

Blue Sheet No. 20160467	Lee County Board Of County Commissioners Agenda Item Report Meeting Date: 9/20/2016	Item No. <ITEM_OUTLINE>
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TITLE:

Approve Interlocal Agreement for Distribution of Local Option Gas Taxes between Lee County and the Village of Estero

ACTION REQUESTED:

Approve Interlocal Agreement for Distribution of Local Option Gas Taxes (Attachment) between Lee County and the Village of Estero

FUNDING:

Local Option Gas Taxes (5 cents and 6 cents).

WHAT ACTION ACCOMPLISHES:

Provides new agreement for distribution of local option gas taxes to the Village for the period of October 1, 2016 to August 31, 2017. The Village's percent is proposed to be 2.54%, the same percentage, terms, and conditions as the existing agreement.

MANAGEMENT RECOMMENDATION:

Approve.

Requirement/Purpose: (specify)

- Statute
- Ordinance
- Admin Code
- Other

Request Initiated

Commissioner:
Department: COUNTY MANAGER
Division: Budget Services
By: Peter Winton

Background:

The County has separate agreements with each of the cities specifying their share of the 5-cent and 6-cent local option gas taxes. This agreement with the Village of Estero, effective October 1, 2016 and good for one year, maintains the Village's share at 2.54%.

Attachment - Second Interlocal Agreement for Distribution of Local Option Gas Taxes

Required Review:

<Signature>	<Signature>	<Signature>	<Signature>	<Signature>	<Signature>
<Department>	<Department>	<Department>	<Department>	<Department>	<Department>
<Signature>	<Signature>	<Signature>	<Signature>	<Signature>	<Signature>
<Department>	<Department>	<Department>	<Department>	<Department>	<Department>

**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 6th day of September, 2016, 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, 2017, both dates inclusive.

SECTION III.

- a) 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; such share and distribution coming solely from the County's share of the Local Option Gas Tax proceeds.
- b) 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 be as provided by Florida law.

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:

VILLAGE OF ESTERO

By: _____
Clerk, Village of Estero

By: _____
Nick Batos, Mayor

APPROVED AS TO FORM:

By: _____
Village Attorney

ATTEST: LINDA DOGGETT
CLERK OF THE COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chair

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

By: _____
Office of the County Attorney