

ARTICLE V. - BORROWING FOR MUNICIPAL PROJECTS

Footnotes:

--- (3) ---

Editor's note— *The provisions of article V appear to have been repealed by the Municipal Home Rule Powers Act (F.S. ch. 166) or to have assumed ordinance status pursuant to such act. See F.S. § 166.021. The adoption of the Code of Ordinances does not repeal ordinances published in the Charter. See Code § 1-10. In addition, they are covered by F.S. ch. 166, pt. II (F.S. § 166.101 et seq.). See F.S. § 166.241.*

Sec. 80. - Municipal projects enumerated; definitions.

For the purpose of this Charter the term "municipal project" shall cover only any one or more or any combination of the following: Heliports, auditoria, bridges, tunnels, buildings, hospitals, viaducts, community houses or centers and all facilities therein, dispensaries, jails, gas, electric and/or water distribution systems, memorials, parking lots and garages, garbage and trash disposal, parks including recreational facilities, playgrounds, recreation centers, structures, buildings, piers, public buildings and plazas, reservoirs, schools, sewers, sewerage or drainage systems and sewage disposal or treatment plants, stadia, streets, roads, avenues, alleys and highways, sidewalks and curbs, gutters and stormwater sewers or drains, toll bridges or causeways, swimming pools and public emergency or disaster shelters; and all property real and personal appurtenant thereto or connected with such work, undertaking or project and the existing work, undertaking or project, if any, to which such work, undertaking or project is an extension, addition, betterment or improvement.

- (a) The term "to construct" shall mean to build, to construct, to reconstruct, to erect, to replace, to extend, to repair, to better, to equip, to develop, to embellish, to improve, to acquire by gift, purchase or the exercise of the right of eminent domain, or any one or more of all of the foregoing.
- (b) The term "construction" shall mean building, construction, reconstruction, erection, replacement, extension, repairing, betterment, equipment, development, embellishments, improvements, acquisition, by gift, purchase, or the exercise of the right of eminent domain, or any one or more or all of the foregoing.
- (c) The term "pending" when applied to a municipal project, means authorized but not yet completed.

(Res. No. 620, § 1qq, 4-14-64)

Sec. 81. - Enumeration of projects, etc., for which indebtedness may be incurred.

The Town of Surfside shall have power and is hereby authorized:

- (a) To construct any municipal project, as defined in section 80 hereof, within or without the municipality, or partially within and partially without the municipality;
- (b) To operate and maintain any municipal project for public and private users and consumers within and without the municipality;
- (c) To issue bonds as provided in this Charter to finance such construction, and to provide for the rights of the holders of the bonds and to secure the bonds all as hereinafter provided;
- (d) To enter into a trust agreement with any bank or trust company within or outside the state, or with any agency of the state or federal government in connection with the construction of a project as may be required to facilitate the sale of bonds to be refunded exclusively from revenues;
- (e) To fix, levy and collect fees, rents, tolls, or other charges for the use of or in connection with any municipal project, and in the event any trust agreement with holders of bonds shall be made as hereinafter provided, to fix, levy and collect such fees, rents, tolls and other charges in accordance with such agreements and subject thereto;
- (f) To acquire by purchase, gift or the exercise of the right of eminent domain and to hold and dispose of any property, real or personal, tangible or intangible, or any right or interest in any such property, in connection with any municipal project, whether or not subject to mortgages, liens, charges or other encumbrances, and to construct any municipal project subject thereto, and whether within or without the municipality, or partially within and partially without the municipality, subject to the limitations imposed by section 4 of article I;
- (g) To enter on any lands, waters and premises for the purpose of making surveys, soundings and examinations in or for the furtherance of any municipal project;
- (h)

To perform any acts authorized under this article through or by means of its own officers, agents and employees, or by contracts with private corporations, firms or individuals;

- (i) To award any contract for the construction of any municipal project or any part thereof upon any day at least fifteen days after one publication of a notice requesting bids upon such contract in a newspaper of general circulation in the municipality;
- (j) To do all acts and things necessary or convenient to carry out the powers expressly given in this article.

(Res. No. 502, § 1, 1-12-59; Res. No. 504, 4-8-59, Rec. in Bk. 1360, p. 619, Pub. Recs. of Dade County)

Sec. 82. - Initial ordinance for issuance of bonds; determination of municipal project costs.

Before any bonds are issued under this Article, the commission of the Town of Surfside shall adopt an ordinance (herein referred to as the "initial ordinance") determining to issue the bonds, which ordinance shall state in substance (a) the amount or maximum amount of bonds to be issued; (b) the purpose or purposes for which such bonds are to be issued; (c) the rate or maximum rate of interest which such bonds are to bear; (d) a brief concise statement of the fact whether such bonds will be payable (1) exclusively from revenues, and if so payable the ordinance shall provide that the Town of Surfside shall have no power to levy or to pledge any form of taxation for the payment of such bonds, or (2) exclusively from taxes, or (3) from revenues, and in the event of a deficiency in such revenues from taxes, or (4) from taxes and additionally secured by a pledge of revenues.

In determining the cost of any municipal project, the following items may be included as a part of the cost of such municipal project and financed by the issuance of the bonds; (a) engineering, inspection, accounting, fiscal and legal expenses; (b) the cost of issuance of the bonds, including engraving, printing, advertising and other similar expenses; (c) any interest cost during the period of construction of such municipal project and for six months thereafter on money borrowed or estimated to be borrowed.

Sec. 83. - Election not required for revenue bonds.

No election shall be required for the issuance of bonds by the Town of Surfside under this Charter if the initial ordinance authorized the issuance of bonds payable exclusively from the revenue of a municipal project.

Sec. 84. - Revenue bonds not general obligations.

No holder or holders of any bonds payable exclusively from the revenue of a municipal project shall ever have the right to compel any exercise of taxing power of the Town of Surfside to pay said bonds or the interest thereon, and the issuance of bonds payable exclusively from revenues shall not directly or indirectly or contingently obligate the Town of Surfside to levy or pledge any form of taxation whatever therefor. Each such bond issued under this Article shall recite in substance that said bond, including interest thereon, is payable from the revenue pledged to the payment thereof, and that the holder of said bonds shall have no recourse to the power of taxation.

Sec. 85. - General obligation bonds subject to referendum; each individual proposal to be approved.

If the initial ordinance authorized the issuance of bonds not payable exclusively from the revenue of a municipal project, such bonds may be issued only after the issuance of such bonds shall have been approved by a majority of the vote cast at an election at which a majority of the freeholders who are qualified electors, residing in the Town of Surfside, shall participate. Such election shall be called and held as provided for by law.

Where two or more bond proposals are submitted to the freeholders on the same ballot or in the same election, only those individual and specific proposals on which a majority of the freeholders vote (as distinguished from general participation in the election) shall qualify for approval, as prescribed in the foregoing.

Sec. 86. - Tax ordinance required on general obligation bonds.

At any time before delivering any bonds to be issued pursuant to this Article, not payable exclusively from the revenue of a municipal project, the commission of the Town of Surfside shall pass an ordinance (herein called the "tax ordinance") which shall recite in substance that adequate provision will be made for raising annually by tax upon all property subject to taxation by the Town of Surfside a sum sufficient to pay the interest on and principal of such bonds as the

same shall become due. A tax sufficient to pay when due such principal and such interest shall be levied annually and assessed, collected and paid, in like manner with the other taxes of the Town of Surfside, and shall be in addition to all other taxes authorized or limited by law.

It shall be the duty of the commission of the Town of Surfside to include in the annual levy a tax sufficient to pay the interest on and principal of such bonds as the same become due; provided, however, that if the bonds are payable from taxes only in the event of a deficiency in revenues or are payable from taxes and additionally secured by a pledge of revenues, and if the tax ordinances shall so provide, then in such events, the tax to be levied and assessed by the commission of the Town of Surfside may be reduced by such amount and under such conditions as may be determined in such tax ordinance. When for any reason all or any part of the principal of or interest on any bonds issued by the Town of Surfside pursuant to this Article, not payable exclusively from the revenues of a municipal project, shall not be paid when due there shall be levied and assessed by the Town of Surfside and collected by the proper collecting officers at the first assessment, levy and collection of taxes in the Town of Surfside, after such omission or failure, a tax sufficient to pay the same.

Sec. 87. - Form and general requirements of bonds.

Bonds may be issued under this Charter in one or more series, may bear such date or dates; may bear interest at such rate or rates, not exceeding seven and one-half per centum per annum, payable semi-annually; may be in such denomination; may be in such form, either coupon or registered; may be payable at such place or places; may carry such registration and conversion privileges; may be executed in such manner; may be payable in such medium of payment at such times and places; may be subject to such terms and redemption, with or without premium; and may be declared or become due before the maturity date thereof, as may be provided by ordinance of the commission of the Town of Surfside.

(Res. No. 744, § 1(l), 1-15-70)

Sec. 88. - Maximum period of bonds.

Bonds may be issued for terms not exceeding thirty years.

(Ord. No. 312, § 1(3), 3-22-55; Laws of Fla. ch. 31285(1955), § 9)

Sec. 89. - Sale of bonds; all bonds to be negotiable instruments.

The bonds authorized to be issued by this Article shall be sold in the manner provided by law. The bonds may be sold in any such manner and for such price as the commission of the Town of Surfside may by ordinance determine to be for the interests of the town, but no bonds shall be sold at a price so low as to require the payment of interest on the money received therefor at more than seven and one-half per centum per annum, computed with relation to the absolute maturity of the bonds in accordance with standard tables of bond values, excluding, however, from such computation the amount of any redemption premium. The bonds shall be fully negotiable for all purposes.

All bonds issued under the provisions of this Charter shall have, and are hereby declared to have, as between successive holders, all the qualities and incidents of negotiable instruments under the negotiable instruments laws of the State of Florida. Bonds issued under this Article bearing the signature of officers in office on the date of the signing thereof shall be valid and binding obligations, notwithstanding that before the delivery thereof any or all of the persons whose signatures appear thereon shall have ceased to be officers of the Town of Surfside.

(Res. No. 744, § 1(m), 1-15-70)

Sec. 90. - Interim certificates, etc.

Pending the preparation or delivery of the definitive bonds for the purpose of financing the construction of a municipal project, interim certificates or other temporary obligations may be issued by the Town of Surfside to the purchaser of such bonds. Such interim certificates or other temporary obligations shall be in such form and contain such terms, conditions and provisions as the commission of the Town of Surfside may determine.

Sec. 91. - Refunding bond issue.

Editor's note— Section 91 was repealed by Ord. No. 312, § 1(5), 3-22-55 and Laws of Fla. ch. 31285(1955), § 10.

Sec. 92. - Municipal projects to be self-supporting when financed by revenue bonds; fixing project rates, etc.

The commission of the Town of Surfside issuing bonds payable exclusively from the revenue of a municipal project shall prescribe and collect reasonable rates, fees or charges for the services, facilities and commodities of such municipal projects, and shall revise such rates, fees or

charges from time to time whenever necessary so that such municipal projects shall be and always remain self-supporting. The rates, fees or charges prescribed shall be such as will produce at least sufficient revenue to (a) pay when due all bonds and interest thereon, for the payment of which such revenue is or shall be pledged, charged or otherwise incumbered, including reserves therefor, and (b) provide for all expense of operation and maintenance of such municipal project, including reserves therefor.

Sec. 93. - Limitations on bonds and bonded indebtedness.

Bonds issued by the Town of Surfside may or may not be limited as follows:

- (a) The total amount of general obligation bonds of the Town of Surfside outstanding in any one fiscal year shall not exceed fifteen per centum of the assessed value of the taxable property of the town according to the assessment roll;
- (b) Bonds payable exclusively from the revenue of a municipal project may be issued under this Article notwithstanding and without regard to any limitation on indebtedness prescribed by this or any other law;
- (c) Bonds, other than bonds payable exclusively from the revenue of a municipal project, issued by the Town of Surfside under this Article shall be considered in computing the amount of indebtedness which the town may incur under any other law; and
- (d) Bonds, payable exclusively from the revenue of a municipal project or from special assessments, issued by the Town of Surfside under this Article shall not be considered in computing the amount of indebtedness which the Town of Surfside may incur under any other law.

(Res. No. 620, § 1rr, 4-14-64; Res. No. 744, § 1(n), 1-15-70)

Sec. 94. - Pledge of security for payment of bonds.

In order to secure the payment of any of the bonds issued pursuant to this Article and interest thereon, or in connection with such bonds, the Town of Surfside shall have all power as to such bonds:

- (a) To pledge the full faith and credit and unlimited taxing power of the town to the punctual payment of the principal of and interest on such bonds.

- (b) To pledge all or any part of the fees, rents, tolls or other charges, received or receivable by the Town of Surfside, from any municipal project then existing or thereafter to be constructed to the punctual payment of bonds issued for such municipal project, and interest thereon, and to covenant against thereafter pledging any such fees, rents, tolls, or charges to any other bonds or any other obligations of the Town of Surfside for any other purposes.
- (c) To provide for the terms, form, registration, exchange, execution and authentication of such bonds.
- (d) To provide for the replacement of lost, destroyed or mutilated bonds.
- (e) To covenant as to the use and disposition of the proceeds from the sale of such bonds.
- (f) To covenant as to the fees, rents or tolls to be charged in connection with the municipal project for which such bonds are to be issued, and as to the use and disposition to be made thereof.
- (g) To covenant to set aside or pay reserves and sinking funds for such bonds and as to the disposition thereof.
- (h) To redeem such bonds, as to covenant for their redemption, and to provide the terms and conditions thereof.
- (i) To covenant as to its books of account and as to the inspection and audit thereof and as to the accounting methods.
- (j) To make covenants other than, and in addition to, the covenants herein authorized.
- (k) To execute all instruments necessary or convenient in the exercise for the powers herein granted or in the performance of its covenants or duties, including trust indentures to secure bonds payable exclusively from revenues.
- (l) To make such covenants and do any and all such acts and things as may be necessary or convenient or desirable in order to secure such bonds, or in the absolute discretion of the commission of the Town of Surfside tends to make such bonds more marketable, notwithstanding that such covenants, acts or things may not be enumerated herein; it being the purpose hereof to give the

Town of Surfside power to do all things in the issuance of the bonds and for their security that may be consistent with the constitution of the State of Florida.

(Res. No. 620, § 1ss, 4-14-64)

Sec. 95. - Rights of bondholders.

Any holder or holders of the bonds shall have the right in addition to all other rights:

- (a) By mandamus or other suit, action or proceedings in any court of competent jurisdiction to enforce his or their rights against the town and the commission of the Town of Surfside, and any officer, agent or employee of the town, including, but not limited to, the right to require the town and the commission and any proper officer, agent or employee of the town to assess, levy, and collect taxes, and to collect fees, rents, tolls, or other charges adequate to carry out any agreement as to, or pledge of, such taxes, fees, rents, tolls or other charges, and to require the town and the commission and any officer, agent or employee of the Town of Surfside to carry out any other covenants and agreements and to perform its and their duties under this law.
- (b) By action or suit in equity to enjoin any acts or things which may be unlawful or in violation of the rights of such holder of bonds.

Sec. 96. - Procedure for issuance of bonds.

All action required or authorized to be taken under this Article by the commission of the Town of Surfside shall be by ordinance in accordance with the provisions of this Charter respecting the passing of ordinances.

Any ordinance authorizing bonds under this Article may provide that such bonds shall contain a recital that they are issued pursuant to this Article, which recital shall be conclusive evidence of their validity and the regularity of their issuance. Bonds to be issued under this Article may be validated as provided in Article 7 of Chapter IX of Title III of the Second Division of the Compiled General Laws of Florida, 1927, and amendments thereto.

The powers conferred by this Article shall be in addition to and the limitations imposed by this Article shall not affect the powers conferred by any other law and not in substitution for the powers conferred by any other law. Bonds may be issued hereunder for any municipal project not

withstanding that any other law may provide for the issuance of bonds for like purposes, and without regard to the requirements, restrictions of procedural provisions contained in any other law. Any proceedings heretofore taken by the Town of Surfside relating to the subject matters of this Article, whether or not commenced under any other law, may be continued under this Article, or, at the option of the commission of the Town of Surfside, may be discontinued and new proceedings instituted under this Article.

If any provisions of this Article, or the application of such provisions to any person, body or circumstances shall be held invalid, the remainder of this Article, or the application of such provisions to persons, bodies or circumstances other than those as to which it shall have been invalid, shall not be affected thereby.

Sec. 96.01. - State election code applicable to bond elections.

All bond elections called pursuant to this Article V shall be held in accordance with the Election Code of the State of Florida.

(Res. No. 620, § 1tt, 4-14-64)