The estimated Capital Cost for the Wastewater Collection Improvements allocated to the Estates Assessment Area is $12,550,626. The estimated Project Cost allocated to the Estates Assessment Area for the Wastewater Collection Improvements is $13,348,846. The Project Cost identified herein will be substantially funded through the imposition of Assessments against property located in the Estates Assessment Area in the manner set forth in Article III hereof.

(B) The estimated Capital Cost for the Wastewater Treatment Capacity Improvements allocated to the Estates Assessment Area is $2,745,716. The estimated Project Cost allocated to the Estates Assessment Area for the Wastewater Treatment Capacity Improvements $2,920,344. The Project Cost identified herein will be substantially funded through the imposition of Assessments against property located in the Estates Assessment Area in the manner set forth in Article III hereof.

SECTION 2.02. ASSESSMENT ROLL.

(A) The City Manager is hereby directed to prepare a preliminary Assessment Roll in the manner provided in the Assessment Ordinance for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements.

(B) The City Manager shall compute and allocate the Assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements among the parcels of real property within the Estates 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 December 6, 2010, at the Community Meeting Room, 51 Bald Eagle Drive, Marco Island, Florida, to consider imposition of the Assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements.

SECTION 2.04. NOTICE BY PUBLICATION. Upon completion of the materials required by Section 2.02 hereof, the City Manager 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 preliminary Assessment Roll, the City Manager 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.

[Remainder of page intentionally left blank.]

ARTICLE III
ASSESSMENTS

SECTION 3.01. DESCRIPTION OF PROPOSED ASSESSMENT AREA. The proposed Estates Assessment Area shall include the area described in Appendix C attached hereto. The Estates Assessment Area is proposed for the purpose of improving the sound environmental use and enjoyment of property and funding the provision of Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements benefiting property located therein. The Council may expand the Estates Assessment Area, without further notice to the owners of property described in Appendix C, to include additional property against which annual assessments of the same amount and terms described herein will be imposed; provided however, that no such expansion shall increase the annual assessment payable in respect of the property described in Appendix C or modify the terms thereof.

SECTION 3.02. IMPOSITION OF ASSESSMENTS. Assessments shall be imposed against property located within the Estates 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 pursuant to the Assessment Ordinance upon the Tax Parcels located in the Estates Assessment Area.

SECTION 3.03. DETERMINATION OF EQUIVALENT RESIDENTIAL CONNECTIONS; APPORTIONMENT APPROACH.

(A) In determining equivalent residential connections relative to Wastewater Collection Improvements, it is fair and reasonable to take into consideration the relatively high level of certainty in the design and sizing of Wastewater Collection Improvements required to serve the Estates Assessment Area, regardless of the size of single family dwelling units located or built thereon. In contrast to the relatively homogenous wastewater collection design and sizing requirements presented by platted single family dwelling lots in the Estates Assessment Area, any parcels capable of non-residential or multi-family development may be developed more intensely; and, it is fair and reasonable to allocate multiple ERCs to non-residential or multi-family parcels, if any, based on estimated average daily flow of wastewater when computing Assessments for Wastewater Collection Improvements. For Wastewater Collection Improvements the number of equivalent residential connections for any Tax Parcel shall be determined as follows:

(1) All Tax Parcels with existing single family dwelling units thereon shall be determined to have one (1) ERC per dwelling unit regardless of size.

(2) All unimproved Tax Parcels constituting subdivided building lots or capable of improvement with single family dwelling units thereon shall constitute one (1) ERC.

(3) The applicable ERC determination for all Tax Parcels classified as commercial or master metered pursuant to City Ordinance 2003-19, as amended, if any, shall be based on the average necessary level of service capacity (calculated on an estimated average daily flow basis figured in terms of gallons per day) consistent with the determination of impact fees for commercial and master metered classifications in City Ordinance No. 2003-19, as amended.

(B) In determining equivalent residential connection relative to Wastewater Treatment Capacity Improvements, it is fair and reasonable to take into consideration the distinctions between the relative position of owners of improved parcels with existing dwelling units, owners choosing to undertake substantial reconstruction or redevelopment of improved parcels, and owners of vacant parcels or lots capable of future development. For Wastewater Treatment Capacity Improvements the number of equivalent residential connections for any Tax Parcel shall be determined as follows:

(1) Tax Parcels improved with a single family dwelling of 2,500 square feet or less shall serve as the benchmark for one (1) ERC.

(2) All Tax Parcels with existing single family dwelling units thereon as of June 1, 2005, shall be determined to have one (1) ERC per dwelling unit regardless of size.

(3) All unimproved Tax Parcels shall constitute a minimum of one (1) ERC, subject to adjustment upon improvement.

(4) All unimproved Tax Parcels constituting subdivided building lots shall constitute one (1) ERC, subject to adjustment upon improvement.

(5) Subsequent to June 1, 2005, Tax Parcels improved with a single family dwelling of 2,500 square feet or less with four (4) bedrooms or less shall be determined as having one (1) ERC; and, the ERC determination shall thereafter increase by 0.33 ERC for each additional bedroom or 750 square feet of dwelling space, or fraction thereof, in excess of 2,500 square feet.

(6) The redevelopment or reconstruction of a Tax Parcel with a single family dwelling existing thereon as of June 1, 2005 shall result in an increase by 0.33 ERC for each 750 square feet of dwelling space, or portion thereof, in excess of 2,500 square feet.

(7) Any increase in ERCs represents an increased demand for Wastewater Treatment Capacity Improvements and must be paid in cash to the City at the time a building permit is issued.

(8) Vacant or unimproved Tax Parcels subject to an Assessment for Wastewater Treatment Capacity Improvements shall not be also subject to a wastewater impact fee imposed by City Ordinance No. 2003-19, as amended.

(C) Property located within the Estates Assessment Area will be subject to Assessments for Wastewater Collection Improvements at a rate of $19,734 per ERC.

(D) Property located within the Estates Assessment Area will be subject to Assessments for Wastewater Treatment Capacity Improvements at a rate of $4,610.00 per ERC.

SECTION 3.04. PREPAYMENT AMOUNTS.

(A) If applicable, the Initial Prepayment Amount for each Tax Parcel located within the Estates Assessment Area shall be respectively computed for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements by (1) dividing the number of ERCs attributable to such Tax Parcel by the total number of ERCs attributable to Tax Parcels within the Estates Assessment Area, and (2) multiplying the result by the estimated Capital Cost of the respective Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements.

(B) Following issuance of the Original Obligations, an Adjusted Prepayment Amount for each Tax Parcel, other than those Tax Parcels as to which the Assessment has been prepaid prior to issuance of the Original Obligations, shall be respectively computed for the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements by multiplying (1) the amount computed by dividing (a) the Initial Prepayment Amount established herein for such Tax Parcel by (b) the sum of (i) the aggregate Initial Prepayment Amounts for all Tax Parcels within the Estates Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other utility improvements

funded from proceeds of the Original Obligations, in each case excluding those Tax Parcels as to which the Assessment has been prepaid prior to issuance of the Original Obligations, by (2) the principal amount of the Original Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

(C) Following issuance of any Refunding Obligations, a new Adjusted Prepayment Amount for each Tax Parcel, other than those Tax Parcels as to which the Assessment has been prepaid prior to issuance of such Refunding Obligations, shall be respectively computed for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements by multiplying (1) the amount computed by dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of (i) the aggregate Adjusted Prepayment Amounts for all Tax Parcels within the Estates Assessment Area and (ii) the aggregate comparable prepayment amounts computed for all Tax Parcels against which a special assessment has been imposed to finance other utility improvements funded from proceeds of the Obligations being refunded, in each case excluding those Tax Parcels as to which the Assessment has been prepaid prior to issuance of such Refunding Obligations, by (2) the principal amount of such Refunding Obligations. The Adjusted Prepayment Amount for each Tax Parcel shall be revised annually, as provided in Section 3.05(I) hereof.

SECTION 3.05. COMPUTATION OF ASSESSMENTS. Assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements

will be imposed for twenty (20) years, which are anticipated to commence with the ad valorem tax bill issued in November 2013. The Assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements will be computed for each Tax Parcel in the manner set forth in this Section 3.05.

(A) DEBT SERVICE AMOUNT. A "Debt Service Amount" shall be computed for each Fiscal Year as the amount which would be payable in respect of the Obligations in accordance with a debt service schedule prepared under the following assumptions: (1) the principal installments equal those established in the Funding Agreement, and (2) the Obligations bear interest at a rate one full percentage point in excess of the actual rate; provided however, that the "Debt Service Amount" for any Fiscal Year shall not exceed the principal amount of Obligations then outstanding plus interest thereon at rates one full percentage point in excess of the actual rates.

(B) PREPAYMENT MODIFICATION FACTOR. A "Prepayment Modification Factor" shall be computed for each Fiscal Year by dividing (1) the amount computed by subtracting (a) the sum of the Adjusted Prepayment Amounts, as of the date on which the Obligations are issued by the City, for all Tax Parcels as to which prepayment has been made following issuance of the Obligations, from (b) the total principal amount of Obligations initially issued by the City, by (2) the total principal amount of Obligations initially issued by the City.

(C) MODIFIED DEBT SERVICE AMOUNT. A "Modified Debt Service Amount" shall be computed for each Fiscal Year by multiplying (1) the Debt Service Amount by (2) the Prepayment Modification Factor.

(D) ANNUAL DEBT SERVICE FACTOR. An "Annual Debt Service Factor" shall be computed for each Fiscal Year by dividing (1) the Modified Debt Service Amount by (2) the aggregate Adjusted Prepayment Amount.

(E) ANNUAL DEBT SERVICE COMPONENT. The "Annual Debt Service Component" shall be computed for each Fiscal Year for each Tax Parcel by multiplying (1) the Adjusted Prepayment Amount for such Tax Parcel by (2) the Annual Debt Service Factor.

(F) COLLECTION COST COMPONENT. The "Collection Cost Component" shall be computed each Fiscal Year for each Tax Parcel by (1) dividing (a) the Adjusted Prepayment Amount for such Tax Parcel by (b) the sum of the aggregate Adjusted Prepayment Amount, and (2) multiplying the result by the Collection Cost.

(G) STATUTORY DISCOUNT AMOUNT. The "Statutory Discount Amount" shall be computed for each Tax Parcel as the amount by law as the maximum discount for early payment of ad valorem taxes and non-ad valorem assessments, such amount to be calculated by deducting (1) the sum of (a) the Annual Debt Service Component and (b) the Collection Cost Component, from (2) the amount computed by dividing (a) the sum of (i) the Annual Debt Service Component and (ii) the Collection Cost Component, by (b) 0.96.

(H) ASSESSMENT. The annual Assessment for each Tax Parcel shall be computed as the sum of (1) the Annual Debt Service Component, (2) the Collection Cost Component and (3) the Statutory Discount Amount.

(I) REVISION OF ADJUSTED PREPAYMENT AMOUNT. Upon issuance of the ad valorem tax bill for each Fiscal Year, the Adjusted Prepayment Amount for each Tax Parcel shall be recomputed by deducting (1) the amount computed by (a) dividing (i) the principal component of the Debt Service Amount utilized to compute the Debt Service Component for the Assessment Roll by (ii) the total Debt Service Amount utilized to compute the Debt Service Component for the Assessment Roll and (b) multiplying the result by the Annual Debt Service Component included on the Assessment Roll for the Tax Parcel, from (2) the Adjusted Prepayment Amount utilized to compute the Annual Assessment included on the Assessment Roll for such Tax Parcel.

SECTION 3.06. INITIAL PREPAYMENT OPTION.

(A) Following adoption of the Final Assessment Resolution but prior to the date on which the Assessment Roll is certified for collection, the City Manager shall provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the owner's option to prepay all future annual Assessments. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth calendar day following the date on which the notice is delivered to the possession of the U.S. Postal Service), the owner of each Tax Parcel subject to the Assessment shall be entitled to prepay the Assessment and be

relieved thereby of all future annual Assessments; other than adjustments resulting from substantial redevelopment or improvement as provided in Section 3.11 herein. The Council, in its sole discretion, may elect to accept prepayments pursuant to this Section 3.06 on any date prior to execution of the Funding Agreement.

(B) The amount of all prepayments made pursuant to this Section 3.06 shall be final and only subject to adjustment as provided in Section 3.11 hereof. The City shall not be required to refund any portion of a prepayment if the actual Capital Cost of the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements is less than the estimated Capital Cost upon which the Initial Prepayment Amount was computed.

SECTION 3.07. ADDITIONAL PREPAYMENT OPTION.

(A) Following the date specified in the notice provided pursuant to Section 3.06(A) hereof, or such later date as the Council may allow in its sole discretion, the owner of each Tax Parcel subject to the Assessments shall be entitled to prepay all future unpaid annual Assessments upon payment of an amount equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount, computed at a rate one full percentage point in excess of the rate on the Obligations, from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations.

(B) During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(C) The amount of all prepayments made pursuant to this Section 3.07 shall be final and only subject to adjustment as provided in Section 3.11 hereof. The City shall not be required to refund any portion of a prepayment if (1) either the Capital Cost of the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements is less than the amount upon which such Adjusted Prepayment Amount was computed, or (2) annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

SECTION 3.08. MANDATORY PREPAYMENT UPON SALE OR TRANSFER FOR VALUE.

(A) 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 the owner shall prepay all future unpaid annual Assessments for such Tax Parcel. Nominal consideration shall mean a transfer only requiring minimum documentary stamp taxes. The amount required to prepay the future unpaid annual Assessments will be

equal to the sum of (1) the Adjusted Prepayment Amount for such Tax Parcel, and (2) interest on the Adjusted Prepayment Amount, computed at a rate one full percentage point in excess of the rate on the Obligations, from the most recent date to which interest on the Obligations has been paid to the next date following such prepayment on which the City can redeem Obligations after providing all notices required to redeem all or any portion of the Obligations.

(B) During any period commencing on the date the annual Assessment Roll is certified for collection pursuant to the Uniform Assessment Collection Act and ending on the next date on which unpaid ad valorem taxes become delinquent, the City may reduce the amount required to prepay the future unpaid annual Assessments for the Tax Parcel by the amount of the Assessment that has been certified for collection with respect to such Tax Parcel.

(C) The amount of all prepayments made pursuant to this Section 3.08 shall be final and only subject to adjustment as provided in Section 3.11 hereof. The City shall not be required to refund any portion of a prepayment if (1) either the Capital Cost of the Wastewater Collection Improvements and/or Wastewater Treatment Capacity Improvements is less than the amount upon which such Adjusted Prepayment Amount was computed, or (2) annual Assessments will not be imposed for the full number of years anticipated at the time of such prepayment.

(D) The proceeds of any prepayments received by the City pursuant to this Section 3.08 shall be applied to the repayment of the Obligations or otherwise retire the Project Cost.

SECTION 3.09. ALTERNATIVE PAYMENT OPPORTUNITIES; DEFERRED PAYMENT AGREEMENT.

(A) In an attempt to provide extraordinary alternative payment opportunities to owners whose property is subjected to Assessments for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements, affected owners may be afforded the opportunity to defer payment of a principal amount equivalent to the Initial Prepayment Amount by entering into a Deferred Payment Agreement with the City, which shall be executed with the same formality as a deed and recorded in the Official Records of Collier County, Florida, in a form and manner authorized by resolution of the Council and approved by the City Attorney. In such an event, the Assessment shall be deemed prepaid for the purposes of administering the Assessment Roll created as a result of this Initial Assessment Resolution and the lien and obligation to pay the amount equivalent to the Initial Prepayment Amount, and all interest subsequently accruing thereon, shall be due in a single payment due no later than the twentieth (20th) anniversary of the Deferred Payment Agreement, or upon transfer of ownership of the subject property, whichever first occurs.

(B) The opportunity to enter into a Deferred Payment Agreement with the City shall only be available prior to the issuance of any Original Obligations. The Council, in its sole discretion, may elect to enter into a Deferred Payment Agreement pursuant to this Section 3.09 on any date prior to execution of the Funding Agreement.

(C) The City shall advance and fund, on behalf of the owner, the Assessment attributable to the property of an owner who enters into a Deferred Payment Agreement; and, the Deferred Payment Agreement shall in turn provide for the alternative consensual special assessment of the benefited property which shall be collected separate and apart from any other Assessments imposed as a result of this Initial Assessment Resolution, or any Final Assessment Resolution.

(D) Any Deferred Payment Agreement shall require that the owner acknowledge the estimated amount of the final payment due, including principal and accrued interest, at the full term thereof, and the acknowledgement that the separate lien created by the Deferred Payment Agreement on the subject property is an alternative and consensual special assessment equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments, and when due shall be superior to all other liens, titles and claims, including any mortgage, until paid. The Deferred Payment Agreement shall not be subject to any subordination to any other lien or mortgage.

(E) Following the adoption of the Final Assessment Resolution but prior to the date on which the Assessment Roll is certified for collection, the City Manager shall

provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the available opportunity to enter into a Deferred Payment Agreement. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth calendar day following the date on which the notice is delivered to the possession of the U.S. Postal Service), the owner of each Tax Parcel subject to the Assessment shall have the opportunity to enter into a Deferred Payment Agreement. The principal amount of any Deferred Payment Agreement made pursuant to this Section 3.09 shall be final and only subject to adjustment as provided in Section 3.11 hereof. The City shall not be required to refund or adjust the principal amount, or any interest accruing thereon, due pursuant to any Deferred Payment Agreement if the actual Capital Cost of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements is less than the estimated Capital Cost upon which the Initial Prepayment Amount or principal amount of the Deferred Payment Agreement was computed.

(F) Notwithstanding anything herein to the contrary, Deferred Payment Agreements shall only be available for the twenty year term as provided for in this Section 3.09 and for owners of eligible On-site Performance Based Wastewater Treatment Systems as provided for in Section 3.10 hereof.

SECTION 3.10. DEFERRED PAYMENT FOR ON-SITE PERFORMANCE BASED WASTEWATER TREATMENT SYSTEM; DEFERRED PAYMENT AGREEMENT.

(A) In an attempt to provide extraordinary deferral and payment opportunities to owners of properties served by an On-site Performance Based Wastewater Treatment System which are located within an Assessment Area for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements, affected owners may be afforded the opportunity to defer payment of a principal amount equivalent to the Initial Prepayment Amount for up to ten (10) years, or until connection of the property to the Utility System. Such an opportunity to defer assessment for Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements fairly and reasonably balances the direct and immediate benefits to the subject property occasioned by the availability of central wastewater facilities with an opportunity for the owner to use or amortize a substantial portion of the investment in and useful life of the On-site Performance Based Wastewater Treatment System, and assures the community and ratepayers in general that over time all benefited owners will fairly participate and contribute to the development and support of the Utility System. Any Deferred Payment Agreement with the City shall be executed with the same formality as a deed recorded in the Official Records of Collier County, Florida, in a form and manner authorized by resolution of the Council and approved by the City Attorney. In such an event, the subject Assessment shall be deemed prepaid for the purposes of administering the Assessment Roll created as result of this Initial Assessment Resolution and the lien and obligation to pay the amount equivalent to the Initial Prepayment Amount, commencing on the tenth

anniversary of the Deferred Payment Agreement, and all interest subsequently accruing thereon after such deferred period shall then be due and payable to the City pursuant to the Deferred Payment Agreement.

(B) Either upon connection to the Utility System or on the tenth anniversary of the Deferred Payment Agreement, the Deferred Payment Agreement shall provide that the principal amount shall be collected in the form of a non-ad valorem assessment for a period of twenty (20) years together with interest accruing thereon and all costs for collection in a manner generally consistent with the imposition of assessments as provided for in this Initial Assessment Resolution, unless the owner elects (1) to prepay the Assessment, or (2) to defer payment of the principal amount for up to twenty (20) years in a manner substantially similar to the alternative payment opportunities provided in Section 3.09 hereof.

(C) The opportunity to enter into a Deferred Payment Agreement pursuant to the provisions of this Section shall only be available to affected owners of property who can demonstrate that the property is, or is reasonably anticipated to be, served by an On-site Performance Based Wastewater Treatment System and who enter into a Deferred Payment Agreement with the City prior to the issuance of any Original Obligations. The Council, in its sole discretion, may elect to enter into a Deferred Payment Agreement pursuant to this Section 3.10 on any date prior to the execution of the Funding Agreement.

(D) The City shall advance and fund, on behalf of the owner, the Assessment

attributable to the property of an owner who enters into a Deferred Payment Agreement; and, the Deferred Payment Agreement shall in turn provide for the alternative consensual special assessment of the benefited property which shall be collected separate and apart from any other Assessments imposed as a result of this Initial Assessment Resolution, or any Final Assessment Resolution.

(E) Any Deferred Payment Agreement shall require that the owner acknowledge that the separate lien created by the Deferred Payment Agreement on the subject property is an alternative and consensual special assessment equal in rank and dignity with the liens of all state, county, district or municipal taxes and other non-ad valorem assessments, and when due shall be superior to all other liens, titles and claims, including any mortgage, until paid. The Deferred Payment Agreement shall not be subject to any subordination to any other lien or mortgage.

(G) Following the adoption of the Final Assessment Resolution but prior to the date on which the Assessment Roll is certified for collection, the City Manager shall provide first class mailed notice to the owner of each Tax Parcel subject to the Assessment of the available opportunity to enter into a Deferred Payment Agreement. On or prior to the date specified in such notice (which shall not be earlier than the thirtieth calendar day following the date on which the notice is delivered to the possession of the U.S. Postal Service), the owner of each Tax Parcel subject to the Assessment shall have the opportunity to enter into a Deferred Payment Agreement. The principal amount of any Deferred

Payment Agreement made pursuant to this Section 3.10 shall be final and only subject to adjustment as provided in Section 3.11 hereof. The City shall not be required to refund or adjust the principal amount, or any interest accruing thereon, due pursuant to any Deferred Payment Agreement if the actual Capital Cost of the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements is less than the estimated Capital Cost upon which the Initial Prepayment Amount or principal amount of the Deferred Payment Agreement was computed.

SECTION 3.11. 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 equivalent residential connections than attributed at the time of prepayment, the owner of the Tax Parcel shall then be subject to an adjustment in the Assessment for each additional ERC, or fraction thereof, and shall pay such additional amount to the City in cash at the time a building permit is issued. Such adjustment shall be computed in accordance with the most recent Annual Assessment Resolution for the subject Assessment, without any other credit, refund, recalculation or reapportionment, so that the proceeds from such additional Assessments are available to the City to additionally apply to payment of applicable Obligations or otherwise retire the Project Cost.

[Remainder of page intentionally left blank.]

ARTICLE IV
GENERAL PROVISIONS

SECTION 4.01. METHOD OF COLLECTION. The Assessments shall be collected pursuant to the Uniform Assessment Collection Act.

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 18th day of October, 2010.

CITY COUNCIL OF MARCO ISLAND, FLORIDA

By: _____
Frank Recker, Chairman

(SEAL)

Attest:

By: _____
Laura Litzan, City Clerk