

A G R E E M E N T

THIS AGREEMENT is made and entered into this 14th day of March, 1994, by and between the BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, a political subdivision of the State of Florida, (the "County"), and the SOUTH AMELIA ISLAND SHORE STABILIZATION ASSOCIATION, INC., a Florida not-for-profit corporation, (the "SAISSA").

WITNESSETH:

WHEREAS, pursuant to Ordinance No. 93-14, as amended, the County created the South Amelia Island Municipal Benefit Services Unit (the "MSBU") for the purpose of undertaking and financing a beach renourishment project within the boundaries of the MSBU as described in that ordinance (the "Project"); and

WHEREAS, Ordinance 93-14, as amended, authorizes the County to enter into contracts with other persons, including SAISSA, to carry out the purposes of that ordinance and the MSBU, including the administration of the Project; and

WHEREAS, it is in the best interest of the County to enter into an Agreement with the SAISSA setting forth the terms and conditions under which the SAISSA will provide services pertaining to the administration, management and oversight of the Project.

NOW, THEREFORE, FOR and IN CONSIDERATION of the mutual covenants, promises, and representations contained herein, the parties hereto agree as follows:

ARTICLE I
SCOPE OF SERVICES

1. The SAISSA shall, on behalf of the County, be the project

manager for the Project and shall be responsible for the administration, management, oversight, and supervision of the Project. The County shall pre-approve any and all costs associated with this provision of these services.

2. SAISSA may employ, engage, or retain such individuals, firms, corporation, or other persons as it may deem necessary to carry out its duties and responsibilities under this Agreement, provided, however, that any such services by persons other than the SAISSA shall be subject to the direction and control of the SAISSA, and no agency or other relationship is established between the County and such persons. The results and work product of such persons shall be delivered to the SAISSA and shall be subject to review and inspection by the County. The SAISSA shall hold the County harmless from any and all liability to any such persons, firms, or corporations.

ARTICLE II TERM

This Agreement shall become effective on March 15, 1994, and shall expire on Mar. 15, 1995, unless this Agreement is otherwise earlier cancelled as provided herein, or unless extended by written agreement of the parties.

ARTICLE III COMPENSATION

1. (a) The County shall pay to the SAISSA, and the SAISSA shall accept from the County as full consideration for its services under Article I Paragraph 1 of this Agreement, a fee in the amount of \$ 10.00, plus reasonable out-of-pocket expenses.

(b) The parties recognize and acknowledge that the SAISSA may retain other persons or firms from time to time to assist in providing the services hereunder, and the responsibility to pay the fees of such persons or firms is with the SAISSA, unless the County has specifically agreed to pay such fees over and above the fee to be paid to SAISSA. No other costs or expenses incurred by the SAISSA or on its behalf shall be chargeable to and/or paid by the County unless specifically authorized under this Agreement.

2. If additional services by the SAISSA beyond those described in Article I Paragraph 1 are authorized by the County, the fees for providing such additional services shall be over and above those fees described in Article III, Paragraph 1, and shall be agreed upon in writing in accordance with applicable law by the SAISSA and the County before such services are rendered.

ARTICLE IV PAYMENTS

1. During the term of this Agreement, twice monthly the SAISSA shall submit to the County an invoice describing the services rendered by the SAISSA pursuant to this Agreement and the fees for such services, plus out-of-pocket costs incurred by SAISSA for which reimbursement is requested.

2. Upon receipt of such invoice and in accordance with the requirement of the Florida Prompt Payment Act (Part VII, Chapter 218, Florida Statutes), the County shall make payment of the fees and reimbursable costs to the SAISSA, or directly to the provider once the bill has been approved by SAISSA and the County.

ARTICLE V

CANCELLATION OF AGREEMENT

This Agreement may be cancelled by either party on ninety (90) days advance written notice of the other at its address as provided herein.

ARTICLE VI RECORDS

1. The SAISSA shall maintain such records and accounts including property, personnel and financial records as are necessary to appropriately evidence the fees and costs incurred by the SAISSA in performing the services described in Article I of this Agreement. Such records shall be available for inspection at the SAISSA offices by the County or its representatives at all reasonable times and under all reasonable conditions.

2. All detailed reports, plans, brochures, or publications, prepared or obtained by the SAISSA in conjunction with performing the services described in Article I of this Agreement shall, upon payment of the SAISSA's invoice, pursuant to Article IV, be deemed to have been purchased by and shall become the property of the County.

ARTICLE VII NO AGENCY RELATIONSHIP

The SAISSA is not the agent, sub-agent, or representative of the County. This Agreement shall not make the County liable to any person, firm, corporation or others who contracts with or who provides goods or services to the SAISSA in connection with the services it has agreed to perform hereunder or otherwise, or for debts or claims accruing to such parties against the SAISSA. There

is no contractual relationship, either express or implied, between the County and any person, firm, corporation, or others supplying any work, labor, services, goods, or materials to the SAISSA as a result of its services to the County hereunder or otherwise.

ARTICLE VIII
SUBCONTRACTS

The terms of any services subcontracted hereunder by the SAISSA shall be specified by written contract or agreement and shall be subject to the provisions of this Agreement.

ARTICLE IX
INDEMNIFICATION

1. The SAISSA shall defend, hold harmless, and indemnify the County from and against any and all liability, injury, loss, claims, damages, costs, attorneys' fees, and expenses of whatever kind or nature which the County may sustain, suffer or incur or be required to pay by reason of the loss of any moneys paid to the SAISSA, by fraud, defalcation or dishonesty on the part of any person representing or employed by the SAISSA, or by reason or as a result of any act, omission, wrongdoing, misconduct, want of care or skill, negligence or default, on the part of the SAISSA in providing the services contemplated by the Agreement, provided that such indemnification by the SAISSA shall not extend to any damages, losses, claims, costs, or other expenses incurred by the County to the extent such are the result of acts or omissions of the County of any officer, employee, or agent thereof.

2. In the event that any action, suit, or proceeding is brought against the County based upon any matter for which SAISSA

has agreed to indemnify the County, then, within five (5) business days, the County shall give notice in writing thereof to the SAISSA. Upon the receipt of such notice, the SAISSA, at its own expense, shall defend against such action and take all such steps as may be necessary or proper or be responsible for the legal fees and costs of the County. The County shall have the option of having SAISSA's attorneys represent the County or of having counsel of the County's choosing represent the County.

3. The County agrees to defend the validity of this Agreement and will not deny the existence, validity, legality, or enforceability thereof.

ARTICLE X
NON-ASSIGNABILITY

The SAISSA may not assign this Agreement without the prior written consent of the County.

ARTICLE XI
MODIFICATION OR AMENDMENT

This Agreement may not be modified, amended, or extended, except in writing agreed to by both parties.

ARTICLE XII
HEADINGS

All articles and descriptive headings of paragraphs in this Agreement are inserted for convenience only and shall not affect the construction or interpretation hereof.

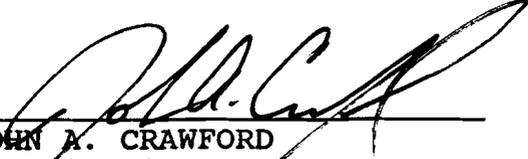
ARTICLE XIII
NOTICES

1. Notice to the County shall be mailed to Post Office Box 1010, Fernandina Beach, FL 32034.

2. Notice to the SAISSA shall be mailed to P.O. Box
3000, Fernandina Beach, FL 32035.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed on the day hereinabove first written.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



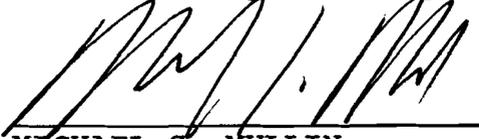
JOHN A. CRAWFORD
Its: Chairman

ATTEST:



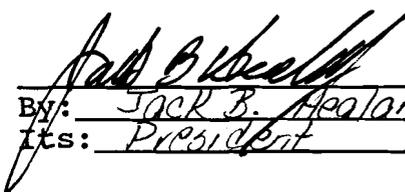
T. J. GREESON
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney



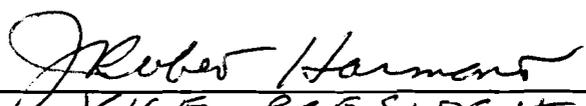
MICHAEL S. MULLIN

SOUTH AMELIA ISLAND SHORE
STABILIZATION ASSOCIATION, INC.



By: Jack B. Healan, Jr.
Its: President

ATTEST:



ROBERT HARMON
VICE PRESIDENT
Its: Secretary



South Amelia Island Shore Stabilization Association, Inc.

P.O. Box 3000, Amelia Island, Florida 32035-1307

904/277-5122 Fax: 904/277-5921

March 25, 1994

Board of County Commissioners
Nassau County, Florida
Fernandina Beach, FL 32034

RE: South Amelia Island Beach Renourishment Project;
Project Manager Agreement

Dear Sirs:

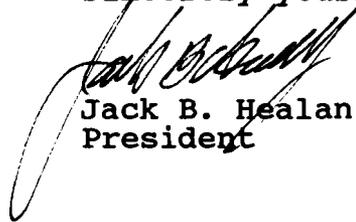
Attached hereto is the agreement between SAISSA and the Board of County Commissioners for project manager services being provided by SAISSA in connection with the beach renourishment project. While SAISSA is delighted the project is moving forward and is willing to be the project manager, there are certain provisions in the Agreement as unilaterally revised and approved by the County that cause us some concern.

It had been our understanding that the original intent of the parties had been for SAISSA to be responsible for the administration and management of the project as an independent contractor to the County and would, as a result, have a significant degree of independence and flexibility. However, the agreement as you have revised it from the original draft we prepared and submitted to you does not, in the opinion of SAISSA, create that type of relationship between the County and SAISSA. Notwithstanding the statements in the agreement to the effect that an agency relationship is not created between the County and SAISSA by this agreement, the agreement as a whole in fact appears to create just such a relationship. By the County exercising the degree of control over SAISSA's activities and the contracts for implementation of the project, the County's role has become that of supervisor of its agent. Therefore, regardless of the language in one section of the Agreement, our interpretation of the agreement as a whole is that SAISSA will be performing project management services on behalf of the County and will be subject to the direction and ultimate control of the County.

There is an urgent need to move forward with this project. We considered seeking changes to the text of the

agreement, but decided not to do so because we believe it is more important to proceed with the project than to lose precious time debating the express language of the agreement. Accordingly, SAISSA has elected to bring our concerns to your attention, notify you of our interpretation of the Agreement as a whole, and to return the signed agreement to you. We are ready to proceed upon your authorization to do so and approval of the necessary agreements with various contractors.

Sincerely yours,



Jack B. Healan, Jr.
President

JBHjr/jhw