CITY OF CRESTVIEW

OFFICE OF THE CITY CLERK

P.O. DRAWER 1209, CRESTVIEW, FLORIDA 32536

Phone # (850) 682 - 1560 Fax # (850) 682-8077

September 7, 2021
5:30 PM
Council Chambers

CITY COUNCIL SPECIAL MEETING

-

The Public is invited to view our meetings on the City of Crestview Live stream a at https://www.cityofcrestview.org or the City of Crestview Facebook Page. You may submit questions on any agenda item in advance (by 3:00 PM the day of the meeting, please) to cityclerk@cityofcrestview.org.

1. **Call to Order**
2. **Pledge of Allegiance**
3. **Open Meeting**
4. **Approve Agenda**
5. **Action Items**
   - 5.1. Discussion of 9/8/21 164 Meeting
   - 5.2. Interlocal Agreement
   - 5.3. Purchasing Procedures for the Golf Club
6. **Comments from the Audience**
7. **Comments from the Mayor and Council**
8. **Adjournment**

Note: The Presentations section is for items that were submitted by a citizen or group of Citizens no later than the Wednesday 2 weeks prior to the meeting to the Clerk's office for approval. These items will be scheduled under the section titles Presentations and Reports. Supporting documents must be submitted at this time to be on the regular agenda. All Action Item are for staff and elected officials only and must be submitted for approval no later than the Wednesday 10 days prior to the meeting. Those not listed on the regular agenda who wish to address the council should fill out a yellow card. The Card must be submitted to the City Clerk. Speaking time should be three minutes or less, large groups may designate a spokesperson. All remarks should be addressed to the Council as a whole and not to individual members. All meeting procedures are outlined in the Meeting Rules and Procedures brochure available outside the Chambers .If any person decides to appeal any decision made by the City Council with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. The City Council of the City of Crestview, Florida does not discriminate upon the basis of any individual's disability status. Anyone requiring reasonable accommodation a s provided for in the American With Disabilities Act to insure access to and participation in the meeting should contact the Office of the City Clerk at (850)682-1560 prior to the meeting to make appropriate arrangements.

Any invocation that is offered before the official start of the City Council meeting shall be the voluntary offering of a private person, to and for the benefit of the City Council. The views or beliefs expressed by the invocation speaker have not been previously reviewed or approved by the City Council or the city staff, and the City is not allowed by law to endorse the religious beliefs or views of this, or any other speaker. Persons in attendance at the City Council meeting are invited to stand during the opening invocation and Pledge of Allegiance. However, such invitation shall not be construed as a demand, order, or any other type of command. No person in attendance at the meeting shall be required to participate in any opening invocation that is offered. A person may exit the City Council Chambers and return upon completion of the opening invocation if a person does not wish to participate in or witness the opening invocation.

CITY OF CRESTVIEW Item # 5.1.

Staff Report

CITY COUNCIL MEETING DATE: September 7, 2021
TYPE OF AGENDA ITEM: Action Item

TO:	Mayor and City Council
CC:	City Manager, City Clerk, Staff and Attorney
FROM:	Tim Bolduc, City Manager
DATE:	9/6/2021
SUBJECT:	Discussion of 9/8/21 164 Meeting

BACKGROUND:

Following the announcement of the intention of the County Commission to expand the Turist Development District, the City Council submitted a resolution of support to the commission.

The City of Destin filed a dispute resolution with Okaloosa County requesting that the original ordinance for expansion be amended to include some items that the City of Crestview felt did not meet the requirements of the State statute. Upon the issue of this dispute resolution, the City Council adopted a resolution to participate in the F.S. 164 process.

DISCUSSION:

The City Council appointed the City Attorney and the City Manager to represent Crestview in this process. The Mayor was later added to the team.

The f.s. 164 process consists of not less than two meetings. The first meeting establishes the issues to be resolved, with a second meeting, which includes full elected bodies, to attempt to find a resolution.

At the first meeting, the representatives identified two areas to be resolved. The issues are as follows;

1. The county proposed setting aside an allocation of 12% of the total revenue to be distributed to the cities for use on TDD approved projects within the city. A method to distribute this funding must be developed.
2. The Tourist Development Council will be made up of nine individuals; how those seats are distributed must be determined.

Following the initial meeting, the nine city representatives got together to discuss a resolution for the two items to be discussed. During this meeting, the group did come to a consensus and developed an interlocal agreement to cover the distribution. In addition to the interlocal agreement, the group proposed amendments to the ordinance being proposed by the county addressing the board's make-up.

On September 3rd,the City Manager and City Attorney met with the representatives from the county and all other cities to discuss the proposals to be discussed at the meeting on the 9th. The main points of the agreement are as follows;
1. The cities will enter into an interlocal agreement that discusses the percentage of distribution and the process for reallocation of the funding.
2. The cities and county will enter into an interlocal agreement about the terms of the monies to be set aside for

distribution amongst the cities.
3. The County will discuss the makeup of the Tourist Development Council.

At the meeting on Wednesday the 9th, the County Commission will meet with the full councils from Crestview, Fort Walton Beach, Destin, Niceville and Mary Esther to approve or deny the negotiated agreements on the items listed above. The drafts are provided here.

The purpose of this meeting is to discuss the proposed terms and to vote to agree to them, amend them or deny them. Additionally, discussion should be had on whether there needs to be a spokesperson at the meeting and, if so, who that will be.

GOALS & OBJECTIVES

This item is consistent with the goals in A New View Strategic Plan 2020 as follows;
Foundational- these are the areas of focus that make up the necessary foundation of a successful local government.
Financial Sustainability- Achieve long term financial sustainability

Organizational Capacity, Effectiveness & Efficiency- To efficiently & effectively provide the highest quality of public services

Infrastructure- Satisfy current and future infrastructure needs

Communication- To engage, inform and educate public and staff

Quality of Life- these areas focus on the overall experience when provided by the city.
Community Character- Promote desirable growth with a hometown atmosphere

Safety- Ensure the continuous safety of citizens and visitors

Mobility- Provide safe, efficient and accessible means for mobility

Opportunity- Promote an environment that encourages economic and educational opportunity

Play- Expand recreational and entertainment activities within the City

Community Culture- Develop a specific identity for Crestview

FINANCIAL IMPACT

The agreement, if approved, will provide additional revenue for the City of Crestview each year for projects and programs consistent with the requirements of the TDD.

RECOMMENDED ACTION

Staff respectfully requests the City Council discuss the agenda for the meeting and determine if the City Attorney, City Manager or an elected official will serve as the official spokesperson at the meeting.

Attachments

1. Interlocal Agreement - TDT funding for municipalities 9.3.21

INTERLOCAL AGREEMENT BETWEEN OKALOOSA COUNTY AND OKALOOSA COUNTY MUNICIPALITIES FOR A FUNDING ALLOCATION OF OKALOOSA COUNTY TOURIST DEVELOPMENT TAX REVENUES.

THIS INTERLOCAL AGREEMENT ("Agreement") is entered into this **____** day of September 2021, by and between **OKALOOSA COUNTY, FLORIDA**, a political subdivision of the State of Florida (the "County") and the municipalities of **CINCO BAYOU, CRESTVIEW, DESTIN, FORT WALTON BEACH, LAUREL HILL, MARY ESTHER, NICEVILLE, SHALIMAR, and VALPARAISO**, municipalities organized under the laws of the State of Florida (the "Municipalities") (collectively the County and Municipalities shall be referred to as the "Parties") for the annual distribution of Tourist Development Tax ("TDT"), as currently levied pursuant to section 125.0104, Florida Statutes, and as shall be levied if the Referendum set for October 5, 2021, is approved by the voters.

WHEREAS, the Parties agree that the TDT, as a whole, benefits the general public of Okaloosa County; and

WHEREAS, the City of Destin instituted a Chapter 164, Florida Statutes, Local Government Conflict Resolution process against the County related to the proposed expansion of the Tourist Development District; and

WHEREAS, the municipalities of Crestview, Fort Walton Beach and Mary Esther all passed resolutions to join in the conflict resolution process as primary conflicting governmental entities; and

WHEREAS, this Agreement reflects the terms and conditions of the resolution to the Chapter 164 conflict between the Parties.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the Parties agree as follows:

SECTION 1. AUTHORITY. This Agreement is entered into pursuant to the provisions of Chapter 163.01, Florida Statutes, and other applicable provisions of law. Upon execution, this Agreement shall be recorded in the Official Records of Okaloosa County.

SECTION 2. RECITALS. The above recitals are true and accurate and are incorporated herein as essential terms of this Agreement.

SECTION 3. PARTIES. The Parties to this Agreement are the County and the Municipalities, who execute this Agreement in accordance with its terms.

SECTION 4. TERM. This Agreement shall conditionally take effect once the County and at least one of the Municipalities executes this Agreement; as other Municipalities execute the

Agreement, they shall also become conditionally bound. The entirety of this Agreement is conditional on the voters approving the Referendum mentioned above. If the voters approve the Referendum, then the obligations contained herein shall be binding on the Parties who execute the Agreement for a term of ~~fifteen~~ twenty (20~~15~~) years beginning on March 1, 2022, the defined start date of countywide TDT collection.

SECTION 5. RESOLUTION. The County agrees to earmark TDT revenues for the Municipalities as set forth under Section 6. In return for the County's funding commitment, each Municipality that executes this Agreement agrees to dismiss the Chapter 164 proceedings and shall further waive any legal or equitable claims that were raised, or which could have been raised resulting from the County's expansion of the Tourist Development District, including the Referendum and Ordinance.

SECTION 6. TDT FUNDING. The County agrees to monthly earmark 12.5% of TDT revenues collected for the Municipalities, except for any future levy of the "6th" penny High Tourism Impact Tax, for ~~fifteen~~ twenty (20~~15~~) years subject to the following requirements:

A. Use of the earmarked funds by the Municipalities shall be on a reimbursement basis and shall comply with the provisions of section 125.0104, Florida Statutes, County ordinance and the TDD Manual, and any amendments thereto, as determined by the County; ~~and~~

B. Proposed uses of these funds shall be presented to the Tourist Development Council ("TDC") for a recommendation and the Board of County Commissioners for final approval;

C. The Municipalities shall enter into a separate Interlocal Agreement, of which the County is not a party to, which details the annual percentage/amounts earmarked for each municipality. A copy of this Interlocal Agreement shall be provided to the County upon full execution and any time there is a change to the annual percentage/amounts earmarked for each municipality;

D. These funds shall not be used by the Municipalities for public safety expenditures; and

E. Each Municipality shall submit an expenditure plan by March 1 of each year for the upcoming fiscal year. The expenditure plans shall contain a list of proposed projects that the municipality proposes to be funded by TDT revenues and shall be updated annually. The expenditure plans shall be reviewed and processed in accordance with the Operational and Capital Funding Requests under the TDD Manual. Municipalities may submit multi-year plans for long-term projects or projects financed with bonds. If a project is financed with bonds, the Municipality shall maintain sole liability of the full faith and credit of the Municipality and be fully responsible for repayment of any debt obligations.

In no event shall the County be a party to such financing~~ nor be bound by the revenue stream~~. The County shall not assume, directly or indirectly, any liability towards any municipality or any third party, for any debt obligations or other obligations that a municipality incurs as a result of pledging TDT revenues funded by this Agreement.

SECTION 7. **RECORDS AND REPORTING**.

A. The Parties agrees to maintain books, records, documents and other evidence according to generally accepted governmental accounting principles, procedures and practices which sufficiently and properly reflect all costs and expenditures of any nature, incurred by the City in connection with the projects or services funded by allocated TDT revenues covered under this Agreement ~~Project or otherwise paid or to be paid~~.

B. No entity shall assume any responsibility for the other entity's failure to respond, timely, or at all, to a public records request. A request upon one entity, shall not be deemed to be a request on any other entity.

C. The Municipalities agree to include, in all contracts for services related to the Project, the public records statement as required under section 119.0701, Florida Statutes.

SECTION 8. **AUDIT**. The County shall have the right from time to time at its sole expense to audit the compliance by any municipality with the terms and conditions of this Agreement and such right shall extend for a period of three (3) years after termination of this Agreement. The County shall have full access to all required and necessary documentation for inspection, review and audit purposes.

SECTION 9. **REPRESENTATIONS AND WARRANTIES**. Each Party hereby represents and warrants to all others that it has all requisite power, authority and authorization to enter into this Agreement, has taken all necessary actions required to enter into this Agreement, and to fulfill any and all of its obligations, duties, and responsibilities provided for or required of it by this Agreement, whether exercised individually or collectively.

SECTION 10. **AMENDMENTS**. Neither this Agreement nor any portion of it may be modified or waived orally. The provisions hereof may be amended or waived only pursuant to an instrument in writing, approved by and jointly executed by the Parties hereto. This Agreement shall be enforced and be binding upon, and inure to the benefits of, the Parties hereto and their respective survivors and assigns, if any. This Agreement shall not be assigned without the permission of all Parties to the Agreement.

SECTION 11. **DISPUTE RESOLUTION**. The P~~p~~arties shall attempt to resolve any dispute that arise under this Agreement in good faith by participating in mediation. The mediator shall be mutually agreed upon by the P~~p~~arties and the cost of mediation shall be borne equally between the ~~P~~parties. In the event the matter is not resolved through the mediation process, each party shall be free to pursue any of its available remedies.

SECTION 12. JURY TRIAL WAIVER. IN THE EVENT THAT LITIGATION IS FILED BY ANY PARTY TO ENFORCE ANY TERMS OF THIS AGREEMENT, THEN ALL PARTIES AGREE THAT THEY HEREBY WAIVE ANY RIGHT TO A JURY TRIAL ON ANY ISSUES ARISING OUT OF THIS AGREEMENT.

SECTION 13. ATTORNEYS' FEES. If litigation is instituted seeking to enforce the terms of this Agreement, or in any way related to this Agreement, then the prevailing party shall be entitled to recover its reasonable attorney's fees and costs incurred in the litigation, including fees and cost incurred in any resulting appeal, and any fees and costs incurred litigating entitlement to and the reasonableness of any attorney's fees and costs.

SECTION 14. SEVERABILITY. If any one or more of the provisions of this Agreement shall be held contrary to any express provision of law or contrary to any policy of express law, then the remainder of this Agreement shall remain in full force and effect.

SECTION 15. GOVERNING LAW AND VENUE. The validity, construction and performance of this Agreement shall be governed by the laws of the State of Florida. Venue for any action arising out of this Agreement shall be in Okaloosa County, Florida.

SECTION 16. DISCLAIMER OF THIRD-PARTY BENEFICIARIES. This Agreement is solely for the benefit of the Parties and no right or cause of action shall accrue to or for the benefit of any third party that is not a formal party hereto. Nothing in this Agreement, express or implied, is intended or shall be construed to confer upon or give any person or corporation other than the Parties any right, remedy, or claim under or by reason of this Agreement or any provisions or conditions of it; and all of the provisions, covenants, and conditions herein contained shall inure to the sole benefit of and shall be binding upon the Parties.

SECTION 17. NO MEMBER LIABILITY. No members of the governing bodies of the Parties, nor anyone executing this Agreement, shall be liable personally or shall be subject to any accountability for reason of the execution by the Parties or any executing authority of the Parties for any act pertaining thereto.

SECTION 18. SOVEREIGN IMMUNITY. The Parties further agree that nothing contained herein is intended to nor shall be construed a waiver of the Parties' rights and immunities under the common law or section 768.28, Florida Statutes, as amended from time to time.

SECTION 19. CONSTRUCTION. The Parties have participated jointly in the negotiation and drafting of this Agreement. In the event an ambiguity or question of intent or interpretation arises, this Agreement shall be construed as if drafted jointly by the Parties and no presumption or burden of proof shall arise favoring or disfavoring any party by virtue of the authorship of any of the provisions of this Agreement.

SECTION 20. FORCE MAJEURE. ~~In the event TDT revenues are reduced due to~~If the County experiences a catastrophic event such as, but not limited to, acts of God, natural disaster, disease, epidemics, pandemics, war, terrorist acts, ~~governmental regulation, change in law relating to use of TDT funds and TDT collections,~~ riots, or other causes beyond the control of the County, and a state of emergency is declared by the Board of County Commissioners, Governor or President, the 12.5% allocation to the Municipalities may be ~~reduced or eliminated~~suspended as necessary to respond to such event. If the funding allocation is temporarily ~~eliminated~~suspended, this Agreement shall be extended on a month-to-month basis for the ~~same~~ exact duration of time of any suspension. ~~If the funding allocation is temporarily reduced, this Agreement shall be extended for the duration of time necessary to replace the amount of reduction in revenue.~~ In the event there is a change in law restricting the use of TDT funds and/or TDT collections, the 12.5% allocation to the Municipalities shall be restricted accordingly.

SECTION 21. FILING. The Parties are hereby authorized and directed after approval, to file this Agreement with the Clerk of the Circuit Court of Okaloosa County, Florida, for recording in the public records of Okaloosa County, Florida as provided in Section 163.01 (11), Florida Statutes.

SECTION 22. WAIVER. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

IN WITNESS WHEREOF, the parties hereto, by and through the undersigned, have entered into this Interlocal Agreement on the date and year last written below.

CITY OF CRESTVIEW

Item # 5.2.

Staff Report

CITY COUNCIL MEETING DATE: September 7, 2021
TYPE OF AGENDA ITEM: Action Item

TO:	Mayor and City Council
CC:	City Manager, City Clerk, Staff and Attorney
FROM:	Tim Bolduc, City Manager
DATE:	9/6/2021
SUBJECT:	Interlocal Agreement

BACKGROUND:

As a part of the F.S. 164 action, the nine cities in the county have been negotiating an interlocal agreement to address the distribution of the 12.5% municipal "set aside" funding in the Tourist Development District expansion.

DISCUSSION:

The attached draft interlocal agreement provides a mechanism for the distribution of the funding. The main points of the agreement are as follows;

1.

Municipality	**Rate (per annum)**
Destin	48.50%
Crestview	11.50%
Fort Walton Beach	18%
Niceville	10%
Mary Esther	5%
Cinco Bayou	2%
Valparaiso	2.50%
Laurel Hill	1%
Shalimar	1.50%
	100.00%

2. The terms of the agreement will be for not less than 20 years with reviews of the agreement on a five-year cycle.
3. Each city will develop a plan for spending the funds that will be reviewed by the TDC and approved by the County Commission.
4. Unspent funds will be redistributed on a pro-rata basis to other cities when they fail to meet the 5 year spending requirements.

The attached draft will be discussed at the meeting. Staff will be seeking approval of the terms provided. This item will also be discussed at the meeting on the 8th with all other cities and the County Commission.

GOALS & OBJECTIVES

This item is consistent with the goals in A New View Strategic Plan 2020 as follows;

Foundational- these are the areas of focus that make up the necessary foundation of a successful local

government.
Financial Sustainability- Achieve long term financial sustainability

Organizational Capacity, Effectiveness & Efficiency- To efficiently & effectively provide the highest quality of public services

Infrastructure- Satisfy current and future infrastructure needs

Communication- To engage, inform and educate public and staff

Quality of Life- these areas focus on the overall experience when provided by the city.
Community Character- Promote desirable growth with a hometown atmosphere

Safety- Ensure the continuous safety of citizens and visitors

Mobility- Provide safe, efficient and accessible means for mobility

Opportunity- Promote an environment that encourages economic and educational opportunity

Play- Expand recreational and entertainment activities within the City

Community Culture- Develop a specific identity for Crestview

FINANCIAL IMPACT

Approval of this agreement will provide additional funding each year to be used on projects approved in the plan mentioned above.

RECOMMENDED ACTION

Staff respectfully requests City Council approval of the draft interlocal agreement.

Attachments

1. City ILA 9-3-21 Draft

INTERLOCAL AGREEMENT BETWEEN OKALOOSA COUNTY MUNICIPALITIES REGARDING THE ALLOCATION OF 12.5% OF ANNUAL TOURIST DEVELOPMENT TAX REVENUES EARMARKED BY OKALOOSA COUNTY TO THE MUNICPALITIES, AS SET FORTH HEREIN, FOR A TERM OF TWENTY (20) YEARS

This AGREEMENT made and entered into this ______ day of September 2021, by among and between all of the following entities: **The municipalities of CINCO BAYOU, CRESTVIEW, DESTIN, FORT WALTON BEACH, LAUREL HILL, MARY ESTHER, NICEVILLE, SHALIMAR, and VALPARAISO (hereinafter called the "Municipalities" or the "Parties")** for the minimum annual distribution of 12.5% of the section 125.0104, *Florida Statutes*, Tourist Development Tax, as currently levied, and as shall be levied if the Referendum set for October 5, 2021, is approved of by the voters, and as shall be levied if the County levies any additional parts of the tourist development tax pursuant to sections 125.0104(3)(d) or 125.0104(3)(m), said minimum annual distribution to be shared amongst the municipalities who execute this Agreement, per the provisions set forth herein, to be spent by the signatory municipalities following Florida law.

WHEREAS the Parties agree that the Tourist Development Tax, as a whole, benefits the general public of Okaloosa County; and

WHEREAS the electorate eligible to vote is scheduled to consider a mail-out referendum election set for October 5, 2021, that will determine whether the Tourist Development District shall be expanded from the existing subcounty special taxing district to the entirety of the County (the "Referendum"); and

WHEREAS, the Parties have diligently worked together to resolve various disputes arising as a result of the Referendum; and

WHEREAS this Agreement is based on mutual consideration of the Parties as a global compromise of the issues raised by the Parties within the Chapter 164, Florida Statutes ADR process which was initiated to resolve issues related to the Referendum; and

WHEREAS this Agreement shall be construed as resolution of the conflict in accordance with section 164.1057, Florida Statutes; and

WHEREAS the Parties anticipate they will enter into future Interlocal Agreements, between the County and respective Municipalities relating to specific projects that are approved of by the County to be funded by the Allocations set forth herein.

NOW, THEREFORE, in consideration of the above recitals, mutual covenants, promises and agreements contained herein, and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the Parties agree as follows:

SECTION 1. AUTHORITY. This Agreement is entered into under Chapter 163.01, *Florida Statutes*, and other applicable provisions of law.

SECTION 2. **RECITALS.** The above recitals are true and accurate and are incorporated herein as essential terms of the Agreement.

SECTION 3. **PARTIES.** The parties to this Agreement are the municipalities who execute this document before March 1, 2022, the effective date of the Ordinance expanding the boundaries of the tourism development tax district. Should any Municipality not timely execute this Agreement, each such Municipality's anticipated allocation hereunder shall be redistributed pro-rata to the Municipalities which timely execute this Agreement.

SECTION 4. **TERM**. This Agreement shall conditionally take effect once the County and at least one of the Municipalities executes the Agreement; as other Municipalities execute the Agreement, they shall also become conditionally bound. The entirety of this Agreement is conditional on the voters approving the Referendum mentioned above. If the voters approve the Referendum, then the obligations contained herein shall be binding on the Parties who execute the Agreement before the Referendum, for a term of twenty (20) years from the effective date of the Ordinance approved of by the voters in the Referendum. Under no circumstances will a municipality be permitted to execute this Agreement after the effective date of the Ordinance subject to the Referendum.

SECTION 5. **CONSIDERATION.** It is expressly recognized that the Okaloosa County Board of County Commissioners has the discretion to allocate TDC Revenues and may elect to obligate specific amounts of TDT Revenues for extended periods. It is also recognized that the County, the City of Destin, the City of Crestview, the City of Fort Walton Beach, and the City of Mary Esther have all passed resolutions instituting the Chapter 164, *Florida Statutes* Local Government Alternative Dispute Resolution process on issues related to the Referendum and proposed Ordinance. Specifically, the County and Crestview fully support the proposed Referendum and proposed Ordinance, Destin, opposed the Referendum for various reasons, and Fort Walton Beach and Mary Esther supported the Referendum but did raise legal concerns on how the Referendum and proposed Ordinance would affect original members of the tourist development district. As consideration for the County's execution of a separate, related interlocal agreement committing to, among other things, the earmarking of 12.5% of TDD revenues after the effective date of this agreement, each municipal entity that executes this Agreement agrees to dismiss the Chapter 164 proceedings and shall further waive any legal or equitable challenge to the Referendum or the version of the Ordinance that the voters vote on.

SECTION 6. **REPRESENTATIONS AND WARRANTIES.** Each party hereby represents and warrants to the other that it has all requisite power, authority, and authorization to enter into this Agreement, has taken all necessary actions required to enter into this Agreement, and to fulfill any of its obligations, duties, and responsibilities provided for or required of it by this Agreement, whether exercised individually or collectively.

SECTION 7. **AUTHORITY.** The execution of this Agreement has been duly authorized by the appropriate official action of each party hereto. Each party has complied with all requirements of the law, and each party has full power and authority to comply with the terms and provisions of this Agreement. This Agreement shall bind the successors, assigns, and legal representatives of the parties.

SECTION 8. **MUNICIPAL ALLOCATION**

The Municipalities agree that the annual allocation from the County of 12.5% of TDT revenues shall be allocated among the municipalities as follows:

TABLE 8:

Municipality	Rate (per annum)
Destin	48.50%
Crestview	11.50%
Fort Walton Beach	18%
Niceville	10%
Mary Esther	5%
Cinco Bayou	2%
Valparaiso	2.50%
Laurel Hill	1%
Shalimar	1.50%
	100.00%

Funds allocated to each Municipality pursuant to this provision shall be defined as the "Allocated Funds"

A. Expenditure Plans

Each Municipality shall submit an expenditure plan by March 1, 2023. The expenditure plans shall be reviewed and approved by the TDC, then forwarded to the Board of County Commissioners for final approval. The expenditure plans shall contain a list of proposed capital projects that the municipality proposes to spend the Allocated Funds on. The TDC and County shall review the expenditure plans solely to determine whether the capital projects listed therein comply with the appropriate provisions of law but shall not have the power to reject an expenditure plan for any policy reason. Municipalities shall provide updated expenditure plans to the TDC on an annual basis after the initial expenditure plan is approved. Allocated funds shall be collected and disbursed once a municipality is prepared to obligate allocated funds towards the project(s) on an approved expenditure plan.

B. Unspent Allocations

Allocated funds must be appropriated by each Municipality to a specific eligible project pursuant to an approved expenditure plan and the project must be obligated within five years from the date of such appropriation. An obligated project is one that is beyond the mere design stage and is one where the Municipality has either (i). contractually bound itself to a third-party to complete substantial portions of the project, or (ii). is over 50% completed. Unobligated funding shall be re-distributed amongst the other municipalities, pro-rata, at the currently allotted percentages set forth above Table 8 to be spent on projects contained on approved expenditure plans.

SECTION 9. PERIODIC MODIFICATION REVIEWS. This Agreement may be modified and reopened once during the fifth year of this Agreement's performance term, and then once every fifth year thereafter if there is mutual written consent, via either a resolution of a municipality's governing board or a written letter from the top administrative official of the Municipality directed to the other Municipalities, of a minimum of the Municipalities comprising 75% of the total population of the Municipalities.

Each review shall be for determining if the Agreement can be modified in a manner mutually beneficial for all of the parties. Each Municipality has the right to veto any provision of a proposed modification that will alter that Municipality's allocated distribution percentage outlined in the table above. The manner of said veto shall be a line-item veto that only prevents the proposed alteration of a Municipality's assigned distribution found in Table 8.

The twenty (20) year term may not be reduced during a modification review unless all parties to the Agreement agree to a reduction.

SECTION 10. ADDITIONAL PROJECTS. Nothing in this Agreement shall prevent a Municipality from proposing projects to the TDC board and/or the County for funding in addition to and not covered by this Agreement. If a Municipality has a project funded from TDT Revenues in a manner not covered under this Agreement, then such extra-contractual funding shall not be used as an offset or reduction of the Municipality's Allocation granted per this Agreement.

SECTION 11. FILING. This Agreement and any amendments thereto shall be filed with the Clerk of the Circuit Court for Okaloosa County, Florida, as required by Section 163.01(11), *Florida Statutes*.

SECTION 12. WAIVER. No waiver of any provision hereof shall be effective unless made in writing and signed by the waiving party. The failure of any party to require the performance of any term or obligation of this Agreement, or the waiver by any party of any breach of this Agreement, shall not prevent any subsequent enforcement of such term or obligation or be deemed a waiver of any subsequent breach.

SECTION 13. DISPUTE RESOLUTION. The Parties shall attempt to resolve any dispute under this Agreement in good faith by participating in mediation. The Parties shall mutually agree upon the mediator, and the cost of mediation shall be borne equally between the parties. If the Parties cannot agree on a mediator, then each party shall place a name into a jar, and then the Okaloosa County Clerk of Court, or the Clerk's designee shall pick a name from the jar, with his/her eyes closed. If the matter is not resolved through the mediation process, each party shall be free to pursue any of its available remedies, including the initiation of the Chapter 164 process.

SECTION 14. JURY TRIAL WAIVER. IF LITIGATION IS FILED BY ANY PARTY TO ENFORCE ANY TERMS OF THIS AGREEMENT, THEN ALL PARTIES AGREE THAT THEY HEREBY WAIVE ANY RIGHT TO A JURY TRIAL ON ANY ISSUES ARISING OUT OF THIS AGREEMENT.

SECTION 15. ATTORNEY'S FEES AND COSTS. If litigation is instituted seeking to enforce the terms of this Agreement, or in any way related to this Agreement, then the prevailing party shall be entitled to recover its reasonable attorney's fees and costs incurred in the litigation, including fees and cost incurred in any resulting appeal, and any fees and costs incurred litigating entitlement to and the reasonableness of any attorney's fees and costs.

SECTION 16. GOVERNING LAW AND VENUE. The validity, construction, and performance of this Agreement shall be governed by the laws of the State of Florida. Venue for any action arising out of this Agreement shall be in Escambia County, Florida.

SECTION 17. NOTICE. Suppose written notice to a party is required under this Agreement. In that case, such notice shall be given by hand delivery, recognized overnight delivery service, Federal Express, UPS, or by first-class mail, registered and return receipt requested to the chief executive officer of each entity (County Administrator, City Manager, City Administrator, Town Manager, or City Clerk, depending on the entity).

SECTION 18. SOVEREIGN IMMUNITY. Nothing in this Agreement shall be deemed a waiver of immunity or a limitation of liability of any of the governmental parties hereto beyond any limited statutory waiver of immunity or limitation of liability which the Florida Legislature may have adopted in Section 768.28, *Florida Statutes*, or another statute. Nothing in this Agreement shall inure to the benefit of any third party to allow any claim which would otherwise be barred under the Doctrine of Sovereign Immunity or by operations of law.

SECTION 19. SEVERABILITY. If any provision hereof is in conflict with any applicable statute, rule, regulation or is otherwise unenforceable, then such provision shall be null and void to the extent of such conflict, and shall be severable, but shall not invalidate any other provision of this Agreement.

SECTION 20. CONSTRUCTION. The parties have participated jointly in the negotiation and drafting of this Agreement. Suppose an ambiguity or question of intent or interpretation arises. In that case, this Agreement shall be construed as if drafted jointly by the parties. No presumption or burden of proof shall arise favoring or disfavoring any party under the authorship of any provision of this Agreement.

IN WITNESS WHEREOF, the Municipalities have caused this Agreement to be duly executed and entered into on the date first above written.

CITY OF CRESTVIEW

Item # 5.3.

Staff Report

CITY COUNCIL MEETING DATE: September 7, 2021
TYPE OF AGENDA ITEM: Action Item

TO:	Mayor and City Council
CC:	City Manager, City Clerk, Staff and Attorney
FROM:	Tim Bolduc, City Manager
DATE:	9/6/2021
SUBJECT:	Purchasing Procedures for the Golf Club

BACKGROUND:

On August 7, 2020, the City of Crestview purchased the Foxwood Golf Course, clubhouse and amenities. At the August 23, 2021 meeting, staff received City Council approval to act as the contractor for the renovation of the driving range and clubhouse.

DISCUSSION:

The city's purchasing manual allows the City Manager to enter into procurement transactions up to $25,000.00 The purchasing manual also includes a public notice requirement for projects in excess of $15,000.00.

Portions of the golf club project may exceed the City Manager's spending authority, and would require the issuance of a request for proposals as established in the city's purchasing manual. In order to expedite the renovations, staff is requesting permission to solicit bids or proposals from no less than three qualified contractors, and permission to allow the City Manager to enter into procurement transactions over $25,000.00 for the golf club renovations, in lieu of the purchasing manual. The amended process will still include sealed bids and transactions over $25,000 will be placed on the next City Council agenda to allow the Council to monitor these agreements.

GOALS & OBJECTIVES

This item is consistent with the goals in A New View Strategic Plan 2020 as follows;
Foundational- these are the areas of focus that make up the necessary foundation of a successful local government.
Financial Sustainability- Achieve long term financial sustainability

Organizational Capacity, Effectiveness & Efficiency- To efficiently & effectively provide the highest quality of public services

Infrastructure- Satisfy current and future infrastructure needs

Communication- To engage, inform and educate public and staff

Quality of Life- these areas focus on the overall experience when provided by the city.
Community Character- Promote desirable growth with a hometown atmosphere

Safety- Ensure the continuous safety of citizens and visitors

Mobility- Provide safe, efficient and accessible means for mobility

Opportunity- Promote an environment that encourages economic and educational opportunity

Play- Expand recreational and entertainment activities within the City

Community Culture- Develop a specific identity for Crestview

FINANCIAL IMPACT

The request is a deviation from the adopted purchasing policy which is at the discretion of the City Council to amend as needed with circumstances dictate such a need.

RECOMMENDED ACTION

Staff respectfully requests permission for the City Manager to enter into procurements over $25,000.00, and staff to solicit bids or proposals from no less than three qualified contractors in lieu of current purchasing manual public notice requirements for the golf club renovations.

Attachments

None