

RESOLUTION NO. 09-24

A RESOLUTION OF THE CITY COUNCIL OF MARCO ISLAND, FLORIDA, AMENDING THE BOUNDARIES OF THE MACKLE PARK ASSESSMENT AREA TO INCLUDE ADDITIONAL TAX PARCELS; DETERMINING THAT SUCH ADDITIONAL TAX PARCELS WILL BE SPECIALLY BENEFITED BY CERTAIN WASTEWATER COLLECTION IMPROVEMENTS AND WASTEWATER TREATMENT CAPACITY IMPROVEMENTS; RATIFYING AND CONFIRMING CITY RESOLUTION NOS. 07-57 AND 07-64 WHICH CREATED THE MACKLE PARK ASSESSMENT AREA AND PROVIDED FOR THE IMPOSITION OF SPECIAL ASSESSMENTS AGAINST REAL PROPERTY THEREIN; AND PROVIDING AN EFFECTIVE DATE.

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

**SECTION 1. AUTHORITY.** This Resolution of the City of Marco Island, Florida (the "City") is adopted pursuant to City Ordinance No. 99-1 (as amended from time to time and codified in the City Code in Sections 2-281 through 2-379, the "Assessment Ordinance"), City Resolution Nos. 07-57 (the "Initial Assessment Resolution") and 07-64 (the "Final Assessment Resolution," and together with the Initial Assessment Resolution, the "Assessment Resolutions"), City Resolution No. 09-16 and other applicable provisions of law.

**SECTION 2. DEFINITIONS.** All capitalized terms in this Resolution shall have the meanings defined in the Assessment Ordinance and the Assessment Resolutions.

**SECTION 3. FINDINGS.** It is hereby ascertained, determined and declared that:

(A) The findings provided in Section 1.03 of the Initial Assessment Resolution are hereby ratified, confirmed, and incorporated as if set forth fully herein.

(B) The Assessment Resolutions established the Mackle Park Assessment Area and imposed special assessments, sometimes referred to as non-ad valorem assessments, against real property located therein to provide funding for the construction of Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements.

(C) The Initial Assessment Resolution described the real property located within the Mackle Park Assessment Area and provided that the City Council may expand such Assessment Area to include additional property against which annual Assessments of the same amounts and terms described therein will be imposed.

(D) Since adoption of the Assessment Resolutions, the City's consulting engineers have determined that twelve Tax Parcels (the "Transfer Parcels") which were originally included in the East Winterberry (North) Assessment Area established by City Resolution Nos. 08-42 and 08-45 would be better served by inclusion in the Mackle Park Assessment Area. A description of the real property comprising the Transfer Parcels is attached hereto as Appendix A.

(E) The Transfer Parcels will receive certain benefits by inclusion in the Mackle Park Assessment Area including cost savings and earlier availability of centralized wastewater service.

(F) As required by the terms of City Resolution No. 09-16, the Assessment Resolutions and the Assessment Ordinance, notice of a public hearing to consider the addition of the Transfer Parcels to the Mackle Park Assessment Area and the imposition of Assessments against the Transfer Parcels has been published and mailed to each owner of the Transfer Parcels notifying such owners of the opportunity to be heard.

The proof of publication and an affidavit of mailing are attached hereto as Appendices B and C respectively.

(G) A public hearing has been duly held and comments and objections of all interested persons have been heard and considered as required by law.

(H) The boundaries of the Mackle Park Assessment Area are hereby amended to include the Transfer Parcels. Assessments are hereby imposed upon the Transfer Parcels in the same amounts and under the same terms as provided for in the Assessment Resolutions. Accordingly, the Transfer Parcels are no longer included within the boundaries of the East Winterberry (North) Assessment Area established by City Resolution Nos. 08-42 and 08-45 nor are they subject to the special assessments imposed by City Resolutions No. 08-42 and 08-45.

(I) In the event that an owner of any of the Transfer Parcels has prepaid a special assessment, in whole or in part, which was calculated based upon inclusion of such parcel within the East Winterberry (North) Assessment Area, such owner may be entitled to a partial refund or credit of amounts previously paid. Any such partial refund or credit shall be determined by the City's Utility Accountant and processed under the direction of and with the approval of the City Finance Director.

(J) The legislative determinations contained in the Assessment Resolutions concerning (1) the special benefit to be conveyed by the Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements, and (2) the fairness and reasonableness of the apportionment methodology are hereby determined to apply to the Transfer Parcels.

(K) The authority of the City to establish the Mackle Park Assessment Area and expand such area to include additional Tax Parcels, to deliver Wastewater Collection Improvements and Wastewater Treatment Capacity Improvements therein and provide for the funding thereof through the imposition of Assessments against specially benefitted property, the Assessment Ordinance, the Assessment Resolutions

and all matters in connection therewith have been validated by Final Judgment of the Circuit Court in and for Collier County, Case No. 08-4002-CA.

**SECTION 4. AMENDED BOUNDARIES OF THE MACKLE PARK ASSESSMENT AREA; RATIFICATION AND CONFIRMATION OF THE ASSESSMENT RESOLUTIONS.**

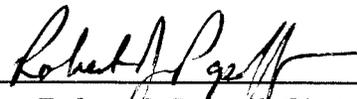
(A) The boundaries of the Mackle Park Assessment Area are hereby amended to include the Transfer Parcels, and Appendix C of the Initial Assessment Resolution which describes the Mackle Park Assessment Area is hereby supplanted by Appendix D hereto.

(B) Except as otherwise provided herein, the Assessment Resolutions are ratified and confirmed and remain in full force and effect.

**SECTION 5. EFFECTIVE DATE.** This Resolution shall take effect immediately upon its adoption.

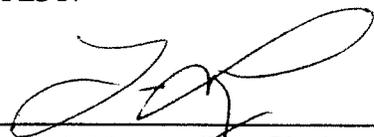
**DULY ADOPTED** this 3rd day of August, 2009.

**CITY COUNCIL OF MARCO ISLAND,  
FLORIDA**

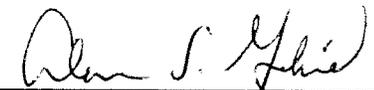
By:   
Robert J. Popoff, Chairman

(SEAL)

ATTEST:

  
\_\_\_\_\_  
Laura M. Litzan, City Clerk

Approved as to Form:

  
\_\_\_\_\_  
Alan L. Gabriel, City Attorney  
Weiss Serota Helfman Pastoriza Cole &  
Boniske, P.L.

## **APPENDIX A**

### **TRANSFER PARCELS**

Marco Beach Unit 8, Block 295, Lots 11-17; Block 297, Lots 2-7 as recorded in Plat Book 6  
Page 67 of the Public Records of Collier County, Florida.

**APPENDIX B**

**PROOF OF PUBLICATION**



NAPLES DAILY NEWS  
Published Daily  
Naples, FL 34102

# Affidavit of Publication

## State of Florida

### County of Collier

Before the undersigned they serve as the authority, personally appeared Susan Rogge, who on oath says that she serves as the Vice President of Finance of the Naples Daily, a daily newspaper published at Naples, in Collier County, Florida; distributed in Collier and Lee counties of Florida; that the attached copy of the advertising, being a

### PUBLIC NOTICE

in the matter of PUBLIC NOTICE

was published in said newspaper 1 time in the issue on July 3, 2009

Affiant further says that the said Naples Daily News is a newspaper published at Naples, in said Collier County, Florida, and that the said newspaper has heretofore been continuously published in said Collier County, Florida; distributed in Collier and Lee counties of Florida, each day and has been entered as second class mail matter at the post office in Naples, in said Collier County, Florida, for a period of 1 year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Susan Rogge  
(Signature of affiant)

Sworn to and subscribed before me  
This 7th day of July, 2009

Chanel McDonald  
(Signature of notary public)



CHANEL A. MCDONALD  
Commission DD 650475  
Expires June 29, 2011  
Notary Public, State of Florida, No. 820-255-1019

**NOTICE OF HEARING TO CONSIDER THE ADDITION OF  
REAL PROPERTY TO THE MACKLE PARK ASSESSMENT  
AREA AND THE IMPOSITION OF NON-AD VALOREM  
ASSESSMENTS AGAINST SUCH PROPERTY**

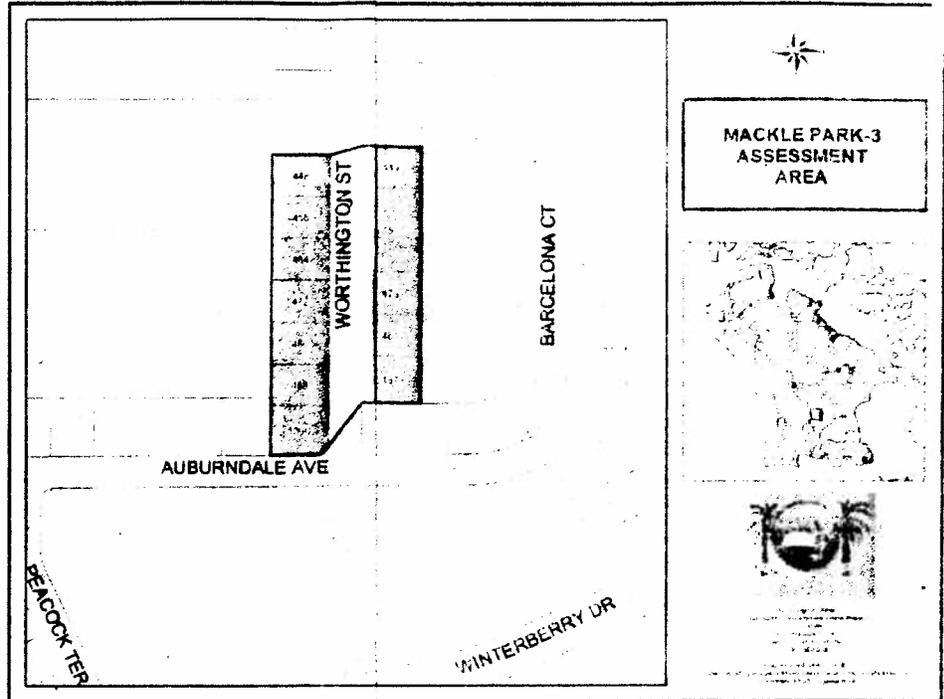
NAPLES DAILY NEWS  
Published Daily  
Naples, FL 34102

**Affidavit of F  
State of Florida  
County of Collier**

Before the undersigned they appeared Susan Rogge, wt the Vice President of Finan a daily newspaper publish Florida; distributed in Colli the attached copy of the a

**PUBLIC NOTICE**

in the matter of PUBLIC N  
was published in said newsj  
on July 3, 2009



Affiant further says that the said published at Naples, in said Colli newspaper has heretofore been of County, Florida; distributed in C each day and has been entered as office in Naples, in said Collier year next preceding the first p advertisement; and affiant furth promised any person, firm or commission or refund for the pur publication in the said newspaper.

*Susan Rogge*  
(Signature of affiant)

Sworn to and subscribed by  
This 7th day of July, 2009

*[Signature]*  
(Signature of notary public)

Resolution Nos. 07-57 and 07-64 of the City of Marco Island, Florida established the Mackle Park Assessment Area and imposed special assessments, sometimes referred to as non-ad valorem assessments, against real property located therein to provide funding for the construction of wastewater collection and wastewater treatment capacity improvements. Resolution No. 07-57 described the real property located within the Mackle Park Assessment Area and provided that the City Council may expand such assessment area to include additional property against which annual special assessments of the same amounts and terms described therein will be imposed.

Since adoption of Resolution Nos. 07-57 and 07-64, the City's consulting engineers have determined that the twelve tax parcels shown above (the "Transfer Parcels") which were originally included in the East Winterberry (North) Assessment Area established by City Resolution Nos. 08-41 and 08-46 would be better served by inclusion in the Mackle Park Assessment Area. The Transfer Parcels will receive certain benefits by inclusion in the Mackle Park Assessment Area including cost savings and earlier availability of centralized wastewater service.

Notice is hereby given that the City Council of the City of Marco Island will conduct a public hearing to consider addition of the Transfer Parcels to the previously established Mackle Park Assessment Area and the imposition of special assessments against such additional tax parcels in the same amounts and according to the same terms as provided for in Resolution Nos. 07-57 and 07-64, to provide funding for the construction of wastewater collection and wastewater treatment capacity improvements. The hearing will be held at 5:30 PM on Monday, August 3, 2009, at the Community Meeting Room, 51 Bald Eagle Drive, Marco Island, Florida 34145, for the purpose of receiving public comment on the addition of such Transfer Parcels to the existing Mackle Park Assessment Area and the imposition of special assessments against such Transfer Parcels. 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.

The special assessment for each parcel of property will be based upon the total number of equivalent residential connections attributable to such property. A more specific description of the improvements and the method of computing the special assessment for each parcel of property is set forth in City Resolution Nos. 07-57 and 07-64, copies of which are available for inspection at the office of the City Clerk.

Commencing in November, 2010, the assessments are anticipated to be collected on the non-ad valorem tax bill by the Collier County Tax Collector, as authorized by Section 197.3632, Florida Statute. Failure to pay the assessments will cause a tax certificate to be issued against the property which may result in a loss of title. Failing prepayment of the applicable special assessments, the City Council intends to collect the assessments in twenty (20) annual installments.

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

**APPENDIX C**

**AFFIDAVIT OF MAILING**

**AFFIDAVIT OF MAILING**

**BEFORE ME**, personally appeared the undersigned affiant, who after being duly sworn depose and say:

(1) Erin Augustine Pomeroy is Project Analyst of Ennead, LLC ("Ennead").

(2) On or before July 13, 2009, Ennead mailed notices in accordance with City Resolution No. 09-16, Resolution No. 07-57, the Initial Assessment Resolution for the Mackle Park Assessment Area (the "Initial Assessment Resolution") and Section 2-325 of the Code of Ordinances of the City of Marco Island, Florida by First Class Mail, to each owner of real property proposed for inclusion within the existing Mackle Park Assessment Area (established by the Initial Assessment Resolution), informing such owners of a public hearing to consider inclusion of their property within the Mackle Park Assessment Area, the related imposition of special assessments and the right to be heard at the public hearing, at the addresses then shown on the real property assessment tax roll database maintained by the Collier County Property Appraiser for the purpose of the levy and collection of ad valorem taxes.

(3) An exemplary form of such notice is attached hereto.

**FURTHER AFFIANT SAYETH NAUGHT.**

*Erin Augustine Pomeroy*  
Erin Augustine Pomeroy, Affiant

STATE OF FLORIDA  
COUNTY OF LEON

The foregoing Affidavit of Mailing was sworn to and subscribed before me this 27th day of July, 2009, by Erin Augustine Pomeroy. She is personally known to me or has produced FL driver as identification and did take an oath.



*Heidi T. Campbell*  
Printed/Typed Name: Heidi T. Campbell  
Notary Public-State of FL  
Commission Expires: DD 753894

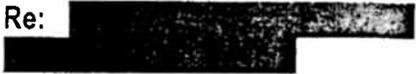
City of Marco Island  
50 Bald Eagle Drive  
Marco Island, Florida 34145



July 10 2009



**Notice of Public Hearing  
Mackle Park Assessment Area**

**Re:** 

Dear Property Owner:

Resolution Nos. 07-57 and 07-64 of the City of Marco Island, Florida (the "City") established the Mackle Park Assessment Area and imposed special assessments, sometimes referred to as non-ad valorem assessments, against real property located therein to provide funding for the construction of wastewater collection and wastewater treatment capacity improvements. Resolution No. 07-57 described the real property located within the Mackle Park Assessment Area and provided that the City Council may expand such assessment area to include additional property against which annual special assessments of the same amounts and terms described therein will be imposed.

Since adoption of the Assessment Resolutions, it has been determined that twelve tax parcels (the "Transfer Parcels") which were originally included in the East Winterberry (North) Assessment Area established by City Resolution Nos. 08-41 and 08-46 would be better served by inclusion in the Mackle Park Assessment Area. The tax parcel referenced above is one of the twelve tax parcels considered for transfer. The Transfer Parcels will receive certain benefits by inclusion in the Mackle Park Assessment Area including cost savings and earlier availability of centralized wastewater collection services.

Notice is hereby given that the City Council of the City of Marco Island will conduct a public hearing to consider and receive public comment regarding the transfer of the Transfer Parcels, including the tax parcel referenced above, from the East Winterberry (North) Assessment Area to the Mackle Park Assessment Area, the imposition of special assessments against such Transfer Parcels to fund wastewater improvements in the same amounts and according to the same terms as provided for in Resolution Nos. 07-57 and 07-64, and the collection of the assessments on the ad valorem tax bill. The hearing will be held at 5:30 PM on Monday, August 3, 2009, at the Community Meeting Room, 51 Bald Eagle Drive, Marco Island, Florida. You and all other affected property owners are invited to attend and participate in the public hearing and to file written objections with the City Council within twenty (20) days of this notice.

The total revenue to be collected by the City through non-ad valorem assessments within the Mackle Park Assessment Area is estimated to be \$13,732,076 together with other costs associated with financing and collection of the assessments. The assessment for each improved parcel of property is based on the total number of equivalent residential connection units or ERCs attributable to the property as of the date the assessment is imposed. A more specific description of the assessment program including a description of the Mackle Park Assessment Area is included in Resolution Nos. 07-57 and 07-64, copies of which are available for your review at the offices of the City Clerk at 50 Bald Eagle Drive, Marco Island, Florida. Information regarding the assessment for your specific property, including the number of ERCs, is attached to this letter.



The City intends to issue obligations to finance this and other assessment projects. This will permit the cost attributable to your property to be amortized over a period not to exceed twenty (20) years. However, you may choose to prepay these special assessments and avoid the additional financing cost. If you do not choose to prepay your assessment, the amount necessary to pay your assessment in full will be increased by your share of the financing cost (closing costs, capitalized interest and reserve account). The City anticipates that the financing cost will increase the prepayment amount by 6.36%.

The annual assessment will include your share of the principal, interest, and amounts related to collection of the assessments. The maximum annual assessment is estimated to be \$1,669.83 per ERC for wastewater collection improvements and \$482.11 per ERC for wastewater treatment capacity improvements. However, the actual annual assessment cannot be determined until the obligations are issued. The City intends to include annual assessments on your ad valorem tax bill with the first payment on the bill to be mailed in November, 2010. Failure to pay your assessments will cause a tax certificate to be issued against the property that may result in a loss of title. As well, each assessment will be subject to mandatory prepayment of the balance due upon the transfer of title to your property.

Since construction costs for the Mackle Park Assessment Area are lower than for the East Winterberry (North) Assessment Area, you may be eligible for a partial refund if you have already prepaid the East Winterberry (North) assessment in full. You may also be eligible for a refund if you signed an agreement to lock-in 2006 construction costs and are currently paying the East Winterberry (North) assessment in annual installments, in which case the refund would take the form of a credit against a future annual installment. For more information concerning the refund, please contact the City's Utility Accountant, Keith Shinabarger, at (239) 389-3923.

Connection of your property to the City's wastewater utility system is mandatory. Availability of the utility system to your property is estimated to occur in January, 2010 and you will have 365 days from that date to connect your property to the system.

If you decide to appeal any decision made by the City Council with respect to any matter considered at the hearing, you 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, if you need a special accommodation or an interpreter to participate in this proceeding, please contact the City Clerk at least forty-eight (48) hours prior to the date of the hearing.

**CITY COUNCIL OF MARCO ISLAND, FLORIDA**



### Mackle Park Assessment Area

Owner: [REDACTED]  
Parcel Number [REDACTED]  
Property Address [REDACTED]

Total number of Collection ERCs attributed to property: 1.00  
Total number of Capacity ERCs attributed to property: 1.00

|  |                   |               |
|--|-------------------|---------------|
| Amount to make full payment before obligations are issued: |                   |               |
| (No post construction financing cost)                      |                   |               |
| Wastewater Collection Improvements                         | \$15,962.26       |               |
| Wastewater Treatment Capacity Improvements                 | <u>\$4,610.00</u> |               |
| TOTAL  |                   | \$20,572.26** |

|  |                    |             |
|--|--------------------|-------------|
| Prepayment amount after bonds are issued*: |                    |             |
| (Includes financing cost)                  |                    |             |
| Wastewater Collection Improvements         | \$16,977.46        |             |
| Wastewater Treatment Capacity Improvements | <u>\$ 4,903.20</u> |             |
| TOTAL                                      |                    | \$21,880.66 |

Number of annual payments: 20

|  |                  |            |
|--|------------------|------------|
| Maximum annual payment:                    |                  |            |
| Wastewater Collection Improvements         | \$1,669.33       |            |
| Wastewater Treatment Capacity Improvements | <u>\$ 959.40</u> |            |
| TOTAL                                      |                  | \$2,628.73 |

\* This amount will be reduced after each annual payment.

\*\*Maximum assessment for East Winterberry North is \$24,124.00

For more information concerning your balance, please contact the City's Utility Accountant,  
Keith Shinabarger, at (239) 389-3923.

\* \* \* \* \* SEND NO MONEY NOW. THIS IS NOT AN INVOICE. \* \* \* \* \*

## APPENDIX D

### MACKLE PARK ASSESSMENT AREA

Marco Beach Unit 7, Block 205, Lots 28-36; Block 206, Lots 1-51; Block 207 Lots 1-42; Block 208, Lots 1-22; Block 213 Lot 1; Tract "D" as recorded in Plat Book 6, page 60 of the Public Records of Collier County, Florida.

Marco Beach Unit 7, Block 208 Lots 23-27; Block 209, Lots 1-30; Block 210, Lots 1-13; Block 213, Lots 2-11; Block 214, Lots 1-2 as recorded in Plat Book 6, Page 61 of the Public Records of Collier County, Florida.

Marco Beach Unit 7, Block 214, Lots 3-8; Block 211, Lots 1-9; Block 212, Lots 1-18; Block 215, Lots 1-7 as recorded in Plat Book 6, Page 62 of the Public Records of Collier County, Florida.

Marco Beach Unit 8, Block 261, Lots 1-10; Block 269, Lots 1-10; Block 274, Lots 3-13; Block 272 Lot 16, as recorded in Plat Book 6 Page 64 of the Public Records of Collier County, Florida.

Marco Beach Unit 8, Block 284, Lots 1-21; Block 285, Lots 1-15; Block 286, Lots 1-8; Block 287, Lots 1-8; Block 288, Lots 1-16; Block 289, Lots 1-16; Block 290, Lots 1-16; Block 291, Lots 1-13; Block 292, Lots 1-18; Block 293, Lots 1-16; Block 294, Lots 1-18; Block 295, Lots 24-26 as recorded in Plat Book 6 Page 65 of the Public Records of Collier County, Florida.

Marco Beach Unit 8, Block 275, Lots 9-24; Block 276, Lots 1-16, Block 277, Lots 20-47; Block 278, Lots 1-14; Block 279, Lots 1-34; Block 280, Lots 1-25 as recorded in Plat Book 6 Page 66 of the Public Records of Collier County, Florida.

Marco Beach Unit 8, Block 295, Lots 1-4, Lots 6-23; Block 296, Lots 1-11; Block 297, Lots 2-35 as recorded in Plat Book 6 Page 67 of the Public Records of Collier County, Florida.  
Marco Beach Unit 8, Block 280, Lots 25-26; Block 281, Lots 1-18; Block 282, Lots 1-18; Block 283, Lots 1-18 as recorded in Plat Book 6 Page 68 of the Public Records of Collier County, Florida.



