

RESOLUTION NO. 01- 40

A RESOLUTION OF THE MARCO ISLAND CITY COUNCIL RELATING TO THE CONSTRUCTION AND FUNDING OF THE DISTRICT III SIDEWALK IMPROVEMENTS; CREATING THE ASSESSMENT AREA AND DESCRIBING THE PROPERTY TO BE LOCATED WITHIN THE PROPOSED DISTRICT III SIDEWALK IMPROVEMENT DISTRICT AND THE SIDEWALK IMPROVEMENTS TO BE CONSTRUCTED THEREIN; DETERMINING THE ESTIMATED COST OF THE SIDEWALK IMPROVEMENTS; DETERMINING THAT CERTAIN REAL PROPERTY WILL BE SPECIALLY BENEFITED BY THE SIDEWALK IMPROVEMENTS; ESTABLISHING THE METHOD OF ASSESSING THE COSTS OF THE SIDEWALK IMPROVEMENTS AGAINST THE REAL PROPERTY THAT WILL BE SPECIALLY BENEFITED THEREBY; ESTABLISHING OTHER TERMS AND CONDITIONS OF THE ASSESSMENTS; DIRECTING THE CITY MANAGER TO PREPARE A TENTATIVE ASSESSMENT ROLL BASED UPON THE METHODOLOGY SET FORTH HEREIN; ESTABLISHING A PUBLIC HEARING TO CONSIDER IMPOSITION OF THE PROPOSED ASSESSMENTS AND THE METHOD OF THEIR COLLECTION; DIRECTING THE PROVISION OF NOTICE IN CONNECTION THEREWITH; AND PROVIDING AN EFFECTIVE DATE.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Marco Island, Florida:

**ARTICLE I
PURPOSE, DEFINITIONS, AND FINDINGS**

Section 1. PURPOSE. The purpose of this Resolution is to create an Assessment Area pursuant to City of Marco Island Ordinance No. 99-1 (Capital Assessment Ordinance), with such Assessment Area to be known herein as the District III Sidewalk Improvement Project consisting of parcels of properties along the following streets:

- | | |
|--------------------------|---|
| 1. Bald Eagle Drive | ▶ North of North Barfield Drive |
| 2. South Heathwood Drive | ▶ San Marco Road to Winterberry Drive |
| 3. Yellowbird Street | ▶ Bald Eagle Drive to North Collier Boulevard |
| 4. Kendall Drive | ▶ Hernando Drive to North Collier Boulevard |
| 5. Tigertail Court | ▶ Hernando Drive to North Collier Boulevard |
| 6. Hernando Drive | ▶ Spinnaker Drive to Tigertail Court |

Excluded from the Assessment Area for the District III Sidewalk Improvement Project are:

- A. Vacant properties that have an existing and complete asphalt pedestrian way or asphalt sidewalk adjacent to the property;
- B. Vacant properties proposed for development under the City's site development review process or pursuant to a building construction permit and/or right-of-way permit process which development shall include the construction of sidewalks by property owners meeting the requirements of the District III Sidewalk Improvement Project specifications, and which sidewalks by property owners are approved in writing for construction by the City at least twenty-one (21) calendar days prior to the City's scheduled commencement of sidewalk construction on any affected individual parcel of property within the Assessment Area pursuant to the District III Sidewalk Improvement Project and which affected property owners provide sufficient documentation to the City to evidence a firm commitment to construct and complete said sidewalk improvements external to but yet consistent with the intent of this Resolution; and
- C. Vacant or developed properties that have an existing and complete concrete sidewalk adjacent to the property.

This Resolution shall constitute the Initial Assessment Resolution pursuant to Section 3.02 of the City of Marco Island Ordinance No. 99-1 (Capital Assessment Ordinance).

Section 2. FINDINGS. It is hereby ascertained, determined, and declared that:

- a. Pursuant to Article VIII, Section 2 of the Florida Constitution, Chapter 166.021, Florida Statutes, and other applicable provisions of law, the City of Marco Island has all powers of local self-government to render municipal services and may exercise any power for municipal purposes except when expressly prohibited by law.
- b. The Marco Island City Council has enacted the Capital Assessment Ordinance No. 99-1 on February 1, 1999 to provide for the creation of Assessment Areas and to authorize the imposition of Assessments to fund the construction of Local Improvements to serve the properties located therein.
- c. The construction of sidewalks constitutes a Local Improvement as defined in the Capital Assessment Ordinance No. 99-1. The sidewalks are designed to benefit all properties within the Assessment Area.
- d. The City Council desires to create the Assessment Area to fund construction of sidewalks under the District III Sidewalk Improvement Project.

e. The sidewalk construction will assist in the preservation and protection of the public safety of owners, tenants, and invitees within the Assessment Area, thereby providing a special benefit to properties within the Assessment Area. It is anticipated there will be an enhanced value to properties located within the Assessment Area as a result of the sidewalk and related storm drainage improvements.

f. Due to the configuration of the special Assessment Area, the street frontage methodology is the most equitable method of computing Assessments to fund sidewalk construction. City Council finds that it is equitable, fair, and reasonable to allocate the total costs of the District III Sidewalk Improvement Project to properties within the Assessment Area on a constructed street front foot basis based upon the width of the sidewalk. City Council also finds that it is reasonable for the City to pay the total costs for associated storm drainage improvements and sidewalk tie-ins at intersections where there are existing sidewalks adjacent to the property, with such costs by the City not being included in the Assessments herein.

g. City Council hereby finds and determines that the Assessments to be imposed in accordance with this Initial Assessment Resolution provide an equitable method of funding the District III Sidewalk Improvement Project by fairly and reasonably allocating the costs to specially benefited property.

h. City Council finds and determines that sidewalk improvements pursuant to the District III Sidewalk Improvement Project constitute a special benefit to each of the assessed parcels.

i. City Council finds and determines that the special benefits to the assessed properties are equal to or exceed the amount of the Assessments.

ARTICLE II NOTICE AND PUBLIC HEARING

Section 1. ESTIMATED CAPITAL COST. The estimated pre-construction Capital Cost for the District III Sidewalk Improvement Project to be funded by the imposition of Assessments against parcels of real property located in the Assessment Area is \$297,582. This total estimated Capital Cost includes:

➤ 4' wide sidewalk: 12,392 Linear Feet = \$297,582

The cost of related improvements to be paid for by the City in accord with Section 2f of Article I above is estimated as follows:

| | |
|--------------------------------|---------------|
| ➤ Storm drainage improvements: | \$ 114,472 |
| ➤ Intersection tie-ins: | <u>25,630</u> |
| | \$ 140,102 |

Section 2. ASSESSMENT ROLL. The City Manager is hereby directed to prepare a final estimate of the Capital Cost of the District III Sidewalk Improvement Project and to prepare the preliminary Assessment Roll in the manner provided in the Capital Assessment Ordinance No. 99-1. The City Manager shall apportion the total Capital Cost for the project among the parcels of real property within the Assessment Area as reflected on the Tax Roll in conformity with Section 3 of Article II herein. The estimate of Capital Costs and the Assessment Roll shall be maintained on file in the offices of the City's Assessment Coordinator and will be open to public inspection.

Section 3. PUBLIC HEARING. A public hearing will be conducted by City Council at its regularly scheduled Council meeting starting at 6:00 p.m. on Monday, March 4, 2002 at Frank E. Mackle, Jr. Community Park, 1361 Andalusia Terrace, Marco Island, Florida 34145, to receive written objections and hear testimony of all interested persons and then, or at any subsequently designated meeting of the City Council, adopt the Final Assessment Resolution. The Final Assessment Resolution shall: (a) confirm, modify, or repeal the Initial Assessment Resolution with such amendments, if any, as may be deemed appropriate by the City Council; (b) establish the maximum amount of the Assessment for each Assessment Unit; (c) approve the Assessment Roll with such amendments, if any, as may be deemed appropriate and just by the City Council; and (d) determine the method of collection.

Section 4. NOTICE BY PUBLICATION. Upon completion of the materials required by Section 2 of Article II above, the City Manager shall publish a notice of the public hearing in the manner and time provided in the Assessment Ordinance.

Section 5. NOTICE BY MAIL. Upon completion of the materials required by Section 2 of Article II above, 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 3 of Article II above to each property owner proposed to be assessed at the address indicated on the Tax Roll.

ARTICLE III ASSESSMENTS

Section 1. DESCRIPTION OF PROPOSED ASSESSMENT AREA. The City Council of Marco Island hereby creates the District III Sidewalk Improvement Project in an Assessment Area consisting of parcels of properties, which abut the following streets:

- | | |
|--------------------------|---|
| 1. Bald Eagle Drive | North of North Barfield Drive |
| 2. South Heathwood Drive | San Marco Road to Winterberry Drive |
| 3. Yellowbird Street | Bald Eagle Drive to North Collier Boulevard |
| 4. Kendall Drive | Hernando Drive to North Collier Boulevard |

- 5. Tigertail Court
- 6. Hernando Drive

Hernando Drive to North Collier Boulevard
Spinnaker Drive to Tigertail Court

Excluded from the Assessment Area for the District III Sidewalk Improvement Project are:

- A. Vacant properties that have an existing and complete asphalt pedestrian way or asphalt sidewalk adjacent to the property;
- B. Vacant properties proposed for development under the City's site development review process or pursuant to a building construction permit and/or right-of-way permit process which development shall include the construction of sidewalks by property owners meeting the requirements of the District III Sidewalk Improvement Project specifications, and which sidewalks by property owners are approved in writing for construction by the City at least twenty-one (21) calendar days prior to the City's scheduled commencement of sidewalk construction on any affected individual parcel of property within the Assessment Area pursuant to the District III Sidewalk Improvement Project and which affected property owners provide sufficient documentation to the City to evidence a firm commitment to construct and complete said sidewalk improvements external to but yet consistent with the intent of this Resolution; and
- C. Vacant or developed properties that have an existing and complete concrete sidewalk adjacent to the property.

The purpose of the District III Sidewalk Improvement Project is to assist in the preservation and the protection of the public safety of owners, tenants, and invitees of the Assessment Area. Assessments made to properties within the Assessment Area on a front foot (street footage) basis are determined to be the most reasonable and equitable basis for assessing the costs of the District III Sidewalk Improvement Project.

Section 2. IMPOSITION OF ASSESSMENTS. Assessments shall be imposed against real property within the Assessment Area for a period of three (3) years. The Assessments shall be collected in accordance with the Uniform Assessment Collection Act (Chapters 197.3632 and 197.3635, Florida Statutes).

Section 3. PREPAYMENT OPTION. Each property owner shall be advised that they are entitled to prepay the total Assessment obligation upon payment of such parcel's share of the Capital Cost, without interest, within a thirty (30) day period following notification.

Section 4. REALLOCATION UPON FUTURE SUBDIVISION. Upon subdivision of a Tax Parcel, or combination of one Tax Parcel with another Tax Parcel, any of which is located within the Assessment Area and subject to the Assessment herein, the Assessment for such parcel or parcels shall be

reallocated to the subdivided or combined parcels when such subdivision or combination appears on the Collier County Tax Records.

**ARTICLE IV.
GENERAL PROVISIONS**

Section 1. METHOD OF COLLECTION. The Assessments shall be collected pursuant to the Uniform Assessment Collection Act. Any assessment against Government Property shall be collected pursuant to the Capital Assessment Ordinance.

Section 2. SEVERABILITY. If any clause, Section, or provision of this Initial Assessment 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.

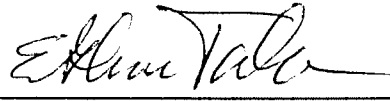
Section 3. EFFECTIVE DATE. This Initial Assessment Resolution shall take effect immediately upon its adoption.

Passed in open and regular session of the City Council of the City of Marco Island, Florida, this 3rd day of December, 2001.

Attest:

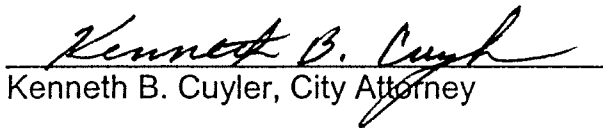


A. William Moss,
City Manager/City Clerk



E. Glenn Tucker, Chairman

Approved as to form and legal sufficiency:


Kenneth B. Cuyler, City Attorney