

2000-
ORDINANCE NO. 02

AN ORDINANCE RELATING TO COUNTY CAPITAL PROJECTS AND PURPOSES OF HOLMES COUNTY, FLORIDA; AUTHORIZING THE ISSUANCE OF OBLIGATIONS BY THE COUNTY PAYABLE FROM ANY FUNDS OF THE COUNTY LEGALLY AVAILABLE FOR SUCH PURPOSE, TO FINANCE OR REFINANCE THE PROJECTS; AUTHORIZING THE INVESTMENT OF THE PROCEEDS FROM THE SALE OF SUCH OBLIGATIONS AND THE SECURITY FOR THEIR PAYMENT IN CERTAIN INSTRUMENTS; AND PROVIDING AN EFFECTIVE DATE.

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

SECTION 1. SHORT TITLE. This ordinance shall be known and may be cited as the "Consolidated Home Rule Financing Ordinance."

SECTION 2. AUTHORITY FOR ORDINANCE. This ordinance is enacted pursuant to Article VIII, Section 1, Florida Constitution (1968), Chapter 125, Florida Statutes, and other applicable provisions of law.

SECTION 3. FINDINGS. It is hereby found, determined and declared by the Board of County Commissioners (the "Board") of Holmes County, Florida (the "County"), as follows:

A. Pursuant to Article VIII, Section 1, Florida Constitution (1968), and Chapter 125, Florida Statutes, the County has all powers of local self-government to perform county functions and to render county services in a manner not inconsistent with general or special law, and such power may be exercised by the enactment of county ordinances.

B. It is necessary for the public health, safety and general welfare of the County and its citizens that provision be made (1) for the acquisition, construction, improvement and equipment from time to time of capital projects which serve a county purpose, and (2) for the financing of the cost of such projects by the issuance of certain obligations, as described below.

C. Section 125.31(1), Florida Statutes, authorizes a county to enact an ordinance specifying investments for surplus public funds in its control or possession, if the desired investments are not otherwise set forth in Section 125.31, Florida Statutes.

D. The County desires maximum flexibility in the investment of proceeds from the sale of its obligations and the security for payment of its obligations.

E. Notice of intent to consider this ordinance has been published and made available to the public for inspection in the manner provided by law.

SECTION 4. PROJECTS. The County is hereby authorized to acquire, construct, improve and equip county capital projects (the "Projects"), as the same may be determined by the Board from time to time in accordance with applicable law.

SECTION 5. OBLIGATIONS. To pay the cost of the Projects and other costs necessary or incidental thereto, including but not limited to the costs of issuance of such obligations, the County is authorized to issue, or cause to be issued on behalf of the County, as the case may be, bonds, notes, certificates, lease-purchase obligations (including certificates of participation) and other forms of indebtedness (collectively, the "Obligations") from time to time. Such Obligations may be issued in bearer form or fully registered form; may be delivered by means of physical certificates or a book-entry system, or any combination thereof; may be in such denomination or denominations; may bear interest at such rate or rates not exceeding the maximum rate allowed by law, payable on a current basis or at maturity; and may mature at such time or times; all as shall be determined by the Board at or prior to the time of sale of the Obligations. The Obligations may be made redeemable before maturity, at the option of the County or the holders thereof, at such price or prices and under such terms and conditions as shall be fixed by the Board prior to their issuance. The Board shall determine the place or places of payment of the principal, redemption premium, if any, and interest on the Obligations, which may be at the office of the Clerk of the Circuit Court for the County, ex officio Clerk of the Board (the "Clerk"), or any bank or trust company within or without the State of Florida. The Obligations shall be signed by the manual or facsimile signature of the Chairman of the Board, and attested by the manual or facsimile signature of the Clerk, and may further be authenticated on behalf of the County by the Clerk or a bank or trust company which may be acting as registrar of the Obligations, whichever is applicable; provided, that such Obligations shall bear at least one signature which is manually executed thereon; and shall have the seal of the Board affixed, imprinted, reproduced or lithographed thereon; all as shall be prescribed in the resolution or resolutions authorizing the issuance of the Obligations. The Obligations may be delivered to a contractor as payment for his work in constructing Projects, may be delivered to the owner of a Project as payment for all or part of the purchase price for a Project or in exchange for the outstanding stock or ownership interests of the entity that owns a Project, or may otherwise be sold at public or private sale at such price or prices as the Board shall determine. In connection with or as a result of the issuance of

Obligations or any other outstanding indebtedness of the County, the County may issue or cause to be issued and/or delivered, derivative products including, but not limited to, detachable call options, interest rate swaps and forward investment or bond purchase agreements.

SECTION 6. REFUNDING OBLIGATIONS. The County may issue Obligations to refund any Obligations issued under the authority of this ordinance and provide for the rights of the owners thereof. Such refunding Obligations may be issued in an amount sufficient (a) to pay any expenses of the issuance and sale of such refunding Obligations and (b) together with the income from the investment of a portion of the proceeds of sale of such refunding Obligations, to pay (i) the principal of the outstanding Obligations, (ii) the interest due and payable on the outstanding Obligations, and (iii) the redemption premium, if applicable, on the outstanding Obligations.

SECTION 7. SECURITY. The principal of, redemption premium, if any, and interest on the Obligations issued under the authority of this ordinance may be payable from and/or secured by (a) a lien upon and pledge of any funds of the County legally available for such purpose; or (b) a covenant to (i) budget and appropriate or (ii) direct an appropriate officer of the County to submit to the Board for budget approval, as the case may be, from any funds of the County legally available for such purpose, an amount sufficient to pay the principal of, redemption premium, if any, and interest on the Obligations (collectively, the "Security").

SECTION 8. NEGOTIABILITY. The Obligations shall be negotiable instruments under the Uniform Commercial Code-Investment Securities laws of the State of Florida.

SECTION 9. INVESTMENT OF FUNDS. Proceeds of the sale of any Obligations and any Security securing payment of the Obligations may, at the option of the County, be invested in the following manner:

A. Direct obligations or obligations the principal of and interest on which are unconditionally guaranteed by, the United States of America (the "Government Obligations"), or receipts, certificates or other similar documents evidencing ownership of future principal or interest payments due on Government Obligations, which Government Obligations are held in a custody or trust account by a bank or savings and loan association which is either (1) a "qualified public depository" under the laws of the State of Florida or (2) has capital, surplus and undivided profits of not less than \$50,000,000, and which is a member of the Federal Deposit Insurance Corporation ("FDIC").

B. Bonds, debentures, notes, participation certificates or other evidences of indebtedness issued, or the principal of and interest on which are unconditionally guaranteed, by the Federal Home Loan Bank System, the Export-Import Bank of the United

States, the Federal Financing Bank, the Government National Mortgage Association, Rural Development (f/k/a "Farmers Home Administration"), the Federal Housing Administration or the Maritime Administration.

C. Deposits in any commercial bank or savings and loan association which is a member of FDIC and is a "qualified public depository" under the laws of the State of Florida.

D. Repurchase agreements, fully and continuously secured by Government Obligations, with any bank, trust company, national banking association or savings and loan association which is a member of FDIC and is a "qualified public depository" under the laws of the State of Florida; or with any registered government bond broker/dealer which is subject to the jurisdiction of the Securities Investors' Protection Corporation; provided, (1) such Government Obligations are held by the County or a third party which is (a) a Federal Reserve Bank, (b) a bank or savings and loan association which is a member of FDIC and is a "qualified public depository" under the laws of the State of Florida, or (c) a bank or savings and loan association approved in writing for such purpose by the municipal bond insurer, if applicable; and the County shall have received written confirmation from the third party that it holds such Government Obligations; and (2) a perfected first security interest in or title to such Government Obligations, as applicable, is created or obtained for the benefit of the County.

E. Shares in a money market or other fund, the investments of which are exclusively in Government Obligations.

F. Any other agreements for the investment of money between the County and a bank, trust company, national banking association or corporation subject to registration with the Board of Governors of the Federal Reserve System under the Bank Holding Company Act of 1956 or the Federal National Mortgage Association, or any corporation, including insurance companies, (1) whose unsecured obligations or uncollateralized long term debt obligations have been assigned ratings by Standard & Poor's Corporation, New York, New York ("S&P"), Moody's Investors Service, New York, New York ("Moody's"), and/or Fitch IBCA, Inc., New York, New York ("Fitch"), which are equal to or higher than the ratings initially assigned by S&P, Moody's and/or Fitch to the bonds then being issued by the County, if applicable, or (2) which has issued a letter of credit contract, agreement or surety bond in support of debt obligations which have been so rated.

G. Any other investments authorized or permitted from time to time by Sections 125.31 and 218.415, Florida Statutes, or any other law of the State of Florida controlling the investment of surplus public funds of a county.

The County shall, in any resolution authorizing the issuance of its Obligations providing for the investment of the proceeds of the sale of such Obligations, select all or any

portion of the above investment vehicles as permitted investments under such resolution, and, in its discretion, may provide additional restrictions to such investments in the resolution.

The provisions of this Section 9 shall not be deemed to amend any resolutions or ordinances authorizing the issuance of any outstanding obligations of the County.

SECTION 10. NO IMPAIRMENT. The County does hereby covenant with the owners from time to time of Obligations issued pursuant to this ordinance that it will not enact any ordinance which will impair (a) the rights of such owners under the resolutions which authorized such Obligations, or (b) the pledge of the Security to the payment of principal of, redemption premium, if any, and interest on Obligations issued under the authority of this ordinance.

SECTION 11. SPECIAL ASSESSMENT PROCEDURES. If any of the Obligations shall be payable from and secured by special assessments levied against specially benefited property, to the extent permitted by law, the County may by separate ordinance incorporate those provisions of Chapter 170, Florida Statutes, it deems necessary and desirable, or otherwise set forth the procedures for the levy and collection of the special assessments in such ordinance.

SECTION 12. POWERS VESTED IN BOARD; EXERCISE; REFERENDUM. All power and authority granted to the County by the provisions of this ordinance shall be exercised by the Board or its successors as the governing body of the County. The powers granted hereunder may be exercised by resolution duly adopted by the Board. No referendum in the County shall be required for the exercise of any of the powers granted by this ordinance, unless such referendum is required by the Constitution of Florida.

SECTION 13. ADDITIONAL AUTHORITY. This ordinance shall be considered as supplemental and additional authority for the County to implement the powers authorized by this ordinance.

SECTION 14. REPEALER. All ordinances or parts thereof in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

SECTION 15. SEVERABILITY. The provisions of this ordinance are intended to be severable. If any one or more sections, paragraphs, sentences, clauses or provisions shall be held to be illegal or invalid, the remaining sections, sentences, clauses and provisions of this ordinance shall nevertheless stand and be construed as if the illegal or invalid sections, sentences, clauses or provisions had not been included herein.

SECTION 16. EFFECTIVE DATE. A certified copy of this ordinance, as enacted, shall be filed by the Clerk with the Office of the Secretary of State of the State of Florida within 10 days after enactment, and this ordinance shall take effect upon receipt

of official acknowledgment from the Secretary of State that this ordinance has been filed with such office.

DONE AND ORDAINED by the Board of County Commissioners of Holmes County, Florida, this 5TH day of APRIL, 2000.

(SEAL)

HOLMES COUNTY, FLORIDA

Attested:

By Rick Crews
Chairman, Board of
County Commissioners

By Ady Rey
Clerk