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ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

**ORDINANCE 2015-**

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**AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, RATIFYING THE BOARD'S EMERGENCY ADOPTION UNDER SECTION 125.66(3), FLORIDA STATUTES, OF THE 4<sup>TH</sup>, 5<sup>TH</sup> AND 6<sup>TH</sup> CENT OF THE LOCAL OPTION FUEL TAX, PURSUANT TO SECTION 336.025(1)(A), FLORIDA STATUTES, FOR THE RE-IMPOSITION AND LEVYING OF SUCH TAX UPON EVERY GALLON OF MOTOR FUEL AND SPECIAL FUEL SOLD IN ALACHUA COUNTY AND TAXED UNDER THE PROVISIONS OF CHAPTER 206, FLORIDA STATUTES; PROVIDING FOR AUTHORITY; PROVIDING FOR LEGISLATIVE INTENT; PROVIDING FOR THE EFFECTIVE DATE OF THE RE-IMPOSED TAX; PROVIDING FOR THE DURATION OF THE RE-IMPOSED TAX; PROVIDING FOR THE DISTRIBUTION OF THE PROCEEDS OF THE TAX AMONG THE COUNTY AND MUNICIPALITIES LOCATED WITHIN THE COUNTY; PROVIDING FOR MODIFICATION AT PUBLIC HEARING; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; PROVIDING FOR TRANSMITTAL TO THE FLORIDA DEPARTMENT OF REVENUE; AND PROVIDING FOR AN EFFECTIVE DATE.**

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WHEREAS, on July 23, 1985, the Board of County Commissioners of Alachua County, Florida, enacted its Ordinance No. 85-8, which levied the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cent of the local option fuel tax on every gallon of fuel sold in Alachua County and taxed under the provisions of Chapter 206, Fla. Stat., for a period of thirty (30) years; and

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WHEREAS, the Florida Department of Revenue required the Board adopt the County's re-imposition of its 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cent of local option fuel tax prior to July 1, 2015.

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WHEREAS, by emergency ordinance adopted pursuant to Section 125.66(3), Fla. Stat., on June 23, 2015, the Board re-imposed its 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cent of local option fuel tax.

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WHEREAS, the Board desires to hold a duly noticed public hearing for the purpose of ratifying the emergency ordinance previously adopted on June 23, 2015.

1           WHEREAS, the County and the municipalities located within the County have relied on  
2 the revenues from the above-referenced fuel tax to fund “transportation expenditures,” as such  
3 term is defined in Section 336.025, Fla. Stat.; and

4           WHEREAS, the Board finds that without passage of this Ordinance re-imposing the  
5 above-referenced fuel tax, the county and municipalities located within the County will not be  
6 able to fulfill their respective responsibilities relating to their transportation expenditures; and

7           WHEREAS, the Board is authorized, pursuant to Section 336.025(1)(a), Fla. Stat., to  
8 impose and re-impose up to a 6-cent local option fuel tax upon every gallon of fuel sold in  
9 Alachua County and taxed under the provisions of Chapter 206, Fla. Stat.; and

10           WHEREAS, the 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> cent of the local option fuel tax is currently in effect  
11 pursuant to Ordinance No. 87-22, adopted on October 13, 1987; and

12           WHEREAS, the Board now desires to re-impose the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cent of the local  
13 option fuel tax; and

14           WHEREAS, the County and the City of Gainesville, Florida, a municipality within  
15 Alachua County representing a majority of the population of the incorporated area within the  
16 County, have entered into an Interlocal Agreement, attached as Exhibit A, providing for a  
17 formula for the distribution of the proceeds from the above-referenced fuel tax, which formula  
18 would be in lieu of the default formula set forth in Subsection 336.025(4)(a), Fla. Stat.; and

19           WHEREAS, the Board has held a properly noticed public hearing and has considered all  
20 of the matters presented at such hearing prior to the adoption of this ordinance; and

21           WHEREAS, the Board has complied with all other requirements imposed by Florida law  
22 for the enactment of this ordinance.

1 NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY

2 COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

3 1. RECITALS. The above recitals are hereby incorporated into this Ordinance as if  
4 restated herein and constitute the legislative findings and intent of the Board of County  
5 Commissioners (the “Board”) of Alachua County, Florida (the “County”).  
6

7 2. AUTHORITY. This Ordinance is authorized by Section 336.025(1)(a), Fla. Stat.,  
8 the County’s home rule authority and all other applicable laws.  
9

10 3. LEGISLATIVE INTENT. The re-imposition and continuation of the levy of the  
11 local option fuel tax provided in this Ordinance is necessary to fund the transportation  
12 expenditures of the County and the eligible municipalities located within the County. The re-  
13 imposition and continuation of the levy of this tax is determined to be necessary to promote the  
14 public health, safety and welfare of the citizens of the County.  
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16 4. RE-IMPOSITION AND LEVY OF TAX. Pursuant to Section 336.025(1)(a), Fla.  
17 Stat., in addition to other taxes allowed by law, there is hereby re-imposed and levied the 4<sup>th</sup>, 5<sup>th</sup>  
18 and 6<sup>th</sup> cent of the local option fuel tax (the “Tax”) upon every gallon of fuel sold in the County  
19 and taxed under the provisions of Chapter 206, Fla. Stat.  
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21 5. EFFECTIVE DATE OF RE-IMPOSED TAX. The levy of the Tax provided  
22 herein is a re-imposition of the same tax levied by the County in Ordinance No. 85-8, effective  
23 September 1, 1985. Further, the Tax is being re-imposed at its current authorized rate. Therefore,  
24 pursuant to Section 336.025(1)(a)(1), Fla. Stat., the Tax shall be effective September 1, 2015, so  
25 there is no “gap” or time where neither the tax authorized in Ordinance No. 85-8, nor the Tax, is  
26 being collected.  
27

28 6. DURATION OF THE RE-IMPOSED TAX. The Tax shall continue in effect for a  
29 period of 1 year, from September 1, 2015 through August 31, 2016.  
30

31 7. DISTRIBUTION OF PROCEEDS. The proceeds from the Tax shall be divided  
32 and distributed by the Florida Department of Revenue to the County and the municipalities  
33 located within the County as provided in the Interlocal Agreement, a copy of which is attached  
34 hereto as Exhibit A. No amendment to this Ordinance shall be required to amend or cancel the  
35 Interlocal Agreement.  
36

37 8. MODIFICATION. It is the intent of the Board that the provisions of this  
38 ordinance may be modified as a result of considerations that may arise during an advertised  
39 public hearing. Such modifications shall be incorporated into the final version of the ordinance  
40 adopted by the Board and filed by the Clerk of the Board of County Commissioners.  
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42 9. REPEAL OF CONFLICTING ORDINANCES. All ordinance or parts of  
43 ordinances in conflict herewith are hereby repealed to the extent of such conflict. Provided that,  
44 as the levies in Ordinance No. 85-8 and this Ordinance are for different time periods, Ordinance

1 No. 85-8 shall not be deemed to be in conflict with this Ordinance. In addition, this Ordinance is  
2 intended to ratify, not conflict with or supplant, Ordinance 2015-\_\_\_, which ordinance was  
3 adopted pursuant to Section 125.66(3) on June 23, 2015.  
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5 10. SEVERABILITY. If any section, phrase, sentence or portion of this Ordinance is  
6 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such  
7 portion shall be deemed a separate, distinct, and independent provision, and such holding shall  
8 not affect the validity of the remaining portions hereof.  
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10 11. TRANSMITTAL TO FLORIDA DEPARTMENT OF REVENUE. Immediately  
11 upon becoming effective, the Clerk shall transmit a copy of this Ordinance to the Florida  
12 Department of Revenue to give notice of the Board's ratification of its re-imposition and levy of  
13 the Tax.  
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15 12. EFFECTIVE DATE. A certified copy of this ordinance shall be filed with the  
16 Department of State by the Clerk of the Board within ten (10) days after enactment by the Board,  
17 and shall take effect upon filing with the Department of State.  
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19 DULY ADOPTED in regular session, this \_\_\_ day of \_\_\_\_\_, A.D., 2015.  
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22 BOARD OF COUNTY COMMISSIONERS OF  
23 ALACHUA COUNTY, FLORIDA  
24

25 ATTEST:

26 By: \_\_\_\_\_  
27 Charles S. Chestnut IV, Chair  
28

29 \_\_\_\_\_  
30 J. K. Irby, Clerk  
31

32 APPROVED AS TO FORM  
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34 \_\_\_\_\_  
35 County Attorney  
36

34 (SEAL)

35 Attachment: Exhibit A  
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