COUNTY OF FRANKLIN

ORDINANCE NO. 80-9

An Ordinance relating to the Carrabelle Port Authority; creating the Carrabelle Port and Airport Authority; providing definitions; specifying territory subject to the authority; providing membership, terms, quorum, powers, and duties; providing for employment of personnel; requiring posting of bond; requiring bidding on certain purchases and sales; providing for issuance of bonds; providing for regulation of specified commercial and recreational activities; providing for franchise and license taxes; providing that obligations of the authority are legal investments; providing for appointment of pilots and harbor master; providing for licensing of stevedores; declaring authority facilities and activities as performance of an essential public purpose; providing severability; providing an effective date.

WHEREAS, the City Commission of Carrabelle, Florida, and the citizens of the Carrabelle area desire to improve the protection of their natural environment, improve their standard of living, and preserve their historic way of life based on maritime and seafood activities and desire an authority dedicated to these purposes, and

WHEREAS, the Carrabelle Port Authority was created generally for these purposes in 1941 by chapter 21141, Laws of Florida, 1941, which authority has been inactive for many years, and

WHEREAS, the Carrabelle Port District was established in support of national efforts directed toward World War II, and

WHEREAS, the district was empowered to levy taxes on all real and personal property in the district, the exercise of which authority is no longer feasible, and

WHEREAS, the territory of the district as originally established is excessive and not germane to the current needs of the area, and

WHEREAS, limitations on the availability of state and federal funding make desirable the establishment of an authority the members of which hold no other public office, and

WHEREAS, the present district has no power to regulate the environment or economic or community development, which regulation is needed in the Carrabelle area;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF FRANKLIN:

Section 1. Creation and establishment of Port and Airport Authority.--There is hereby created and established within Franklin County, Florida, a port and airport authority as a body corporate and politic, to be known as the Carrabelle Port and Airport Authority.

Section 2. Definitions.--

As used in this ordinance:

(1) (a) "Authority" means the Carrabelle Port and Airport Authority.

(b) "Member" means one of the individuals constituting such authority.

(2) "District" means those properties, facilities, and waters under the ownership or control of the authority.

(3) "Project" means any one or any combination of two or more of the following, when undertaken by or owned, controlled, or operated by the authority: port facilities, channels, anchorage areas, jetties, breakwaters, harbors, canals, airports, locks, waterways, tidal and turning basins, wharves, docks, piers, quays, slips, bulkheads, public landings, terminal storage and sheddage facilities, warehouses, refrigeration, cold storage, and quick freezing plants, stockyards, elevators, shipyards, marine railways, drydocks, oil tanks, pipelines, terminal railway facilities, including rolling stock, beltline railroads, ferries and car ferries, police boats, bridges, causeways, tunnels, facilities for the loading, unloading, and handling of passengers, mail, express, freight, and other cargo, fishing piers, overlooks, industrial parks, industrial and manufacturing plants, parking, restrooms, bathhouses, fishing tackle shops, boat ramps, boat rental facilities, lunchrooms, walkways, camp and trailer grounds or parks, fireplaces and all other recreational facilities, and any and all other facilities, including all property rights, easements, and franchises relating to any such project or projects, which by resolution the authority deems necessary and convenient.

(4) "Improvements" means such replacements, repairs, extensions, additions, enlargements, and betterments of and to a project as are deemed necessary to place such project in proper condition for the safe, efficient, and economic operation thereof, if such project is undertaken by or owned, controlled, or operated by the authority.

(5) "Cost", as applied to improvements, means the cost of acquiring or constructing improvements and includes the cost of all labor, materials, machinery, and equipment, engineering and legal expense, plans, specifications, financing charges, and such other expenses as may be necessary or incident to such acquisition or construction.

(6) "Cost", as applied to a project acquired, constructed, extended, or enlarged, includes the purchase price of any project acquired, the cost of such construction, extension, or enlargement, the cost of improvements, the cost of all lands, properties, rights, easements, and franchises acquired, the cost of all machinery and equipment, the cost of engineering and legal services and all investigations and audits, financing charges, and all other expenses necessary or incident to determining the practicability or feasibility of such acquisition or construction, administrative expense, and such other expenses as may be necessary or incident to the financing herein authorized and to the construction or acquisition of a project and the placing of the same in operation. Any obligation or expense incurred by the authority prior to the issuance of bonds under the provisions of this ordinance for engineering studies and for estimates of the cost and of revenues, and for other technical, financial, or legal services in connection with the acquisition or construction of any project, may be regarded as part of the cost of such project.

(7) "Revenue bonds" and "industrial revenue bonds" mean revenue certificates or other obligations and the interest thereon which are payable from revenues derived from the operation of the facilities of the port district or from other non ad valorem tax sources.

(8) "Revenue" means all rates, fees, rentals, or other charges derived from the facilities of the district or from other non ad valorem tax sources.

(9) "Aid" means any federal or state agency grants for or in aid of the construction of any project, and contributions from any source of either money, property, labor, or other things of value, to be held, used, and applied only for the purposes for which such grants and contributions may be made.

Section 3. Carrabelle Port and Airport Authority; general powers; composition.--

(1) The Carrabelle Port and Airport Authority shall be the governing body and authority of the properties initially considered, that is, the Carrabelle Airport and a portion of Timber Island (legal descriptions of which are attached), all waters of the Carrabelle River, South of the intersection of New River and Crooked River, and all waters within three (300) Hundred feet of the center line of the maintained channel approved by the Congress of the United States, at Carrabelle, continuing from the Carrabelle River seaward to the maximum extension of said channel, and all properties and facilities which come under its ownership or control in the future and which lie and are situate within six miles of the Carrabelle city limits. The authority has the power to sue and be sued, under the name of "Carrabelle Port and Airport Authority"; to contract and be contracted with; to adopt and use a common seal; to convey such real and personal property as the authority may deem proper or expedient to carry out the purposes of this ordinance; to employ such employees, persons, and agents as the authority may deem advisable, fix the compensation thereof, and remove any appointees or employees, agents, or servants; to insure the improvements, fixtures, and equipment against loss by fire, windstorm, or other risk in such amounts as may be determined reasonable and proper; to purchase equipment and pay for same by use of retain title contracts or lease purchase contracts or such other method agreeable to the authority; to borrow and issue evidence of indebtedness of the district; and to carry out the provisions of this ordinance in the manner herein provided.

(2) The Carrabelle Port and Airport Authority shall consist of 11 members. The authority shall be composed of 2 members appointed by the Carrabelle City Commission, 1 member primarily engaged in seafood processing within the district, 1 member that is the owner and operator of a commercial fishing vessel in excess of 60 feet overall berthed within the district, 1 member primarily engaged in charter or "head" boat operations located in district facilities, 1 member representing the recreational boating public, 1 member engaged in representing the merchant business community of Carrabelle, 1 member engaged in aviation and using district aviation facilities, 1 member who is an attorney licensed to practice law in the State of Florida, 1 member who is licensed as a certified public accountant in the State of Florida, and 1 member who will act as the executive director of the authority and has, preferably, demonstrated an ability to research and analyze the economic development requirements of the area, has

been directly involved in industrial development solicitation, including direct mail solicitation, advertising, directed proposals, and site location, and has been previously involved in commercial fishing operations to include fish processing facility management. No members shall hold a public elected office or be employed by the city, county, state, or Federal Government. With the exception of the attorney, accountant, and director members, each member shall be a qualified elector residing in Franklin County and shall hold office until his successor has been appointed and qualified. A vacancy occurring during a term shall be filled by a person chosen by the remaining members only for the balance of the unexpired term. With the exception of the executive director, the members of the authority shall not be entitled to any compensation as members nor shall they be entitled to compensation as officers, employees, agents, or attorneys of the authority or for serving the authority in any capacity, but shall be entitled to reimbursement for their expenses in conformance with the prevailing rates and policies of the state, including those provided under s. 112.061, Florida Statutes, in the performance of their official duties. Five members of the authority shall constitute a quorum for regular or special meetings, but ordinances or resolutions of the authority shall be enacted or adopted only by a majority vote of 7 members of the authority and only after not less than 7 days' notice of the intention to so adopt or enact has been published in a newspaper of general circulation in Franklin County, and thereafter the same shall become effective without publication or posting of any further action by the authority, except that the sale or other disposition of the property of the authority or the purchase of materials or equipment for the authority which shall be disposed of or purchased as hereinafter set forth shall be by a simple majority vote of the entire authority. All official acts of the authority shall be enacted or adopted only by a majority vote of a quorum of the authority. Public notice shall be given of at least 7 days of all special or regular meetings of the authority. This notice shall be construed to include announcement in a newspaper in general circulation in the county and posting on the official bulletin board of the City Hall of Carrabelle and the official bulletin board of the U. S. Postal Office of Carrabelle.

(3) For the purposes of establishing the initial body of the authority, the City Commission of Carrabelle shall appoint 2 members and after such appointment those two appointees shall select 4 additional members not to include the executive director. The two original appointees plus the 4 members selected by

them, shall then appoint 4 additional members. The authority then consisting of 10 members shall solicit applications from qualified persons for consideration for employment as the executive director of the authority. The authority shall adopt by formal resolution the periods of membership for each member in a manner which provides not more than 4 years of appointment, with the exception of the executive director and further provides for a staggering of terms so that not less than 2 nor more than 3 members are appointed each year upon the expiration of the previous members' appointment. When the terms of the two members appointed by the City Commission of Carrabelle expire, the City Commission shall appoint their successors. All other members shall be appointed by the members of the authority as their terms expire. The executive director, selected by the authority, shall be provided a contract establishing responsibilities, duties, authorities, period of the contract, salaries, and benefits.

Section 4. Officers.--Immediately after the appointment of the first 10 members of the authority, the authority shall meet and qualify by taking the oath of office regularly prescribed for state and county officials in Florida. They shall maintain a place within Franklin County for the principal office of the authority where the members shall meet at least once each month at a time and day designated by the authority for the transaction of business. Special meetings of the authority may be held upon the call of the chairman or upon the request of 5 members of the authority on not less than 3 nor more than 7 days' notice to the members. The time and date of such special meetings shall be designated to the press and other news media. All regular and special meetings shall be open to the public and press. No authority business shall be conducted except at a regular meeting or at a special meeting after notice as above set forth. The members shall annually elect from among their number a chairman and one or more vice-chairmen. The executive director shall be the secretary-treasurer. The officers of the authority shall give a bond by a reputable bonding company authorized to do business in the State of Florida, in the amount of $20,000 for each individual, except that the secretary-treasurer or other person designated to sign the checks and drafts of the authority shall post a bond in the amount of $50,000, conditioned upon the faithful performance of his duties, which bond shall be kept by the authority. The premiums of said bonds shall be paid as a part of the expenses of the authority.

Section 5. Duties of secretary-treasurer.-- It shall be the duty of the secretary to keep full and correct minutes of all proceedings and meetings of the authority, and it shall be the duty of the treasurer to keep separate accounts of all receipts and disbursements of the authority. Immediately after the first of January of each year the books and records of the authority shall be audited by a state auditor or by an independent certified public accountant and the audit shall be published at least 2 times within 30 days after the audit has been received by the authority in a newspaper of general circulation published in Franklin County.

Section 6. Control of expenditures.--The authority shall have exclusive control of all expenditures of and from the moneys, loan proceeds, contributions, and revenues of the authority. For all expenditures for equipment or materials in excess of $5,000 and the sale, lease, or other disposition of property of the authority of the value of $5,000 or over, the executive director shall solicit not less than 3 bids and the lowest or best bid in the case of purchases and the highest or best bid in the case of sale or other disposition of property shall be accepted. The authority shall have the right to reject any and all bids. The executive director shall maintain all required accounting records, negotiate all purchases, sales and leases, and perform all billings and collections, shall be responsible for the total operation of the district, including the application for grants, loans, and donations, solicit new facility users and lessees, hire additional personnel to fill the positions authorized by the authority, and develop recommendations for the operation of all of the properties of or under the control of the authority, including regulation of safety and environmental protection.

Section 7. Powers of port authority.--The port authority shall have all necessary and proper powers, including the responsibility of formulating and carrying out plans for the long-range development of the facilities of ports and recreational facilities within the district and traffic through the ports. Preference shall be given in every instance to attaining the objects hereof through encouraging the investment of private capital and the location of private business on lands of the district. The authority shall have the following powers:

(1) To implement the Seafood Industrial Park created and approved by the City of Carrabelle, appoint a manager or managerial staff, employ additional personnel appropriate to the proper management and administration of the park, and perform any and all chores necessary and convenient to fully effectuate the purposes of the park.

(2) To acquire by purchase, gift, grant, franchise, or lease, property, either real or personal, and to grant easements of right-of-way over or through any lands owned by the authority.

(3) To construct, acquire, establish, extend, enlarge, improve, reconstruct, maintain, equip, repair, and operate any project within the boundaries of the port district.

(4) To borrow money and to incur indebtedness, to issue revenue certificates and port facilities and industrial and manufacturing plant revenue bonds as the authority may from time to time determine; but such indebtedness of the authority for certificates issued or port facilities and industrial and manufacturing revenue bonds shall not be considered a debt of Carrabelle or Franklin County.

(5) To apply to the proper authorities of the United States for the right to establish, operate, and maintain foreign and domestic trade zones within the limits of the port district, and to establish, operate, and maintain such foreign and domestic trade zones.

(6) To fix uniform rates and charges for airfield, wharfage, dockage, transit, storage, processing, freezing, sheddage, and handling to and from vessels, and to fix rates, fees, and charges for fishing or sightseeing from piers, using camp or trailer grounds, parking areas, and such other facilities where such facilities are owned by the authority, or otherwise, insofar as it may be permissible for the authority to do so under the State Constitution and the Constitution and Laws of the United States of America.

(7) To add to or extend, or cause or permit to be added to or extended, any existing lands or islands now or hereafter owned by a unit bordering on or being in any waters by the pumping of sand or earth from any land under water or by any other means of construction, as a part of or for the purpose of providing any port facilities or for the purpose of improving, creating, or extending any property of the unit for use of or disposal by the unit.

(8) To construct, or cause or permit to be constructed, an island or islands in any waters by the pumping of sand or earth from any land under water or by any other means of construction, as a part of or for the purpose of providing any port facilities.

(9) To dredge or deepen harbors, channels, and turning basins, to cooperate with the United States or any agency thereof in the dredging or deepening of any harbor, channel, or turning basin, to enter into contracts with the United States or with any agency thereof concerning any such dredging or deepening project, and to pay such amounts to the United States or any agency thereof or to others as shall be required by the terms of any such contract.

(10) To fill in, extend, and enlarge, or cause or permit to be filled in, extended, and enlarged, any existing port facilities, to demolish and remove any and all structures thereon or constituting a part thereof, and otherwise to prepare the same for sale or lease to provide funds for financing port facilities under the provisions of this law.

(11) To operate, manage, and control all projects hereafter acquired or constructed under the provisions of this ordinance.

(12) To enter into joint agreements and arrangements with airlines, steamship lines, railroads, or other transportation lines, or any common carrier as the authority shall deem to its advantage to do so.

(13) To make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers, and to appoint and employ such engineers, architects, attorneys, agents, and other employees as may be necessary in its judgement, and to fix their compensation.

(14) To exercise such powers as may be reasonably necessary to effectively control and regulate facilities under its jurisdiction.

(15) To appoint, regulate, control, and prescribe the rights, duties, functions, and compensation of harbor masters and harbor pilots.

(16) To appoint an executive director of the authority and to determine his duties and his compensation.

(17) To receive and accept from the Federal Government or any agency thereof, from the state, county, city, or any other source grants, loans, or donations for or in aid of the construction of any project.

(18) Subject to the jurisdiction of the United States and the state, to improve and develop the harbor and all navigable and nonnavigable waters connected therewith, and the Carrabelle Airport.

(19) To perform all customery port services as may be required, including lighterage, stevedoring, handling, inspecting, conditioning, and reconditioning of all commodities and cargo handled, received, or shipped through the facilities and district of the authority.

(20) To make rules and regulations governing the operation, docking, movement, and staging of crafts plying the waterways in the district which are under the jurisdiction of the authority, and to make rules and regulations governing the operation of recreational areas, camp trailer grounds, fishing piers, and any other facilities which come under the jurisdiction of the authority.

(21) To impose a franchise or license tax upon businesses and occupations carried on or operated under and by virtue of any franchises, licenses, or privileges granted by the authority with respect to any project owned, controlled, or operated by the authority.

(22) To advertise the ports of the district in such manner as the authority deems advisable, and to negotiate and contract with shipping companies and other such entities as the authority may deem necessary for development and expansion of the port district.

(23) To enter on any lands, waters, or premises, within or without the district or within the corporate limits of any other district, for the purpose of making surveys, soundings and examinations with relation to any existing or proposed port facilities.

(24) To contract with the United States or the state or any agency or instrumentality thereof, with any public body or political subdivision, or with any private person, firm, or corporation with reference to any of the powers hereby granted.

(25) To make leases and sales to persons or corporations of property, land, and facilities of the authority.

(26) Provide at one time or from time to time for the issuance of bonds, revenue certificates, or other obligations of the district.

(27) Without limitation of the foregoing, to borrow money and accept grants, contributions, or loans from and to enter into contracts, leases, or other transactions with, any person, any firm, the Federal Government, or any other public body.

(28) To spend revenues derived from the port operation or any other income from the port operation for the expenses of the port and district such as operation, maintenance, and port improvements, and other public purposes.

(29) To do all acts and things necessary or convenient in the carrying out of the powers granted herein.

Section 8. Obligations to constitute legal investment.--Any bonds, revenue certificates, or other obligations issued pursuant to this ordinance shall constitute legal investments for banks, savings banks, trustees, executors, administrators, and all other fiduciaries for all state, municipal, and public funds and shall also constitute securities eligible for deposit as security for all state, municipal, or other public funds notwithstanding the provisions of any other law to the contrary. All contributions or donations from sources taxable by the Federal Government shall be considered as tax-free.

Section 9. Power to fix rates, tolls, etc., for use of facilities owned or controlled by authority.--The authority shall have the power to fix and determine the rates, tolls, or charges for the use of any of the works or facilities owned and controlled by the authority; the rates shall be levied and collected by the executive director. All funds collected shall be used by the authority to pay interest on outstanding obligations, to pay the necessary and regular expenses of the authority, to form a fund from which the authority may purchase outstanding bonds and obligations of the authority, and to pay the necessary and regular operational expenses of the district.

Section 10. Granted same powers as boards of pilot commissioners, power to appoint pilots, harbor master and prescribe his duties.--The authority shall have the power to appoint pilots for the authority and shall have all the power of boards of pilot commissioners under the laws of Florida. The authority shall also have the power to appoint a harbor master, and prescribe his powers and duties.

Section 11. Power to grant and revoke stevedore licenses.--The authority shall have the power to grant licenses to competent and trustworthy persons to act as stevedores for the authority. Such licenses shall be held during good behavior, but any license may be revoked by the authority after due notice and hearing if in the opinion of the authority it should be revoked.

Section 12. Issuance of bonds, notes, etc., payable from revenue without ratification of electors. -- The authority shall have full and exclusive authority to issue and deliver the bonds, notes, revenue certificates payable solely from revenues, or other obligations of the authority for the purposes provided in this ordinance and it shall not be necessary that the issuance and delivery of such bonds, notes, revenue certificates, or other obligations be authorized or ratified by any election held by the qualified voters of Carrabelle or Franklin County.

Section 13. Port and airport facilities, and income therefrom declared nontaxable public property. As port and airport facilities are essential to the economic welfare of the inhabitants of the Carrabelle area and will promote the economic, commercial, industrial, and residentail development of the area, and as the exercise of the powers conferred by this ordinance to effect such purposes constitutes the performance of essential public functions, and as such port and airport facilities acquired or constructed under the provisions of this ordinance will constitute public property used for public purposes, no taxes or assessments shall be levied upon any such airport or port facilities or upon the income therefrom, and any bonds or revenue certificates issued under the provisions of this ordinance, their transfer and the income therefrom, including any profit made on the sale thereof, shall at all times be free from taxation within the State.

Section 14. Severability. If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are declared severable.

Section 15. Laws and Ordinances Applicable. Notwithstanding anything contained in this Ordinance to the contrary, all laws of the State of Florida, and all ordinances of Franklin County, Florida shall be in effect throughout the district. Any permits for construction, and for bulkheads, docks, dredge or fill, etc., which would be necessary absent this ordinance, shall be required notwithstanding this Ordinance, and County Zoning and land use regulations of every sort shall apply and be valid and enforceable throughout the district.

This Ordinance adopted in open session this 20th day of January, 1981, after notice of intent to consider such an ordinance has been made and kept in the ordinance book of the Clerk of this Board for at least 15 days exclusive of Sundays and legal holidays, and the title and substance hereof published according to law in the Apalachicola Times, a newspaper of general circulation within the County.

THE BOARD OF COUNTY COMMISSIONERS OF
FRANKLIN COUNTY, FLORIDA.

BY: Cecil Varnes
Its Chairman

Attest:

Robert L. Howell
Clerk

(SEAL)