

DEC 14 1993



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ORDINANCE NO. 94-1

AR 73150

AN ORDINANCE PERTAINING TO THE SOUTH AMELIA ISLAND SHORE STABILIZATION MUNICIPAL SERVICES BENEFIT UNIT; AMENDING ORDINANCE 93-14; PROVIDING FOR APPROVAL BY THE BOARD OF COUNTY COMMISSIONERS OF PROPOSED IMPROVEMENTS AND SPECIAL ASSESSMENTS TO FUND PROJECTS, SERVICES AND OPERATIONS OF THE UNIT; DESIGNATING THE BOARD OF COUNTY COMMISSIONERS AS THE GOVERNING BODY OF SAID UNIT; AUTHORIZING THE UNIT TO ENTER INTO CONTRACTS FOR VARIOUS PURPOSES; ESTABLISHING AN ADVISORY BOARD FOR THE UNIT; PROVIDING FOR RECOMMENDATIONS BY THE ADVISORY BOARD TO THE BOARD OF COUNTY COMMISSIONERS REGARDING THE ANNUAL BUDGET, SPECIAL ASSESSMENTS AND EXPENDITURES OF THE UNIT; PROVIDING FOR THE ESTABLISHMENT AND DETERMINATION OF THE UNIT OF MEASUREMENT AND THE AMOUNT AND USES OF SPECIAL ASSESSMENTS ON REAL PROPERTY LOCATED WITHIN THE UNIT; AUTHORIZING THE LEVY BY THE BOARD OF COUNTY COMMISSIONERS OF A SPECIAL ASSESSMENT ON ALL PROPERTIES WITHIN SAID UNIT AND PROVIDING THE PROCEDURE FOR THE LEVY OF SUCH ASSESSMENTS; PROVIDING FOR PERIODIC ADJUSTMENTS OF ASSESSMENTS; AUTHORIZING THE BORROWING OF MONEY AND ISSUANCE OF BONDS TO FINANCE PROJECTS AND SERVICES OF THE UNIT; PROVIDING FOR SEVERABILITY OF PROVISIONS; PROVIDING AN EFFECTIVE DATE.

WHEREAS, Section 125.01(1)(q), Florida Statutes, grants the board of county commissioners of a non-charter county the power to establish a municipal service benefit unit for any part of all of the unincorporated area of the county within which may be provided implementation, administration, and maintenance of certain municipal type services from funds derived from special assessments within such unit for the benefit of real properties specially benefitted thereby; and

WHEREAS, there presently exists and will in the foreseeable future exist a need for a beach nourishment program in the south area of Amelia Island within the boundaries of Nassau County, Florida; and

WHEREAS, the Board of County Commissioners of Nassau County, Florida, determined in Ordinance No. 93-14 that the best means to undertake the beach nourishment program and to provide funds for

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the public improvements and other undertakings and operations is to create a municipal services benefit unit as provided by Florida law; and

WHEREAS, the Board of County Commissioners found in Ordinance No. 93-14 that special assessments should be levied and imposed on the real property located on Amelia Island specially benefitted by the beach nourishment program to fund the cost of such program; and

WHEREAS, after further consideration of the program to be undertaken, including the means and method for financing the beach nourishment program and the operations of a municipal services benefit unit for such program, it is necessary that certain provisions of Ordinance No. 93-14 be amended and revised, and that authority and procedures be provided for the determination, establishment, levy, and collection of special assessments;

NOW, THEREFORE, BE IT ORDAINED, by the Board of County Commissioners of Nassau County, Florida, that Ordinance No. 93-14 is amended to read as follows:

SECTION 1 - CREATION

Pursuant to Section 125.01(1)(q), Florida Statutes, there is hereby created the South Amelia Island Shore Stabilization Municipal Services Benefit Unit (hereinafter referred to as the "MSBU" or the "unit"). The purposes of the MSBU are to undertake, administer, and finance undertakings, projects and services pertaining to beach nourishment, restoration, erosion control and maintenance within the boundaries of the MSBU, and to provide for the financing of such undertakings, projects and services through, among other means available to the MSBU and Nassau County, Florida (the "County"), special assessment of real property located in the boundaries of the MSBU that is or will be benefitted by such undertakings, projects and services.

SECTION 2 - PRIOR AUTHORIZATION; PETITION

Prior to the implementation of any undertakings, projects, improvements and services by the MSBU, and prior to establishing, determining, levying and imposing any special assessment on any real property to finance such undertakings, projects, improvements and services, the Board of County Commissioners of Nassau County (the "BOCC") shall by resolution approve and authorize the proposed undertakings, projects, improvements, and services and establish a system of special assessments. The BOCC does hereby recognize and acknowledge that a majority of the owners of real property located in the MSBU have by return of a petition form to the South Amelia Island Shore Stabilization Association, Inc. (the "SAISSA") indicated their support for a beach restoration program and the

levy of special assessments on real property in the MSBU as recommended by SAISSA and asked the BOCC to implement such a program.

SECTION 3 - TERRITORY

The MSBU shall embrace and be comprised of all real property within the area described by the legal description attached hereto as "Exhibit A."

SECTION 4 - GOVERNING BODY; ADVISORY BOARD

(a) The BOCC shall be the governing body of the MSBU.

(b) There is hereby created an advisory board to the BOCC concerning the beach nourishment program on Amelia Island to be undertaken by the MSBU (the "Advisory Board"). The Advisory Board shall be composed of two (2) members of the BOCC representing commissioner districts including all or part of Amelia Island and five (5) individuals owning real property located within the boundaries of the MSBU. The Advisory Board shall adopt procedures by which it shall operate and it shall elect a chair and vice chair and such other officers as it deems necessary. All members of the Advisory Board shall serve without compensation. The Advisory Board shall review proposals for the beach nourishment program, including the levy of special assessments to finance such program, and may make such recommendations to the BOCC as it deems necessary and appropriate.

SECTION 5 - MSBU COSTS

(a) The BOCC, as the governing body of the MSBU, shall determine each year the estimated cost of the projects and undertakings of the MSBU, including services to be provided and undertaken in the MSBU as contemplated by this ordinance, including costs for capital and equipment improvements, personnel, rentals and acquisitions, operating and maintenance, and expenses and services to be provided by contract (including services provided by and costs incurred by other governmental entities or officers, including the Clerk of the BOCC and the Tax Collector of Nassau County, Florida), for the ensuing fiscal year within the boundaries of said MSBU.

(b) If special assessments are levied and imposed or bonds or other forms of indebtedness are issued by or on behalf of the MSBU, or both, to pay the costs of the undertakings, projects, and operations of the MSBU, to the extent permitted by law, the BOCC may authorize and provide for the payment or reimbursement to the County, the MSBU or other person any allowable and permissible cost

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or other charge relating to the creation or implementation of the MSBU and the planning and implementation of the undertakings, projects and operations of the MSBU incurred or paid prior to or after the levy and imposition of such special assessments or issuance of any such bonds or other indebtedness (including services provided by and costs incurred by other governmental entities or officers, including the Clerk of the BOCC and the Tax Collector of Nassau County, Florida).

SECTION 6 - BUDGET, ASSESSMENT, LEVY AND COLLECTIONS

(a) A budget for the MSBU, including any proposed ad valorem millage or special assessment, shall be prepared or caused to be prepared by the BOCC. The budget shall contain all or such portion of the estimated cost of the project, undertakings and services authorized hereby as the BOCC determines to be necessary to properly fund the projects, undertakings, and operations of the MSBU.

(b) The BOCC shall establish special assessments on all real property located within the MSBU to be specially benefited by the projects, undertakings, improvements and operations of the MSBU. If multiple year variable special assessments are to be used to finance the undertakings, projects and operations of the MSBU, then the amount of the assessments shall be established from year to year by resolution of the BOCC. The special assessments may be assessed, levied, collected, and remitted at the time and in the same manner as ad valorem taxes as provided by Florida law, or in such other manner as may be authorized and directed by the BOCC. The resolution establishing the special assessments, including the unit of measurement or rates thereof, may provide for different assessments or rates of assessments for various classes of real property based upon the benefit received by each class of real property from the undertakings, projects, improvements and operations of the MSBU.

SECTION 7 - MSBU FUNDS

Those funds obtained from the special assessments on real property within the MSBU shall be maintained in a separate fund or account and used solely for the purpose of paying costs of the undertakings, improvements, projects and operations of the MSBU provided hereby and, to the extent provided by separate resolution of the BOCC, to pay debt service for any bonds or other forms of indebtedness issued to finance such undertakings, improvements, projects or operations of the MSBU. The BOCC may establish such funds and accounts, including rebate payments to the United States of America, as may be necessary for such financing.

SECTION 8 - CONTRACTS

The BOCC may enter into contracts with any public or private person or organization, including the SAISSA and the Clerk to the BOCC or the Tax Collector of Nassau County, for the projects, undertakings and operations of the MSBU, including the administration and management of the projects and improvements of the MSBU.

SECTION 9 - POWERS

The MSBU is empowered and authorized to:

(a) Acquire property, real, personal or mixed, on such terms and conditions as is deemed necessary or desirable, provided that the use or ownership of such property is necessary in the furtherance of a designated lawful purpose authorized under the provisions of this ordinance and Section 125.01(1)(q) and (r), Florida Statutes, and amendments thereto;

(b) Lease, as lessor or lessee, to or from any person, firm, corporation, association or body, public or private, any facilities or property of any nature to carry out any of the purposes of the MSBU;

(c) Enter into contracts pertaining to the undertakings, projects and operations of the MSBU, including the use of the facilities of the MSBU;

(d) Pursue, actively participate in, and if necessary, pay a portion of the cost of an Inlet Management Study for any areas affecting the MSBU, and, negotiate or renegotiate a Memorandum of Understanding relating to responsibilities of various persons for inlet management and beach restoration;

(e) Issue bonds, notes or other forms of indebtedness to fund costs incurred or to be incurred by or on behalf of the MSBU to the extent permitted by law; and

(f) Exercise all other powers reasonably necessary and appropriate for the MSBU to carry out its purpose and other powers.

SECTION 10 - REVOLVING FUND

In order to carry out the creation, implementation and maintenance of this MSBU, the BOCC may, by resolution, create a revolving fund for the MSBU. If monies on deposit in the revolving fund are advanced to pay the cost of all or any part of the projects, undertakings, improvements and operations of the MSBU authorized by this ordinance, proceeds from any ad valorem millage or special assessments levied and imposed as authorized by this ordinance may,

to the extent permitted by law, be used to reimburse such revolving fund.

SECTION 11 - FINANCING COSTS OF PROJECTS AND UNDERTAKINGS OF MSBU

(a) Pursuant to Article VIII, Section 1, Florida Constitution and Chapter 125, Florida Statutes, specifically including, Sections 125.01 and 125.66, Florida Statutes, the BOCC has all powers of local self government to perform county functions and to render services in a manner not inconsistent with general or special law and such power may be exercised by the enactment of county ordinances.

(b) It is necessary for the public health, safety and general welfare of Nassau County, Florida (the "County") and its citizens, specifically including the residents and owners of real property in the area of the MSBU, that provision be made for the acquisition, construction, modification, improvement, operation, maintenance, and repair of various capital projects and improvements in the area of the MSBU, including the restoration and renourishment of the beach area of part of Amelia Island, within the boundaries of the County.

(c) In conjunction with the projects and undertakings of the MSBU, the BOCC is hereby authorized and empowered to:

(1) Acquire or to construct, or partly acquire and partly construct, and to improve, modify, repair, reconstruct, own, operate and maintain any capital project, including any project, undertaking or improvement undertaken by or on behalf of the MSBU.

(2) Issue bonds, notes or other forms of indebtedness to pay the costs of a capital project, including the beach nourishment project to be undertaken pursuant to this ordinance, payable from the proceeds from special assessments levied and imposed in the MSBU.

(3) Fix and collect rates, fees, rentals or other charges, including special assessments, for the services and facilities furnished by or in conjunction with the project, undertakings or operations of the MSBU.

(4) Acquire in the name of the County or the MSBU, either by purchase or by the exercise of the right of eminent domain, such lands and rights and interest therein, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary in connection with the construction, modification, improvement, extension, enlargement, establishment, repair, operation or maintenance of any project, undertaking or operation of the MSBU.

(5) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this ordinance, and to employ and fix the compensation for such consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, contractors, and other employees and agents as may, in the judgement of the BOCC, be deemed necessary.

(6) Receive and accept from any federal or state agency grants for or in aid of the planning, construction, modification, improvement or financing of any project, undertaking or operation of the MSBU, and to receive, accept and pledge as security for the payment of bonds, notes or other forms of indebtedness issued hereunder, aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied only for the purposes for which the grants and contributions were made.

(d) Bonds, notes and other forms of indebtedness issued under the provisions of this ordinance shall not be deemed to constitute a general indebtedness of the County or a pledge of the full faith and credit of the County, but such bonds, notes or other forms of indebtedness shall be payable solely from project revenues, if any, or other revenues of the MSBU, including special assessments, or any one or combination thereof, pledged for the payment of such bonds, notes, or other forms of indebtedness as provided herein and otherwise as provided below and by subsequent resolution of the BOCC. All such bonds, notes, or other forms of indebtedness shall contain a statement on their face to the effect that the County is not legally or morally obligated to pay the same or the interest thereon except from the funds pledged or provided therefor as described in this ordinance and by the proceedings authorizing the issuance of such bonds, notes or other forms of indebtedness, and that the faith and credit of the County are not pledge to the payment of the principal of or interest on such bonds, notes or other forms of indebtedness.

(e) The BOCC is hereby authorized to acquire by purchase any property or project, and any franchises, easements, permits and contracts for the construction of any such project, upon such terms and at such prices as may be reasonable and can be agreed upon between the BOCC and the owner thereof, title to be taken in the name of the County for retention and operation by the County for the MSBU.

(f) The BOCC shall have the power and is hereby authorized to provide by resolution, at one time or from time to time, for the issuance of bonds, notes or other obligations (the "Bonds") for the purpose of paying all or a part of the cost of a project or other undertaking of the MSBU, or of any one or more projects or undertakings of the MSBU, or any combination thereof as a single project. The principal of and the interest and premium, if any, on

such Bonds shall be payable solely from the revenues derived from the projects or other undertakings of the MSBU, if any, or any other revenues of the MSBU, including special assessments levied and imposed within the area of the MSBU, or any one or combination thereof, as provided in this ordinance and specified by resolution adopted by the BOCC.

(g) (1) The County may pledge the proceeds of the special assessments levied and imposed in the MSBU pursuant to this ordinance, or any other revenues or funds available to the MSBU, or any part or combination thereof, subject, however, to any limitations on the use of such funds imposed by law (the "MSBU Funds"), as security for the payment of the principal of, and the interest and premium, if any, on any Bonds, for reserves for such debt service and for administrative costs and expenses related to the Bonds.

(2) A pledge of the MSBU Funds shall be and constitute a valid and legally binding contract between the County and the holders of the Bonds, and the County shall be obligated to continue to impose, receive and apply said MSBU Funds, in accordance with the proceedings which authorized the issuance of the Bonds for which the MSBU Funds are so pledged as security as long as any of said Bonds are outstanding and unpaid.

(h) Until the principal of and interest on the Bonds is paid or the Bonds are defeased as provided by subsequent resolution, the County may make covenants with respect to the Bonds for the protection and security of the Bondholders.

(i) All moneys received by the County pursuant to this ordinance, whether from the sale of Bonds or as special assessments or other funds or revenues of the MSBU, shall be deemed to be trust funds, to be held and applied solely as provided in this ordinance or in subsequent ordinance or resolution of the BOCC providing for the Bonds.

(j) Any holder of any of the Bonds, except to the extent the rights herein given may be restricted by resolution passed before the issuance of the Bonds, may by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the State of Florida or granted hereunder or under such resolution and may enforce and compel the performance of all duties required by this ordinance or by any ordinance or resolution of the BOCC pertaining to the MSBU or the Bonds enacted prior to the issuance of the Bonds, to be performed by the County, the BOCC, the MSBU, or by any officer thereof.

(k) The County may provide by resolution for the issuance of bonds refunding any of the Bonds for the purpose of refunding any bonds then outstanding, whether issued under the provisions of this ordinance or any other law for the purpose of paying all or part of

the cost of a project or other undertaking of the MSBU. The issuance of such refunding Bonds, the maturities and other details thereof, the rights of the holders thereof, and the duties of the BOCC, the County, and the BOCC in respect thereto, shall be governed by this ordinance or other ordinance or resolution enacted by the BOCC prior to the issuance of such refunding Bonds.

(1) This ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing. This ordinance, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes hereof.

SECTION 12 - SPECIAL ASSESSMENTS

(a) The County may recover the costs of projects and other undertakings of the MSBU or finance the costs of such projects and undertakings by levying and collecting special assessments on specially benefited real property as provided herein. Special assessments may be levied only on benefited real property at a rate of assessment based on the special benefit accruing to such property as a result of or from such projects or other undertakings of the MSBU.

(b) The BOCC shall determine if the procedure for the levy and collection of special assessments for the MSBU is the uniform method for the levy, collection and enforcement of non-ad valorem assessments set forth in Section 197.3632, Florida Statutes, or the procedure set forth in this ordinance. Nothing herein is intended to prevent or prohibit the BOCC from using the uniform method as provided in Section 197.3632, Florida Statutes, in any year notwithstanding the fact that the procedure provided in this ordinance has been utilized for the levy and collection of special assessments.

(c) Special assessments against real property in the MSBU deemed to benefited by public improvements or other undertakings by the County or the MSBU shall be assessed upon the property specially benefited by the improvements or program in proportion to the benefits to be derived therefrom, such special benefits to be determined and prorated according to the method of apportionment or unit of measurement based upon one or more of the following methods or any combination thereof:

(1) the front footage of the property specially benefited by the project or other undertaking;

(2) the square footage of the property specially benefited by the project or other undertaking;

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(3) the building area on the parcel of real property specially benefited by the project or other undertaking;

(4) the use, zoning or land use classification of the real property specially benefited by the project or other undertaking; or

(5) the location of the real property specially benefited by the project or other undertaking, including the number of units in an area and its location in relation to the project or other undertaking.

(d) The BOCC shall state its intention to use special assessments to pay the cost of or to finance the cost of any project or other undertaking in the MSBU by adopting a resolution stating the nature of the proposed project or other undertaking, designating the area to be improved and location of the project or other undertaking, the cost thereof, or part thereof, to be paid from the special assessments, the manner in which the special assessments shall be made, when the special assessments are to be paid, and what part of the cost of the project or other undertaking, if any, shall be paid from funds of the County or the MSBU other than those derived from the special assessments. Such resolution shall describe the property upon which the special assessments shall be levied.

(e) The resolution shall state the estimated total cost of the project or other undertaking to be financed in whole or in part with the special assessments. Such estimated cost may include the cost of construction or reconstruction, the cost of all labor and materials, the cost of all lands, property rights, easements and franchises acquired, financing costs and charges, interest prior to and during construction and for one year after completion of construction, discount on the sale of bonds, notes or other forms of indebtedness, the cost of plans and specifications, surveys and estimates of costs and revenues; the cost of engineering and legal services, all expenses necessary or incident to determining the feasibility or practicability of such project or other undertaking, administrative expenses, and such other costs as may be necessary or incident to the financing thereof, including reimbursement to the County, the MSBU or others for money advanced for costs of the project or other undertaking.

(f) At the time of the adoption of the resolution described in subsection (d), there shall be on file with the Clerk of the BOCC, an assessment plat showing the area to be assessed with a description of the project or other undertaking to be financed with the special assessments, which description may include preliminary or final plans or drawings, and an estimate of the cost of the proposed project or other undertaking.

(g) Promptly following adoption of the resolution described in subsection (d), the Clerk of the BOCC shall cause such resolution to be published at least one time in a newspaper of general circulation in the County and in the MSBU.

(h) Promptly following adoption of the resolution described in subsection (d), the BOCC shall cause to be prepared a preliminary assessment roll in accordance with the method of assessment specified in such resolution. The assessment roll shall show each parcel of real property to be assessed and the amount of the assessment against each parcel based upon the benefit received by that parcel from the project or other undertaking being financed in whole or in part from the assessment, and, if the assessment is to be paid in installments, the number of annual installments of the assessment.

(i) (1) Upon completion of the preliminary assessment roll, the BOCC shall by resolution fix a time and place at which the owners of the property to be assessed, or any other persons interested therein, may appear and be heard as to the propriety and advisability of the project or other undertaking, the cost thereof, the manner of payment therefor, and the amount thereof to be assessed against each property. No later than the fourteenth (14th) day prior to such hearing written notice of the time and place of the hearing and the amount and purpose of the assessment shall be mailed to the owners of real property to be assessed at the last known address of the property owner as it appears on the tax rolls of the Property Appraiser of Nassau County, Florida, or such other records of the County containing the names and addresses of the property owners. Proof of mailing of the notices shall be made by affidavit of the Clerk to the BOCC or other official of the County do designated by the BOCC and the affidavit shall be filed with the Clerk of the BOCC. Failure to mail such notice shall not invalidate any of the proceedings under this ordinance.

(2) Notice of the time and place of the hearing shall also be given by publication in a newspaper of general circulation in the County and in the MSBU no later than the fourteenth (14th) day prior to the date of the hearing. Such published notice shall also describe the project or other undertaking to be financed with the special assessments and shall advise all interested persons that the description of the real property to be assessed and the amount to be assessed against each parcel of property is available at the office of the Clerk of the BOCC, or such other public official or location as may be determined by the BOCC. The notice by publication described in this subsection (b) shall be verified by an affidavit of the publisher of the newspaper in which the notice is published and such affidavit shall be filed with the Clerk of the BOCC.

(j) At the time and place set forth in the notice described in subsection (i), the BOCC shall meet as an equalizing board to

hear and consider any and all complaints as to the special assessments, if any, and shall adjust and equalize the assessments as it deems necessary to make such assessments to be just and fair. When equalized and approved by a resolution of the BOCC, a final assessment roll shall be filed with the Clerk of the BOCC, and such assessments shall be deemed final, confirmed and legal, valid and binding first liens upon the real property against which such assessments are made until paid. Upon completion of the project or other undertaking paid from special assessments or financed through bonds, notes or other forms of indebtedness secured by special assessments, each assessment shall be credited in an amount equal to the difference in the assessment as originally made, approved and confirmed and the proportionate part of the actual cost to be paid by the special assessments as finally determined upon completion of the project or other undertaking, but in no event shall the final assessment on any real property exceed the amount of benefit initially assessed. Promptly after finalization of the assessments by the BOCC, the assessments shall be recorded by the Clerk of the Circuit Court in the Official Records of Nassau County, Florida, and such record of the liens shall constitute prima facie evidence of their validity. The BOCC may by resolution grant a discount equal to all or a part of the payee's proportionate share of the cost of the project or other undertaking consisting of financing costs, such as capitalized interest, funded reserves and bond discount included in the estimated costs of the project or other undertaking, upon payment in full of any assessment during such period prior to the time such financing costs are incurred as may be specified by the BOCC.

(k) If the BOCC determines that special assessments shall be levied which vary from year to year due to various factors, including changes in the value of the properties being assessed, development of the property, change in use of the property, or other properties being assessed changing in some way to affect the assessment of that property, then the resolutions adopted by the BOCC shall so provide and the resolution in subsection 7 establishing the amount of the special assessment shall provide that such assessment is being levied for one year and that in each subsequent year the BOCC will adopt a resolution establishing the amount of the special assessment for that year.

(l) The special assessments shall be payable at the times and in the manner set forth in the resolution adopted by the BOCC establishing such assessments and shall remain as a lien, coequal with liens of all state, county, district and municipal taxes, but superior to all other liens, titles and claims, until paid, and shall bear interest at a rate not to exceed one percent (1%) above the rate of interest on the Bonds to which the special assessments are pledged to their repayment, from the date of final acceptance of the project or other undertaking, and may be made payable in installments over a period not to exceed thirty (30) years, to

which if not paid when due, there shall be added a penalty at the rate of one percent (1%) per month until paid.

(m) Each annual installment of the special assessment shall be paid on the dates specified in the resolution adopted by the BOCC, with interest upon all deferred payments, until the entire amount of the special assessment has been paid, and upon the failure of any property owner to pay any annual installment due, or any part thereof, or any annual interest upon deferred payments, the BOCC shall cause to be brought the necessary legal proceedings to enforce payment thereof with all accrued interest and penalties, together with all legal costs incurred, including reasonable attorneys fees, to be assessed as part of the costs. In the event of a default in the payment of any installment of an assessment, or any accrued interest on such installment, if any, the whole assessment, with the interest and penalties thereon, shall immediately become due and payable and subject to foreclosure. In any foreclosure due to failure to pay a special assessment, service of process against unknown or nonresident defendants may be had by publication as provided by law. The foreclosure proceedings shall be prosecuted to a sale and conveyance of the real property involved in such proceedings as now provided by law in suite to foreclose mortgages, or, in the alternative, such proceedings may be instituted and prosecuted under Chapter 173, Florida Statutes, or as otherwise provided by law.

(n) If any special assessment imposed and levied by the BOCC under this ordinance shall be either in whole or in part annulled, vacated or set aside by the judgement of any court, or if the BOCC shall be satisfied that any such assessment is such that it cannot be enforced or collected, or if the BOCC shall have omitted to make such assessment when it might have done so, the BOCC shall take all necessary steps to determine, establish, impose and levy a new special assessment for the whole or any part of the project or other undertaking or against any real property benefited by such project or other undertaking. In such an event, the BOCC shall comply with the provisions of this ordinance for the determination, establishment, imposition, levy and collection of such new assessment.

(o) Any informality or irregularity in the proceedings in connection with the levy of any special assessment under this ordinance shall not affect the validity of the special assessment where the assessment roll has been confirmed by the BOCC. The assessment roll as finally approved and confirmed shall be competent and sufficient evidence that the assessment was duly levied, that the assessment was duly made and adopted, and that all other proceedings adequate to the adoption of the assessment roll were duly had, taken and performed as required by this ordinance, and no variance from the provisions of this ordinance shall be deemed material unless it is clearly shown that the person objecting was materially injured by such variance.

(p) The BOCC may in its sole discretion advance funds to the MSBU to pay any portion of the initial costs of the MSBU or for initial costs of the Clerk of the Court or Tax Collector as it deems necessary and appropriate, which funds shall be promptly repaid to the County from the proceeds of the special assessments levied and imposed within the MSBU or from the proceeds of the Bonds issued pursuant to this ordinance.

(q) (1) The BOCC may by resolution authorize the issuance of Bonds in an amount not in excess of the aggregate amount of the estimated benefits to be derived by all of the property specially benefited by the project or other undertaking financed or to be financed with the proceeds of the Bonds. A special fund shall be created and used for the payment of the principal, redemption and mandatory purchase premium and interest, or any of them, on such Bonds. All the proceeds from the special assessments collected by the County for the project or other undertaking of the MSBU financed by the Bonds shall be deposited and held in such fund for the purposes set forth in the proceedings authorizing the issuance of such Bonds. Any surplus remaining in such fund after payment of all the Bonds shall be used by the MSBU for any lawful purpose.

(2) Any special assessment installments that are prepaid shall bear interest at the rate of the Bonds, and, if necessary, to pay additional expenses of redemption or mandatory purchase, shall include a prepayment fee not to exceed the applicable redemption or mandatory purchase premium, if any, for such Bonds, if they are to be redeemed or tendered for purchase on the next available redemption or mandatory tender for purchase date.

(3) Before or after the issuance of the Bonds, the projects or other undertakings of the MSBU for which the Bonds are authorized to be used for payment of the costs thereof may be amended or substituted by the amendment of the resolution authorizing the Bonds. If such amendment shall involve a change in the location or nature of any project or undertaking, or a change in the real property being benefited by such project or undertaking of the MSBU or the in amount of such benefit, the BOCC shall amend the assessment roll and record the appropriate changes in the Official Records of Nassau County, Florida. The special assessments levied as a result of such amendment or substitution of projects or other undertakings of the MSBU, together with special assessments previously levied and not amended or substituted, shall be not less than the amount necessary to provide for payment of the principal, interest and applicable redemption or mandatory purchase premium with respect to the Bonds.

SECTION 13. REPEAL OF CONFLICTING ORDINANCES.

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Any ordinance of the County or part thereof in conflict with this Ordinance or any part hereof is hereby repealed to the extent of the conflict.

SECTION 14. SEVERANCE.

It is declared to the intent of the Board of County Commissioners that, if any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions hereof.

SECTION 15. NO EFFECT ON STATE LAW.

Nothing in this Ordinance is intended or shall be deemed to affect, modify, amend or change the intent of section 161.58, Florida Statutes, as supplemented by Senate Bill 1157 (1989 Session).

SECTION 16. EFFECTIVE DATE.

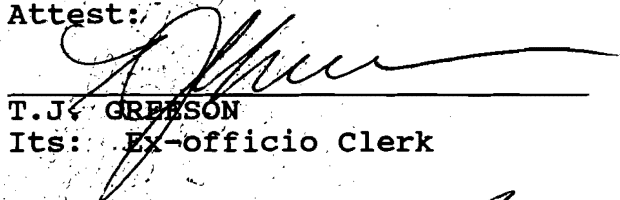
This ordinance shall be filed with the Department of State and become effective as provided in Section 125.66(3), Florida Statutes.

DONE AND ADOPTED in regular session this 11th day of October, 1993.

BOARD OF COUNTY COMMISSIONERS
OF NASSAU COUNTY, FLORIDA


JAMES E. TESTONE
Its: Chairman

Attest:


T.J. GRESSON
Its: Ex-officio Clerk

Approved as to form by the Nassau County Attorney.


MICHAEL S. MULLIN, Esquire
County Attorney

EXHIBIT A

from the northerly boundary of the Amelia Island Plantation to the northerly boundary of the state park, including all the property located on the southerly end of Amelia Island within these boundaries.

9319066

FILED & RECORDED IN PUBLIC
RECORDS OF NASSAU COUNTY
RECORD VERIFIED

93 DEC 14 AM 10:59

J. H. ...
CLERK OF COURTS
NASSAU COUNTY, FLORIDA