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ALACHUA COUNTY  
BOARD OF COUNTY COMMISSIONERS

ORDINANCE 2015-

AN EMERGENCY ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF ALACHUA COUNTY, FLORIDA, ENACTED PURSUANT TO SECTION 125.66(3), FLORIDA STATUTES, RE-IMPOSING AND LEVYING THE 4<sup>TH</sup>, 5<sup>TH</sup> AND 6<sup>TH</sup> CENT OF THE LOCAL OPTION FUEL TAX, PURSUANT TO 336.025(1)(A), FLORIDA STATUTES, 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.

WHEREAS, pursuant to Section 125.66(3), Fla. Stat., the Board of County Commissioners, at any regular or special meeting, may enact or amend any ordinance with a waiver of the notice requirements by a four-fifths vote declaring that an emergency exists and immediate enactment of an ordinance is necessary.

WHEREAS, the County 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 to expire on August 31, 2015; and

WHEREAS, the Florida Department of Revenue is requiring adoption of 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.

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 an emergency exists and the immediate enactment of  
5 this Ordinance is necessary, because without passage of this Ordinance re-imposing the above-  
6 referenced fuel tax, the county and municipalities located within the County will not be able to  
7 fulfill their respective responsibilities relating to their transportation expenditures; and

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

11           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  
12 pursuant to Ordinance No. 87-22, adopted on October 13, 1987; and

13           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  
14 option fuel tax; and

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

20           WHEREAS, the Board has considered all of the matters presented prior to the adoption  
21 of this ordinance and will further ratify adoption of this Ordinance at a properly noticed public  
22 hearing; and

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

3           NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY  
4 COMMISSIONERS OF ALACHUA COUNTY, FLORIDA:

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

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

11  
12           3.     LEGISLATIVE INTENT. The re-imposition and continuation of the levy of the  
13 local option fuel tax provided in this Ordinance is necessary to fund the transportation  
14 expenditures of the County and the eligible municipalities located within the County. The re-  
15 imposition and continuation of the levy of this tax is determined to be necessary to promote the  
16 public health, safety and welfare of the citizens of the County.

17  
18           4.     RE-IMPOSITION AND LEVY OF TAX. Pursuant to Section 336.025(1)(a), Fla.  
19 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>  
20 and 6<sup>th</sup> cent of the local option fuel tax (the "Tax") upon every gallon of fuel sold in the County  
21 and taxed under the provisions of Chapter 206, Fla. Stat.

22  
23           5.     EFFECTIVE DATE OF RE-IMPOSED TAX. The levy of the Tax provided  
24 herein is a re-imposition of the same tax levied by the County in Ordinance No. 85-8, effective  
25 September 1, 1985. Further, the Tax is being re-imposed at its current authorized rate. Therefore,  
26 pursuant to Section 336.025(1)(a)(1), Fla. Stat., the Tax shall be effective September 1, 2015, so  
27 there is no "gap" or time where neither the tax authorized in Ordinance No. 85-8, nor the Tax, is  
28 being collected.

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

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

38  
39           8.     MODIFICATION. It is the intent of the Board that the provisions of this  
40 ordinance may be modified as a result of considerations that may arise during an advertised  
41 public hearing. Such modifications shall be incorporated into the final version of the ordinance  
42 adopted by the Board and filed by the Clerk of the Board of County Commissioners.

1  
2 9. REPEAL OF CONFLICTING ORDINANCES. All ordinance or parts of  
3 ordinances in conflict herewith are hereby repealed to the extent of such conflict. Provided that,  
4 as the levies in Ordinance No. 85-8 and this Ordinance are for different time periods, Ordinance  
5 No. 85-8 shall not be deemed to be in conflict with this Ordinance.  
6

7 10. SEVERABILITY. If any section, phrase, sentence or portion of this Ordinance is  
8 for any reason held invalid or unconstitutional by any court of competent jurisdiction, such  
9 portion shall be deemed a separate, distinct, and independent provision, and such holding shall  
10 not affect the validity of the remaining portions hereof.  
11

12 11. TRANSMITTAL TO FLORIDA DEPARTMENT OF REVENUE. Immediately  
13 upon becoming effective, the Clerk shall transmit a copy of this Ordinance to the Florida  
14 Department of Revenue to give notice of the re-imposition and levy of the Tax.  
15

16 12. EFFECTIVE DATE. A certified copy of this ordinance shall be filed with the  
17 Department of State by the Clerk of the Board within ten (10) days after enactment by the Board,  
18 and shall take effect upon filing with the Department of State.  
19

20 DULY ADOPTED in regular session, this \_\_\_\_ day of \_\_\_\_\_, A.D., 2015.  
21

22 BOARD OF COUNTY COMMISSIONERS OF  
23 ALACHUA COUNTY, FLORIDA  
24

25  
26 ATTEST:

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

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

31 APPROVED AS TO FORM

32  
33 \_\_\_\_\_  
34 County Attorney

35 (SEAL)

36 Attachment: Exhibit A  
37

**FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN  
ALACHUA COUNTY AND THE CITY OF GAINESVILLE  
FOR THE DISTRIBUTION OF THE LOCAL OPTION GAS TAX**

This First Amendment to the Interlocal Agreement between Alachua County and the City of Gainesville for the Distribution of the Local Option Gas Tax, (the "Amendment") is entered into by and between ALACHUA COUNTY, a charter county and political subdivision of the State of Florida (the "County"), and the CITY OF GAINESVILLE, a municipal corporation (the "City").

**WITNESSETH**

WHEREAS, Section 336.025, Fla. Stat., permits the County the authority to levy, in addition to other taxes allowed by law, a local option gas tax ("Gas Tax") upon every gallon of motor fuel and special fuel sold in the County and taxed under the provisions of Chapter 206, Fla. Stat.; and

WHEREAS, the County and City entered into an Interlocal Agreement on June 28, 1985 ("Interlocal") to provide for the division and distribution of the proceeds of the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cents of the Gas Tax; and

WHEREAS, the Interlocal is effective from September 1, 1985 to August 31, 2015; and

WHEREAS, the County and City desire to extend the Interlocal for one additional year to provide for the division and distribution of the proceeds of any extension of the Gas Tax by the County; and

WHEREAS, the City is a municipality located within Alachua County, Florida, eligible to receive a portion of the local option gas tax, and represents a majority of the population of the incorporated area within the county.

NOW THEREFORE, in consideration of the mutual promises and covenants contained herein, the Interlocal is hereby amended as follows:

- (1) Paragraph 2 of the Interlocal is hereby deleted and the following shall be inserted in its place:

"This Agreement shall take effect on September 1, 2015, and shall terminate on August 31, 2016. It shall govern the division and distribution of proceeds of the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cent of the local option gas tax imposed through August 31<sup>st</sup> but not collected or otherwise available for distribution until after August 31<sup>st</sup> of the year the Agreement terminates."

- (2) Paragraph 7 of the Interlocal is hereby deleted and the following shall be inserted in its place:

“Upon adoption of an ordinance levying the 4<sup>th</sup>, 5<sup>th</sup> and 6<sup>th</sup> cents of local option gas tax by the County, the County shall provide the State of Florida Department of Revenue the distribution proportions established by this Agreement prior to September 1, 2015.”

- (3) Except as expressly amended herein, all other terms and provisions of the original Interlocal between the parties, dated June 28, 1985, shall be and remain in full force and effect.
- (4) Should there be any conflict between the terms of the Interlocal and this Amendment, the terms of this Amendment shall govern.
- (5) This Amendment shall be effective upon the date of execution of all parties.

REMAINDER OF PAGE INTENTIONALLY LEFT BLANK

IN WITNESS WHEREOF, the parties hereto have made and executed this First Amendment to Interlocal Agreement between Alachua County and the City of Gainesville for the Distribution of the Local Option Gas Tax on the respective dates beneath each signature.

ALACHUA COUNTY:

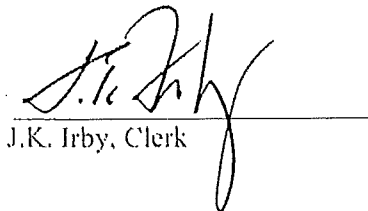
BOARD OF COUNTY COMMISSIONERS OF  
ALACHUA COUNTY, FLORIDA

ATTEST:

By:

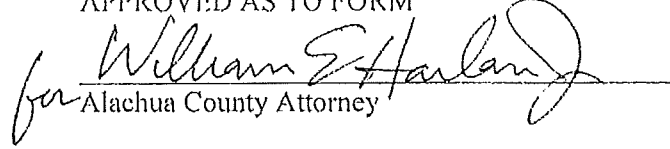


Charles S. Chestnut IV, Chair  
Board of County Commissioners  
Date: 5/20/15

  
\_\_\_\_\_  
J.K. Irby, Clerk

(SEAL)

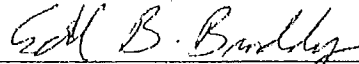
APPROVED AS TO FORM

  
for \_\_\_\_\_  
Alachua County Attorney

CITY OF GAINESVILLE:

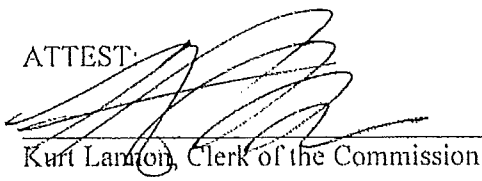
CITY OF GAINESVILLE, FLORIDA

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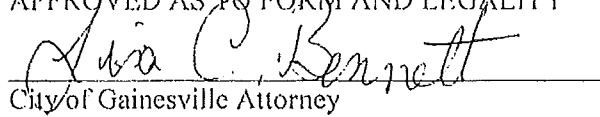
Edward B. Braddy, Mayor  
City of Gainesville  
Date: 5-25-2015

ATTEST:

  
\_\_\_\_\_  
Kurt Lamson, Clerk of the Commission

(SEAL)

APPROVED AS TO FORM AND LEGALITY

  
\_\_\_\_\_  
City of Gainesville Attorney