

R-90-87

(17)

A RESOLUTION OF MANATEE COUNTY, FLORIDA, AUTHORIZING THE IMPOSITION AND PAYMENT OF CERTAIN PAYMENTS IN LIEU OF TAXES UPON THE PROPERTY UTILIZED BY THE COUNTY'S WATER AND SEWER SYSTEM; PROVIDING FOR THE AMOUNT, SOURCE AND PRIORITY OF SUCH PAYMENT; AUTHORIZING THE PROPER OFFICERS OF THE COUNTY TO DO ALL OTHER THINGS DEEMED NECESSARY OR ADVISABLE IN CONNECTION WITH THE IMPOSITION AND COLLECTION OF SUCH PAYMENTS IN LIEU OF TAXES; AND PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, the Constitution and applicable laws of the State of Florida authorize and empower Manatee County, Florida (the "County"), to adopt this Resolution; and

WHEREAS, the Board of County Commissioners of the County (the "Board") has acted pursuant to Chapter 63-1598, Laws of Florida, to create a consolidated water and sewer utility system (the "System"), which the County currently owns and operates; and

WHEREAS, the System, as a unit of the County, is exempt from all County taxation; and

WHEREAS, the System would be subject to County taxes if it were privately owned; and

WHEREAS, the users of the System, both within and outside the County, benefit from the County ownership of the System; and

WHEREAS, the taxpayers of the County pay and will pay higher taxes in the future because the System is not privately owned and, therefore, does not pay County ad valorem taxes on the property utilized by the System; and

WHEREAS, in light of the findings stated above, the Board hereby determines that it is necessary and in the best interests of the County to impose upon the property utilized by the System the payment of certain amounts to the County in lieu of County ad valorem taxes; and

WHEREAS, the Board has previously adopted its Resolution R-84-170, entitled "A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF NOT EXCEEDING \$140,000,000 WATER AND SEWER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1984, OF MANATEE COUNTY, FLORIDA, TO

FINANCE PART OF THE COST OF THE CONSTRUCTION OF ADDITIONS, EXTENSIONS AND IMPROVEMENTS TO THE WATER AND SEWER SYSTEM AND THE REFUNDING OF CERTAIN OUTSTANDING OBLIGATIONS; AND PROVIDING FOR THE TERMS OF SAID WATER AND SEWER REVENUE REFUNDING AND IMPROVEMENT BONDS, SERIES 1984, AND THE RIGHTS, SECURITY AND REMEDIES OF THE HOLDERS THEREOF," as amended and supplemented and as may be amended and supplemented in the future (collectively, the "Resolution"); and

WHEREAS, pursuant to the Resolution, the revenues, fees and charges derived from the operation of the System have been pledged to the payment of principal, redemption premium, if any, and interest on the County's outstanding water and sewer revenue bonds (the "Bonds"); and

WHEREAS, it is the intent of this Board that such payments in lieu of taxes imposed on the property utilized by the System be subordinate in all respects to the County's obligations under the Resolution; and

WHEREAS, the Board of County Commissioners has previously adopted Resolution R-89-178, which authorizes payments in lieu of taxes from the Utilities System to the County's General Fund.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF MANATEE COUNTY, FLORIDA, as follows:

SECTION 1. Authority of this Resolution. This Resolution is enacted pursuant to the Florida Constitution, Chapter 125, Florida Statutes, as amended and supplemented, Chapter 63-1598, Laws of Florida, as amended and supplemented, and other applicable provisions of laws.

SECTION 2. Imposition of Payments in Lieu of Taxes. There is hereby imposed upon the System the obligation to pay to the County certain amounts in lieu of ad valorem taxes (the "Impositions"). Provided in this Resolution, the Impositions shall be payable in full, to the General Fund of Manatee County, for the 1990-1991 Fiscal Year, in the amount of amount of \$454,858, on the effective date of this Resolution.

SECTION 3. Funds From Which Impositions Payable. The impositions shall be payable by the System from monies available in

the Capital Improvement Fund (as described in Section 4(D) of Article III of the Resolution), and subject to the limitations contained therein; **PROVIDED, HOWEVER,** that if the circumstances described in the second proviso of Section 4(D)(7) of Article III of the Resolution were to occur and, as a result thereof, there were insufficient monies in the Capital Improvement Fund to pay the amounts owed by the System by reason of the Impositions, the debt of the Impositions or portions thereof shall be carried forward to such subsequent periods when there shall be sufficient monies in the Capital Improvement Fund, (together with such interest and/or penalties) on the unpaid amount as shall be provided by subsequent proceedings of the Board.

SECTION 4. Additional Authorization. The Chairman and Clerk of the Board and any other proper officials of the County, and each of them, is hereby authorized and directed to do and cause to be done all acts and things necessary or proper for carrying out the intent of this Resolution. Such additional authorization shall include the initiation of rate studies from time to time and the adoption of rate resolutions on a timely basis to ensure that all obligations of the County under the Resolution, together with the payment of the Impositions, are satisfied.

SECTION 5. Severability. In the event any word, phrase, clause, sentence or paragraph hereof shall be held invalid by any court of competent jurisdiction, such holding(s) shall not affect the validity of any other word, clause, phrase, sentence or paragraph hereof.

SECTION 6. This Resolution shall take effect immediately upon adoption.

PASSED AND DULY ADOPTED, with a quorum present and voting, this the 18th day of September, 1990.

BOARD OF COUNTY COMMISSIONERS
OF MANATEE COUNTY, FLORIDA

By: Patricia M. Glass
Chairman

ATTEST: R. B. SHORE
Clerk of the Circuit Court