

VILLAGE OF ESTERO, FLORIDA

RESOLUTION NO. 15 - 32

A RESOLUTION OF THE VILLAGE COUNCIL OF THE VILLAGE OF ESTERO, FLORIDA, ADOPTING THE INTERLOCAL AGREEMENT FOR DISTRIBUTION OF LOCAL OPTION GAS TAXES BY AND BETWEEN LEE COUNTY AND THE VILLAGE OF ESTERO; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Local Option Gas Tax revenues are levied by authority of the State of Florida and Lee County Ordinance; and

WHEREAS, upon approval of the Interlocal Agreement for the Distribution of Local Option Gas Taxes, the Village will receive revenue derived from Lee County's distribution of the Local Option Gas Tax; and

WHEREAS, pursuant to the Interlocal Agreement for the Distribution Local Option Gas Taxes, Lee County and the Village of Estero have agreed that a specified percentage of those revenues should be allotted to the Village of Estero; and

WHEREAS, the Village Council believes it is in the best interest of the Village to receive a portion of the Local Option Gas Taxes to be utilized for only those purposes and uses as provided by law.

NOW, THEREFORE, be it resolved by the Village Council of the Village of Estero, Florida, that:

SECTION ONE. The above recitals are true and correct and incorporated herein.

SECTION TWO. The Village Council authorizes the Mayor to execute the Interlocal Agreement for Distribution of Local Option Gas Taxes with Lee County and such agreement is hereby incorporated as Exhibit A.

SECTION THREE. This resolution shall take effect immediately upon adoption.

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46 20<sup>th</sup> **ADOPTED BY THE VILLAGE COUNCIL** of the Village of Estero, Florida this  
47 day of May, 2015.  
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49  
50 Attest:

51  
52 By: 

53 Peter Lombardi  
54 Interim Village Manager/  
55 Custodian of Village Records  
56  
57

**VILLAGE OF ESTERO, FLORIDA**

By: 

Nicholas Batos  
Mayor

58 Reviewed for legal sufficiency:

59  
60 By: 

61 Burt Saunders, Esq.  
62 Village Attorney

Exhibit A

**INTERLOCAL AGREEMENT FOR**  
**DISTRIBUTION OF LOCAL OPTION GAS TAXES**  
**BY AND BETWEEN**  
**LEE COUNTY AND THE VILLAGE OF ESTERO**

THIS INTERLOCAL AGREEMENT made on this 1st day of June, 2015, by and between **LEE COUNTY**, a political subdivision and charter county of the State of Florida ("County"), and the **VILLAGE OF ESTERO**, a municipal corporation of the State of Florida ("Village"), collectively the Parties hereto, is for the purpose of establishing a methodology and format for a division and distribution of certain Local Option Gas Taxes levied by County Ordinances within Lee County pursuant to Chapter 336, Florida Statutes, and other provisions of law.

**WHEREAS**, the County and Village desire to enter into an Interlocal Agreement for Distribution of Local Option Gas Taxes; and,

**WHEREAS**, the Village Council represents to the County and the County acknowledges, that the Village is lawfully eligible to receive a portion of the Local Option Gas Taxes pursuant to law; and,

**WHEREAS**, the County Local Option Gas Taxes are by law to be annually divided among, and distributed to, the several eligible municipalities within the County by Interlocal Agreement or statutory formula; and,

**WHEREAS**, this is one of several Interlocal Agreements between the County and its municipalities providing the terms and conditions for the annual division and distribution of the proceeds of the Local Option Gas Taxes; and,

**WHEREAS**, this Agreement and all other such Agreements shall be collectively deemed as one Agreement (the Local Option Gas Tax Interlocal Agreement) for the purposes of Section 336.025(3)(a)(1), Florida Statutes, and which Interlocal Agreement, constitutes an Interlocal Agreement for the annual Local Option Gas Tax distribution between Lee County and the municipalities therein representing a majority of the incorporated area population within the County; and,

**WHEREAS**, pursuant to Section 74 of the Village of Estero Charter, the Village Council has made a finding that the distribution within this Interlocal Agreement substantially meets the intent of the lane mile formula as contained in Section 336.025(4)(b)(1), Florida Statutes.

**SECTION I.**            **ANNUAL LOCAL OPTION GAS TAX DISTRIBUTION:**

<u>Recipient</u>	<u>% Distribution</u>
City of Bonita Springs	<u>4.54%</u>
City of Cape Coral	<u>24.95%</u>
City of Fort Myers	<u>14.00%</u>
City of Sanibel	<u>5.00%</u>
Town of Fort Myers Beach	<u>1.17%</u>
Village of Estero	<u>2.54%</u>
Lee County	<u>47.80%</u>

Exhibit A attached.

**SECTION II.**

This Interlocal Agreement for the annual distribution of Local Option Gas Taxes to the Village shall be effective from the date that all parties executed agreement to August 31, 2019, both dates inclusive.

### **SECTION III.**

- a) The percentage allocation and distribution of the Local Option Gas Tax to the Village shall be calculated based on a formula that consists of fifty percent (50%) from the centerline miles within the Village and fifty percent (50%) from the population of the Village utilizing the latest University of Florida Bureau of Economic and Business Research population estimates in proportion to the centerline miles and population of unincorporated Lee County.
- b) Pursuant to the above formula, the Village's annual distribution of the Local Option Gas Taxes for the term of this agreement shall be 2.54% of the total proceeds as distributed by the State of Florida Department of Revenue for unincorporated Lee County and all municipalities within Lee County, unless the annual distribution is modified pursuant to Section III.(c) below; such share and distribution coming solely from the County's share of the Local Option Gas Tax proceeds.
- c) The Parties further agree to negotiate a new agreement at the end of this term. If no agreement is reached the percentage allocation and distribution will revert to the statutory formula.

### **SECTION IV.**

The Village agrees and represents to the County that all Local Option Gas Tax proceeds received will be utilized by the Village for only those purposes and uses as provided for by law.

#### **SECTION V.**

- a) At no time, and under no circumstances shall the agreed upon formula or distribution of Local Option Gas Tax proceeds to the Village under this Interlocal Agreement, materially, adversely affect or impact the rights of the bond holders of any outstanding Lee County Transportation Bonds which are supported in whole or in part by the Local Option Gas Tax proceeds authorized by Section 336.025, Florida Statutes, and as distributed herein.
- b) Additionally, the amounts distributed to the Village and the several municipalities shall not at any time reduce the County's proceeds necessary to meet its payments of principal and interest, and reserves for such principal and interest payments required under any outstanding Lee County Transportation Bond Resolutions as of the date of this Interlocal Agreement.

#### **SECTION VI.**

- a) This Interlocal Agreement is expressly contingent upon the County's continued levy by County Ordinances of the Local Option Gas Taxes as authorized by law, for the term of this Agreement.
- b) If said County Local Option Gas Tax Ordinances are for any lawful reason(s) repealed, sunset or otherwise terminated by the County as to their effectiveness, then this Interlocal Agreement will automatically terminate and be of no further force or effect.

**SECTION VII.**

All monies distributed pursuant to this Interlocal Agreement shall solely be utilized for those transportation programs as provided for by Section 336.025(7), Florida Statutes.

**SECTION VIII.**

This Interlocal Agreement may only be amended as provided for herein, with the expressed consent of both Parties and executed with the same formality and dignities as this original Agreement.

**SECTION IX. APPLICABLE LAW**

This Agreement shall be construed and interpreted according to the laws, rules and regulations of the City, the County and the State of Florida.

**SECTION X.       SCOPE OF THE AGREEMENT**

This Agreement, including any incorporated exhibits or amendments, constitutes the entire Agreement between the Parties and shall supersede and control over any or all prior Agreements or understandings, either written or oral, relating to the matters herein.

**SECTION XI. NOTICES**

All notices or demands are deemed to have been given or made when delivered in person or delivered by certified or registered mail, return receipt requested, postage prepaid, United States mail, and addressed to the respective Parties as follows:

**Lee County:**

Lee County Board of County Commissioners  
P.O. Box 398  
Fort Myers, Florida 33902-0398  
Attention: County Manager

**Village of Estero:**

Village of Estero Council  
21500 Three Oaks Parkway  
Estero, Florida 33928  
Attention: Village Manager

The address to which any notice or demand may be given to either party may be changed in writing.

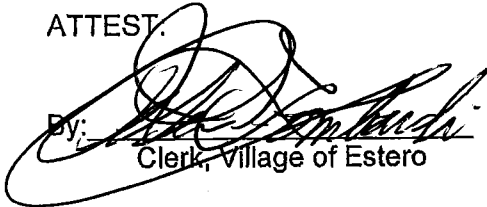
**SECTION XII.**      **MISCELLANEOUS**

- a) The Parties represent each to the other that they have full authority to enter into and execute this Agreement.
- b) This Agreement contains all agreements, promises and understandings between the County and the Village. Any exhibits are attached hereto and incorporated herein.
- c) The terms and conditions of this Agreement shall extend to and bind the heirs, personal representatives, successors and assigns of the County and the Village.
- d) The drafting of this Agreement has been a joint endeavor between the Parties and shall not, solely as a matter of judicial construction, be interpreted more strictly against one Party than the other.
- e) The invalidity of any provision hereof as may be found by a court of competent jurisdiction shall in no way affect or invalidate the remaining provisions of the Agreement.
- f) In no case shall either Party be liable to the other for either consequential or special damages of any kind whatsoever, including, but not limited to, lost revenues, or any other damages of any kind.
- g) Any disputes between the Parties arising under this Agreement shall be governed by Florida law.



IN WITNESS WHEREOF, the Parties hereto have caused these presents to be executed on the day and year first written above.

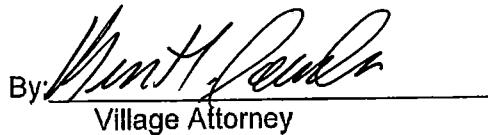
ATTEST:

By:   
Clerk, Village of Estero

VILLAGE OF ESTERO

By:   
Nick Bates, Mayor

APPROVED AS TO FORM:

By:   
Village Attorney

ATTEST: LINDA DOGGETT  
CLERK OF THE COURTS

By: \_\_\_\_\_  
Deputy Clerk

BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA

By: \_\_\_\_\_  
Chair

APPROVED AS TO FORM FOR THE  
RELIANCE OF LEE COUNTY ONLY:

By: \_\_\_\_\_  
Office of the County Attorney

EXHIBIT A

LOCAL OPTION GAS TAX DISTRIBUTION May, 2015							
	POPULATION 2014 BEER	CURRENT	CENTERLINE MILES MAY, 2015		BASED ON 50/50 SPLIT BETWEEN CENTERLINE MILES AND POPULATION	ESTERO PROPOSED	Contract End
	Population 2013	Percent Allocation	Current Gas Tax Allocation	Centerline Miles	Percent Allocation	Percent Allocation	
Cape Coral	165,831	25.38	24.95	1,601	34.77	24.95	12/31/16
Fort Myers	68,190	10.43	14.00	225	4.89	14.00	8/31/19
Sanibel	6,913	1.06	5.00	90	1.95	5.00	8/31/19
Fort Myers Beach	6,576	1.02	1.17	23	0.50	1.17	9/30/18
Bonita Springs	47,547	7.28	4.54	86	1.87	4.54	06/21/16
Estero	29,639	4.54	0.00	25	0.54	2.54	08/31/19 Proposed
Lee County	332,251	50.30	50.34	2,554	55.47	47.80	
	653,485	100.00	100.00	4,604	100.00	100.00	