



**AGENDA ITEM
MAY 26, 2015**

ISSUE:

Request to consider approving the Interlocal Agreement with Polk County for the extension of the six-cent local gas tax.

ATTACHMENTS:

- Amendment #1 to the Interlocal Agreement with Polk County to extend current Agreement.
- Interlocal Agreement from 1987.

ANALYSIS:

In 1987, the City of Davenport approved an Interlocal Agreement with Polk County for the purpose of providing for the division and distribution of the proceeds of a six-cent local option gas tax. Said tax was adopted by the County for a 30-year period ending on August 31, 2017. This tax revenue has been a critical part of the funding stream for county and city road programs since that time. In anticipation of its "sunset," the County Commission recently decided to consider a 30-year extension to August 31, 2047, at the earliest possible date.

The first step is for Polk County to enter into interlocal agreements with each municipality. Accordingly, Amendment #1 is being presented for your consideration. The City Attorney has reviewed and approved the document. The City's portion of this funding source is approximately \$80,000 annually and is used to fund the Street Division.

In addition, City Attorney Warren has reviewed Sections 336.025, 206.87 and 206.41, Florida statutes regarding the propriety of a municipality instituting its own gasoline tax. He did not find any authority which would permit the City to do that. Section 336.025(1)(a)(3) states that a tax levied may be extended on a majority vote of the governing body of the County.

The County has made this request at this time because they have several limiting dates, as early as June, to fulfill the requirements to have the gas tax renewed.

RECOMMENDATION:

Approve Amendment #1 to the Interlocal Agreement with Polk County regarding the division and distribution of the Six-Cent Local Option Gas Tax.

AMENDMENT ONE
TO
INTERLOCAL AGREEMENT
BETWEEN
POLK COUNTY AND MUNICIPALITIES
TO
EXTEND THE INTERLOCAL AGREEMENT GOVERNING THE DIVISION AND
DISTRIBUTION OF THE SIX-CENT LOCAL OPTION GAS TAX

THIS AGREEMENT, made and entered by and between Polk County, a political subdivision of the State of Florida, (“COUNTY”) and the City of Davenport, a Florida municipal corporation, (“MUNICIPALITY”).

WITNESSETH:

WHEREAS, the COUNTY and MUNICIPALITY pursuant to Section 336.025 (3)(a)(1), Fla. Stat., entered into an Interlocal Agreement executed by the COUNTY chairman on June 9, 1987 (“Interlocal”) to provide for the division and distribution of the proceeds of the six-cent local option gas tax (“Gas Tax”); and

WHEREAS, the Interlocal is effective from September 1, 1987 to August 31, 2017,

WHEREAS, the COUNTY and MUNICIPALITY desire to extend the Interlocal for an additional thirty (30) years to provide for the division and distribution of the proceeds of any extension of the Gas Tax by the COUNTY.

NOW, THEREFORE, in consideration of the mutual covenants and conditions and for other good and valuable consideration, the parties agree as follows:

SECTION 1. EXTENSION OF INTERLOCAL. The COUNTY and MUNICIPALITY mutually agree to extend the Interlocal from September 1, 2017 to

August 31, 2047, both inclusive. The Interlocal shall govern the division and distribution of proceeds of the Gas Tax imposed through August 31, 2047, including those proceeds not collected or otherwise not available for distribution until after August 31, 2047.

IN WITNESS WHEREOF, the lawful representatives of the parties have executed this Amended Agreement on the day and year indicated above.

COUNTY
BOARD OF COUNTY COMMISSIONERS

BY: _____
George Lindsey, III, Chairman

Dated this ____ day of _____, 2015.

Stacy M. Butterfield, CLERK

BY: _____
Deputy Clerk

APPROVED AS TO FORM AND CONTENT:

BY: _____
County Attorney

MUNICIPALITY
CITY OF DAVENPORT, FLORIDA, a
Municipal Corporation

BY: _____
Darlene Bradley, Mayor

Dated this 27th day of April 2015.

ATTEST:

Raquel Castillo, City Clerk

APPROVED AS TO FORM AND CONTENT:

Kirk S. Warren, City Attorney

INTERLOCAL AGREEMENT

THIS IS AN AGREEMENT between Polk County, a political subdivision of the State of Florida, (the County) and the City of Davenport, a Florida municipal corporation, (the City) for the purpose of providing for the division and distribution of the proceeds of the six-cent local option gas tax imposed by Polk County Ordinance No. 87-____ (the Gas Tax).

In consideration of the premises and pursuant to the authorization of paragraph (3) (a)1 of Section 336.025, Florida Statutes (1986), the County and the City agree that:

1. The City is a municipality located within Polk County, Florida, and the City represents that the City is eligible to receive a portion of the Gas Tax.
2. The Gas Tax proceeds shall be divided among, and distributed to, the County and the eligible municipalities within the County by the Florida Department of Revenue.
3. The division of the Gas tax proceeds shall be based on a formula in which the ratio of miles of roads maintained by each recipient (A) to the total number of miles of roads maintained by all recipients (B) is weighted 40%, and the ratio of population of each recipient (C) to the total population of all recipients (D) is weighted 60%. (For recipient Polk County, the population of the unincorporated area is used.) The formula is expressed as: $(A/B \times .40) + (C/D \times .60)$ = recipient's percentage share of proceeds rounded to the nearest thousandth of one percent.
4. For purposes of this agreement, the population figures to be used in the formula set forth in paragraph 3 hereof shall be the estimates of population prepared annually by the University of Florida, Bureau of Economic and Business Research. The April 1, 1986 estimate of population shall be used in the first year's computation.

5. For purposes of this agreement, the term "miles of roads maintained" means lane miles of driving surface for the maintenance of which the recipient bears the legal responsibility. Prior to June 1 of each year the governing body of each recipient shall certify to the Clerk and Auditor to the Board of County Commissioners (the Clerk) the then current number of that recipient's miles of roads maintained. In the event that a recipient fails to certify this number prior to June 1 in any year after 1987, the Clerk shall use the most recent year's certification for that recipient. In the event that a recipient fails to so certify prior to June 12, 1987, the Clerk shall use zero (0) as the current number of miles of roads maintained by that recipient.

6. The Clerk, using the formula set forth in paragraph 3 hereof, shall compute annually the division of proceeds using the figures obtained pursuant to paragraphs 4 and 5 hereof. Prior to July 1st of each year, the Clerk shall prepare, and the Board of County Commissioners shall adopt, a resolution showing the figures used in the computation and each recipient's percentage share of the proceeds. A certified copy of the adopted resolution shall then be forwarded to each recipient and to the Florida Department of Revenue by July 1 of each year. The new division of proceeds shall take effect on September 1 of each year.

7. This is one of several interlocal agreements between the County and various municipalities providing the same terms for the division and distribution of the proceeds of the Gas Tax. All such agreements shall be deemed one agreement (the Interlocal Agreement) for the purposes of paragraph (3) (a)1 of Section 336.025, Florida Statutes (1985), and the Interlocal Agreement constitutes an interlocal agreement between Polk County and municipalities located therein representing a majority of the incorporated area population within this county.

8. This agreement shall be in effect from September 1, 1987 to August 31, 2017, both inclusive. It shall also govern the division and distribution of proceeds of the Gas Tax imposed through August 31, 2017 but not collected or otherwise not available for distribution until after August 31, 2017.

9. The interlocal agreement made between the County and the City in 1986 for the division of the six (6) cent local option gas tax levied by Polk County Ordinance No. 86-14 shall terminate on September 1, 1987.

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

11. This agreement shall be filed with the Clerk of the Circuit Court of Polk County, Florida prior to its effectiveness.

IN WITNESS WHEREOF, the parties hereto have caused the execution hereof by their duly authorized officials on the dates stated below.

ATTEST:

E. D. "Bud" DIXON, Clerk

BY *[Signature]*

(SEAL)

POLK COUNTY, FLORIDA

BY *[Signature]*

Chairman

Board of County Commissioners

DATE: June 9, 1987

ATTEST:

[Signature]
Clerk Marguerite Williams

(SEAL)

[Signature], FLORIDA

BY

Robert V. Burt

TITLE: City Manager

DATE: June 2, 1987