RESOLUTION 2016-09

A RESOLUTION OF THE FLAGLER COUNTY BOARD OF COUNTY COMMISSIONERS AMENDING AND RESTATING ITS RESOLUTION 2015-12 INDICATING ITS INTENT TO USE THE UNIFORM METHOD OF COLLECTING THE NON-AD VALOREM ASSESSMENT, PURSUANT TO SECTION 197.3632, FLORIDA STATUTES, FOR DRAINAGE IMPROVEMENTS AND MAINTENANCE FOR THE NORTH MALACOMPRA DRAINAGE BASIN DISTRICT AND SEPARATELY FOR THE MARINELAND ACRES DRAINAGE BASIN DISTRICT; ESTABLISHING MUNICIPAL SERVICES BENEFIT UNITS FOR SUCH DISTRICTS WITHIN UNINCORPORATED FLAGLER COUNTY, FLORIDA; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners of Flagler County, Florida (hereinafter, the “Board”), adopted its Resolution 2015-12 setting out its intent to utilize the uniform method of collecting non-ad valorem assessments under Section 197.3632, Florida Statutes, in order to collect assessments within the North MalaCompra Drainage Basin District and from the Marineland Acres Drainage Basin District; and

WHEREAS, the Board at previous workshops and meetings was provided the analysis and plans for the Drainage Basins to mitigate the flooding and pollution from the basin areas due to the absence of a master stormwater management plan for the Drainage Basins; and

WHEREAS, the assessments will be levied against the properties within the Districts created by Resolution 2015 – 12 that will specially benefit from the improvements to be constructed and the maintenance to be carried out by the County within the Districts; and

WHEREAS, the assessments will be levied against benefitted properties beginning in Fiscal Year 2016 – 2017 and continuing from year to year until modified or
terminated by the Board in order to pay for necessary improvements and maintenance within the Districts; and

WHEREAS, the Districts are established as Municipal Services Benefit Units pursuant to the County’s Home Rule Power under the Florida Constitution and Florida Chapter 125; and

WHEREAS, the Flagler County Tax Collector and the Property Appraiser consented to the County adopting its intent to utilize the uniform method of collecting non-ad valorem assessments in Resolution 2015 – 12 on or before March 1, 2015, in accordance with Section 197.3632(3)(a), Florida Statutes, and have similarly consented to the adoption of this Amended and Restated Resolution; and

WHEREAS, Flagler County has published notice of its intent to adopt this Amended and Restated Resolution utilizing the uniform method of collecting non-ad valorem assessments beginning in Fiscal Year 2016-2017 and continuing from year to year until modified or terminated by the Board; and

WHEREAS, proof of publication of the required notice is attached as Exhibit B and the Board has held the duly advertised public hearing prior to adoption of this Amended and Restated Resolution.

NOW THEREFORE BE IT RESOLVED BY THE BOARD OF COUNTY COMMISSIONERS OF FLAGLER COUNTY, FLORIDA, AS FOLLOWS:

Section 1. Findings. The Board finds as follows:

A. The drainage improvements and maintenance proposed for the North MalaCompra Drainage Basin District and, separately, for the Marineland Acres Drainage Basin, as both are legally described in the attached Exhibit A, are necessary for the health, safety, and welfare of the property owners in these Districts, as well as
for the general benefit of the citizens of Flagler County, Florida.

B. The property owners of the Districts have or will experience storm water flooding adversely impacting public safety and degrading surrounding natural waterways as the area continues to develop and as the area experiences significant coastal storm events in the future.

C. The Board and its residents have invested significant resources to protect the land area of the Districts and the surrounding waterways through overlay zoning districts and environmental land acquisition and land management.

D. The Board has pursued significant storm mitigation measures and pursued funding for such measures from a variety of sources.

E. The problems in the Districts are compounded by the fact that most of the area is not served by any modern storm water system and much of the area is on septic systems.

F. The Board has sought outside consultation and financial assistance for additional protective measures for the properties within the Districts from a variety of sources, including private engineers, the Department of Environmental Protection, the Department of Transportation, the St. Johns Water Management District, the Florida Legislature, as well as obtaining input from the residents of the Districts and from other interested organizations and citizens.

G. The combined input from these sources has assisted the Board’s staff to
develop a master plan to address the flood hazard issues, including identifying alternative funding sources in order to have a financially feasible plan.

H. The Board’s staff also has developed the master plan with the Districts partly
in conjunction with the National Scenic Byway for State Road A-1-A, in order to protect the scenic vistas and environmental resources of the A-1-A corridor bordered by the Districts.

I. The master plan’s intent is to protect the neighborhoods and properties within the Districts from the hazards and consequences of storm water flooding from coastal events, including protecting the value of such properties and protecting the health of residents and their visitors.

J. It is the master plan’s further intent to protect the waters of the Matanzas River and Intracoastal Waterway and their tributaries from pollution caused by untreated or poorly treated storm water runoff, septic tank leachate, and by flooding.

K. The master plan requires substantial basin improvements and ongoing maintenance above the levels of service provided by the Board to other unincorporated areas of the County.

L. Successful implementation of the master plan will require contributions from the property owners of lands within the Districts along with the funds the County is applying to implement the master plan.

M. The master plan improvements will be subject to permitting by the St. Johns River Water Management District, and it is the Board’s further intent to collaborate with affected state agencies in completing and operating the improvements in the public interest.

N. The Board is contributing substantial lands it has purchased on the beach side and river side necessary for the installation and operation of the improvements, along with contributing funds from the Hammock Dunes Community Development
District funds which the Board sought and received to defray some of the project costs.

O. The Board is further contributing gas tax and local option sales tax to assist in the projects, as well as funding for professionals as consultants and for staff to work on the projects, along with personnel and equipment to perform the work.

P. The two Districts are distinct in their characteristics and needs and the master plan recognizes those distinctions, including the degree of capital improvements and operation and maintenance necessary for each District.

Q. The North MalaCompra Drainage Basin District will include enhancement of a backbone system to handle the stormwater from the entire district, including the creation of a new stormwater outfall, the improvement of existing outfall facilities, the acceptance of maintenance responsibility of portions of the existing outfall facility, along with the ongoing operation and maintenance of the entire backbone system.

R. The Marineland Acres Drainage Basin District is an area contained within the North MalaCompra Drainage Basin District. It will separately require the installation of a stormwater pond treatment facility, a main stormwater collection trunk line for conveying stormwater down Central Avenue, a system of stormwater collection laterals for each street within the District to directly collect stormwater runoff from lots, along with the required ongoing operation and maintenance of such improvements.

S. The assessment rates for each District are accordingly different and the creation of two Districts is the most efficient and economical means of addressing their different needs. The assessment rates to be set will be fairly and reasonably apportioned among the specially benefitted properties within each District and also between each District.
T. The Board is choosing to utilize the uniform method of collecting non-ad valorem assessments under Section 197.3632, Florida Statutes, as the most practical, fair and efficient way to collect assessments within the Districts from the owners of property that will benefit from the improvements and their ongoing operation and maintenance.

U. The Flagler County Tax Collector and the Property Appraiser agreed with the Board’s utilization of the uniform method specified in Resolution 2015-12 in accordance with Section 197.3632(3)(a) and have agreed similarly with this Amended and Restated Resolution.

V. Flagler County published notice of its intent to adopt this Amended and Restated Resolution to utilize the uniform method of collecting non-ad valorem assessments for the 2016-2017 fiscal year and continuing thereafter until modified or terminated by the Board.

Section 2. Adoption of Uniform Method of Collecting Non-Ad Valorem Assessments.

The Board hereby reaffirms its adoption of the uniform method of collecting non-ad valorem assessments pursuant to Section 197.3632, Florida Statutes, within each of the Districts. For the 2016-2017 fiscal year and on the tax statement mailed out during such fiscal year, and continuing thereafter from year to year until modified or terminated by the Board, the County shall use the uniform method of collection of non-ad valorem assessments for drainage improvements and maintenance in the North MalaCompra Drainage Basin District and for the Marineland Acres Drainage Basin District, as each are legally described in Exhibit A hereto. Such non-ad valorem assessments shall be
levied against properties in the Districts as determined by further public hearing by the Board on or before September 15, 2016, after a noticed public hearing. As provided by Section 197.3632, Florida Statutes, the property owners of the Districts who shall receive mailed notice of the hearing will have the opportunity to testify and file any written objections with the Board concerning the proposed assessments. Geographic maps of the Districts are attached hereto as Exhibit C and all exhibits to this Amended and Restated Resolution are incorporated herein by reference.

**Section 3. Establishment of Districts as Municipal Services Benefit Units.**

The North MalaCompra Drainage Basin District and the Marineland Acres Drainage Basin District are hereby established as Municipal Services Benefit Units pursuant to the County’s Home Rule Power under the Florida Constitution and Florida Statutes, Chapter 125. Each lot located within each of the Districts is subject to the non-ad valorem assessment levied for that District. A lot is defined as any lot of a platted subdivision, whether recorded or unrecorded, or any parcel of land that is otherwise divided or established within the respective District (hereafter described as a “lot” for the purpose of levying an assessment in accordance with this Resolution). Lots under single ownership and legally joined shall count as one lot. Lots physically joined by virtue of a structure across a lot line shall count as one lot. Lots owned by governmental entities are exempt. The lots of each District are and shall be specially benefitted by the services, facilities, programs and improvements funded by the assessments within their respective Districts. The assessments authorized herein are and shall be fairly and reasonably apportioned among the specially benefitted lots within
each District. Further, the assessments are and shall be proportional to the costs and benefits of the improvements and maintenance for each respective District.

Section 4. Administration and Effective Date.

The County Administrator is hereby directed to deliver a certified copy of this Amended and Restated Resolution to the State of Florida Department of Revenue, the Flagler County Tax Collector, and the Flagler County Property Appraiser on or before March 10, 2016. This Amended and Restated Resolution shall take effect immediately upon its adoption.

ADOPTED and APPROVED this 15th day of February, 2016, by the Board of County Commissioners, Flagler County, Florida, duly assembled at the Flagler County Government Services Building, Bunnell, Florida.

ATTEST:

Gail Wadsworth
Clerk of Circuit Court & Comptroller

Barbara S. Revels, Chair

APPROVED AS TO FORM:

Albert J. Hadeed, County Attorney
EXHIBIT A

NORTH MALACOMPRA DRAINAGE BASIN DISTRICT

Legal Description

The district shall be bordered to the west by N. Oceanshore Boulevard (SR A1A); to the south by MalaCompra Road; to the east by the Atlantic Ocean; and to the north by a private drive called Oceanside Drive, as extended east to the Atlantic Ocean and inclusive of the two houses/lots at the end of Oceanside Drive.

MARINELAND ACRES DRAINAGE BASIN DISTRICT

Legal Description

The district shall be bordered to the west by N. Oceanshore Boulevard (SR A1A); to the south by Bay Drive as extended easterly to the Atlantic Ocean; to the east by the Atlantic Ocean; and to the north by a private drive called Oceanside Drive, as extended east to the Atlantic Ocean and inclusive of the two houses/lots at the end of Oceanside Drive, less and except the Rollins Dunes Subdivision (Plat Book 29, Page 22).
EXHIBIT B

NORTH MALACOMPRA DRAINAGE BASIN DISTRICT

AND

MARINELAND ACRES DRAINAGE BASIN DISTRICT

Proof of Publication
State of Florida,  
County of Flagler

Before the undersigned authority personally appeared

Rachael Smith

who, on oath says that she is ..................................................

LEGAL COORDINATOR

of The Flagler/Palm Coast NEWS-TRIBUNE, a twice weekly newspaper, published in Flagler County, Florida; that the attached copy of advertisement, being a ..................................................

PUBLIC NOTICE

NT 2175793

in the Court, was published in said newspaper in the issues....................

JANUARY 16, 23, 30, FEBRUARY 6, 2016

Affiant further says that The Flagler/Palm Coast News Tribune is a newspaper published in said Flagler County, Florida, and that the said newspaper has heretofore been continuously published in said Flagler County, Florida, each Wednesday and Saturday and has been entered as second-class mail matter at the post office in Flagler Beach, in said Flagler County, Florida, for a period of one year next preceding the first publication of the attached copy of advertisement; and affiant further says that he has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper

..................................................

Sworn to and subscribed before me

This 8TH of FEBRUARY

A.D. 2016

..................................................

CYNTHIA E. MALEY  
MY COMMISSION #E378470  
EXPIRES: FEB 26, 2017  
Bound through 1st State  
Insurance
EXHIBIT C

NORTH MALACOMPRA DRAINAGE BASIN DISTRICT

AND

MARINELAND ACRES DRAINAGE BASIN DISTRICT

Geographic Maps
NORTH MALA COMPRA DISTRICT

- Overall Area
- North of Mala Compra Rd
- East of A1A
- South of Washington Oaks

MARINELAND ACRES DISTRICT

- Subarea
- North of Sea Colony