

LIBERTY COUNTY EMERGENCY ORDINANCE NO. 94-03

AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF LIBERTY COUNTY, FLORIDA AUTHORIZING THE ISSUANCE OF GAS TAX REVENUE BONDS PAYABLE FROM ONE OR MORE OF THE FOLLOWING: (A) LOCAL OPTION GAS TAX REVENUES DISTRIBUTED TO THE COUNTY PURSUANT TO SECTION 336.025, FLORIDA STATUTES, (B) COUNTY MOTOR FUEL TAX AND SPECIAL FUEL TAX REVENUES DISTRIBUTED TO THE COUNTY PURSUANT TO SECTIONS 206.60 AND 206.875, FLORIDA STATUTES, AND (C) AMOUNTS BUDGETED AND APPROPRIATED BY THE COUNTY FROM LEGALLY AVAILABLE NON-AD VALOREM FUNDS; SUCH BONDS TO BE ISSUED FOR THE PRINCIPAL PURPOSE OF PAYING THE COSTS OF TRANSPORTATION PROJECTS; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF LIBERTY COUNTY, FLORIDA:

SECTION 1. DEFINITIONS. When used in this Ordinance, the following terms shall have the following meanings, unless the context clearly otherwise requires:

"Board" shall mean the Board of County Commissioners of Liberty County, Florida.

"Bonds" shall mean revenue bonds issued by the County pursuant to this Ordinance, payable solely from one or more of the following. (A) Local Option Gas Tax Revenues, (B) County Gas Tax Revenues, and (C) Non-Ad Valorem Funds budgeted and appropriated by the County for such purpose.

"Cost" when used in connection with a Project, shall mean (1) the County's cost of physical construction; (2) costs of acquisition by or for the County of such Project; (3) costs of land and interests therein and the cost of the County incidental to such acquisition; (4) the cost of any indemnity and surety bonds and premiums for insurance during construction; (5) all interest due to be paid on the Bonds and other obligations relating to the Project during the period of construction of such Project and for a reasonable period subsequent to completion of construction; (6) engineering, legal and other consultant fees and expenses; (7) costs and expenses of the financing incurred during the construction period for such Project, including audits, fees and expenses of any paying agent, registrar, credit bank or depository; (8) payments, when due (whether at the maturity of principal or the due date of interest or upon redemption) on any interim or temporary indebtedness incurred for such Project during the period of construction; (9) costs of machinery, equipment, supplies and

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spare parts required by the County for the commencement of operation of such Project; and (10) any other costs properly attributable to such construction or acquisition, as determined by generally accepted accounting principles applicable to such Project, and shall include reimbursement to the County for any such items of Cost paid by the County prior to issuance of the series of Bonds or other obligations issued to finance such Project.

"County" shall mean Liberty County, a political subdivision of the State of Florida.

"County Gas Tax Revenues" shall mean the proceeds received by the Issuer of the one-cent gas tax on motor fuel levied pursuant to Section 206.60, Florida Statutes, and the tax on special fuel levied pursuant to Section 206.87, Florida Statutes, distributed to the County pursuant to the provisions of Section 206.60 and Section 206.875, Florida Statutes, respectively.

"Local Option Gas Tax Revenues" shall mean the proceeds of the local option gas tax levied pursuant to Ordinance No. 93-02 of the Issuer, enacted April 8, 1993, and distributed from the Local Option Gas Tax Trust Fund to the Issuer pursuant to Section 336.025, Florida Statutes.

"Non-Ad Valorem Funds" shall mean all revenues of the County derived from any source whatsoever other than ad valorem taxation on real and personal property, which are legally available to pay debt service on the Bonds, but only after provision has been made by the County for the payment of all essential or legally mandated services.

"Project" shall mean the acquisition and construction of road improvements within the County and any improvements, modifications or extensions thereto and shall include all property, rights, easements and franchises relating thereto and deemed necessary or convenient for the construction or acquisition or the operation thereof.

The words "herein," "hereunder," "hereby," "hereto," "hereof," and any similar terms shall refer to this Ordinance.

Words importing the singular number include the plural number, and vice versa.

SECTION 2. FINDINGS. It is hereby ascertained, determined and declared that:

(a) An emergency exists, and the immediate adoption of this Ordinance is necessary, due to the imminent need for the Project and the volatility of interest rates and the current market for tax-exempt obligations such as the Bonds.

(b) The Board deems it to be in the best interests of its citizens and taxpayers to issue its revenue bonds for the purpose of financing the Project.

SECTION 3. ACQUISITION AND CONSTRUCTION. The Board is hereby authorized and empowered:

(a) to acquire by purchase, whenever it shall deem such purchase expedient, any Project, wholly or partly constructed, and any franchise, easements, permits and contracts for the construction of any such Project, upon such terms and at such prices as may be reasonable and can be agreed upon between the Board and the owner thereof, title to be taken in the name of the County;

(b) to acquire in the name of the County, either by purchase or by the exercise of the right of eminent domain, such lands and rights and interest therein, including lands under water and riparian rights, and to acquire such personal property, as it may deem necessary in connection with the construction, reconstruction, improvement, extension, enlargement or operation of any Project; and

(c) to construct, or partly acquire and partly construct, and to improve, repair, reconstruct, own, operate and maintain any Project.

SECTION 4. ISSUANCE OF REVENUE BONDS.

(a) The Board shall have the power and it is hereby authorized to provide by resolution, at one time or from time to time in series, for the issuance of Bonds of the County, or notes in anticipation thereof, for one or more of the following purposes: (1) paying all or a part of the Cost of any one or more Projects, or (2) refunding any Bonds of the County issued pursuant to this Section 4(a) or other indebtedness of the County issued for one or more of such purposes. The principal of and interest on each series of Bonds shall be payable solely from one or more of (1) the Local Option Gas Tax Revenues, (2) the County Gas Tax Revenues, and (3) Non-Ad Valorem Funds budgeted and appropriated for such purpose, all as determined pursuant to the resolution authorizing the issuance of such series of Bonds. The County may grant a lien upon and pledge such funds and revenues in favor of the holders of each series of Bonds in the manner and to the extent provided in the resolution authorizing the issuance thereof. Such funds and revenues shall immediately be subject to such lien without any physical delivery thereof and such lien shall be valid and binding as against all parties having claims of any kind in tort, contract or otherwise against the County.

The Bonds of each series shall be dated, shall bear interest at such rate or rates, shall mature at such time or times not

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exceeding 40 years from their date or dates as may be determined by the Board, and may be made redeemable before maturity, at the option of the County, at such price or prices and under such terms and conditions as may be fixed by the Board prior to the issuance of such Bonds. The Board shall determine the form of the Bonds, the manner of executing such Bonds, and shall fix the denomination or denominations of such Bonds and the place or places of payment of the principal and interest, which may be at any bank or trust company within or without the State of Florida. In case any officer whose signature or a facsimile of whose signature shall appear on any Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The Board may sell such Bonds in such manner and for such price as it may determine to be for the best interests of the County.

Prior to the preparation of definitive Bonds of any series, the Board may, under like restrictions, issue interim receipts, interim certificates, or temporary Bonds, with or without coupons, exchangeable for definitive Bonds when such Bonds have been executed and are available for delivery. The Board may also provide for the replacement of any Bonds which shall become mutilated, or be destroyed or lost. Bonds may be issued without any other proceedings or the happening of any other conditions or things than those proceedings, conditions or things which are specifically required by this Ordinance.

(b) The proceeds of any series of Bonds shall be used solely for the payment of the Cost of one or more Projects or for refunding purposes as set forth in Section 4(a) above, and shall be disbursed in such manner and under such restrictions, if any, as the Board may provide.

(c) The resolution providing for the issuance of any series of Bonds, may also contain such limitations upon the issuance of additional Bonds as the Board may deem proper, and such additional Bonds shall be issued under such restrictions and limitations as may be prescribed by such resolution.

SECTION 5. TAXING POWER NOT PLEDGED.

(a) Bonds issued under the provisions of this Ordinance shall not be deemed to constitute a general obligation debt of the County or a pledge of the faith and credit of the County, but such Bonds shall be payable solely from the sources set forth in Section 4(a) hereof and in the resolution of the County providing for the issuance of such Bonds. All Bonds shall contain a statement on their face to the effect that the County is not obligated to pay the same or the interest thereon except from the sources set forth in Section 4(a) hereof and in the resolution of the County providing for the issuance of such Bonds, and that the faith and

credit of the County are not pledged to the payment of the principal or interest of such Bonds.

(b) The issuance of Bonds under the provisions of this Ordinance shall not directly or indirectly or contingently obligate the County to levy or to pledge any form of ad valorem taxation whatever therefor. No holder of any such Bonds shall ever have the right to compel any exercise of the ad valorem taxing power on the part of the County to pay any such Bonds or the interest thereon or to enforce payment of such Bonds or the interest thereon against any property of the County, nor shall such Bonds constitute a charge, lien or encumbrance, legal or equitable, upon any property of the County, except the aggregate revenues described in Section 4(a) hereof and in the resolution authorizing the issuance of such Bonds.

SECTION 6. TRUST FUNDS. All moneys received pursuant to the authority of this Ordinance, whether as proceeds from the sale of Bonds or the revenues described in Section 4(a) hereof and in the resolution authorizing the issuance of such Bonds, shall be deemed to be trust funds, to be held and applied solely as provided in this Ordinance and in the resolution authorizing issuance of the Bonds. The Board shall, in the resolution authorizing the issuance of any series of Bonds, provide for the payment of the proceeds of the sale of such Bonds and the revenues to be received to any officer who, or to any agency, bank or trust company which, shall act as custodian of such funds, and hold and apply the same to the purposes hereof, subject to such regulations as this Ordinance and such resolution may provide.

SECTION 7. REMEDIES OF BONDHOLDERS. Any holder of Bonds, except to the extent the rights herein given may be restricted by the resolution authorizing issuance of such Bonds, may, either at law or in equity, by suit, action, mandamus or other proceeding, protect and enforce any and all rights under the laws of the state or granted hereunder or under such resolution, and may enforce and compel the performance of all duties required by this part, or by such resolution, to be performed by the County or the Board or by any officer thereof.

SECTION 8. ALTERNATIVE METHOD. This Ordinance shall be deemed to provide an additional and alternative method for the doing of the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws, and shall not be regarded as in derogation of any powers now existing or which may hereafter come into existence. This Ordinance, being necessary for the welfare of the inhabitants of the County, shall be liberally construed to effect the purposes thereof.

SECTION 9. EFFECTIVE DATE. In accordance with Section 125.66(3), Florida Statutes, a certified copy of this ordinance shall be filed with the Department of State by the Clerk of the

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Board of County Commissioners the day after enactment and this Ordinance shall take effect when a copy has been accepted by the U.S. Postal Service for special delivery by registered mail to the Department of State.

DULY ENACTED in special session, this 28th day of April, 1994.

BOARD OF COUNTY COMMISSIONERS
OF LIBERTY COUNTY, FLORIDA

(SEAL)

By: H. T. Sanderson
Chairman

ATTEST:

Wm. B. Ben
County Clerk