

**Lee County Board Of County Commissioners
Agenda Item Summary**

Blue Sheet No. 20060727

1. ACTION REQUESTED/PURPOSE:

Authorize Interlocal Agreement with the City of Bonita Springs regarding distribution of the Five and Six Cent Local Option Gas Taxes.

2. WHAT ACTION ACCOMPLISHES:

Interlocal Agreement must be approved by the Board of County Commissioners.

3. MANAGEMENT RECOMMENDATION:

Approval

4. Departmental Category:

CIC

5. Meeting Date:

06-20-2006

6. Agenda:

- Consent**
- Administrative**
- Appeals**
- Public**
- Walk-On**

7. Requirement/Purpose: (specify)

- Statute**
- Ordinance**
- Admin. Code**
- Other**

8. Request Initiated:

Commissioner _____
Department County Administration
Division Budget Services
By: Antonio Majul, Budget Director

9. Background:

On January 1, 2000 the City of Bonita Springs was created. The City's government began operation on April 15, 2000. Florida Statute 336.025 sets forth procedures for adoption of the distribution of local option gas taxes. On September 19, 2000 an Interlocal Agreement was approved between the City of Bonita Springs and Lee County. The percentage allocation and distribution of the Five and Six Cent Local Option Gas Taxes to the city is calculated based upon a formula consisting of fifty percent (50%) from the centerline miles within the City and fifty percent (50%) from the population of the city.

A new Interlocal Agreement has been prepared which sets forth a five year period that would begin upon execution by the Board of County Commissioners. The formula for calculation of the gas tax remains the same as the original Interlocal Agreement. All the terms of the original Interlocal Agreement remain the same and include the following:

- a) the formula for calculation will be reviewed in Year 3 of the agreement and based upon any changes in population and lane miles adjustments to Years 4 and 5 will be made.
- b) the Interlocal Agreement may be renewed under the same terms and conditions for up to three additional five (5) year terms with at least ninety (90) days prior notice, upon the agreement of both the parties.

The Bonita Springs City Council approved the contract on June 7, 2006.

10. Review for Scheduling:

Department Director	Purchasing or Contracts	Human Resources	Other	County Attorney	Budget Services				County Manager/P.W. Director
<i>Ally</i>				<i>W. J. ...</i>	<i>Analyst</i>	<i>Risk</i>	<i>Grants</i>	<i>Mgr.</i>	<i>...</i>
<i>6/7/06</i>				<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>	<i>...</i>

11. Commission Action:

- Approved**
- Deferred**
- Denied**
- Other**

RECEIVED BY COUNTY ADMIN: <i>SL</i>
<i>6/8/06 9:25 AM</i>
COUNTY ADMIN FORWARDED TO: <i>PL</i>
<i>6/5/06</i>
<i>3021</i>

Rec. by COAtty
Date: <i>6/8/06</i>
Time: <i>4:30pm</i>
Forwarded To: <i>Admin</i>

8:45

**INTERLOCAL AGREEMENT FOR
DISTRIBUTION OF LOCAL OPTION GAS TAXES
BY AND BETWEEN
LEE COUNTY AND THE CITY OF BONITA SPRINGS**

THIS INTERLOCAL AGREEMENT made on this ___ day of _____, 2006, by and between **LEE COUNTY** (ACounty@) and the **CITY OF BONITA SPRINGS** (ACity@), 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 City entered into the Interlocal Agreement for Distribution of Local Option Gas Taxes on September 19, 2000; and,

WHEREAS, the Interlocal Agreement for Distribution of Local Option Gas Taxes expired on September 30, 2005; and,

WHEREAS, the County and City desire to enter into a new Interlocal Agreement for Distribution of Local Option Gas Taxes reflecting the current percentage distribution between the County and City; and,

WHEREAS, the City Council represents to the County and the County acknowledges, that the City 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 City of Bonita Springs Charter, the City 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>4.75%</u>
City of Cape Coral	<u>25.52%</u>
City of Fort Myers	<u>14.00%</u>
Town of Fort Myers Beach	<u>1.27%</u>
City of Sanibel	<u>5.00%</u>
Lee County	<u>49.46%</u>

SECTION II.

This Interlocal Agreement for the annual distribution of Local Option Gas Taxes to the City shall be effective from the date that all parties executed agreement to five (5) years following the date of execution, both dates inclusive. The Parties further agree that this Interlocal Agreement may be renewed under the same terms and conditions for up to three (3) additional five (5)-year terms with at least ninety (90) days prior notice, and upon the agreement of both of the Parties.

SECTION III.

- a) The percentage allocation and distribution of the Local Option Gas Tax to the City shall be calculated based on a formula that consists of a calculation consisting of fifty percent (50%) from the centerline miles within the City and fifty percent (50%) from the population of the City, in proportion to the centerline miles and population of unincorporated Lee County.
- b) Pursuant to the above formula, the City=s annual distribution of the Local Option Gas Taxes shall be 4.75% 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.
- c) The Parties further agree that the formula as outlined in paragraph a., above, will be reviewed in year three (3) of the Agreement for making any adjustments to years four (4) and five (5) of the Interlocal Agreement by reviewing the City=s population figure utilizing the latest edition of AFlorida Population Studies@ (University of Florida Bureau of Economic Research,

Warrenton College of Business Administration) and the City=s centerline miles as defined in Section 316.003, Florida Statutes, as that portion of a street or road that provides for through movement of vehicles. The total number of centerline miles shall be restricted to streets and roads dedicated to the public and accepted by the County or City, as applicable, for operation and maintenance with the exception and exclusion of: (a) bike facilities; (b) pathways; (c) alleys; and (d) public and/or private streets and/or roads which become part of the County road system and/or City road system as the result of (a) multi-party agreement(s) wherein funding provisions are included in the Agreement for operation and maintenance of the City streets and/or roads. The Parties will utilize the "State of Florida City, County Mileage Report" as published annually by the Florida Department of Transportation, for the centerline miles computation.

SECTION IV.

The City agrees and represents to the County that all Local Option Gas Tax proceeds received will be utilized by the City 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 City 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 City 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

City of Bonita Springs: Bonita Springs City Council
9101 Bonita Beach Road
Bonita Springs, Florida 34135
Attention: City 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 City. 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 City.
- 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:

CITY OF BONITA SPRINGS

By: _____
Clerk, City of Bonita Springs

By: _____
Jay Arend, Mayor

APPROVED AS TO FORM:

By: _____
City Attorney

ATTEST: CHARLIE GREEN
CLERK OF THE COURTS

BOARD OF COUNTY COMMISSIONERS
OF LEE COUNTY, FLORIDA

By: _____
Deputy Clerk

By: _____
Chairwoman

APPROVED AS TO FORM:

By: _____
Office of the County Attorney