

5-A)



OFFICE OF THE CITY ATTORN

MEMORANDUM

**To:** Mayor Kramer, Vice-Mayor Old, Councilmember Turner, Councilmember Richard G. Winger and Councilmember Howle

**From:** Wayne R. Coment, City Attorney

**Subject:** Resolution Adopting Special Assessment Lien for STEP System  
Rea – 4504 Sunset Drive

**Date:** January 4, 2016 *wrc*

Attached for your consideration at your January 5, 2016 City Council meeting is a Lien Resolution for a STEP system to serve the single-family property located at 4504 Sunset Drive. The property owners have elected and agreed to pay for the City's expenditure for the improvements by making periodic special assessment payments to the City pursuant to the Resolution. The STEP system ordinance provides for payment of the costs and fees by special assessment in order to encourage participation in the STEP System Program. The total amount due under the Resolution may be subject to adjustment at adoption.

If the Council finds the proposed Resolution satisfactory it may be adopted after public hearing, including hearing from the property owners and any other interested persons. Adoption is recommended in order to secure payment of the amounts expended by the City for the STEP system to serve the subject property.

**Cc:** City Manager  
City Clerk  
Finance Director  
Water & Sewer Director



**BEFORE THE CITY COUNCIL  
OF THE CITY OF VERO BEACH, FLORIDA  
1053 20<sup>TH</sup> PLACE  
VERO BEACH, FLORIDA 32960**

**Via First Class Certified Mail – Return Receipt Requested**

<b>TO: Deborah O. Rea</b>	<b>Academy Mortgage Corp.</b>	<b>Space Coast Credit Union</b>
<b>4504 Sunset Drive</b>	<b>1220 East 7800 South</b>	<b>8045 Wickham Road</b>
<b>Vero Beach, FL 32963</b>	<b>Sandy, UT 84094</b>	<b>Melbourne, FL 32941</b>

**NOTICE OF INTENT TO ADOPT RESOLUTION  
ESTABLISHING SPECIAL ASSESSMENT LIEN  
FOR SEPTIC TANK EFFLUENT PUMP (STEP) SYSTEM**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Vero Beach, Florida intends to adopt a Lien Resolution establishing a Special Assessment Lien against the following-described real property owned by **Deborah O. Rea**:

**Lot 9 Block 5, Replat of Bethel Isle, Unit 2, as per plat thereof, recorded in Plat Book 5, Page 33, of the Public Records of Indian River County, Florida.**

**Physical Address: 4504 Sunset Drive, Vero Beach, Florida**

**Parcel I.D. Number: 32402900005005000009.0**

The Lien Resolution is proposed to secure the recovery of expenditures incurred by the City of Vero Beach for a City septic tank effluent pump (“STEP”) system to serve the subject real property. The Lien Resolution shall be substantially in the form of the Resolution enclosed for your reference, subject to adjustment of the amount due for the expenditure.

The City Council will consider said Lien Resolution at its regular City Council Meeting on **Tuesday, January 5, 2016, at 9:30 A.M. in CITY COUNCIL CHAMBERS, CITY HALL, 1053 20<sup>TH</sup> PLACE, VERO BEACH, FLORIDA.**

You must appear at that date and time if you desire to be heard by the City Council on the proposed Lien Resolution, including any defenses or requests you may want to present. If you do not appear in person or by legal representative on the matter, the City Council will proceed to consider the Lien Resolution and may adopt it in your absence.

CITY OF VERO BEACH, FLORIDA

Date: 12-21-15

By: Tammy K. Vock  
Tammy K. Vock  
City Clerk

Enc.: Lien Resolution

Prepared by and return to:  
City Attorney  
P.O. Box 1389  
Vero Beach, FL 32961

Property Appraiser's Parcel  
Identification No: 32402900005005000009.0

**RESOLUTION NO. 2016 – \_\_\_\_\_**  
**ESTABLISHING SPECIAL ASSESSMENT LIEN**  
**FOR SEPTIC TANK EFFLUENT PUMP (STEP) SYSTEM**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF  
VERO BEACH, FLORIDA, ESTABLISHING A SPECIAL  
ASSESSMENT LIEN IN THE AMOUNT OF \$4,845.00 FOR A  
SEPTIC TANK EFFLUENT PUMP (STEP) SYSTEM TO  
SERVE THE REAL PROPERTY LOCATED AT 4504 SUNSET  
DRIVE, VERO BEACH, INDIAN RIVER COUNTY, FLORIDA;  
PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, according to the records of the Indian River County Property Appraiser and the Public Records of Indian River County, Florida, **Deborah O. Rea** is the owner of that certain real property located at **4504 Sunset Drive**, in the City of Vero Beach, Indian River County, Florida, being more fully described as:

**Lot 9, Block 5, Replat of Bethel Isle, Unit 2, as per plat thereof,  
recorded in Plat Book 5, Page 33, of the Public Records of Indian  
River County, Florida (hereinafter the "Property"); and**

**WHEREAS**, the Owner has applied for participation in the City of Vero Beach Septic Tank Effluent Pump (STEP) System Program (hereinafter "Program") established by Chapter 78 of the Code of the City of Vero Beach (hereinafter "Chapter 78"); and

**WHEREAS**, by making application the Owner has requested a City STEP System to serve the Property pursuant to and in accordance with the terms and provisions of Chapter 78 and the STEP System application; and

**WHEREAS**, the Owner's application for a City STEP System to serve the Property has been approved subject to and in accordance with the terms and provisions of Chapter 78, the STEP System application, and this Resolution; and

**WHEREAS**, the charges and fees payable to the City by the Owner to reimburse the City for its expenditure for said City STEP System to serve the Property, less any credits allowable under the Program, total \$4,845.00; and

**WHEREAS**, the Owner's Property is solely and specially benefited by such City expenditure and expense for a City STEP System to serve the Property; and

**WHEREAS**, in order to encourage participation in the Program, Chapter 78 provides the Owner the option of paying the City STEP System charges and fees by special assessment payments secured by a special assessment lien levied against the Property by resolution, which lien shall be on par with ad valorem taxes and which lien additionally or in the alternative may be assessed and collected by non-ad valorem assessment on the Owner's annual property tax bill; and

**WHEREAS**, the Owner has requested and agreed to pay to the City the foregoing City STEP System charges and fees by special assessment payments, and as otherwise provided herein, and the Owner has been provided notice of the City Council meeting at which the adoption of this Resolution will be considered, together with a copy of this Resolution,

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF VERO BEACH, FLORIDA, THAT:**

1. The foregoing recitals are hereby adopted as the findings and intent of the City Council and are incorporated herein as a part of this Resolution.

2. Pursuant to Chapter 78 and section 2-541 of the Code of the City of Vero Beach, a special assessment in the amount of **Four Thousand Eight Hundred Forty Five and 00/100 Dollars (\$4,845.00)** (hereinafter "**Assessment**") is hereby assessed and established as a special assessment lien against the above-described Property of the Owner for the charges and fees payable by the Owner to reimburse the City for its expenditure for the City STEP System to serve the Property, which Assessment shall be paid as follows:

- (a) Commencing December 1, 2016 and each December 1<sup>st</sup> thereafter until the full amount of the Assessment is paid, the Owner shall pay to the City a minimum annual payment of **Four Hundred Eighty Four and 50/100 Dollars (\$484.50)**. There shall be no penalty or additional charge for pre-payment.
- (b) Interest on the Assessment unpaid balance is waived except as provided otherwise herein.
- (c) If the full minimum annual payment remains unpaid as of March 1<sup>st</sup> of the year following that payment's due date, the entire unpaid Assessment balance shall thereafter become due and payable, together with interest on the unpaid Assessment balance accruing at the then current legal rate established pursuant to law for judgments commencing on the payment due date of the unpaid payment and continuing at such rate until the full Assessment is paid to the City. Any and all unpaid amounts may be collected by any legal means with the costs of such collection, including but not limited to attorneys' fees, court costs, and other collection fees, included as part of the special assessment lien established herein.
- (d) The Assessment unpaid balance, together with all accrued interest and costs, if any, shall be paid to the City upon sale or other transfer of the Owner's interest in the Property.

(e) In the alternative to the foregoing, except as applies to sale or other transfer of the Owner's interest in the Property, the minimum annual payments provided for herein may be assessed and collected by non-ad valorem assessment on the Owner's annual tax bill for the Property, in which case payment, collection, and remedies for payment default shall be as provided by law for such non-ad valorem assessments.

3. Upon payment of all amounts due the City under this Resolution a release and satisfaction shall be prepared, executed, and recorded as provided in section 2-545 of the Code of the City of Vero Beach, as amended.

4. This Resolution shall become effective upon adoption by the City Council and shall be recorded in the Public Records of Indian River County, Florida, and shall be and remain a special assessment lien upon the foregoing described Property until paid in full.

\*\*\*\*\*

This Resolution was heard on the \_\_\_\_ day of January 2016, at which time it was moved for adoption by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_, and adopted by the following vote:

Mayor Jay Kramer \_\_\_\_\_  
Vice Mayor Randolph B. Old \_\_\_\_\_  
Councilmember Pilar E. Turner \_\_\_\_\_  
Councilmember Richard G. Winger \_\_\_\_\_  
Councilmember Harry Howle, III \_\_\_\_\_

**ATTEST:**

**CITY COUNCIL  
CITY OF VERO BEACH, FLORIDA**

\_\_\_\_\_  
Tammy K. Vock  
City Clerk

\_\_\_\_\_  
Jay Kramer  
Mayor

[Seal]

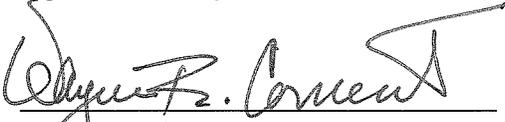
STATE OF FLORIDA  
COUNTY OF INDIAN RIVER

The foregoing instrument was acknowledged before me this \_\_\_\_ day of January 2016 on behalf of the City of Vero Beach, Florida by Jay Kramer, as Mayor, and attested by Tammy K. Vock, as City Clerk, of the City of Vero Beach, Florida. Both are personally known to me.

\_\_\_\_\_  
NOTARY PUBLIC  
Commission No.:  
My Commission Expires:

[Seal]

Approved as to form and  
legal sufficiency:



Wayne R. Coment  
City Attorney

Approved as conforming to  
municipal policy:



James R. O'Connor  
City Manager

Approved as to technical requirements:



Robert J. Bolton  
Water and Sewer Director

Approved as to technical requirements:



Cynthia D. Lawson  
Finance Director

**CITY OF VERO BEACH**  
**Step System Application and Agreement**

Job No. 10015452  
Notification Date: 12/1/15  
Account No. 21051189

Property Owner Name(s): Deborah O. Rea

Property Address: 4504 Sunset Drive, Vero Beach, FL 32936 Basin: Bethel Creek

Legal Description/Parcel Number: Lot 9, Block 5, Replat of Bethel Isle, Unit 2, PBI 5-33, 32402900005005000009.0

Owner Mailing Address: 4504 Sunset Drive, Vero Beach, FL 32963

Telephone: 772-633-8378 Email: debbie.rea.50@gmail.com

City Charges/Fees to be Paid By:  Cash in full  Special Assessment Payments\*

Utility Account Name(s): Deborah Rea

Account Mailing Address: 4504 Sunset Drive, Vero Beach, FL 32963

Owner's STEP System Installer: Meeks Plumbing (Dan O'Connor) Contact: 772-473-0803

The undersigned Property Owner hereby makes application for a STEP system to serve the above-described property subject to Article III, "Sanitary Sewer System," Chapter 78 of the City of Vero Beach Code of Ordinances ("Chapter 78"), as amended from time to time, which is incorporated herein by this reference, and all other applicable laws, rules, ordinances, regulations, and resolutions. The undersigned certifies that they are the fee simple owner of the real property subject of this Application as more fully described in Exhibit "A" attached hereto and incorporated herein by this reference. (Provide a legible copy of deed or other indicia of ownership).

**STEP System Charges and Fees.** Property Owner is responsible for all City STEP System charges and fees pursuant to the Schedule of Charges, Fees, and Credits, attached as Exhibit "B" and incorporated herein, as well as all other applicable Property Owner costs and expenses as specified in Chapter 78, including adjustments of City charges and fees for extraordinary costs unique to the subject property and the STEP System installation. \*If Property Owner elects payment of City STEP System charges and fees by special assessment payments rather than a single payment in full, Property Owner acknowledges and agrees that payment will be secured by a special assessment lien levied against the property by lien resolution adopted in substantially the form attached hereto, receipt of a copy of which is acknowledged. By electing special assessment payments Property Owner agrees to pay City STEP System charges and fees as provided by such adopted lien resolution, subject to final adjustment in the amount due.

**Installation.** All City-provided components and equipment of STEP systems and facilities are owned by the City before, during, and after installation on the real property of the Property Owner(s) and title to such components remains with the City. Property Owner is solely responsible for directly contracting with an authorized STEP system installer for the STEP System installation work and payment for such work. The City is not a party to any such contract and shall not under any circumstances whatsoever be responsible for either the Installer's or the property owner's performance of the installation contract nor for any sums or payments due to or from the Installer or property owner. City retains the right of immediate possession of any component of the STEP System, after installation, and Property Owner does not obtain any right of possession through an implied rental, lease, or license.

**Repairs/Maintenance.** To obtain City-provided STEP system maintenance or repairs specified in Chapter 78 after installation, Property Owner must contact the Water and Sewer Department at (772) 978-5220 between 7:30 a.m. and 4:00 p.m. weekdays, and for after-hours emergency ONLY, at (772) 978-5000. Property Owner must contact their own installer/contractor for service or repair of any non-City maintained equipment or facilities.

Property Owner acknowledges receipt of a copy of Chapter 78, attached as Exhibit "C" and incorporated herein. Property Owner also acknowledges and understands that by making this Application Property Owner is applying for City sewer service and that billing and obligation to pay sewer service charges for the Property will commence with the first utility billing cycle after Application approval. By making this Application and in consideration of approval for a City STEP system, Property Owner agrees to be bound by and comply with the terms of this Application and Chapter 78, as amended from time to time, and all other applicable ordinances, resolutions, and regulations, including but not limited to all provisions relating to installation, maintenance and repairs; payment of charges, fees, and costs; indemnification; and access easements.

7

Date: 12/11/15

PROPERTY OWNER(S):  
Debra R. Rea

CITY APPROVALS

Check all applicable:

The foregoing Application is approved authorizing installation of a City STEP System to serve the foregoing described property and for City sewer service, subject to all provisions of this Application, Chapter 78 of the Vero Beach Code, and all other applicable City ordinances, resolutions, and specifications.

Approved for payment by special assessment lien (City Manager approval required) [Signature]  
Initial

The foregoing Application is NOT approved due to: (list all reasons for denial of approval)  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

[Signature]  
Director of Water and Sewer

12/7/15  
Date

Total Payment: \* \$4,845.00

\*The total payment of \$4,845 will be financed for 10 years at no interest. This equates to a yearly payment over 10 years of \$484.50. First payment of \$484.50 is due at time of application.

## EXHIBIT "B"

Property Address: 4504 Sunset Drive, Vero Beach, FL 32963  
 Basin: Bethel Creek  
 PIN: 32402900005005000009.0

### Charges, Fees and Credits

#### Extension Charges and Fees

	Quantity	Unit	Unit Cost	Total Cost
Wastewater Utility Extension Charge	1	Per Lot	\$ 1,100.00	\$ 1,100.00
Wastewater Impact Fee	1	Per ERU	\$ 2,290.00	\$ 2,290.00
		Sub-Total		\$ 3,390.00

#### Equipment Charges

Type 1A		LS	\$ 2,425.00	\$ -
Type 1B		LS	\$ 2,725.00	\$ -
Type 2A		LS	\$ 3,220.00	\$ -
Type 2B		LS	\$ 3,635.00	\$ -
Type 3A	1	LS	\$ 3,745.00	\$ 3,745.00
Type 3B		LS	\$ 4,160.00	\$ -
Type 4A		LS	\$ 4,175.00	\$ -
Type 4B		LS	\$ 5,625.00	\$ -
Type 4C		LS	\$ 6,235.00	\$ -
Type 5A		LS	\$ 4,725.00	\$ -
Type 5B		LS	\$ 7,625.00	\$ -
Type 6A		LS	\$ 6,125.00	\$ -
Type 6B		LS	\$ 9,150.00	\$ -
		Sub-Total		\$ 3,745.00

#### Credits

STEP Up and Save Credit	1	Per Lot	\$ 2,290.00	\$ 2,290.00
Wastewater Utility Extension Credit		Per Lot	\$ 1,100.00	\$ -
		Sub-Total		\$ 2,290.00

Total Amount Due **\$ 4,845.00**