

ORDINANCE NO. 2024-_____

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF NASSAU COUNTY, FLORIDA, RELATING TO THE AMELIA ISLAND BEACH RENOURISHMENT MUNICIPAL SERVICE TAXING UNIT; AMENDING SECTION 5-5 OF THE NASSAU COUNTY CODE OF ORDINANCES, CLARIFYING THE PURPOSE AND ALLOWABLE EXPENDITURES OF MUNICIPAL SERVICE TAXING UNIT REVENUES; PROVIDING FOR CONFLICT AND SEVERABILITY; PROVIDING FOR INCLUSION IN CODE OF LAWS AND ORDINANCES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Nassau County Board of County Commissioners (the “Board”) adopted Ordinance No. 2015-27, as codified in Section 5-5 of the Nassau County Code of Ordinances (the “Code”), to create the Amelia Island Beach Renourishment Municipal Service Taxing Unit (the “Beach Renourishment MSTU”), to fund beach renourishment, restoration, erosion control, and storm protection within the geographic area included within the MSTU; and

WHEREAS, beach sand dunes provide natural coastal protection against winds, storm surge, waves, and tides, thus mitigating flooding and structural damage, and providing essential ecological habitat; and

WHEREAS, the construction of dune walkovers is important to protecting the beach’s natural sand dunes to enable them to continue providing these natural coastal protection features by minimizing disruptive traffic through the dunes, which leads to vegetation destruction, enhanced weathering and erosion; and

WHEREAS, on or about October 18, 2023, the Board adopted an amended Fund Balance and Reserve Policy, prescribing an initial reserve limit for the Beach Renourishment MSTU fund, which is intended to be sufficient to cover the potential costs related to one major storm (the “Fund Balance Policy”); and

WHEREAS, it is the intent of the Board to clarify the purpose and allowable expenditures for the funds collected in the Beach Renourishment MSTU to include the construction of dune walkovers as a vital component of erosion control and storm protection within the MSTU and to require the Beach Renourishment MSTU fund to comply with the Fund Balance Policy.

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

SECTION 1: RECITALS. The above recitals are true and correct and are hereby incorporated herein as legislative findings of the Board.

SECTION 2: AMENDMENT OF SECTION 5-5 OF THE NASSAU COUNTY CODE OF ORDINANCES. Section 5-5 of the Nassau County Code of Ordinances, entitled "Amelia Island Beach Renourishment Municipal Service Taxing Unit," is hereby amended as follows:

Sec. 5-5. - Amelia Island Beach Renourishment Municipal Service Taxing Unit.

(a) *Findings.* It is hereby ascertained, determined and declared that:

(1) Pursuant to article VIII, section I of the Florida Constitution, and F.S. §§ 125.01 and 125.66, the board of county commissioners (the "board") of the county, has all powers of local self-government to perform county and municipal functions and to render services in a manner not inconsistent with general law and such power may be exercised by the enactment of county ordinances and resolutions.

(2) F.S. § 125.01(1)(q), provides specific legislative authorization for counties to establish a municipal service taxing unit to fund beach erosion control and other essential facilities and municipal services within any part or all of the unincorporated area of the county and within the boundaries of a municipality if the municipality consents by ordinance to inclusion within the municipal service taxing unit.

(3) The purpose of this section is to create the Amelia Island Beach Renourishment Municipal Service Taxing Unit (the "beach renourishment MSTU") to fund beach renourishment, restoration, erosion control and storm protection within the MSTU as established in subsection (b) hereof.

(4) The county has determined that certain costs associated with beach renourishment, restoration, erosion control and storm protection, can be properly allocated between the beach renourishment MSTU and the remaining areas on Amelia Island not included within the beach renourishment MSTU based upon the relative amounts of service provided within each area.

(5) The county is required to include and fund the approved annual budget of the beach renourishment MSTU within the county's annual budget.

(6) Pursuant to F.S. § 200.065(5), the maximum millage rate the county can adopt, including any millage levied within a municipal service taxing unit, absent a minimum supermajority vote is the rolled-back rate based

upon the amount of taxes which would have been levied in the prior year if the maximum millage rate had been adopted, as adjusted for change in the per capita Florida personal income.

(7) The City of Fernandina Beach, Florida, has requested and consented to the inclusion within the Amelia Island Beach Renourishment Municipal Service Taxing Unit by the adoption of Ordinance No. 2015-34, as it may be amended.

(b) *Creation.* The Amelia Island Beach Renourishment Municipal Service Taxing Unit is hereby created as a new taxing unit which shall be coterminous with the unincorporated areas of the county lying on Amelia Island and the incorporated areas of the City of Fernandina Beach lying on Amelia Island, less and except the lands included within the South Amelia Island Shore Stabilization Municipal Service Benefit Unit created pursuant to Ordinance No. 93-14, as more particularly described in attachment A.

(c) *Authorization of ad valorem taxes.* The board is hereby authorized to levy annual ad valorem taxes upon taxable real and personal property within the beach renourishment MSTU beginning with the county budget for the fiscal year beginning October 1, 2016. The budget and millage rate for the beach renourishment MSTU shall be approved and levied in the manner provided by general law for the levy of county ad valorem taxes.

(d) *Purpose and authorization of expenditures.*

(1) The beach renourishment MSTU is established for the provision of beach renourishment, restoration, erosion control and storm protection and costs associated with these functions provided by or through the county for the benefit of the property or residents within the boundaries of the beach renourishment MSTU.

(2) Revenues derived from ad valorem taxes levied within the beach renourishment MSTU shall be used for the provision of beach renourishment, restoration, erosion control and storm protection.

(3) Beach sand dunes provide natural coastal protection against winds, storm surge, waves, and tides, thus mitigating flooding and structural damage, and providing essential ecological habitat. The construction of dune walkovers is important to protecting the beach's natural sand dunes to enable them to continue providing these natural coastal protection features by minimizing disruptive traffic through the dunes, which leads to vegetation destruction, enhanced weathering, and erosion. Accordingly, the construction, maintenance, and repair of dune walkovers within the Beach Renourishment MSTU is an allowable expenditure of revenues derived from

ad valorem taxes levied within the Beach Renourishment MSTU. This subsection is remedial in nature, is intended to clarify that the construction, maintenance, and repair of dune walkovers is within the original purpose and allowable expenditures for the funds derived from the Beach Renourishment MSTU ab initio, and shall apply retroactively.

(4) As a special revenue fund of the County, the Beach Renourishment MSTU shall comply with the County's Fund Balance and Reserve Policy, as it may be amended, to ensure the Beach Renourishment MSTU fund maintains sufficient reserves to cover the projected costs related to one major storm.

(e) *Bond referendum.* In the event the board desires to pledge the MSTU's ad valorem tax to the retirement of debt issued for the purpose of financing beach renourishment, restoration, erosion control and storm protection facilities, improvements, and equipment, the board shall cause a bond referendum election to be held in accordance with applicable provision of general law. Upon approval at referendum, the board shall have all powers necessary to issue bonds in accordance with state law.

[underline indicates additions; ~~striketrough~~ indicates deletions]

SECTION 3: INCLUSION IN THE CODE OF LAWS AND ORDINANCES. The provisions of this Ordinance shall become and be made a part of the Code of Laws and Ordinances of Nassau County, Florida. The sections of the Ordinance may be renumbered or re-lettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word.

SECTION 4: CONFLICT AND SEVERABILITY. In the event this Ordinance conflicts with any other Ordinance of Nassau County or other applicable law, the more restrictive shall apply. If any phrase or portion of the Ordinance is 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 portion.

SECTION 5: EFFECTIVE DATE. A certified copy of this Ordinance shall be filed with the Department of State within ten (10) days after its enactment and shall become effective upon filing with the Department of State.

PASSED AND DULY ADOPTED by the Board of County Commissioners
of Nassau County, Florida this _____ day of _____, 2024.

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

JOHN MARTIN
Its: Chairman

Attest as to Chairman's signature:

JOHN A. CRAWFORD
Its: Ex-Officio Clerk

APPROVED AS TO FORM BY THE
NASSAU COUNTY ATTORNEY:

DENISE MAY