

Town of Fort Myers Beach  
Agenda Item Summary

Blue Sheet Number: 2013-102

**1. Requested Motion:**

**Meeting Date: Sept. 16, 2013**

Approve the Third inter-local Agreement for Distribution of Local Option Gas Taxes by and between Lee County and the Town of Fort Myers Beach

**Why the action is necessary:**

Authorize the Town to enter into an Inter-local agreement with Lee County regarding gas tax revenue.

**What the action accomplishes:**

Approval of this Inter-local agreement provides the framework for future distribution of local option gas taxes to the Town.

**2. Agenda:**

- Consent
- Administrative
- Public Hearing

**3. Requirement/Purpose:**

- Resolution
- Ordinance
- Other

**4. Submitter of Information:**

- Council
- Town Staff - Town Manager
- Town Attorney

**5. Background:**

Certain gas tax monies are distributed by the State to the County each year. The County and Town have agreed upon a specified percentage of those revenues to be allocated to the Town. The distribution amount to the Town in the 2009 agreement was 1.02% and that amount has increased to 1.17%. The agreement is for a period of five years ending September 30, 2018 at which time the agreement must be re-negotiated and approved. The documents have been reviewed by the Town Attorney

**ATTACHMENTS:**

- Inter-local Agreement
- Local Option Gas Tax Distribution Scenarios (from Lee County)


**6. Alternative Action:**

Decline participation in the Inter-local Agreement

**7. Management Recommendations:**

Authorize the Town to enter into the Third Inter-local Agreement for Distribution of Local Options Gas Taxes between Lee County and the Town of Fort Myers Beach.

**8. Recommended Approval:**

| Town Manager  | Town Attorney | Finance Director | Public Works Director | Community Development Director | Parks & Recreation Director | Town Clerk |
|---|---------------|------------------|-----------------------|--------------------------------|-----------------------------|------------|
|  |               |                  |                       |                                |                             |            |

**9. Council Action:**

Approved     Denied     Deferred     Other

**THIRD INTERLOCAL AGREEMENT FOR  
DISTRIBUTION OF LOCAL OPTION GAS TAXES  
BY AND BETWEEN  
LEE COUNTY AND THE TOWN OF FORT MYERS BEACH**

THIS THIRD INTERLOCAL AGREEMENT for Distribution of Local Option Gas Taxes made as of this \_\_\_\_ day of \_\_\_\_\_, 2013, by and between **LEE COUNTY**, a political subdivision and charter county of the State of Florida ("COUNTY"), and the **TOWN OF FORT MYERS BEACH**, a municipal corporation of the State of Florida ("TOWN"), collectively, "the Parties", hereto. It is created for the purpose of establishing a methodology and format for the division and distribution of certain Local Option Gas Taxes levied by County Ordinances within Lee County, pursuant to Chapter 336, relating to the 5 and 6 cents Local Option Gas Taxes. This Agreement will succeed the prior Agreement dated March 3, 2009, as amended on April 16, 2009, between the parties, which will expire on September 30, 2013.

**RECITALS**

**WHEREAS**, the TOWN and the COUNTY entered into an Interlocal Agreement dated July 8, 2003 regarding the allocation of the Local Option Gas Taxes; and,

**WHEREAS**, the TOWN and the COUNTY entered into a Second Interlocal Agreement dated March 3, 2009, as amended on April 16, 2009, that replaced the first Interlocal Agreement regarding the allocation of the Local Option Gas Taxes; and,

**WHEREAS**, it is in the public interest of both the TOWN and the COUNTY to adopt a new Agreement providing the method of distribution of local option gas tax to replace the Second Interlocal Agreement, which is set to expire on September 30, 2013; and,

**NOW THEREFORE**, in consideration of the above premises and other good and valuable consideration, the sufficiency of which is hereby acknowledged by the Parties, the TOWN and the COUNTY hereby agree to enter into this Third Interlocal Agreement as follows:

**SECTION I**                    **INCORPORATION OF RECITALS**

The Recitals as set forth above are incorporated into the terms of this Agreements as if set out herein at length.

**SECTION II                    ANNUAL LOCAL OPTION GAS TAX DISTRIBUTION:**

| <b><u>Recipient</u></b>  | <b><u>Percentage of Distribution</u></b> |
|--------------------------|--|
| City of Bonita Springs   | 4.54%                                    |
| City of Cape Coral       | 24.95%                                   |
| City of Fort Myers       | 14.00%                                   |
| Town of Fort Myers Beach | 1.17%                                    |
| City of Sanibel          | 5.00%                                    |
| Lee County               | 50.34%                                   |
| <br>                     |  |
| Total                    | 100.00 %                                 |

**SECTION III                    TERM OF AGREEMENT**

This Interlocal Agreement for the annual distribution of Local Option Gas Taxes to the TOWN shall be effective as of October 1, 2013 through September 30, 2018, both dates inclusive.

**SECTION IV                    ALLOCATION AND DISTRIBUTION TO TOWN**

A. The base percentage allocation of the Local Option Gas Taxes to the TOWN has been calculated using a formula consisting of fifty percent (50%) from the centerline miles of roadways maintained by the TOWN and fifty percent (50%) from the population of the TOWN, in proportion to the centerline miles of all roadways maintained by all municipalities and Lee County and the total population of all the municipalities and unincorporated Lee County. The population figure of the TOWN has been calculated using both year-round population and seasonal population. The year-round population, assumed to be from April 1 through October 31 (7 months), is based upon the April, 2012 edition of "Florida Population Studies" (University of Florida Bureau of Economic Research, Warrenton College of Business). The seasonal population assumed to be from November 1 through March 30 (5 months), is based upon the 2010 Census Table DP-1 - Seasonal Recreational and Occasional Use Dwelling Units for Fort Myers Beach multiplied by the Population Per Dwelling Unit for Fort Myers Beach from Table DP-1 reduced by an occupancy rate of 92%. The resulting seasonal figure is then combined with the year-round figure to create a blended annual base percentage rate which shall be in effect for the term of this Agreement. Pursuant to the combined population figures above and centerline miles, the TOWN'S annual percentage allocation of Local Option Gas Taxes for the term of this Agreement shall be a blended rate of 1.17% of the total proceeds as distributed by the State of Florida Department of Revenue for unincorporated Lee County and all municipalities within Lee County.

B. The COUNTY shall submit the allocation to the Florida Department of Revenue each year (1.17%). The annual distribution will be distributed to the TOWN directly

from the Florida Department of Revenue.

**SECTION V            TOWN AND COUNTY COVENANTS**

Each party agrees and confirms to the other that all Local Option Gas Tax proceeds, as distributed by the State pursuant to this Agreement, will be utilized for only those purposes and uses as provided for by law.

**SECTION VI            BOND COVENANTS**

A. At no time, and under no circumstances shall the agreed-upon formula or distribution of Local Option Gas Tax proceeds to the TOWN 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 TOWN shall not at any time reduce the COUNTY'S proceeds required 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 hereof.

**SECTION VII            ONGOING OBLIGATIONS**

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 the 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 shall be of no further force or effect.

**SECTION VIII            AMENDMENT TO AGREEMENT**

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

**SECTION IX            INTERPRETATION OF AGREEMENT**

This Interlocal Agreement shall be construed and interpreted according to the laws, rules and regulations of the TOWN, the COUNTY and the State of Florida.

**SECTION X            INTEGRATION OF DOCUMENT**

This Interlocal 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            NOTICE PROVISIONS**

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<br>Post Office Box 398<br>Fort Myers, Florida 33902-0398<br>Attention: County Manager |
|-------------|--|

|                              |   |
|------------------------------|---|
| Town of Fort Myers<br>Beach: | Town Council, Town of Fort Myers Beach<br>2523 Estero Boulevard<br>Fort Myers Beach, Florida 33931<br>Attention: Town 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 that they have full authority to enter into and execute this Interlocal Agreement.
- B. The terms and conditions of this Interlocal Agreement shall extend to and bind the successors and assigns of the COUNTY and the TOWN.
- C. The drafting of this Interlocal 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.
- D. 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.
- E. 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 relating to this Agreement.
- F. Disputes arising under this Interlocal Agreement shall be resolved pursuant to Florida law. Venue shall be the Twentieth Judicial Circuit Court, in Lee County, Fla.

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

**ATTEST: CLERK, TOWN OF  
FORT MYERS BEACH**

**TOWN OF FORT MYERS BEACH**

BY: \_\_\_\_\_  
Clerk

BY: \_\_\_\_\_  
Mayor

APPROVED AS TO FORM:

BY: \_\_\_\_\_  
Town Attorney

**ATTEST: LINDA DOGGETT  
CLERK OF COURTS**

**BOARD OF COUNTY COMMISSIONERS  
OF LEE COUNTY, FLORIDA**

BY: \_\_\_\_\_  
Deputy Clerk

BY: \_\_\_\_\_  
Chair

APPROVED AS TO FORM:

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

**LOCAL OPTION GAS TAX (LOGT) DISTRIBUTION SCENARIOS**  
**UPDATE, AUGUST 1, 2013**  
**SEASONAL ADJUSTMENT FACTOR INCLUDED USING 2010 CENSUS**

|                         | POPULATION Includes Seasonal Population 2000 Census |                    | CURRENT THROUGH FY12-13    | BASED UPON CENTERLINE MILES REVISED FEBRUARY, 2013 |                    | BASED UPON 50/50 SPLIT BETWEEN CENTERLINE MILES AND APRIL 1, 2012 POPULATION | REVISED ALLOCATION FOR FY13-14 |
|-------------------------|---|--------------------|----------------------------|--|--------------------|--|--------------------------------|
|                         | Population 1-Apr-12                                 | Percent Allocation | Current Gas Tax Allocation | Centerline Miles                                   | Percent Allocation | Percent Allocation   | Percent Allocation             |
| Cape Coral              | 175,793   | 22.92              | 24.95                      | 1,601.00   | 33.86              | 28.39  | 24.95                          |
| Fort Myers              | 74,131  | 9.66               | 14.00                      | 225.00   | 4.76               | 7.21   | 14.00                          |
| Sanibel                 | 13,210  | 1.72               | 5.00                       | 90.00  | 1.90               | 1.81   | 5.00                           |
| <b>Fort Myers Beach</b> | <b>14,173</b>                                       | <b>1.85</b>        | <b>1.02</b>                | <b>23.00</b>                                       | <b>0.49</b>        | <b>1.17</b>  | <b>1.17</b>                    |
| Bonita Springs          | 63,097  | 8.23               | 4.54                       | 86.00  | 1.82               | 5.02   | 4.54                           |
| Lee County              | 426,684   | <u>55.62</u>       | <u>50.49</u>               | <u>2,703.00</u>                                    | <u>57.17</u>       | <u>56.40</u>   | <u>50.34</u>                   |
|                         | 767,087   | 100.00             | 100.00                     | 4,728.00   | 100.00             | 100.00   | 100.00                         |

|              |                 |
|--------------|-----------------|
| 5 months     | 0.486263        |
| 7 months     | 0.680768        |
|              | 1.167031        |
| Blended Rate | <b>1.167031</b> |

|                  | 2010 Census Seasonal Recreational Occas. Use Table DP-1 | 2010 Census Population Per Dwelling Unit Table DP-1 | Occupancy Rate | Derived Seasonal Population | 767,087<br><del>(129,058)</del><br>638,029 | Total Seasonal Permanent |
|------------------|---|---|----------------|-----------------------------|--|--------------------------|
| Cape Coral       | 6,706   | 2.53  | 0.92           | 15,609                      |  |                          |
| Fort Myers       | 3,346   | 2.37  | 0.92           | 7,296                       |  |                          |
| Sanibel          | 3,805   | 1.92  | 0.92           | 6,721                       |  |                          |
| Fort Myers Beach | 4,756   | 1.81  | 0.92           | 7,920                       |  |                          |
| Bonita Springs   | 8,918   | 2.19  | 0.92           | 17,968                      |  |                          |
| Lee County       | <u>34,606</u>   | 2.31  | 0.92           | <u>73,545</u>               |  |                          |
| <b>TOTAL</b>     | 62,137 units  |   |                | 129,058 people              |  |                          |



INTERLOCAL AGREEMENT  
BETWEEN  
LAKE COUNTY  
AND  
MUNICIPALITIES  
RELATING TO  
LOCAL OPTION FUEL TAX

**THIS AGREEMENT** entered into by and between the Board of County Commissioners of Lake County, Florida, hereinafter referred to as "County", and the Municipalities who have signed this Agreement, hereinafter referred to as "Municipalities".

**WHEREAS**, Florida Statute 336.025 (1)(a)(1) allows the governing body of a county to impose in addition to other taxes allowed by law, a one-cent, two-cent, three-cent, four-cent, five-cent, or six-cent local option fuel tax, upon every gallon of motor fuel and diesel fuel sold in that county and taxed under Chapter 206, Florida Statutes (hereinafter referred to as the "Gas Tax"), and

**WHEREAS**, County imposed the first two cents (the first and second cents) Gas Tax in 1984 beginning September 1, 1984 for an initial period of ten years, and

**WHEREAS**, County extended the first two cents Gas Tax in 1994 beginning September 1, 1994 for a period of twenty years extending until August 31, 2014, and

**WHEREAS**, County further extended the first two cents Gas Tax in 2014 for a period of twenty-nine years and four months extending until December 31, 2043, and

**WHEREAS**, County imposed the second two cents (the third and fourth cents) of the Gas Tax in 1985 beginning September 1, 1985 for an initial period of thirty years extending until August 31, 2015, and

**WHEREAS**, County imposed the third two cents (the fifth and sixth cents) of the Gas Tax in 1986 beginning September 1, 1986 for an initial period of thirty years extending until August 31, 2016, and

**WHEREAS**, Florida Statute 336.025 provides that the proceeds of the Gas Tax may only be used for transportation expenditures as defined in the statute, and further that such tax shall be distributed between a county and municipalities located in such county based either on transportation

expenditures or upon the formula approved by the county and municipalities representing a majority of the incorporated population of that county, and

**WHEREAS**, the current Gas Tax in Lake County is divided between the County and the Municipalities in the county based on interlocal agreements, and

**WHEREAS**, County is considering the extension of some or all of the Gas Tax as each two cents expire in 2015, and 2016, and is desirous of entering into a new interlocal agreement which would set forth a new formula for distribution of the Gas Tax should any of such taxes be extended, and

**WHEREAS**, Florida Statute 336.025 requires that such agreement be approved by the county and with municipalities representing a majority of the incorporated population of the county, and

**WHEREAS**, Municipalities are desirous of entering into a new agreement with County and other Lake County municipalities to set forth a new formula for the distribution of the Gas Tax should any or all of it be extended by County, and

**IT IS AGREED** by County and Municipalities as follows:

1. **Recitals.** The foregoing recitals are true and correct and incorporated herein.
2. **Authority.** This agreement is entered into by County and Municipalities pursuant to the authority provided by Florida Statutes 336.025 and 163.01.
3. **Scope of Agreement.** This agreement shall apply to all or any of the Gas Tax should such taxes be extended or imposed by County. This agreement shall not apply to the one-cent tax on every net gallon of motor and diesel fuel sold in Lake County which is known as the Ninth-Cent Fuel Tax and which is authorized by Florida Statute 336.021(1)(a).
4. **Effective Date; Existing Agreements.**
  - a. This agreement shall become effective upon the date that it is approved by County and Municipalities representing a majority of the incorporated population of Lake County.
  - b. The existing agreements between the parties relating to the Gas Tax shall be replaced by this agreement upon the effective date and the new formula implemented by the Department of Revenue at the earliest possible date.

5. **Distribution Formula.** County and Municipality agree that the proceeds of the one, two, three, four, five, and six cent Gas Tax, shall be distributed between County and Municipalities within Lake County based on the formula contained in this paragraph.

a. **County Share.** Beginning September 1, 2014 and thereafter, 66.38% of all six cents shall be distributed to County. The parties understand that the third and fourth cents of the Gas Tax will need to be renewed in 2015 and the fifth and sixth cents of the Gas Tax will need to be renewed in 2016; it is the intent of the parties that the County share of all six cents of the Gas Tax shall be 66.38% and shall continue for any of the six cents that are renewed.

b. **Municipal Share.**

i. **First and Second Cent Gas Tax.** Beginning September 1, 2014, the municipal share of the one and two cent Gas Tax shall be distributed to Municipalities in Lake County as follows: one-half (1/2) of the proceeds shall be based on the population distribution among each municipality and one-half (1/2) of the proceeds shall be based upon road miles of public roads maintained by each municipality. Population shall be determined utilizing the population estimates provided to the Governor by the Office of Economic and Demographic Research as provided in Florida Statute 186.901. Maintained road miles shall be determined from information reported by municipalities to the Florida Department of Transportation as provided in Florida Statute 218.322. The percentages set forth in this paragraph shall be recalculated each year beginning January 1, 2016, and the newly calculated percentages shall become effective on January 1<sup>st</sup> of each following year.

ii. **Third and Fourth Cent Gas Tax.** The municipal share of the third and fourth cents Gas Tax shall be distributed to municipalities in Lake County as follows:

1. Until August 31, 2015, the proceeds shall be distributed as follows:

|                |         |
|----------------|---------|
| Astatula       | 0.2932% |
| Clermont       | 3.6813% |
| Eustis         | 7.1562% |
| Fruitland Park | 0.5430% |

|                    |         |
|--------------------|---------|
| Groveland          | 0.7493% |
| Howey-In-The-Hills | 0.2932% |
| Lady Lake          | 0.5321% |
| Leesburg           | 9.8276% |
| Mascotte           | 0.8470% |
| Minneola           | 0.5104% |
| Montverde          | 0.4126% |
| Mount Dora         | 5.5165% |
| Tavares            | 1.9655% |
| Umatilla           | 1.2922% |

2. Commencing September 1, 2015 and thereafter the proceeds shall be distributed in the same manner and percentages as the first and second cent Gas Tax as set forth above.

iii. Fifth and Six Cent Gas Tax. The municipal share of the fifth and sixth cents Gas Tax shall be distributed to municipalities in Lake County as follows:

1. Until August 31, 2016, the proceeds shall be distributed as follows:

|                    |         |
|--------------------|---------|
| Astatula           | 0.5538% |
| Clermont           | 3.4749% |
| Eustis             | 6.8847% |
| Fruitland Park     | 1.5311% |
| Groveland          | 1.2271% |
| Howey-In-The-Hills | 0.3909% |
| Lady Lake          | 1.2379% |
| Leesburg           | 8.2530% |
| Mascotte           | 0.9556% |
| Minneola           | 0.5430% |
| Montverde          | 0.2606% |
| Mount Dora         | 3.6378% |

|          |         |
|----------|---------|
| Tavares  | 3.4641% |
| Umatilla | 1.2054% |

2. Commencing September 1, 2016 and thereafter the proceeds shall be distributed in the same manner and percentages as the first and second cent Gas Tax as set forth above.
- c. The county manager is hereby directed to determine the percentage allocations as provided in paragraph (b) and to provide copies to all Municipalities within Lake County, and to the Department of Revenue prior to October 1 of each year that the Gas Tax is in effect.
- d. Any dispute as to the determination of distribution proportions shall be resolved as provided in Florida Statutes 336.025(5)(b).

**6. Term of Agreement; Modification.**

- a. Once effective, this agreement shall remain in effect until modified or terminated by the parties, or until the termination of the Gas Tax.
- b. This agreement may be modified or terminated only by agreement in writing and approved by County and Municipalities representing a majority of the unincorporated population within Lake County, Florida.
- c. The parties shall review and hold public hearings on the terms of this Agreement every ten (10) years.

**Interlocal Agreement Between Lake County and Municipalities Relating to Local Option Gas Tax and Local Option Motor Fuel Tax**

IN WITNESS WHEREOF, the parties hereto have caused their duly authorized representatives to execute and deliver this Agreement as of the date set forth above.

ATTEST:

LAKE COUNTY, FLORIDA  
BOARD OF COUNTY COMMISSIONERS

\_\_\_\_\_  
Neil Kelly, Clerk of the Board of  
County Commissioners of Lake  
County, Florida

\_\_\_\_\_  
Jimmy Conner, Chairman

This \_\_\_\_ day of \_\_\_\_\_, 2014.

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
Sanford A. Minkoff  
County Attorney

Interlocal Agreement Between Lake County and Municipalities Relating to Local Option Gas Tax and Local Option Motor Fuel Tax

MUNICIPALITY

\_\_\_\_\_

This \_\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

\_\_\_\_\_  
City Clerk

APPROVED AS TO FORM AND LEGALITY:

\_\_\_\_\_  
City Attorney

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Meeting Date: April 22, 2014

Agenda Item 10

REQUESTED COMMISSION ACTION:

Consent     Ordinance     Resolution     Consideration     Workshop

SHORT TITLE OR MOTION:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A 2014 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF POMPANO BEACH PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS OF THE LOCAL OPTION GAS TAX IMPOSED BY THE BROWARD COUNTY LOCAL OPTION GAS TAX ORDINANCE; PROVIDING AN EFFECTIVE DATE.

Summary of Purpose and Why:

Six Cents Local Option Gas Tax – Broward County levies all six cents. The County retains 62.5% of the proceeds; the remaining 37.5% is distributed to the Cities based on population. The City’s share of the proceeds are deposited in the General Fund.

QUESTIONS TO BE ANSWERED BY ORIGINATING DEPARTMENT:

- (1) Origin of request for this action: Broward County
- (2) Primary staff contact: Brian Donovan, Assistant to the City Manager Ext. 4601
- (3) Expiration of contract, if applicable: \_\_\_\_\_
- (4) Fiscal impact and source of funding: Distributions are deposited into the General Fund (Fund 001)

DEPARTMENTAL COORDINATION

Budget  
Finance  
City Attorney

DATE  
4/7/2014  
4/2/14  
4/7/14

DEPARTMENTAL HEAD SIGNATURE OR ATTACHED MEMO NUMBER

*[Handwritten Signature]*

Public Works Administrator  
 City Manager *[Handwritten Signature]*

*[Handwritten Signature]*

ACTION TAKEN BY COMMISSION:

| <u>Ordinance</u>  | <u>Resolution</u> | <u>Consideration</u> | <u>Workshop</u> |
|-------------------|-------------------|----------------------|-----------------|
| 1st Reading _____ | 1st Reading _____ | Results: _____       | Results: _____  |
| 2nd Reading _____ | _____             | _____                | _____           |



**City Attorney's Communication #2014-848**

April 4, 2014

**TO:** Brian J. Donovan, Assistant to the City Manager  
**FROM:** Gordon B. Linn, City Attorney *GBL*  
**RE:** Resolutions – Local Option Gas Tax Interlocal Agreements

As requested in your e-mail of April 4, 2014, the following forms of Resolution, relative to the above-referenced matter, have been prepared and are attached:

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A 2014 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF POMPANO BEACH PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS FROM THE BROWARD COUNTY FIFTH CENT ADDITIONAL LOCAL OPTION GAS TAX ON MOTOR FUEL FOR TRANSIT; PROVIDING AN EFFECTIVE DATE.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A 2014 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF POMPANO BEACH PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS FROM THE BROWARD COUNTY ADDITIONAL LOCAL OPTION GAS TAX ON MOTOR FUEL ORDINANCE; PROVIDING AN EFFECTIVE DATE.**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A 2014 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF POMPANO BEACH PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS OF THE LOCAL OPTION GAS TAX IMPOSED BY THE BROWARD COUNTY LOCAL OPTION GAS TAX ORDINANCE; PROVIDING AN EFFECTIVE DATE.**

Please do not hesitate to contact me if I may be of further assistance.

*Gordon B. Linn*  
GORDON B. LINN

RESOLUTION NO. 2014-\_\_\_\_\_

**CITY OF POMPANO BEACH**  
**Broward County, Florida**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPROVING AND AUTHORIZING THE PROPER CITY OFFICIALS TO EXECUTE A 2014 AMENDMENT TO THE INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND THE CITY OF POMPANO BEACH PROVIDING FOR DIVISION AND DISTRIBUTION OF THE PROCEEDS OF THE LOCAL OPTION GAS TAX IMPOSED BY THE BROWARD COUNTY LOCAL OPTION GAS TAX ORDINANCE; PROVIDING AN EFFECTIVE DATE.**

**BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:**

**SECTION 1.** That the 2014 Amendment to the Interlocal Agreement between Broward County and the City of Pompano Beach providing for Division and Distribution of the Proceeds of the Local Option Gas Tax Imposed by the Broward County Local Option Gas Tax Ordinance, a copy of which Amendment is attached hereto and incorporated herein by reference as if set forth in full, is hereby approved.

**SECTION 2.** That the proper City officials are hereby authorized to execute said Amendment to the Interlocal Agreement between Broward County and the City of Pompano Beach.

**SECTION 3.** This Resolution shall become effective upon passage.

**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2014.

\_\_\_\_\_  
**LAMAR FISHER, MAYOR**

**ATTEST:**

\_\_\_\_\_  
**MARY L. CHAMBERS, CITY CLERK**

2014 AMENDMENT  
to  
INTERLOCAL AGREEMENT  
between  
BROWARD COUNTY  
and  
CITY OF POMPANO BEACH  
providing for

DIVISION AND DISTRIBUTION OF THE  
PROCEEDS OF THE LOCAL OPTION GAS  
TAX IMPOSED BY THE BROWARD COUNTY  
LOCAL OPTION GAS TAX ORDINANCE

This is the 2014 Amendment to Interlocal Agreement, made and entered into by and between: BROWARD COUNTY, a political subdivision of the State of Florida, hereinafter referred to as "COUNTY,"

AND

CITY OF POMPANO BEACH, a municipal corporation, existing under the laws of the State of Florida, hereinafter referred to as "MUNICIPALITY."

WHEREAS, Section 336.025(1)(a), Florida Statutes, authorizes the COUNTY to extend the levy of the six (6) cents local option gas tax upon every gallon of motor fuel and special fuel sold in Broward County for a period not to exceed thirty (30) years on a majority vote of the governing body of the COUNTY; and

WHEREAS, on June 14, 1988, the Board of County Commissioners enacted Ordinance No. 88-27, effective September 1, 1988, through August 31, 2018, pursuant to Section 336.025(1)(a), Florida Statutes, extending the levy of the six cent local option gas tax for thirty years and providing for a method of distribution of the proceeds of the tax; and

WHEREAS, pursuant to the ordinance, the method for distribution of the proceeds is the execution of an interlocal agreement with one or more of the municipalities representing a majority of the population of the incorporated area within the county which establishes the distribution formulas for dividing the proceeds of the

tax among the county and all eligible municipalities within the county, as set forth in Section 336.025(3)(a)1, Florida Statutes; and

WHEREAS, paragraph 4 of the Interlocal Agreement, as amended by the Addendum to the Interlocal Agreement and the prior amendments, requires annual adjustment of the population of the individual municipalities and unincorporated Broward County in accordance with the population figures set forth in the most current edition of "Florida Estimates of Population," published by the Bureau of Economics and Business Research, Population Division, University of Florida; NOW, THEREFORE,

IN CONSIDERATION of the mutual terms, conditions, promises, covenants, and payments hereinafter set forth, COUNTY and MUNICIPALITY agree as follows:

1. Paragraph 2 of the Interlocal Agreement, as previously amended by the Addendum thereto and the prior amendments, is amended to read as follows:

2. Sixty-two and Five tenths percent (62.5%) of said Local Option Gas Tax proceeds shall be distributed to the COUNTY, and the remaining Thirty-seven and Five tenths percent (37.5%) shall be divided among and distributed to the eligible municipalities within the COUNTY as follows:

$$\frac{\text{Population of Individual Municipality}}{\text{Total Incorporated Area Population}} \times 37.5\% =$$

| <b>Recipient</b>      | <b>FY15 Percent Share of Proceeds</b> |
|-----------------------|---------------------------------------|
| Coconut Creek         | 1.139460%                             |
| Cooper City           | 0.680841%                             |
| Coral Springs         | 2.605782%                             |
| Dania                 | 0.640524%                             |
| Davie                 | 1.983012%                             |
| Deerfield Beach       | 1.606765%                             |
| Fort Lauderdale       | 3.603039%                             |
| Hallandale            | 0.813361%                             |
| Hillsboro Beach       | 0.039936%                             |
| Hollywood             | 3.049443%                             |
| Lauderdale-by-the-Sea | 0.129978%                             |
| Lauderdale Lakes      | 0.705968%                             |
| Lauderhill            | 1.418462%                             |
| Lazy Lake             | 0.000528%                             |
| Lighthouse Point      | 0.220358%                             |
| Margate               | 1.170434%                             |
| Miramar               | 2.682582%                             |

| <b>Recipient</b>          | <b>FY15 Percent Share of Proceeds</b> |
|---------------------------|---------------------------------------|
| North Lauderdale          | 0.896433%                             |
| Oakland Park              | 0.896200%                             |
| Parkland                  | 0.541860%                             |
| Pembroke Park             | 0.131376%                             |
| Pembroke Pines            | 3.295839%                             |
| Plantation                | 1.811340%                             |
| Pompano Beach             | 2.186188%                             |
| Sea Ranch Lakes           | 0.014258%                             |
| Southwest Ranches         | 0.156693%                             |
| Sunrise                   | 1.836530%                             |
| Tamarac                   | 1.294692%                             |
| Weston                    | 1.391449%                             |
| West Park                 | 0.302667%                             |
| Wilton Manors             | 0.254002%                             |
| <b>Total Incorporated</b> | <b>37.500000%</b>                     |

2. Paragraph 3 of the Interlocal Agreement, as previously amended by the Addendum thereto and the prior amendments, is amended to read as follows:

3. The population figures set forth herein are based on the most current edition of "Florida Estimates of Population," published by the Bureau of Economics and Business Research, Population Division, University of Florida. The population figures to be utilized in the formula described in Paragraph 2 of this Interlocal Agreement shall be adjusted annually based on the current "Florida Estimates of Population."

For the purpose of this Agreement, the following population figures are hereby agreed upon:

| <b>Recipient</b> | <b>FY15 Population</b> |
|------------------|------------------------|
| Coconut Creek    | 53,783                 |
| Cooper City      | 32,136                 |
| Coral Springs    | 122,994                |
| Dania            | 30,233                 |
| Davie            | 93,599                 |
| Deerfield Beach  | 75,840                 |
| Fort Lauderdale  | 170,065                |
| Hallandale       | 38,391                 |

| <b>Recipient</b>           | <b>FY15<br/>Population</b> |
|----------------------------|----------------------------|
| Hillsboro Beach            | 1,885                      |
| Hollywood                  | 143,935                    |
| Lauderdale-by-the-Sea      | 6,135                      |
| Lauderdale Lakes           | 33,322                     |
| Lauderhill                 | 66,952                     |
| Lazy Lake                  | 25                         |
| Lighthouse Point           | 10,401                     |
| Margate                    | 55,245                     |
| Miramar                    | 126,619                    |
| North Lauderdale           | 42,312                     |
| Oakland Park               | 42,301                     |
| Parkland                   | 25,576                     |
| Pembroke Park              | 6,201                      |
| Pembroke Pines             | 155,565                    |
| Plantation                 | 85,496                     |
| Pompano Beach              | 103,189                    |
| Sea Ranch Lakes            | 673                        |
| Southwest Ranches          | 7,396                      |
| Sunrise                    | 86,685                     |
| Tamarac                    | 61,110                     |
| Weston                     | 65,677                     |
| West Park                  | 14,286                     |
| Wilton Manors              | 11,989                     |
| <b>Total Incorporated</b>  | <b>1,770,016</b>           |
|                            |                            |
| <b>Unincorporated Area</b> | <b>14,699</b>              |
|                            |                            |
| <b>Total County</b>        | <b>1,784,715</b>           |

3. This 2014 Amendment shall become effective on the date last executed by the parties hereto provided that those eligible municipalities representing a majority of the incorporated area population and Broward County have executed this 2014 Amendment.

4. Except to the extent amended, the Interlocal Agreement shall remain in full force and effect. In the event of any conflict between the terms of this 2014 Amendment and the Interlocal Agreement, as previously amended, the parties hereby agree that this document shall control.

5. This 2014 Amendment may be executed in several counterparts, each of which so executed shall be deemed to be an original, and such counterparts together shall constitute one and the same instrument.

6. In the event this 2014 Amendment to Interlocal Agreement or a portion of this 2014 Amendment is found by a court of competent jurisdiction to be invalid, the remaining portions shall continue to be effective unless COUNTY or MUNICIPALITY elects to terminate this Agreement. The election to terminate this Agreement based upon this provision shall be made within seven (7) days after the finding by the court becomes final.

[THE REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.]

IN WITNESS WHEREOF, the parties have made and executed this 2014 Amendment to the Interlocal Agreement on the respective dates under each signature: BROWARD COUNTY through its BOARD OF COUNTY COMMISSIONERS, signing by and through its Mayor or Vice Mayor, authorized to execute same by Board action, and MUNICIPALITY, signing by and through its \_\_\_\_\_, duly authorized to execute same.

**COUNTY**

ATTEST:

BROWARD COUNTY, by and through  
its Board of County Commissioners

\_\_\_\_\_  
Broward County Administrator, as  
Ex-Officio Clerk of the Broward County  
Board of County Commissioners

By \_\_\_\_\_  
Mayor  
\_\_\_\_ day of \_\_\_\_\_, 20\_\_

Approved as to form by  
Joni Armstrong Coffey  
Broward County Attorney  
Governmental Center, Suite 423  
115 South Andrews Avenue  
Fort Lauderdale, Florida 33301  
Telephone: (954) 357-7600  
Telecopier: (954) 357-7641

By \_\_\_\_\_  
Angela J. Wallace (Date)  
Deputy County Attorney

AJW  
3/20/14  
GASTAX6\_2014.doc  
«Municipality»

2014 AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN BROWARD COUNTY AND CITY OF POMPANO BEACH PROVIDING FOR DIVISION AND DISTRIBUTION OF THE LOCAL OPTION GAS TAX IMPOSED BY THE BROWARD COUNTY LOCAL OPTION GAS TAX ORDINANCE

**MUNICIPALITY**

WITNESSES:

City of Pompano Beach

\_\_\_\_\_

By \_\_\_\_\_  
Mayor-Commissioner

\_\_\_\_\_

\_\_\_\_ day of \_\_\_\_\_, 2014.

ATTEST:

By \_\_\_\_\_  
Municipal Clerk

\_\_\_\_\_  
Municipal Manager

\_\_\_\_ day of \_\_\_\_\_, 2014.

(CORPORATE SEAL)

APPROVED AS TO FORM:

By \_\_\_\_\_  
Municipal Attorney

**IN WITNESS WHEREOF**, the parties hereto have caused this Agreement to be executed the day and year hereinabove written.

Witnesses:

**CITY OF POMPANO BEACH**

\_\_\_\_\_ By: \_\_\_\_\_  
LAMAR FISHER, MAYOR

\_\_\_\_\_ By: \_\_\_\_\_  
DENNIS W. BEACH, CITY MANAGER

Attest:

\_\_\_\_\_  
MARY L. CHAMBERS, CITY CLERK

(SEAL)

STATE OF FLORIDA  
COUNTY OF BROWARD

The foregoing instrument was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ by **LAMAR FISHER** as Mayor, **DENNIS W. BEACH** as City Manager, and **MARY L. CHAMBERS** as City Clerk of the City of Pompano Beach, Florida, a municipal corporation, on behalf of the municipal corporation, who is personally known to me.

NOTARY'S SEAL:

\_\_\_\_\_  
NOTARY PUBLIC, STATE OF FLORIDA

\_\_\_\_\_  
(Name of Acknowledger Typed, Printed or Stamped)

**INTERLOCAL AGREEMENT BETWEEN ALACHUA COUNTY  
AND THE CITY OF GAINESVILLE  
REGARDING PROCEEDS OF LOCAL OPTION GAS TAX**

THIS INTERLOCAL AGREEMENT is entered into this \_\_\_\_\_ day of \_\_\_\_\_, A.D., 2007, between Alachua County, a charter county and political subdivision of the State of Florida, by and through its Board of County Commissioners, hereinafter referred to as the "County", and the City of Gainesville, a municipal corporation of the State of Florida, hereinafter referred to as the "City", for the purpose of providing for the division and distribution of the proceeds of the local option gas tax imposed by the County pursuant to Subsection 336.025,(1)(b), Florida Statutes;

**WITNESSETH:**

WHEREAS, the Florida Legislature amended Section 336.025, Florida Statutes, to allow counties to impose an additional local option gas tax of one cent, two cents, three cents, four cents, or five cents on motor fuel sold in a county, with the revenue generated by such tax to be used by county and municipal governments only for transportation expenditures authorized by law; and,

WHEREAS, pursuant to said statutory enactment, the County, in anticipation of the levy of the local option gas tax, may establish by interlocal agreement with one or more of the municipalities located in Alachua County representing a majority of the incorporated area population within the County, a distribution formula for dividing the proceeds of the local option gas tax among the County government and all eligible municipalities within Alachua 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 incorporated area population within Alachua County, Florida, and desires to jointly establish with the County a distribution formula pursuant to Subsection 336.025(1)(b)2, Florida Statutes, for the local option gas tax;

NOW, THEREFORE, in consideration of the mutual covenants contained herein, and pursuant to Subsection 163.01, et seq., Florida Statutes, the "Florida Interlocal Cooperation Act of 1969", and Subsection 336.025(1)(b)2, Florida Statutes, as amended, the parties hereto agree as follows:

1. **DISTRIBUTION OF PROCEEDS.** Upon the levy of the local option gas tax, pursuant to Subsection 336.025(1)(b), Florida Statutes, by the County, the proceeds of the local option gas tax shall be divided among and distributed to the County and the eligible municipalities within the County as follows:

| <b>Recipient</b>     | <b>Share of Proceeds</b> |
|----------------------|--------------------------|
| Alachua County       | 52.150%                  |
| City of Alachua      | 1.875%                   |
| City of Archer       | 0.855%                   |
| City of Gainesville  | 38.635%                  |
| City of Hawthorne    | 1.060%                   |
| City of High Springs | 2.110%                   |
| Town of LaCrosse     | 0.295%                   |
| Town of Micanopy     | 0.900%                   |
| City of Newberry     | 1.255%                   |
| City of Waldo        | 0.865%                   |

2. **TERM.** This agreement shall be deemed to be effective on the date set forth above. Distribution of the proceeds of the local option gas tax shall take effect on or after January 1, 2008. This agreement shall terminate six (6) months after December 31 of the year when the tax described herein is no longer imposed. It shall also govern the division and distribution of proceeds of the local option gas tax imposed through December 31, but not

collected or otherwise available for distribution until after December 31, of the year the agreement terminates.

3. USE OF GAS TAX REVENUES. Funds distributed to the County pursuant to this interlocal agreement shall be used only for unpaved road alternative surface treatments, bicycle pedestrian facilities, resurfacing and reconstruction projects, and roadway safety improvements. The County shall fund the resurfacing of NW 16<sup>th</sup> Avenue/NW 23<sup>rd</sup> Avenue and NW 43<sup>rd</sup> Street within the city limits within 15 years of the imposition of this tax. Funds distributed to the County shall not be used for the construction of new roads or new travel lanes.

4. REPEAL OF IMPOSITION OF THE GAS TAX. The County agrees that it will not repeal the ordinance that imposes the gas tax referenced herein without first notifying all the municipalities in the county of its intent to repeal at least 18 months prior to the effective date of the ordinance repealing the imposition of the tax.

5. PERIODIC REVIEW. In accordance with subsection 336.025(1)(d), Florida Statutes, the City and the County agree to review, and if appropriate, renegotiate the method of distribution and distribution percentages set forth above every five years during the term of this agreement.

6. MISCELLANEOUS PROVISIONS.

a. If, during the term of this agreement, any party hereto become ineligible to receive a share of the local option gas tax for any reason, any fund otherwise undistributed because of ineligibility shall be distributed to eligible governments within Alachua County in proportion to other monies distributed pursuant to paragraph 1 hereof.

b. By execution of this agreement, neither the County nor the City will be deemed to have waived any rights or remedies they may have available under the laws of the State of Florida.

c. This agreement may be executed in counterparts and each fully executed counterpart shall be deemed an original instrument.

d. Upon adoption of an ordinance levying the local option gas tax, pursuant to Subsection 336.025(1)(b), Florida Statutes, by the County, the County shall provide the State of Florida Department of Revenue a certified copy of this interlocal agreement.

e. A copy of this agreement and all subsequent amendments hereto shall be filed by the County with the Clerk of the Circuit Court of Alachua County, Florida, upon its execution by all parties hereto.

f. This agreement may be amended only in writing, approved by all parties executing this agreement. The County and City agree to review the terms of this agreement every two years after the date the tax described herein is imposed.

IN WITNESS WHEREOF, the parties have caused this Interlocal Agreement to be executed for the uses and purposes therein expressed on the day and year first above-written.

ALACHUA COUNTY, FLORIDA

By: \_\_\_\_\_  
Paula M. DeLaney, Chair

ATTEST:

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

APPROVED AS TO FORM AND LEGALITY:

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

(SEAL)

CITY OF GAINESVILLE

By: \_\_\_\_\_  
Pegeen Hanrahan, Mayor

ATTEST:

\_\_\_\_\_  
Kurt Lannon, Clerk

APPROVED AS TO FORM AND LEGALITY:

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

(SEAL)

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