

RESOLUTION NO. 85-M-25.

A RESOLUTION OF THE BOARD OF COUNTY COMMISSIONERS OF ORANGE COUNTY, FLORIDA, APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION OF AN INTERLOCAL AGREEMENT WITH THE ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY (THE "AUTHORITY"); PROVIDING FOR THE DEPOSIT OF SECOND GAS TAX MONIES AND FOR THE PURPOSES PROVIDED HEREIN; PROVIDING FOR SEVERABILITY AND FOR AN EFFECTIVE DATE.

WHEREAS, Orange County, Florida is empowered under Florida Statutes, Section 163.01 et seq., to enter into interlocal agreements for the purposes provided therein and Orlando-Orange County Expressway Authority is empowered under Florida Statutes, Section 348.754 to enter into contracts with Orange County for its purposes; and

WHEREAS, it is necessary for the public health, safety and welfare of the County and its citizens that provision be made for the acquisition and construction of certain roads and for financing the cost of such roads; and

WHEREAS, the County desires to enter into an Interlocal Agreement with the Orlando-Orange County Expressway Authority whereby the County makes available to the Authority the "second gas tax monies" received by the County, and the Authority finances and refinances the acquisition and construction of part of the "state road system" by the issuance of bonds secured, in part, by a pledge of the second gas tax monies.

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

SECTION 1. DEFINITIONS. As used in this Resolution, the following words and terms shall have the following meanings, unless some other meaning is plainly intended:

(1) The word "Agreement" shall mean the Interlocal Agreement by and between the County and the Authority, providing for the pledge of the Second Gas Tax Monies as additional security for the Bonds.

(2) The word "Authority" shall mean the Orlando-Orange County Expressway Authority.

(3) The word "County" shall mean Orange County, Florida.

(4) The term "Division" shall mean the Division of Bond Finance of the Department of General Services of the State of Florida.

(5) The term "Board" shall mean the Board of County Commissioners of the County.

(6) The term "Second Gas Tax Monies" shall have the meaning ascribed thereto in the Agreement.

(7) The term "Bonds" shall have the meaning ascribed thereto in the Agreement.

SECTION 2. APPROVAL OF INTERLOCAL AGREEMENT.

(1) The County hereby approves the terms of the Interlocal Agreement attached as Exhibit A hereto and authorizes the Chairman or the Vice Chairman to execute the Agreement, such approval to be conclusively evidenced by the execution and delivery thereof by such officer. The Clerk to the Board is hereby authorized to cause the Seal of the County to be affixed to such Agreement and to attest the same. Such officers are hereby authorized to deliver the executed Agreement on behalf of the County.

(2) The County is hereby authorized and empowered to deposit monthly the Second Gas Tax Monies received by the County during the preceding month.

(3) The County hereby consents and agrees to the pledge of the Second Gas Tax Monies to the payment of the Bonds, to be issued by the Division on behalf of the Authority in the manner and according to the terms contained in the Resolution; the County further agrees that such pledge shall commence from and after the delivery of the Bonds and shall continue in full force and effect until all of said Bonds, including any refundings thereof, and all interest thereon have been paid and discharged.

(4) That the pledge of the Second Gas Tax Monies and this Resolution shall be deemed to have been made for the benefit of the holders from time to time of the Bonds to be issued by the Division on behalf of the Authority, or issued by the Authority and shall be enforceable in any court of competent jurisdiction against the County, the Authority, the Division or any other agency of the State or the County having any duties concerning the collection, administration, and disbursement of the Second Gas Tax Monies by and holder of such Bonds.

SECTION 3. NEITHER CREDIT NOR TAXING POWER PLEDGED.

(1) The obligations of the County under the Agreement to disburse the Second Gas Tax Monies shall not be deemed to constitute a general obligation of the County or a pledge of the full faith and credit of the County. The obligation of the County is limited to Second Gas Tax Monies actually received by the County.

(2) The Bonds issued by the Division of Bond Finance on behalf of the Authority pledging the Second Gas Tax Monies shall not directly or indirectly or contingently obligate the County to levy or to pledge any form of ad valorem taxation therefor. No owner of Bonds shall ever have the right to compel the exercise of the ad valorem taxing power on the part of the County to pay 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, upon any property of the County.

SECTION 4. REMEDIES OF BONDHOLDERS. The Authority may by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the State or granted hereunder may enforce and compel the performance of all duties required by this Resolution, or by such proceedings, to be performed by the County or the Board.

SECTION 5. SUBSEQUENT RESOLUTIONS. It is agreed that this Board shall adopt such further resolutions in such legal form as may be required to carry into effect the purposes and intent of this Resolution. It is understood that any minor deviations, changes, or additions to the proposals outlined in this Resolution which, in the collective judgment of the County, the Authority and the Division, may be necessary to carry out the general purposes and intent of this Resolution substantially in accordance herewith shall not require additional resolutions or approval on the part of this Board.

SECTION 6. SEVERABILITY. If any provision of this Resolution or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Resolution which can be given effect without the invalid provision or application, and to this end the provisions of this Resolution are declared severable.

SECTION 7. EFFECTIVE DATE. This Resolution shall take effect immediately.

Tom Herman
Vice-Chairman
Board of County Commissioners
Orange County, Florida

ATTEST:

THOMAS H. LOCKER,
Clerk
Board of County Commissioners
Orange County, Florida

By: Mary J. Garrison
Deputy Clerk

R/C-101

APPROVED BY THE BOARD OF COUNTY COMMISSIONERS AT THEIR MEETING

AUG 20 1985

INTERLOCAL AGREEMENT

Handwritten signatures and notes

INTERLOCAL AGREEMENT, dated as of August 20, 1985, by and between Orange County, Florida (the "County") and Orlando-Orange County Expressway Authority (the "Authority").

WHEREAS, pursuant to Florida law, the County is authorized to provide arterial, toll and other roads and related facilities; and

WHEREAS, pursuant to Section 163.,01 et seq., Florida Statutes, the County may enter into agreements with other governmental agencies within or without the boundaries of the County for joint performance, or performance by one unit in behalf of the other, of any of the County's authorized functions; and

WHEREAS, the County desires that the Authority provide, operate and maintain, or cause to be provided, operated and maintained, on the County's behalf existing and future arterial, toll or other roads and related facilities within the County which constitute, pursuant to Section 348.757(7), Florida Statutes, part of the "state road system", where said system is interpreted in the hereinafter defined Resolution to have the same meaning as the "state highway system" which appears throughout the Florida Transportation Code and are defined in Section 334.03(22), Florida Statutes (the "System"); and

WHEREAS, in order to refinance indebtedness incurred with respect to the System the State of Florida acting by and

through the Division of Bond Finance of the Department of General Services expects to issue bonds for and on behalf of the Authority secured by toll revenues of the Authority and certain other monies, including payments by the County to be made under an interlocal agreement; and

WHEREAS, the Authority is empowered under the Orlando Orange County Expressway Authority Law to enter into contracts with the County; and

WHEREAS, in order to effectuate the matters set forth above, the County and the Authority desire to enter into this interlocal agreement.

In accordance with the foregoing, the County and the Authority agree as follows:

ARTICLE I

Definitions

SECTION 1.1. Definitions.

"Act" shall mean Part IV of Chapter 348, Florida Statutes, and the State Bond Act, Sections 215.57 to 215.83, Florida Statutes, inclusive, each as amended and supplemented.

"Agreement" means this agreement between the County and the Authority.

"Authority" shall mean the Orlando-Orange County Expressway Authority, a body politic and corporate, and agency of the State of Florida, and its successors and assigns.

"Bonds" shall mean the \$85,000,000 Orlando-Orange County Expressway Refunding Revenue Bonds, Series of 1985 authorized to be issued by the Authority or on behalf of the Authority by the Division of Bond Finance of the Department of General Services of the State of Florida pursuant to the Resolution.

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

"Expressway System" shall mean approaches, roads, bridges and avenues of access, including and facilities related thereto, now or hereafter comprising the System.

"Interlocal Agreement Fund" shall mean the fund created and established by the Resolution to be held with a bank or trust company in Orange County, Florida in a fiduciary capacity pursuant to a trust agreement as set forth in the Resolution.

"Permitted Investments" shall mean and include any of the following securities, if and to the extent the same are permitted by law:

(i) U.S. Obligations and any certificates or any other evidences of an ownership interest in U.S. Obligations or in specified portions thereof (which may consist of specified portions of the interest thereon);

(ii) bonds, debentures, or other evidences of indebtedness issued or guaranteed by any agency or corporation which has been or may hereafter be created pursuant to an Act of Congress as an agency or instrumentality of the United States of America; and

(iii) such other obligations as shall be permitted to be legal investments of the Authority by the laws of the State of Florida.

"Resolution" shall mean the resolution of the Division of Bond Finance of the Department of General Services of the State of Florida authorizing the Bonds.

"Second Gas Tax Monies" shall mean all second gas tax monies if and to the extent received by the County which constitute the eighty percent (80%) surplus gasoline tax funds accruing to the Department of Transportation of use in Orange County pursuant to Article XII, Section 9(c) of the Florida Constitution, remaining after the deduction from such eighty percent (80%) surplus gasoline tax funds as a prior lien thereon, such amounts as may be necessary to pay the principal of and interest on the outstanding Florida Development Commission, Orange County Road Revenue Bonds, dated February 1, 1960, and any refundings thereof, including any portion thereof which may be hereafter allocated to the County.

"Trustee" shall mean the bank or trust company organized and existing under the laws of the State of Florida which under the Interlocal Agreement Fund Trust Agreement with the Authority holds in trust the Interlocal Agreement Fund.

Words importing the singular number shall include the plural number in each case and vice versa, and words importing persons shall include firms and corporations.

ARTICLE II

Second Gas Tax Monies and Application Thereof

SECTION 2.1. Second Gas Tax Monies. Subject to Section

3.4 hereof, the County hereby agrees to pay, or cause to be paid, to the Trustee for the account of the Authority, on the first day of each month, all the Second Gas Tax Monies received by the County since the first day of the previous month.

SECTION 2.2. Application of Second Gas Tax Monies. The Authority agrees to apply, or cause to be applied, the Second Gas Tax Monies in accordance with paragraph F of Section 3.04 of the Resolution, as an Interlocal Agreement Payment deposited into the Interlocal Agreement Fund. Said paragraph F is hereby repeated in its entirety:

"(1) There is hereby created and established the Expressway System Interlocal Agreement Fund (the "Interlocal Agreement Fund") to be held pursuant to a trust agreement by and between the Authority and a bank a trust company eligible under the laws of the State of Florida to accept trusts and operate in a fiduciary capacity.

(2) The Authority shall cause all Interlocal Agreement Payments to be paid to the trustee holding the Interlocal Agreement Fund on the first day of each month for deposit into the Interlocal Agreement Fund.

(3) Whenever on the fifteenth day of each month the respective amounts required to be deposited from the Revenue Fund into the Interest Account, Principal Account, Bond Redemption Account or Debt Service Reserve Account are not available in the Revenue Fund, the Authority shall cause the trustee for the Interlocal Agreement Fund to transfer from the Interlocal Agreement Fund to the Sinking Fund Trustee for deposit in such Accounts in the Sinking Fund, in the order of priority prescribed in paragraph E for the application of Revenues, sufficient amounts to meet such deficiency or deficiencies.

(4) On the 16th day of each month amounts remaining in the Interlocal Agreement Fund, including any interest earnings or amounts on deposit in the Interlocal Agreement Fund, after all transfers from

such Fund have been made as required by paragraph (3) above shall be transferred on a pro rata basis to the political subdivision or municipal corporation from which such payments were derived for use by it as provided by law. The return of any moneys from the Interlocal Agreement Fund to the political subdivision or municipal corporation pursuant to this Section shall not be construed as a release of the pledge by the Authority or of the lien created by the Resolution upon Interlocal Agreement Payments subsequently received or of its obligation to use the same in future years for the purpose and in the manner herein provided.

(5) It is expressly declared that it is the intention of the Resolution that, to the extent thereof, all requirements for deposits in the Accounts in the Sinking Fund created in paragraph E hereof shall be met first by transfers from accounts in the Revenue Fund and that amounts in the Interlocal Agreement Fund shall be used only at the times and in the amounts required to supplement the amounts in the Revenue Fund in meeting any deficiencies in such Accounts in the Sinking Fund. Amounts in the Interlocal Agreement Fund shall not be (i) applied to the reimbursement of the Department or (ii) used by the Authority for other purposes.

(6) Amounts on deposit in the Interlocal Agreement Fund shall be invested by the trustee holding the Interlocal Agreement Fund, if feasible, in Permitted Investments."

ARTICLE III

Covenants

SECTION 3.1. Compliance with Certain Instruments. The Authority and the County covenant to take all such actions or refrain from taking all such actions, as the case may be, so as to comply with the terms and provisions of this Agreement.

SECTION 3.2. Receipt of Second Gas Tax Monies. The County covenants to take all lawful action necessary or required to continue to entitle the County to receive Second Gas

Tax Monies and will take no action which will impair or adversely affect the receipt of Second Gas Tax Monies.

SECTION 3.3. Covenant to Appropriate Second Gas Tax Monies. The County covenants and agrees, to the extent legally permissible in each fiscal year, as long as any of the Bonds are outstanding and unpaid to appropriate in its annual budget sufficient Second Gas Tax Monies to meet its obligations hereunder. Except as currently exists, the County covenants that it will not hereafter make or permit any other pledges of or covenants to appropriate the Second Gas Tax Monies which is on a parity with or superior to the covenant to appropriate Second Gas Tax Monies made by the County in this Agreement.

ARTICLE IV

Defaults

SECTION 4.1. Either party to this Agreement or at least fifty-one percent (51%) of the Owners of the Bonds may either at law or in equity, by suit, actions, mandamus or other proceeding in any court of competent jurisdiction, protect and enforce any and all rights under the laws of the State of Florida, or granted under this Agreement, and may enforce and compel the performance of all duties required by the Agreement or any applicable statutes to be performed by the other party provided, however, that no breach or alleged breach or failure by the Authority to comply with this covenant shall relieve the County of its obligations under this Agreement.

ARTICLE V

Amendment

SECTION 5.1. Modification or Amendment. Except as otherwise provided in this Section 5.1, no material modification or amendment of this Agreement, or of any agreement amendatory thereof or supplemental thereto, may be made without the consent in writing of the owners of fifty-one percent (51%) or more in principal amount of the Bonds then outstanding.

This Agreement may be amended, changed, modified and altered without the consent of the owners of the Bonds, (i) to cure any ambiguity, correct or supplement any provision contained herein which may be defective or inconsistent with any other provisions contained herein and (ii) to provide other changes which will not adversely affect the interest of such owners of Bonds.

To the extent any Series of Bonds issued under the Resolution is insured by a Bond Insurance Policy, the consent of the Bond Insurer with respect to such Series of Bonds shall constitute the consent of fifty-one percent (51%) of the owners of the Bonds.

ARTICLE VI

Miscellaneous

SECTION 6.1. Severability. Any provision of this Agreement which is prohibited, unenforceable or not authorized, shall be ineffective to the extent of such prohibition,

unenforceability or non-authorization without invalidating the remaining provisions hereof or affecting the validity, enforceability or legality of such provisions in any other jurisdiction.

SECTION 6.2. Binding Effect. This Agreement shall become effective immediately upon passage and adoption in the manner provided in Chapter 163, Florida Statutes and shall be binding upon and inure to the benefit of the County and the Authority and their respective successors and assigns.

SECTION 6.3. Governing Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Florida.

SECTION 6.4. Execution in Counterparts. This Agreement may be executed in any number of counterparts and by different parties hereto on separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

IN WITNESS WHEREOF, ORANGE COUNTY, FLORIDA has caused this Agreement to be executed and the seal of said County to be hereunto affixed and ORLANDO-ORANGE COUNTY EXPRESSWAY AUTHORITY has caused this Agreement to be signed in its name, as of the date and year first above written.

Attest:

ORANGE COUNTY, FLORIDA

By: Mary Jo Garrison

Title:
Deputy Clerk

By: Tom Seaman

Vice-Chairman

Attest:

ORLANDO-ORANGE COUNTY
EXPRESSWAY AUTHORITY

By: *DeLwynn*
Title:

By: *Phil Rea*

HAS 08/15/85