

RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, SUPPLEMENTING A RESOLUTION OF THE COUNTY ENTITLED: "A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, RESTATING, AMENDING AND SUPPLEMENTING ITS RESOLUTION NO. 91-117, ADOPTED AUGUST 26, 1991; AND PROVIDING AN EFFECTIVE DATE;" AUTHORIZING THE ISSUANCE OF \$23,754,000 IN AGGREGATE PRINCIPAL AMOUNT OF SOLID WASTE SYSTEM REVENUE BONDS, SERIES 1993, IN ORDER TO PROVIDE FUNDING FOR THE CONSTRUCTION OF CERTAIN SOLID WASTE CAPITAL IMPROVEMENTS AND RETIRE CERTAIN INDEBTEDNESS OF THE COUNTY; MAKING CERTAIN OTHER COVENANTS AND AGREEMENTS IN CONNECTION WITH THE ISSUANCE OF SUCH BONDS; PROVIDING CERTAIN TERMS AND DETAILS OF SUCH BONDS, INCLUDING AUTHORIZING A NEGOTIATED SALE OF SAID BONDS; DESIGNATING THE PAYING AGENT AND REGISTRAR WITH RESPECT TO SAID BONDS; AND PROVIDING AN EFFECTIVE DATE.

BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA:

SECTION 1. FINDINGS. It is hereby found and determined that:

(A) On June 14, 1993, the Board of County Commissioners of Nassau County, Florida (the "Issuer") duly adopted a resolution, the title of which is referenced above, referred to herein as the "Original Resolution."

(B) The Original Resolution authorized, among other things, the issuance of \$23,754,000 Solid Waste System Revenue Bonds, Series 1993 (the "Series 1993 Bonds").

(C) The Original Resolution, as supplemented hereby, is referred to herein as the "Bond Resolution".

(D) The Issuer deems it to be in the best interests of its citizens and taxpayers to issue the Series 1993 Bonds for the purpose of paying amounts due pursuant to that certain Line of Credit Agreement, dated as of September 1, 1991, between the County and First Union National Bank of Florida, as amended and supplemented (the "Line of Credit Agreement") and for funding certain solid waste-related capital improvements (the "Initial Project," as more fully defined herein).

(E) The principal of and interest on the Series 1993 Bonds and all required sinking fund, reserve and other payments shall be limited obligations of the Issuer, payable solely from the Pledged Funds, as provided in the Bond Resolution. The Series 1993 Bonds shall not constitute a general obligation, or a pledge of the faith, credit or taxing power of the Issuer, the State of Florida, or any political subdivision thereof, within the meaning of any constitutional or statutory provisions. Neither the State of Florida, nor any political subdivision thereof, nor the Issuer shall be obligated (1) to exercise its ad valorem taxing power in any form on any real or personal property of or in the Issuer to pay the principal of the Series 1993 Bonds, the interest thereon, or other costs incidental thereto or (2) to pay the same from any other funds of the Issuer except from the Pledged Funds, in the manner provided in the Bond Resolution.

(F) Due to the present volatility of the market for tax-exempt obligations such as the Series 1993 Bonds, it is in the best interest of the Issuer to sell the Series 1993 Bonds by a negotiated sale, allowing the Issuer to enter the market at the most advantageous time, rather than at a specified advertised date, thereby permitting the Issuer to obtain the best possible price and interest rate for the Series 1993 Bonds. The Issuer acknowledges receipt of the information required by Section 218.385, Florida Statutes, in connection with the negotiated sale of the Series 1993 Bonds. The aforementioned information is contained in the Commitment Letter referred to below.

(G) First Union National Bank of Florida (the "Purchaser") has offered to purchase the entire aggregate principal amount of the Series 1993 Bonds from the Issuer and has submitted a Commitment Letter attached hereto as Exhibit A (the "Commitment Letter") expressing the terms of such offer, and the Issuer does hereby find and determine that it is in the best financial interest of the Issuer that the terms expressed in the Commitment Letter be accepted by the Issuer.

**SECTION 2. AUTHORITY FOR THIS SUPPLEMENTAL RESOLUTION.** This Supplemental Resolution is adopted pursuant to the Original Resolution, the provisions of the Act (as defined in the Bond Resolution) and other applicable provisions of law. When used in this Supplemental Resolution, the terms defined in the Original Resolution shall have the meanings therein stated, except as set forth below.

**SECTION 3. AUTHORIZATION AND DESCRIPTION OF THE SERIES 1993 BONDS.** The Issuer hereby determines to issue a Series of Bonds in an aggregate principal amount of \$23,754,000, to be known as "Solid Waste System Revenue Bonds, Series 1993," for the principal purpose of paying amounts due under the Line of Credit Agreement and funding the cost of the Initial Project.

The Series 1993 Bonds shall be dated June 17, 1993; shall bear interest at the rate of 6.78% per annum, subject to adjustment as described below; shall be initially issued as one fully registered Bond, maturing in such years and amounts and payable on such dates as set forth below:

<u>Date</u>	<u>Principal</u>
01/01/94	\$ 230,000
07/01/94	300,000
01/01/95	310,000
07/01/95	320,000
01/01/96	330,000
07/01/96	340,000
01/01/97	355,000
07/01/97	365,000
01/01/98	375,000
07/01/98	390,000
01/01/99	405,000
07/01/99	415,000
01/01/00	430,000
07/01/00	445,000
01/01/01	460,000
07/01/01	475,000
01/01/02	495,000
07/01/02	510,000
01/01/03	525,000
07/01/03	545,000
01/01/04	565,000
07/01/04	580,000
01/01/05	600,000
07/01/05	620,000
01/01/06	645,000
07/01/06	665,000
01/01/07	685,000
07/01/07	710,000
01/01/08	735,000
07/01/08	760,000
01/01/09	785,000
07/01/09	810,000
01/01/10	840,000
07/01/10	870,000
01/01/11	900,000
07/01/11	929,000
01/01/12	960,000
07/01/12	990,000
01/01/13	1,025,000
07/01/13	<u>1,060,000</u>
 TOTAL:	 \$23,754,000

The principal payments set forth above shall be subject to adjustment in the event of an adjustment in the rate of interest on the Series 1993 Bonds as described below in order to produce substantially level debt service on the Series 1993 Bonds over the term thereof. The date of the final payment of principal on the Series 1993 Bonds is referred to herein as the "Final Maturity Date." The Series 1993 Bonds shall be issuable in denominations of \$1,000 and any integral multiple thereof.

The Series 1993 Bonds shall be subject to redemption prior to maturity, in whole or in part, on any date, upon payment of the Prepayment Charge, if any, applicable to the principal amount of Bonds to be redeemed, plus the principal amount of the Bonds to be redeemed and accrued interest thereon to the redemption date. The Prepayment Charge shall be calculated pursuant to the following formula:

$$\text{Prepayment Charge} = (A-B) \times C \times D$$

where,

A = The rate of interest per annum on the Series 1993 Bonds.

B = The Bond Equivalent Yield of the U.S. Treasury bill or note with the maturity date closest to the Final Maturity Date. The "Bond Equivalent Yield" is that shown in the "YLD" column of the Treasury notes, bonds and bills section of the *Wall Street Journal* or equivalent published source.

C = Scheduled average outstandings under the amortization schedule from the date of prepayment to the Final Maturity Date.

D = Number of days from the date of prepayment to the Final Maturity Date divided by a year-base of 360 days.

In the event that (A-B) is zero or a negative number, there will be no Prepayment Charge.

The rate of interest on the Series 1993 Bonds is subject to adjustment in the event of a Determination of Taxability with respect to the Series 1993 Bonds. "Determination of Taxability" shall be deemed to mean the circumstance of interest paid or payable on the Series 1993 Bonds becoming includable for federal income tax purposes in the gross income of a Bondholder as a consequence of any act, omission or event whatsoever and regardless of whether the same was within or beyond the control of the Issuer. A Determination of Taxability will be deemed to have occurred upon (a) the receipt by the Issuer or a Series 1993 Bondholder of an

original or a copy of an Internal Revenue Service Technical Advice Memorandum or Statutory Notice of Deficiency which holds that any interest payable on its Bond is includable in the gross income of such Bondholder; (b) the issuance of any public or private ruling of the Internal Revenue Service that any interest payable on such Series 1993 Bond is includable in the gross income of the Bondholder; or (c) receipt by the Issuer or a Series 1993 Bondholder of an opinion of Bond Counsel that any interest on the Series 1993 Bonds has become includable in the gross income of the Bondholder for federal income tax purposes. For all purposes of this definition, a Determination of Taxability will be deemed to occur on the date as of which the interest on the Series 1993 Bond is deemed includable in the gross income of the Bondholder. A Determination of Taxability shall not occur in the event such interest is taken into account in determining adjusted current earnings for the purpose of the alternative minimum income tax imposed on corporations. In the event of such Determination of Taxability, the interest rate of the Series 1993 Bonds shall be adjusted, retroactively to the date interest became includable in the Bondholder's gross income, to cause the after-tax yield on the Series 1993 Bonds, after payment of any increase in tax, interest on unpaid taxes, penalty or other amounts as a result of such Determination of Taxability, to equal what the yield on the Series 1993 Bonds would have been in the absence of such Determination of Taxability. The provisions of this paragraph shall survive payment in full of the Series 1993 Bonds and termination of the Resolution.

Additionally, the rate of interest on the Series 1993 Bonds shall be adjusted upon the occurrence of any Event of Default under the Resolution to be a rate of interest during the period such Event of Default is outstanding which is 2% per annum in excess of the rate which would otherwise be in force and effect.

The rate of interest on the Series 1993 Bonds shall additionally be subject to adjustment as follows:

(i) Change in Maximum Federal Income Tax Rate on Corporations. In the event that the federal corporate income tax rate imposed on the highest bracket of corporate income (currently 34%) shall during any period with respect to which interest shall be accruing on the Series 1993 Bonds be more or less than 34%, the interest rate otherwise in effect shall be adjusted by multiplying such rate by a fraction, the numerator of which shall be 100% minus the new federal corporate income tax rate percentage, and the denominator of which shall be 100% minus the federal income tax rate percentage immediately prior to such change; and such product shall be rounded to the nearest one-hundredth of one percent. The Holder shall have the right to adjust the provisions of this subparagraph to take into account the effects of other adjustments provided for herein.

(ii) Taxation Changes. If, as the result of Taxation Changes (as defined below), the After-Tax Yield (as defined below) on the Series 1993 Bonds in the hands of the Holders is increased or decreased, the interest rate shall be increased or decreased, effective on the effective date of such Taxation Change, as may be necessary to make the After-Tax Yield to such Holders immediately after such Taxation Change, equal to the After-Tax Yield of the Series 1993 Bonds absent such Taxation Change. The term "Taxation Change" shall mean any change in any federal income tax law, regulation or interpretation which results in a change in the After-Tax Yield to such Holder (other than changes which result in or lead to a Determination of Taxability or which are taken into account in the preceding paragraph), except that "Taxation Change" shall not include any change in the After-Tax Yield of the Holders to the extent that such change would affect the After-Tax Yield without regard to whether interest on the Series 1993 Bonds is or may be excluded from gross income for federal income tax purposes under the provisions of Section 103 of the Code or other provisions of law. Taxation Changes shall include but not be limited to any of the following: (a) any change in federal law, regulation or interpretation which requires such Holder to partially or wholly include interest on the Series 1993 Bonds in its taxable income or which imposes any tax, including any tax based on taxable preference items or any flat, minimum or partial tax or surtax on such Holder imposed directly or indirectly on account of its purchase or ownership of or receipt of interest from the Series 1993 Bonds (or which changes the extent of inclusion or amount of such tax); or (b) any change in federal law, regulation or interpretation which permits, disallows, decreases or increases or otherwise affects, in whole or in part, tax credits or deductions. All calculations and determinations of changes in the After-Tax Yield and resulting changes in the interest rate shall be determined solely by the Holders, but may be verified by the Issuer, and changes in the interest rate on the Series 1993 Bonds shall be effective as of the date of the applicable Taxation Change and shall be payable upon written notice to the Issuer stating the nature of the Taxation Change and the amount of the interest rate adjustment. The term "After-Tax Yield" shall mean: (a) the amount received as interest on the Series 1993 Bonds less (i) any federal income taxes payable on such interest and (ii) any federal income tax liability directly or indirectly imposed on the Holders as the result of their purchase or ownership of or receipt of interest from the Series 1993 Bonds (including any tax liability resulting from disallowance or limitations on any deductions, credits or other tax benefits), all on an annualized basis divided by (b) the outstanding principal amount of the Series 1993 Bonds. Unless the Holders shall otherwise determine, the determination of After-Tax Yield shall be based on the assumption that the Holders' taxable income is subject to taxation at the rate applicable to the highest bracket of corporate income. Taxation Change shall not include the effects of the alternative minimum taxes imposed by the Tax Reform Act of 1986. If a Holder is a member of a consolidated group for

federal income tax purposes, the determination of the effect on After-Tax Yield shall be made on a consolidated basis, unless such Holder shall deem a different basis to more accurately reflect the impact of such Taxation Change. The Chairman and Clerk are hereby authorized to enter into any separate agreement with the initial purchaser of the Series 1993 Bonds to effectuate the provisions of this Section.

If the nature of the Taxation Change is such that a one-time adjustment to the interest rate will not, in the reasonable opinion of the Holders, accurately adjust for the impact of the Taxation Change, the Holders may elect some other method of adjustment to maintain their After-Tax Yield, including an annual adjustment or periodic reimbursements.

If two or more of the adjustments, as outlined above, become effective simultaneously, the Holders of the Series 1993 Bonds may apply such adjustments in the order of their choosing.

The above adjustments will be cumulative. The above adjustments to the interest rate on the Series 1993 Bonds will be effective on the effective date of the applicable change in the tax laws or regulations. Interest on the Series 1993 Bonds and all other tax rates and interest rates are expressed as annual rates. However, proper partial adjustment will be made if the tax law change is effective after the first day of the Holder's tax year or if interest on the Series 1993 Bonds does not accrue for the entire tax year of the Holder. Adjustments which create a circular calculation because the interest rate on the Series 1993 Bonds is affected by the calculation will be carried out sequentially, adjusting the interest rate on the Series 1993 Bonds accordingly in each successive calculation using as the new value the adjustment in the interest rate on the Series 1993 Bonds, until the change on the interest rate on the Series 1993 Bonds caused by the next successive calculation of the adjustment is de minimis. If more than one of paragraphs (i) through (iii) apply, then the interest rate on the Series 1993 Bonds will be adjusted in the order in which listed above.

Notwithstanding any provision contained herein to the contrary, in no event shall the interest contracted for, charged or received in connection with any Series 1993 Bond (including any other costs or considerations that constitute interest under the laws of the State of Florida which are contracted for, charged or received) exceed the maximum rate of interest allowed under State law as presently in effect. In the event the maturity of any Series 1993 Bond is prepaid in accordance with the provisions thereof, then such amounts that constitute payments of interest, together with any costs or considerations which constitute interest under the laws of the State of Florida, may never exceed an amount which would result in payment of interest at a rate in excess of the nonusurious interest allowed by the laws of the State of

Florida or the United States to the extent applicable, as presently in effect and to the extent an increase is allowable by such laws; and excess interest, if any, shall be cancelled automatically as of the date of such acceleration, or, if theretofore paid, shall be credited on the principal amount of the Series 1993 Bonds unpaid, but such crediting shall not cure or waive any default under the Resolution.

The final payment of the principal of, or redemption price, as applicable, of the Series 1993 Bonds, shall be payable at the office of the Clerk of the Circuit Court, ex officio Clerk of the Board of County Commissioners of Nassau County, Florida, which is hereby designated the Registrar and Paying Agent with respect to the Series 1993 Bonds upon presentation of the Series 1993 Bonds. Payment of interest on the Series 1993 Bonds and payments of principal prior to the final payment thereof shall be made to the owner thereof and shall be paid by check or draft of the Paying Agent to the Holder in whose name the Series 1993 Bond is registered at the close of business on the 15th day of the month (whether or not a business day) next preceding the interest payment date, or, at the request and expense of any Holder of more than 50% of the Outstanding principal amount of the Series 1993 Bonds, by bank wire transfer for the account of such Holder. All payments shall be made in accordance with and pursuant to the terms of the Bond Resolution and the Series 1993 Bonds and shall be payable in any coin and currency of the United States of America which, at the time of payment, is legal tender for the payment of public or private debts.

**SECTION 4. APPLICATION OF SERIES 1993 BOND PROCEEDS.** The proceeds derived from the sale of the Series 1993 Bonds, including accrued interest, shall, simultaneously with the delivery of the Series 1993 Bonds to the Underwriter, be applied by the Issuer as follows:

(A) An amount of Series 1993 Bond proceeds sufficient to pay all amounts due and owing under the Line of Credit Agreement shall be transferred to First Union National Bank of Florida for such purpose.

(B) Proceeds shall be used to pay all costs and expenses in connection with the preparation, issuance and sale of the Series 1993 Bonds, including, without limitation, the fees and expenses of engineers, accountants, attorneys and financial advisors, to those persons who shall be entitled to receive the same.

(C) Any remaining Series 1993 Bond proceeds shall be deposited into the Construction Account and used to pay the costs of the acquisition and construction of the Initial Project.

**SECTION 5. SALE OF THE SERIES 1993 BONDS.** The Series 1993 Bonds shall be sold to the Purchaser pursuant to the Purchase



Contract at a purchase price of par. The Chairman is hereby authorized and directed to execute the Commitment Letter and to deliver the same to the Purchaser.

**SECTION 6. ADDITIONAL COVENANTS.**

(A) The Issuer covenants and agrees with the Holders of the Series 1993 Bonds that no Additional Bonds shall be issued pursuant to the Resolution unless the documentation evidencing compliance with the tests and other requirements set forth in the Resolution is approved by the Holders of more than 50% in aggregate principal amount Outstanding of the Series 1993 Bonds, which approval may not be unreasonably withheld.

(B) The Issuer agrees that, upon the occurrence and continuance of any Event of Default, it will appoint a depository to hold the funds and accounts established under the Resolution pursuant to Section 4.04 of the Resolution.

(C) The Issuer agrees, so long as the Series 1993 Bonds remain Outstanding, to use its best efforts to cause its primary depository relationships to be with First Union National Bank of Florida.

**SECTION 7. GENERAL AUTHORITY.** The members of the Board of County Commissioners, the Clerk of the Issuer and the officers, attorneys and other agents or employees of the Issuer are hereby authorized to do all acts and things required of them by this Supplemental Resolution or the Original Resolution, or desirable or consistent with the requirements hereof or the Original Resolution for the full punctual and complete performance hereof or thereof. Each member, employee, attorney and officer of the Issuer or the Board of County Commissioners and the Clerk is hereby authorized and directed to execute and deliver any and all papers and instruments and to be and cause to be done any and all acts and things necessary or proper for carrying out the transactions contemplated hereunder.

**SECTION 8. SEVERABILITY AND INVALID PROVISIONS.** If any one or more of the covenants, agreements or provisions herein contained shall be held contrary to any express provision of law or contrary to the policy of express law, even though not expressly prohibited, or against public policy, or shall for any reason whatsoever be held invalid, then such covenants, agreements or provisions shall be null and void and shall be deemed separable from the remaining covenants, agreements or provisions and shall in no way affect the validity of any of the other covenants, agreements or provisions hereof or the Bonds issued hereunder.

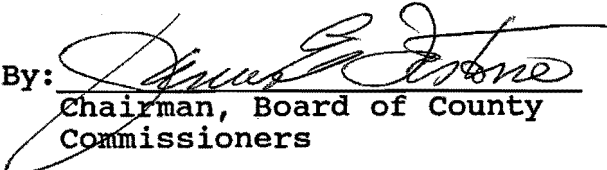
**SECTION 9. EFFECTIVE DATE.** This Supplemental Resolution shall become effective immediately upon its adoption.

DULY ADOPTED, this 14th day of June, 1993.

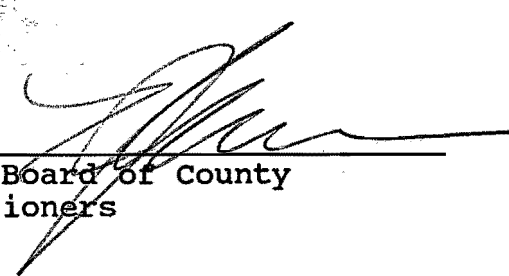
NASSAU COUNTY, FLORIDA

(SEAL)

By:

  
Chairman, Board of County  
Commissioners

ATTEST:

  
Clerk, Board of County  
Commissioners

**EXHIBIT A**

**COMMITMENT LETTER**