

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: April 1, 2019

SUBJECT: Interlocal Agreement for Tax Collections

PRESENTER: Amy Brantley, Assistant County Manager
Russ Burrell, County Attorney
Darlene Burgess, Tax Administrator

ATTACHMENTS: Yes
1. Draft Agreement

SUMMARY OF REQUEST:

NCGS 160A-461 authorizes cities in North Carolina to contract with the county for the provision of their city property tax billing and collection, and to reimburse the county for those services. This practice has become relatively common across the state, and the County had been approached by the Town of Laurel Park and the City of Hendersonville regarding the possibility of the County collecting their municipal property taxes.

At the January 7, 2019 meeting, the Board authorize Staff to proceed with development of an Interlocal Agreement for Tax Collection with interested municipalities, with a reimbursement rate sufficient to cover the county's cost for those services, subject to final approval by the Board.

County staff have worked through the specifics of an Interlocal Agreement, which is presented here for the Board's consideration.

BOARD ACTION REQUESTED:

The Board is requested to approve the Interlocal Agreement as presented, authorizing the Tax Collector to begin collecting current year taxes beginning July 1, 2019.

Suggested Motion(s):

I move the Board approve the Interlocal Agreement as presented, authorizing the Tax Collector to begin collecting current year taxes beginning July 1, 2019.

STATE OF NORTH CAROLINA

COUNTY OF HENDERSON

INTERLOCAL AGREEMENT FOR TAX COLLECTION

THIS INTERLOCAL AGREEMENT is made and entered into this the ____ day of _____ 2019, and effective as of the 1st day of July 2019, by and between HENDERSON COUNTY, hereinafter the “County” and the CITY OF HENDERSONVILLE, hereinafter the “City”, and collectively referred to as the “Parties”.

WITNESSETH:

WHEREAS, the County and City have determined that it is in the public benefit and interest to enter into an Interlocal Agreement for Tax Collection; and

WHEREAS, the Parties have agreed that the negotiated payment set forth herein is in the best interests of their citizens; and

WHEREAS, the North Carolina General Statutes in Chapter 160A, Article 20, provide that units of local government may enter into agreements in order to execute an undertaking providing for the continual exercise by one unit of any power, function or right, including the collection of taxes; and

WHEREAS, the City and County agree this Interlocal Agreement shall continue for five (5) years, from July 1, 2019 to June 30, 2024, unless terminated pursuant to the terms herein; and

WHEREAS, the governing bodies of the City and County have ratified this Interlocal Agreement by Resolutions being recorded in their respective minutes; and

NOW THEREFORE, in consideration of the mutual covenants, terms and conditions contained in this Interlocal Agreement herein accruing to the benefit of each of the respective parties hereto and other good and valuable consideration, receipt and sufficiency of which is acknowledged by the City and County, the parties agree as follows:

1. County Billing and Collection of City Taxes

- a) The County shall provide collection of current and future municipal ad valorem property taxes. Collection of delinquent taxes existing as of the date hereof shall be the responsibility of the City except as stated below. The City shall within thirty (30) days of the date hereof provide the County with a list of all such delinquent taxes owed, and delinquent taxpayers, as of the date hereof.
- b) Notwithstanding, no City tax bill in an amount less than Five Dollars (\$5.00) shall be issued.
- c) The City shall appoint the County’s Tax Collector as the City’s Tax Collector, and the County’s Delinquent Tax Collector as the City’s Delinquent Tax Collector.

2. Term of Agreement: This Interlocal Agreement shall continue until terminated pursuant to the terms herein.

3. Compliance

The County will comply with all applicable tax collection laws of North Carolina, including those contained in Subchapter II of Chapter 105 of the General Statutes of North Carolina, and all administrative mandates issued by the State of North Carolina.

4. Records and Accounts and Operations

- a) The County shall be responsible for maintaining, in an on-line environment, all ad valorem tax records, including amounts paid and unpaid, in the same manner as County records are maintained.
- b) The City will provide the County with all necessary information for transfer for all funds due the City, the County will properly account and distribute such funds by check or other mutually agreed upon method monthly and notify the City Finance Director by the 15th of each month on amounts to be transferred.
- c) The County shall provide the City with all necessary and required reports in such format and detail to enable the City to prepare and record the necessary financial transactions. Such reports shall be mutually agreed upon by the City and County Finance Directors.
- d) The County will provide the City with information sufficient to complete all required reports to outside agencies, including the TR-2 report and reports necessary for the City's financial statements. The City shall be responsible for the completion of all reporting involving property tax.
- e) The County shall provide the City's External Auditors, during regular business hours, access to the City Tax Receivables' daily cash transactions and other records pertaining thereto to the fullest extent practicable.
- f) The City shall provide the County Tax Collection Office with access, to the extent legally allowable, into any of the City's records systems that the City deems to be beneficial in the collection of City taxes.
- g) The City agrees to appoint and maintain one of its employees as a Deputy Tax Collector to act on behalf of the City in presenting certain matters to the City Council.
- h) The County shall promptly provide the City with requests for releases or refunds when received, together with reasonable information needed to make a determination on requests for releases or refunds. The City shall, at its next regular City Council meeting occurring at least ten (10) days after the receipt of the request and information, place the matter before the City Council for determination as to whether to grant the release or refund of City taxes.

5. Pro Rata Payments

Unless the taxpayer specifies otherwise, the County shall distribute payments received from City taxpayers of less than the total amount owed on City and County taxes on a proportionate basis between taxes owed the County and the City, after all costs, interest and penalties are first paid.

6. Costs for Billing and Collections

The County shall incur all costs for preparing, printing, billing and collecting the City tax bills, including follow-up notices.

With respect to the cost for collection actions taken by the County, for example advertising costs, attorney's fees and garnishment fees where such costs are not paid directly by the taxpayer involved, the County shall split the costs on a proportionate basis between taxes owed the County and the City.

When agreed upon by both the County and City, joint advertisement, including the advertisement of tax liens for both the County and the City, is permissible.

7. Foreclosures

- a) The County shall be responsible for determining the time for commencing all tax foreclosure proceedings (except for those regarding any foreclosure proceedings instituted by the City on City taxes delinquent as of the date of this agreement). The City hereby delegates this decision to the County. The County shall give the City notice of the institution of any foreclosure action at least thirty days prior to filing in cases where there are delinquent taxes owed the City as of the date hereof.
- b) The County shall send a joint notice as required by N.C. Gen. Stat. §105-375(c) and shall consolidate the tax liens of the County and the City for the purpose of docketing a judgment on such liens as contemplated by N.C. Gen. Stat. §105-375(k). Following entry of a judgment, an execution shall be issued to enforce such judgment.
- c) All expenses directly related to compliance with the procedural and substantive requirements of N.C. Gen. Stat. §105-375, including but not limited to notice, docketing the judgment and execution on such judgment, shall be advanced by the County, and reimbursed to the County from the proceeds of any foreclosure sale prior to payment to the City and County of taxes recovered.
- d) The parties shall agree in advance of the sale upon a "maximum joint bid" for each execution sale of property to enforce a judgment entered as provided herein above, which bid will be entered on behalf of both parties. The "maximum joint bid" shall be the sum of all taxes, interest, penalties and applicable costs of enforcement, collection and sale owed to both jurisdictions. The parties further agree that if third parties bid at such execution sale, they will bid up to the "maximum joint bid", such that no third party will purchase the property for less than the "maximum joint bid". If the parties are the highest bidder at any sale, they shall each contribute to the purchase price a pro rata

amount of the whole, determined by the amount of ad valorem taxes owed to each of them for the respective tax year on the subject real property in relation to the total amount of ad valorem taxes owed to both parties.

- e) If the parties acquire title to real property following an execution sale as contemplated in this Agreement, they shall take title as tenants in common with each party owning a fractional interest of the whole that is equal to the same fraction as their contribution to the purchase price.

8. Payment to County

The fee for collection services for each fiscal year shall be a flat amount of 0.5% (equivalent to one half of one percent of the then-current Fiscal Year collections). Payment shall be accomplished by the County withholding the fee when remitting the monthly collection to the City.

9. Termination

This Interlocal Agreement may be terminated by either party by providing six (6) months' notice prior to the start of the next fiscal year. Upon notice of termination of the Interlocal Agreement, the County shall deliver to the City all tax records, in a customary electronic data format, or in whatever form held in its hands, pertaining to its listing, billing and collecting, consistency of the tax bills, tax scrolls and other related records by February 1st of the fiscal year in which the termination shall be effective. The County shall continue to collect current and delinquent taxes through June 30th of the fiscal year in which the termination shall be effective. Upon termination of the Interlocal Agreement, the County shall provide a full accounting to the City of the status of all tax collections. After June 30th of the fiscal year in which the termination becomes effective, the County shall not be further obligated either as to current or delinquent taxes due to the City.

10. Entire Agreement

This Interlocal Agreement, including all exhibits or attachments if any, sets forth the entire Agreement between the Parties regarding the services and matters set forth herein. All prior conversations or writings between the Parties hereto or their representatives on this subject matter are merged within and extinguished. This Interlocal Agreement shall not be modified or amended except by a written instrument executed by duly authorized representatives of the Parties herein.

11. Notice

Notice under this Interlocal Agreement shall be deemed sufficient upon the mailing to the parties by certified or registered mail at the following locations:

County of Henderson
c/o Charles Russell Burrell
1 Historic Courthouse Square, Suite 5
Hendersonville, NC 28792

City of Hendersonville
c/o _____
145 5th Avenue East
Hendersonville, NC 28792

IN WITNESS WHEREOF, each party has caused this Agreement to be duly executed on the day and year first above written and if corporate, by their duly authorized representative.

HENDERSON COUNTY

By: _____
Steve Wyatt, County Manager

CITY OF HENDERSONVILLE

By: _____
John Connet, City Manager

PRE-AUDIT CERTIFICATION

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act N.C.G.S. 159-28(a).

By: _____

Samantha Reynolds
Henderson County Finance Director

Date: _____