

**RESOLUTION 21-55**

**A RESOLUTION OF THE CITY OF PANAMA CITY BEACH, FLORIDA, APPROVING AN INTERLOCAL AGREEMENT WITH BAY COUNTY AND OTHER BAY COUNTY MUNICIPALITIES REGARDING THE DISTRIBUTION OF LOCAL OPTION FUEL TAX PROCEEDS.**

**BE IT RESOLVED** that the appropriate officers of the City are authorized to accept and deliver on behalf of the City that certain **INTERLOCAL AGREEMENT FOR DISTRIBUTION OF PROCEEDS OF LOCAL OPTION FUEL TAX LEVIED UNDER SECTION 336.025(1)(a), FLORIDA STATUTES** between the City, Bay County, and other Bay County municipalities, setting forth an allocation and distribution of fuel tax proceeds, in substantially the form attached and presented to the Council today, with such changes, insertions or omissions as may be approved by the City Manager and whose execution shall be conclusive evidence of such approval.

**THIS RESOLUTION** shall be effective immediately upon passage.

**PASSED** in regular session this 10<sup>th</sup> day of December, 2020.

**CITY OF PANAMA CITY BEACH**

By:   
Mark Sheldon, Mayor

**ATTEST:**

  
Lynne Fasone, MMC, City Clerk

**INTERLOCAL AGREEMENT FOR DISTRIBUTION OF PROCEEDS OF LOCAL  
OPTION FUEL TAX LEVIED UNDER SECTION 336.025(1)(a), FLORIDA STATUTES**

THIS INTERLOCAL AGREEMENT is entered into pursuant to Section 336.025(3)(a)1., Florida Statutes, and Section 163.01, Florida Statutes, amongst Bay County, a political subdivision of the State of Florida (hereinafter the "County") and such municipalities located within the boundaries of the County as subscribe to this Interlocal Agreement.

**RECITALS**

WHEREAS, by Bay County Ordinance 85-02, the County levied four cents of the local option fuel tax authorized under Section 336.025(1)(a), Florida Statutes;

WHEREAS, by Bay County Ordinance 89-08, the County levied an additional two cents of the local option fuel tax authorized under Section 336.025(1)(a), Florida Statutes;

WHEREAS, by Bay County Ordinance 20-39, the County extended the tax imposition to December 31, 2048 and authorized the allocation of fuel tax proceeds by interlocal agreement;

WHEREAS, Section 336.025(3)(a)1., Florida Statutes, provided that a formula for distribution amongst the parties of the proceeds of the local option fuel tax levied under Section 336.025(1)(a), Florida Statutes, may be established by interlocal agreement entered into amongst the levying county and the municipalities therein representing a majority of the population of the incorporated area within said county.

NOW THEREFORE, in consideration of the foregoing Recitals, and for other good and valuable consideration, including the mutual promises and commitments contained herein, the parties to this Interlocal Agreement agree as follows:

1. Effectiveness; Effective Date. This Interlocal Agreement shall take effect when executed by the County and any combination of the municipalities representing a majority of the population of the incorporated area within the County, based on the most recent "Estimates of Population by County and Municipality in Florida" prepared by the University of Florida Bureau of Economic and Business Research. The effective date shall be the latest date of execution by any party prior to December 31, 2020, provided that the condition of the sentence immediately preceding has been satisfied. If by that date, the condition of the first sentence of this paragraph has not been satisfied, then this Interlocal Agreement shall be null and void.

2. Initial Distribution.

(a) Beginning January 1, 2021, local option fuel tax shall be divided among, and distributed to the County and the eligible municipalities within the County as follows:

<u>Recipient</u>	<u>Share of Proceeds</u>
Bay County	59.77%
Callaway	3.66%

Lynn Haven	4.94%
Mexico Beach	1.16%
Panama City	21.41%
Panama City Beach	4.42%
Parker	1.41%
Springfield	3.23%

These percentages shall be referred to herein as the “Base Percentages”.

(b) For subsequent twelve month periods beginning on September 1, 2021 (each, an “Annual Period”) and thereafter, the local option fuel tax shall be distributed using the Base Percentages up to the Trigger Amount, as defined in Section 7 below. Any collections of local option fuel tax in an Annual Period exceeding the Trigger Amount shall be distributed as follows:

<b>Recipient</b>	<b>Share of Proceeds</b>
Bay County	1.16%
Callaway	6.97%
Lynn Haven	4.67%
Mexico Beach	40.37%
Panama City	2.83%
Panama City Beach	7.25%
Parker	24.67%
Springfield	12.08%

These percentages shall be referred to herein as the “Inverse Percentages”.

By way of example, if the Trigger Amount was \$6,000,000.00, then in that Annual Period the first \$6,000,000 would be distributed using the Base Percentages and any collections in excess of \$6,000,000 would be distributed using the Inverse Percentages.

3. Reallocation by County. The County intends to reserve from its distribution of local option fuel tax for the Annual Period beginning September 1, 2020, any funds in excess of the amount the County would have received if the local option fuel tax for that Annual Period was distributed throughout that Annual Period in the manner provided in Section 1(b) above. Subject to appropriation by the Board of County Commissioners, the reserved funds will be made available for grants to eligible municipalities for transportation expenditures. The amount of grant funds available to each municipality is intended to reduce the difference between the amount of funds each municipality actually receives for the Annual Period beginning September

1, 2020, and the amount of funds each municipality would have received if the local option fuel tax for that Annual Period was distributed in the manner provided in Section 1(b) above. The method of calculating the reserve and the allocation of any grants shall be in the sole discretion of the County.

4. Periodic Adjustment to Inverse Percentages. The Inverse Percentages shall be adjusted for the Annual Period beginning September 1, 2022 and again for the Annual Period beginning September 1, 2024. On or before July 1, 2022 and again on or before July 1, 2024, the Bay County Clerk of Court shall certify to the County and the eligible municipalities its calculation of adjusted Inverse Percentages as provided in this Paragraph. For the purpose of this paragraph, the following terms shall have the following meanings:

(a) "Pop" shall mean the most recently available population data for the jurisdiction in question based on the Florida Estimates of Population, published by the University of Florida Bureau of Economic Research, Warrenton College of Business.

(b) "TotalPop" shall mean the aggregate population of Bay County taken from the same source as Pop.

(c) "Center" shall mean the total number of Paved Center Lane Miles for each jurisdiction as published by the Florida Department of Transportation.

(d) "TotalCenter" shall mean the aggregate Paved Center Lane Miles for the County and each municipality taken from the same source as Center.

The new Inverse Percentage for each jurisdiction as of such dates shall be calculated by determining a ratio, the numerator of which is:

$$1/((.5(\text{Pop}/\text{Total Pop}) + .5(\text{Center}/\text{TotalCenter}))$$

and the denominator of which is the aggregate of such calculation for each jurisdiction. The Inverse Percentages for each jurisdiction shall be such ratio multiplied by 100, rounded to two decimal places. The spreadsheet attached as Exhibit "A" demonstrates this calculation, and is made a part of this agreement for all purposes.

5. Periodic Review of Distribution Formula. The parties acknowledge and agree that because the interlocal agreement provides for automatic adjustments of the method of distribution, no periodic public hearings on the terms of the interlocal agreement are required.

6. Modification to Distribution Shares. The share of proceeds from the distribution formula may be amended from time to time by a resolution approved by the County and municipalities representing a majority of the population of the incorporated area within the County. No such distribution shall materially or adversely affect the rights of holders of outstanding bonds which are backed by taxes authorized in this section, and the amounts distributed to the county government and each municipality shall not be reduced below the amount necessary for the payment of principal and interest and reserves for principal and interest as required under the covenants of any bond resolution outstanding on the date of the redistribution.

7. Notification of State. Prior to October 1 of each year, the Clerk of Court shall provide to the Florida Department of Revenue a number equal to twelve months of local option fuel tax collections ending with the most recent month for which data is available to the Clerk (the "Trigger Number"). By way of example, if on the date the calculation is done, the most recent month for which data is available to the Clerk is from July 2021, then the twelve month period shall be from August 2020 to July 2021. The Trigger Number shall be final for all purposes and shall not be subject to revision or challenge. The County will notify the State of Florida Department of Revenue on an annual basis prior to October 1 of each year of the distribution percentages to use in distributing the fuel tax proceeds for the ensuing year based on the certification provided by the Clerk of Court. Upon submitting such calculation to the Florida Department of Revenue, the calculation shall be deemed final for all purposes

8. Periodic Review Requirement Waived. The parties acknowledge and agree that this Interlocal Agreement provides for periodic review of the method of distribution of local option fuel tax revenues, and therefore the review and public hearings obligation set forth in sec. 336.025(1)(d), F.S., is not applicable.

9. Termination Date. This Interlocal Agreement shall continue through August 31, 2026, unless prior to that date the County and the municipalities representing a majority of the population of the incorporated area within the County agree to renew this interlocal agreement. This Interlocal Agreement shall automatically terminate if there is no local option fuel tax levied in Bay County.

10. Effect of Termination. Upon termination of this Interlocal Agreement, any future distribution shall be based on the formula established by Florida law.

11. Non-Participating Municipality. Any eligible municipality not subscribing to this Interlocal Agreement shall have all the rights provided hereunder regardless of whether the same has formally joined in the execution of this Interlocal Agreement or any amendment hereto.

12. Counterparts. This Interlocal Agreement may be executed in multiple counterparts. Each fully executed counterpart is sufficient and adequate in and of itself to fully bind the parties hereto, without reference to the other counterparts, but only one agreement is intended hereby. Executed counterparts are considered part of this Interlocal Agreement when deposited with the Bay County Clerk of Court.

13. Amendment. This Interlocal Agreement may be amended by the County and any group of municipalities representing a majority of the population of the incorporated area within the County. Any amendment must be in writing.

BOARD OF COUNTY COMMISSIONERS  
OF BAY COUNTY, FLORIDA

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Robert Carroll, Chairman

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Bill Kinsaul, Clerk

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County Attorney