

RESOLUTION NO. 2004-33

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA, AMENDING AND SUPPLEMENTING RESOLUTION NO. 95-117 OF THE COUNTY, ADOPTED ON JUNE 13, 1995, AS HERETOFORE AMENDED AND SUPPLEMENTED, FOR THE PURPOSE OF CONTINUING TO APPLY CERTAIN REVENUES RECEIVED BY THE COUNTY IN CONNECTION WITH THE COUNTY'S CONVENTION CENTER PROJECT TO PAY CERTAIN DEBT INCURRED BY THE COUNTY TO REFINANCE THE COUNTY'S OUTSTANDING TAXABLE CONVENTION CENTER REVENUE BONDS, SERIES 1996; AUTHORIZING CERTAIN OTHER MATTERS IN CONNECTION THEREWITH; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, St. Johns County, Florida (the "County"), pursuant to Resolution No. 95-117, duly adopted by the Board of County Commissioners of the County (the "Board") on June 13, 1995, as amended and supplemented by Resolution No. 96-104, duly adopted by the Board on June 18, 1996 (collectively, the "Original Resolution"), issued its Taxable Convention Center Revenue Bonds, Series 1996 (the "Series 1996 Bonds"), to finance a convention center project as described in the Original Resolution (the "Project"); and

WHEREAS, pursuant to the Original Resolution, revenues pledged to the payment of the Series 1996 Bonds include the Occupancy Fees, the Operator's Minimum Payment, the Operator's Additional Payments, the Golf Hall of Fame Fees, the County Ticket and Event Parking Surcharge, the Automobile Rental Surcharge, the Revenues and the Assessments (the "Project Revenues") collected by the County under the Assessment Agreement, as amended, the Voluntary Payment Agreement, the Operating Agreement and the Ground Lease, as amended, executed in connection with the issuance of the Series 1996 Bonds (the "Project Documents"), all as defined and described in the Original Resolution; and

WHEREAS, the City of Gulf Breeze, Florida ("Gulf Breeze"), has heretofore established a loan pool program (the "Program") for the purpose of financing and refinancing certain capital projects of participating local governmental entities situated in the State of Florida; and

WHEREAS, pursuant to Resolution No. 2004-32 duly adopted by the Board on February 3, 2004 (the "Refinancing Resolution"), the County, among other things, determined that the debt service requirements on a loan from the Program to refinance all of the outstanding Series 1996 Bonds (the "Refunding Program") will reduce the annual payments required to finance the Project, and authorized a loan or loans from the Program (the "Loan") in an amount sufficient to refinance the Series 1996 Bonds; and

WHEREAS, the County expects to issue one or more fixed rate notes (the "Governmental Unit Note") to evidence the Loan as provided in the Refinancing Resolution; and

WHEREAS, under the Refinancing Resolution, the County's obligation to repay the Governmental Unit Note and the Loan will be secured solely by a covenant to budget and appropriate certain non ad valorem revenues of the County as required by the Program and provided in the Refinancing Resolution; and

WHEREAS, the Loan has been structured to constitute a "refinancing," in accordance with and as defined and described in the Project Documents, and, accordingly, under the terms of the Project Documents, the Project Revenues may be used by the County to repay the Loan and the Governmental Unit Note as a refinancing of the Series 1996 Bonds; and

WHEREAS, the County desires to apply the Project Revenues for the payment of the Loan and the Governmental Unit Note in substantially the same manner as the Project Revenues are applied to the payment of the Series 1996 Bonds; and

WHEREAS, the County desires to amend and supplement the Original Resolution in the manner hereinafter provided to reflect the fact that the Series 1996 Bonds will be refinanced with proceeds of the Loan and the Project Revenues will be applied to repay all amounts due with respect to the Loan and the Governmental Unit Note;

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF ST. JOHNS COUNTY, FLORIDA:

SECTION 1. DEFINITIONS.

Terms defined in the preambles hereof shall have the meanings set forth therein. All capitalized terms used herein and not otherwise defined herein shall have the respective meanings assigned to such terms in the Original Resolution, unless the context affirmatively requires otherwise.

SECTION 2. FINDINGS.

It is hereby found, determined and declared that:

(A) As provided in the Refinancing Resolution, it is necessary, desirable and in the best interest of the County and the parties to the Project Documents that the Series 1996 Bonds be refunded to effectuate interest cost savings and a reduction in the debt service applicable to bonded indebtedness issued to finance the Project, which results in the desired effect of reducing the Non-Ad Valorem Funds that the County may be required to budget and appropriate to assist in the repayment of such bonded indebtedness and, accordingly, the Refunding Program will serve a paramount public purpose and any private benefit will be merely incidental thereto;

(B) As provided herein and in the Refinancing Resolution, the Refunding Program constitutes a refinancing of the Series 1996 Bonds within the meaning of Project Documents;

(C) It is necessary, desirable and in the best interest of the County that the Project Revenues continue to be applied to repay the convention center debt as provided for the Project Documents; and

(D) It is necessary, desirable and in the best interest of the County that the Original Resolution be amended in the manner hereinafter provided to provide for the refinancing of the Series 1996 Bonds and the application of the Project Revenues to repay the Loan and Governmental Unit Note, and it is in the best financial interest of the County that such amendments be accomplished as hereinafter provided;

SECTION 3. CONDITIONAL AUTHORIZATION OF AMENDMENTS TO ORIGINAL RESOLUTION.

Effective upon and subject to the refinancing of the Series 1996 Bonds with the proceeds of the Loan as provided in the Refinancing Resolution, the County does hereby amend the Original Resolution as provided on "Exhibit A" attached hereto. Except as hereby amended, the Original Resolution shall remain in full force and effect.

SECTION 4. NO THIRD PARTY BENEFICIARIES.

Except as herein expressly provided, nothing in this Resolution, expressed or implied, is intended or shall be construed to confer upon any person, firm, or corporation other than the County and the parties to the Project Documents, any rights, remedy or claim, legal or equitable, under and by reason of this Resolution or any provision hereof or of the Original Resolution, this Resolution intended to be and being for the sole and exclusive benefit of the County and the parties to the Project Documents.

SECTION 5. GENERAL AUTHORITY.

The members of the Board and the County's officers, attorneys, advisors or other agents or employees are hereby authorized to do all acts and things required of them by this Resolution or desirable or consistent with the requirements of this Resolution, for the full, punctual and complete performance of all the terms, covenants and agreements, contained in this Resolution.

SECTION 4. REPEALING CLAUSE.

All resolutions or parts thereof of the County in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.

SECTION 5. EFFECTIVE DATE.

Except as provided in Section 3 hereof, this Resolution shall take effect immediately upon its adoption.

PASSED, APPROVED AND ADOPTED this third day of February 2004.

BOARD OF COUNTY COMMISSIONERS
OF ST. JOHNS COUNTY, FLORIDA

By 
Chair of its Board of County Commissioners

(OFFICIAL SEAL)

ATTESTED:

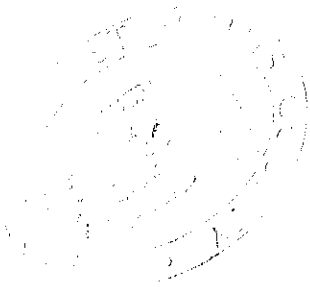
By 
Clerk of its Board of County Commissioners

STATE OF FLORIDA
COUNTY OF ST. JOHNS

I, Cheryl Strickland, Clerk to the Board of County Commissioners of St. Johns County, Florida, do hereby certify that the above and foregoing is a true and correct copy of Resolution No. 2004-33 as the same was duly adopted and passed at a regular meeting of the Board of County Commissioners on the third day of February, 2004, and as the same appears on record in my office.

IN WITNESS WHEREOF, I hereunto set my hand and official seal this 3 day of February, 2004.

(OFFICIAL SEAL)



By Cheryl Strickland
Clerk of the Board of County Commissioners

EXHIBIT A

AMENDMENTS TO ORIGINAL RESOLUTION

The Original Resolution is hereby amended in each of the following respects:

(A) Section 1.1 thereof is hereby amended by adding alphabetically thereto new definitions to read as follows:

“Loan” shall mean the loans made to the Issuer pursuant to the Loan Agreements.

“Loan Agreements” shall mean the Loan Agreements executed and delivered by the Issuer in connection with the refinancing of the outstanding Series 1996 Bonds described in Section 1.7 hereof.

“Program Costs” shall mean all Reserve Payments and the Issuer’s Pro-Rata Share of the Costs and Expenses of the Program (as such terms are defined in the Loan Agreements) and any and all other amounts due and payable under the Loan Agreements, other than principal and interest on the Loan and the Governmental Unit Notes securing the Loan (the “Governmental Unit Notes”), all in the manner and to the extent described in the Loan Agreements.

(B) Article 1 thereof is hereby amended by adding a new Section 1.7 to read as follows:

“Section 1.7. Refinancing of Series 1996 Bonds. The refinancing of the Series 1996 Bonds with the proceeds of the Loan in the manner provided in the Loan Agreements is hereby approved. The terms of the Loan shall be governed solely by the Loan Agreements and not the terms of this Resolution. Nothing in this Resolution is intended or shall be deemed to create or grant a lien upon or pledge of the Pledged Revenues to secure the repayment of the Loan and the Governmental Unit Notes. Upon such refinancing of the Series 1996 Bonds, notwithstanding any other provisions of this Resolution, this Resolution shall remain in effect to provide the administrative mechanism for the collection and application of the Pledged Revenues as contemplated in the documents relating thereto for the repayment of the Loan and the Governmental Unit Notes (as defined in the definition of Program Costs contained in Section 1.1 hereof) as provided in Sections 4.3, 4.5, 4.6, 4.7 and 4.8 hereof. None of the other provisions of this Resolution shall be applicable with respect to the Loan except to the extent expressly provided herein or necessary for such purpose.

In connection with the refinancing of the Series 1996 Bonds, in accordance with the terms hereof, (a) all amounts on deposit in the Acquisition Fund shall be used for such refinancing and (b) all amounts on deposit in the Reserve Fund shall be used for such refinancing and to the extent not necessary for such purpose shall be deposited into the Sinking Fund for application in the manner provided herein. Upon such use of the amounts in the Acquisition Fund and the Reserve Fund, the Acquisition Fund and the Reserve Fund shall be closed and all references to the Acquisition Fund and the Reserve

Fund in this Resolution shall be no longer applicable and shall be deleted herein accordingly.”

(C) In Sections 4.3 and 4.6 thereof, all references to the terms “Bonds” and “Bond Year” contained therein and contained in the definitions of defined terms used therein shall mean the Loan (and the Governmental Unit Note) and the Loan Year, as defined in the Loan Agreements (i.e. the annual period commencing December 2 of each year and ending on the following December 1), respectively.

(D) The second sentence of Section 4.5(A) thereof is hereby amended to read as follows:

“The Issuer shall establish in the Sinking Fund four accounts: the “Interest Account,” the “Principal Account,” the “Bond Amortization Account” and the “Program Costs Account.”

(E) Section 4.6 thereof is hereby amended by amending each reference to “the sixtieth (60th) day” contained therein to read “ the thirtieth (30th) day”.

(F) Section 4.6(G) thereof is hereby amended by adding a new paragraph (4) at the end thereof to read as follows:

“(4) Program Costs Account. On or prior to any date for payment of Program Costs, the Issuer shall deposit into or credit to the Program Costs Account the sum which, together with the balance in said account, shall equal the Program Costs due on such payment date. Moneys in the Program Costs Account shall be applied by the Issuer to pay the Program Costs as and when the same shall become due, and for no other purpose.”

(G) The first sentence of Section 4.6(I) thereof is hereby amended to read as follows (words double-underlined are additions; words ~~stricken~~ are deletions):

“On or prior to each principal and interest payment date for the Bonds, moneys in the Surplus Fund shall be applied by the Issuer to the payment of the principal of or Redemption Price, if applicable, and interest on the Bonds to the extent moneys in the Interest Account, the Principal Account and the Bond Amortization Account shall be insufficient for such purpose, to the payment of the Program Costs to the extent that moneys in the Program Costs Account shall be insufficient for such purpose, to the payment of the charges, fees, costs and expenses of any Insurer or Credit Bank under this Resolution, to the payment of the expenses, liabilities and compensation of any Paying Agent or Registrar under this Resolution and to the payment of the fees of the provider of a Reserve Fund Insurance Policy or Reserve Fund Letter of Credit (but excluding any expenses or reimbursement obligations for draws made thereunder).”

(H) The second paragraph of Section 4.7 thereof is hereby amended to read as follows (words double-underlined are additions; words ~~stricken~~ are deletions):

“Any and all income received by the Issuer from the investment of moneys in the Acquisition Fund, the Occupancy Fees Fund, the Operator’s Additional Payments Fund, the Golf Hall of Fame Fees Fund, the Automobile Rental Surcharge Fund and the Surplus Fund (including the Redemption Account), in the Operator’s Minimum Payment Account, the County Ticket and Event Parking Surcharge Account, the Net Income Account, the Emergency Operating Account (to the extent such income and other amounts therein do not exceed the Emergency Operating Account Requirement), the Operating and Maintenance Account and the Renewal and Replacement Account (to the extent such income and other amounts therein do not exceed the Renewal and Replacement Account Requirement) in the Convention Center Revenue Fund, in the Interest Account, the Principal Account, and the Bond Amortization Account and the Program Costs Account in the Sinking Fund, in the Assessments Reserve Fund (to the extent such income and other amounts therein do not exceed the Assessments Reserve Fund Requirement), and in the Reserve Fund (to the extent such income and other amounts therein do not exceed the Reserve Fund Requirement) shall be retained in such respective fund or account.”