

ORDINANCE NO. 2020-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, CREATING THE AMERICAN BEACH WATER AND SEWER DISTRICT; PROVIDING FOR PURPOSE AND FUNCTION; DESIGNATING THE GOVERNING BOARD OF THE DISTRICT; PROVIDING FOR THE POWERS AND AUTHORITY OF THE DISTRICT; PRESCRIBING BUDGETING AND FINANCIAL CONTROLS; PROVIDING REPORTING REQUIREMENTS; PROVIDING THAT THE DISTRICT SHALL NOT HAVE THE AUTHORITY TO LEVY AD VALOREM TAXES; PROVIDING THAT THE DISTRICT SHALL NOT HAVE THE AUTHORITY TO ACQUIRE EXISTING PUBLIC WATER AND WASTEWATER UTILITY SYSTEMS; PROVIDING FOR CODIFICATION IN THE NASSAU COUNTY CODE OF ORDINANCES; PROVIDING FOR SEVERABILITY, CONFLICTS, LIBERAL CONSTRUCTION, AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. AMERICAN BEACH WATER AND SEWER DISTRICT. Pursuant to Section 125.01 and 189.02, Florida Statutes, there is hereby created a dependent special district to be known as the "American Beach Water and Sewer District" ("District"). The boundaries of the district shall be those set forth in Exhibit "A", attached hereto and incorporated herein by reference.

SECTION 2. PURPOSE AND FUNCTION.

(A) The purpose of the American Beach Water and Sewer District is to construct, and maintain water and sewer lines in the unincorporated area of the county within the boundaries of the District.

(B) The Board hereby declares that a dependent special district is the best means of establishing these public purposes and for constructing, leasing, operating and managing assets of water and sewer systems within the District. The creation of the District is consistent with the Nassau County Comprehensive Plan.

(C) The creation and organization of the District and the fulfillment of its objectives serves a public purpose and is in all respects for the benefit of the people of this State, the County and their constituents, and the persons or entities served by the District facilities. The District is performing an essential governmental function.

(D) All property of the District is and shall in all respects be considered to be public property, and the title to such property shall be held by the District for the benefit of the public.

SECTION 3. DISTRICT GOVERNING BOARD.

(A) The governing body of the American Beach Water and Sewer District shall be the Nassau County Board of County Commissioners. The financial disclosure requirements already applicable to the Nassau County Board of County Commissioners shall apply to the District governing board.

(B) The affairs, actions and duties of the District shall be undertaken at a duly called meeting pursuant the County's typical procedures for noticing and conducting public meetings.

(C) A certificate, resolution or instrument signed by the Chairman, Vice-Chairman or such other person of the District as may be hereafter designated and authorized by the Board shall be evidence of the action of the District and any such certificate, resolution or other instrument so signed shall conclusively be presumed to be authentic. Likewise, all facts and matters stated therein shall conclusively be presumed to be accurate and true.

SECTION 4. POWERS OF DISTRICT GOVERNING BOARD. The governing body of the American Beach Water and Sewer District shall have, without limitation, all of the powers and authority necessary construct, own, operate, lease and maintain water and sewer systems in the unincorporated area of the county included within the boundaries of the District and more specifically, without limiting the generality of the foregoing, shall have the following powers:

- (A) To sue and be sued, implead and be impleaded, complain and defend, in all courts.
- (B) Subject to the prohibition in Section 7, to acquire for its purposes by grant, purchase, gift, exchange, or in any manner, all property, real or personal, or any estate or interest therein, on such terms and conditions as the governing body shall, by resolution, fix and determine, and to own all such property in its own name.
- (C) To enter into agreements with a political subdivision, agency or officer of the state, including, but not limited to state government, county, city, school district, single-purpose and multipurpose special district, single-purpose and multipurpose authority, metropolitan or consolidated government, any agency of the United States government, and any similar entity of any other state or the United States.
- (D) To make and enforce rules and regulations for its own government and proceedings and to adopt an official seal.

- (E) To make and enter into all contracts and agreements and do and perform all acts and deeds necessary and incidental to the performance of its duties and the exercise of its powers, to make and execute leases or agreements for the use and occupation of necessary property on such terms, conditions and for such period as the governing body may determine, and to sell and dispose of such property on such terms and conditions as shall be prescribed by resolution of the governing body and by general law.
- (F) To employ such personnel and contract with such entities as the governing body may, in its discretion, deem advisable.
- (G) To construct, install, erect and to maintain, improve, extend, or enlarge and reconstruct a water system or a sewer system or both within said District and to have the exclusive control and jurisdiction thereof.
- (H) To the extent permitted by law, borrow money and issue bonds, certificates, warrants, notes, obligations or other evidence of indebtedness to pay all or part of the cost of such construction, reconstruction, erection, acquisition or installation of such water system, sewer system or both.
- (I) To levy and assess non-ad valorem assessments within said District for the purpose of paying costs of operations, maintenance, and principal of and interest on any general obligation bonds which may be issued.
- (J) To regulate the use of sewers and the supply of water within the District.
- (K) To fix, levy, and collect rates, fees, special assessments, and other charges to persons or property or both for the use of the facilities and services provided by any water system or sewer system or both and to fix and collect charges for making connections with any such water system or sewer system and to provide for reasonable penalties on any users or property for any such rates, fees or charges that are delinquent.
- (L) To exercise exclusive jurisdiction, control and supervision over any water system or sewer system or both, or any part thereof owned, operated and maintained by the District and to make and enforce such rules and regulations for the maintenance and operation of any water system or sewer system or both as may be, in the judgment of the governing body, necessary or desirable for the efficient operation of any such systems or improvements in accomplishing the purposes stated herein.
- (M) To prescribe methods of pretreatment of industrial wastes not amenable to treatment with domestic sewage before accepting such wastes for treatment and to refuse to accept such industrial wastes when not sufficiently pretreated as may be prescribed, and by proper resolution to prescribe penalties for the refusal of any person or corporation to so pretreat such industrial wastes.
- (N) To the extent permitted by law, to provide for mandatory potable and reclaimed water and wastewater connections of potential customers located in the District or to be served by the District's facilities upon availability of service by the District.
- (O) To the extent provided by law, to require and enforce the use of services, products and facilities of the District whenever and wherever they are

accessible, and to require and enforce the installation and dedication to the Authority of potable and reclaimed water and wastewater facilities or easements as a condition precedent to the provision of service by the Authority or by another entity authorized by the Authority to provide interim service until Authority services, products and facilities are available.

- (P) To accomplish construction directly or by letting construction contracts to other entities, whether public or private, for all or any part of the construction of improvements to the District facilities as determined by the Board in accordance with applicable law.
- (Q) To make and execute contracts or other instruments necessary or convenient to the exercise of its powers.
- (R) To lease, as lessor or lessee, to or from any person, firm, corporation, association or body, public or private, facilities or property of any nature to carry out any of the purposes authorized by this Ordinance.
- (S) To do all acts and to exercise all of the powers necessary, convenient, incidental, implied or proper in connection with any of the powers, duties or purposes authorized by this Ordinance.

SECTION 5. BUDGETING AND FINANCIAL CONTROLS. The District shall comply with all applicable budgeting laws and financial reporting laws as determined by the County.

SECTION 6. REPORTING. The District shall comply with all applicable reporting requirements, as provided in Chapters 189 and 218, Florida Statutes.

SECTION 7. PROHIBITIONS.

- (A) The District shall not have the power to levy and assess ad valorem taxes.
- (B) The District may not acquire the facilities or property of any existing public water or wastewater utility system.

SECTION 8. CODIFICATION. It is the intention of the Board of County Commissioners and it is hereby ordained that this Ordinance shall be codified in the Nassau County Code of Ordinances. The sections of this Ordinance may be renumbered or relettered to accomplish such intentions and the word "Ordinance" shall be changed to "Section" or other appropriate word.

SECTION 9. SEVERABILITY. If any clause, section or provision of this Ordinance shall be declared unconstitutional or invalid for any reason or cause, the remaining portion of said chapter shall be in full force and effect and be valid as if such invalid portion thereof had not been incorporated herein.

SECTION 10. CONFLICTS. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 11. LIBERAL CONSTRUCTION. The terms and provisions of this Ordinance shall be liberally construed to affect the purpose for which it is adopted.

SECTION 12. EFFECTIVE DATE. The Clerk shall file a certified copy of this Ordinance with the Department of State within ten days of its adoption and this Ordinance shall become effective upon filing with the Department of State.

DULY ADOPTED this ____ day of _____, 2020.

**BOARD OF COUNTY COMMISSIONERS
OF NASSAU COUNTY, FLORIDA**

DANNY LEEPER
Its: Chairman

Attest as to Chairman's signature:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:

MICHAEL S. MULLIN

EXHIBIT "A"

AMERICAN BEACH WATER AND SEWER DISTRICT LEGAL DESCRIPTION