

**INTERLOCAL COOPERATION AGREEMENT  
FOR THE COLLECTION OF TAXES  
BETWEEN DURHAM COUNTY  
AND THE CITY OF DURHAM**

**THIS CONTRACT** is made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2012, by and between the **COUNTY OF DURHAM** (hereinafter referred to as the “**County**”) and the **CITY OF DURHAM** (hereinafter referred to as the “**City**”).

**WITNESSETH:**

WHEREAS, the governing bodies of the County and the City have found and determined that it is in the public benefit and interest to provide for the collection by the County of real and personal property taxes levied by the City as well as certain special assessments assessed by the City, gross receipts taxes on vehicle rentals and leases, gross receipts taxes on heavy equipment rentals and leases, and motor vehicle license taxes<sup>1</sup> and fees levied by the City; and,

WHEREAS, the North Carolina General Statutes in Chapter 160A, Article 20, Part 1, provide that units of local government may enter into agreements in order to execute an undertaking providing for the contractual exercise by one unit of any power, function, or right, including the collection of taxes, of another unit; and,

NOW THEREFORE, for and in consideration of mutual covenants herein and the mutual benefits to result therefrom, the parties hereby agree as follows:

1. DEFINITIONS:

- a. Consolidated Tax Bill: A tax bill for both the County and the City taxes prepared by the County in those situations where both County taxes and City revenues are due, i.e., where property lies both within the County and the City.
- b. Non-Consolidated Tax Bill: A tax bill for either County Revenues only or City Revenues only prepared by the County in those situations where only County or only City taxes are due, e.g., where property lies within the County and outside the City, or within the City and outside the County, or where property is annexed into the City at anytime other than at the beginning of the fiscal year.
- c. Revenues: Any current or delinquent: property taxes, gross receipts taxes on vehicle rentals and leases, gross receipts taxes on heavy equipment rentals and leases, and motor vehicle license taxes<sup>2</sup> and fees levied by the County or the

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<sup>1</sup> It is expected that the collection of registered motor vehicle taxes will become the responsibility of the North Carolina Department of Motor Vehicles at some point in the near future. The projected transition date is July 2013. The assessment and situs responsibility will remain at the local level.

<sup>2</sup> See note 1, above, re: motor vehicle taxes.

City including interest, penalties, or costs; and any special assessments due to the City or County on property being foreclosed on as a part of a tax foreclosure action; which are collectable by the Tax Collector within the scope of this Agreement.

- d. Tax Collector: The person appointed by the Board of Commissioners of the County of Durham pursuant to N.C.G.S. §105-349, or its successor statute, by whatever title given, and currently known as the Durham County Tax Administrator.
  - e. Tax Levy: The amount of City or County property taxes due for the then current fiscal year as determined by the Tax Collector. That number is generally determined as the product of the City and County's tax rates multiplied by the total assessed value of all property listed in the City of County respectively.
2. PURPOSE: The purpose of this agreement is to establish the undertakings, as provided in N.C.G.S. Chapter 160A, Article 20, Part 1, whereby the Tax Collector collects for the City and County all Revenues, as defined in Section 1(c), of this Agreement.
3. METHODS AND PROCEDURES: The methods and procedures which shall be followed by the County, City, and the Tax Collector to implement this undertaking shall be as follows:
- a. The Tax Collector shall perform, on behalf of the City, those duties specified in N.C.G.S. §105-350, and for all Revenues, shall perform those duties prescribed by Section 22 of the City Charter, and any other duties specified herein.
  - b. The County shall provide the Tax Collector with such assistants and employees as are necessary for said Tax Collector to accomplish his or her duties to collect the Revenues as set forth herein.
  - c. The governing body of the County shall cause to be performed all actions pertaining to or ancillary to the collection of Revenues for the City, required by N.C.G.S. Chapter 105, including but not limited to the following:
    - i. Preparation of tax scrolls and tax books or a combined record as required by N.C.G.S. §105-319;
    - ii. Adoption of the Order to Collect Taxes as required by N.C.G.S. §105-321;
    - iii. Review of listings and evaluations as required by N.C.G.S. Chapter 105, Subchapter II, Article 21;
    - iv. Listing, appraising, and assessing of property as required by N.C.G.S. Chapter 105, Subchapter II, Article 22;
    - v. Delivery of tax receipts to the Tax Collector as required by N.C.G.S. §105-352; and,
    - vi. Execution of settlements as required by N.C.G.S. §105-373.

- d. The Tax Collector shall follow the tax collection and settlement procedures set forth in N.C.G.S. Chapter 105, Subchapter II, and the administrative and accounting practices of the County, except that the following special procedures shall apply to the extent that they are not inconsistent with said General Statutes:
- i. The County shall be responsible for the safeguarding of all Revenues collected on behalf of the City until such time as said Revenues are remitted to and received by the City.
  - ii. Records maintained by the Tax Collector shall show separately the amount collected on behalf of each taxing unit and such records shall be available for inspection at any time to the City, either in written form or in computer files.
  - iii. The Tax Collector shall prepare and mail one Consolidated Tax Bill per parcel for each parcel on which both County and City taxes are owed, detailing all County and City taxes due. In the event of a partial payment on such a Consolidated Tax Bill, where the taxpayer has not specifically designed how payment is to be applied, the amount of such payment shall first be applied in satisfaction of the taxes owed with the amount to be applied *pro rata* to each taxing unit's share of the principal amount of the taxes which were the basis of said collection. Any remaining monies shall then be applied to the motor vehicle license fees levied by the City. The Tax Collector shall prepare and mail one Non-Consolidated Tax Bill per parcel for each parcel on which either the County only or the City only taxes are owed.
  - iv. The Tax Collector shall collect Revenues due the City in the same manner as the Tax Collector collects revenues due the County. The Tax Collector shall report delinquent Revenues due the City in the same manner as the Tax Collector reports delinquent revenues due the County.
    1. Where both County and City Revenues are delinquent, any action, including but not limited to a foreclosure action, to collect such Revenues shall be brought in the names of both taxing units.
    2. Where special assessments are due the City on property which is the subject of a tax foreclosure action by the County, the Tax Collector shall collect these special assessments as part of the tax foreclosure proceeding, regardless of whether or not the taxes due are paid subsequent to the institution of the tax foreclosure proceedings. This shall be the only circumstance in which the Tax Collector shall have the duty to collect special assessments owing to the City.

- v. Penalties and interest collected, proceeds recovered from tax foreclosures and sales pursuant thereto, and discounts, settlements, or compromises allowed shall be apportioned between the County and the City *pro rata* in proportion to each taxing unit's share of the principal amount which was the basis of said collections, recoveries, or allowances.
- vi. The Tax Collector shall make an annual written and oral report and a monthly written report to both governing bodies, which shall include:
  - 1. Current property tax collections on behalf of each taxing unit, stated in dollars and as a percentage of the levy;
  - 2. Delinquent property tax collections on behalf of each taxing unit, stated in dollars and as a percentage of the outstanding levies;
  - 3. Collections of County and City Revenues other than property taxes by type, stated in dollars and as a percentage of the budget projections;
  - 4. Significant policy changes and recommendations pertaining to the Office of the Tax Collector;
  - 5. Significant operational changes and recommendations pertaining to the Office of the Tax Collector; and,
  - 6. Responses to any *ad hoc* requests made by the City pertaining to tax collections.

4. DURATION:

- a. This Agreement will take effect on the 1<sup>st</sup> day of July, 2012.
- b. This Agreement shall endure through and until June 30, 2017, unless terminated sooner as set forth in Section 7(e) of this Agreement.

5. FINANCES:

- a. The County shall retain a sum equal to one percent (1%) of the actual Revenues collected for the City as consideration for this Agreement, subject to the provision included in Section 5.d of this Agreement, below.
- b. On an annual basis, if mutually agreed upon, the City may allocate additional resources to the County for purposes related to this Agreement. As part of the annual budget process, the Tax Collector, County Manager, and City Manager, or their designees, shall identify and reach an understanding of any funding necessary for technology or other improvements that the Tax Collector will undertake. The purpose of the improvements shall be to enhance the tax collection function or other related activities designed to increase Revenues, and amounts may be budgeted by the City and the County to jointly support these initiatives.

- c. In prior years, the City paid additional consideration to the County for the purposes of technology improvements. Concurrent with the execution of this Agreement, the County shall provide a reconciliation of the current balance of any funds held by the County that were generated from these prior Agreements. Any and all outstanding balances in the technology account will be spent in a manner jointly agreed upon by the City Manger and County Manager prior to the allocation of additional funding by the City pursuant to section 5.b, above.
  - d. **AUDIT FEES:** The County utilizes services to assist in the auditing of businesses which are non-compliant with listing all assets that are potential tax revenues for the City and the County. In the event that services are utilized, then those audit fees shall be apportioned between the City and County on a *pro rata* basis. The County shall provide the City sufficient detailed documentation as to which businesses have been audited and paid in full that is associated with the *pro rata* share and a summary monthly report that specifies the actual *pro rata* share of the invoices associated with the audits. Additionally, the City will not pay the one percent fee (see Section 5.a, above) on any amounts collected through the audit process, as the payment of audit fees is the consideration for these Revenues.
6. **APPOINTMENTS:** The Tax Collector shall be appointed by the Durham County Board of Commissioners for a term not to exceed four (4) years.
- a. The appointment of the Tax Collector shall be made by the governing body of the County in accordance with the provisions of N.C.G.S. §105-349. The appointment, approval, and acknowledgment thereof will be entered into the minutes of the appropriate proceedings of the governing body of the County.
  - b. Appointments of all assistants, consultants, attorneys, or employees provided by the County to implement this undertaking shall be made by the appropriate County officials and shall not be subject to the approval of the City. Such appointees shall be employees, agents, consultants, or contractors, as the case may be, of the County and not of the City.
7. **GENERAL PROVISIONS:**
- a. The participation of the Office of the Tax Collector in this undertaking, except as otherwise provided by law or this Agreement, shall be under the supervision of the Board of Commissioners of Durham County and the County Manager, which officials shall have exclusive authority as provided by law to regulate and control the administration of said Office. Any problems experienced by the City with regard to this undertaking shall be communicated to the County Manager to be resolved as the County Manager deems appropriate.
  - b. A bond shall be given by the Tax Collector, in his or her official capacity pursuant to N.C.G.S. §105-349(c) in an amount set by the Board of County

Commissioners. Bonds shall also be given by such of said Tax Collector's Assistants and Clerks as may be designated by the Board of County Commissioners. Such bonds shall be subject to the approval of the Board of County Commissioners for the County's and City's protection and the County shall pay the premiums required therefore. The County shall provide defense to the Tax Collector to the same extent it does its employees under its applicable policies.

- c. The governing body of the City may, at its own expense, provide for an audit of the records relating to taxes owed the City and collected on its behalf by the Tax Collector in addition to any audit required by law. The Tax Collector shall cooperate in any audit provided by the City pursuant to this subsection.
- d. Tax settlement shall be made annually by the Tax Collector to the Board of County Commissioners pursuant to N.C.G.S. §105-373, before tax records are delivered to him or her for the subsequent tax year. Copies of all tax settlement reports of the Tax Collector shall be provided to the governing body of the City.
- e. TERMINATION: This Agreement may be terminated by either party with at least six (6) months' prior written notice; however, termination shall be effective only at the end of a fiscal year.
- f. This Agreement shall be recorded in the Office of the Clerk of both the City and County.
- g. Amendments to this Agreement shall be effective only when made in writing and duly executed by both parties.
- h. With respect to all Revenues collected by the County under the terms of this Agreement, the County shall have sole and absolute authority upon compliance with and subject to applicable law:
  - i. To determine the status and taxability of all property;
  - ii. To prescribe the minimum amount or percentage of tax liability that may be accepted as a partial payment;
  - iii. To designate the method or methods of collection to be employed, whether by garnishment, levy, foreclosure, or such other remedy or remedies, against any taxpayer, his or her real or personal property, as may be provided by law;
  - iv. To employ such professional services (legal, accounting, etc.) as may be required for the efficient collection of Revenues; and,
  - v. To make any and all elections, decisions, and determinations available to the City and County under the Machinery Act of 1971 (as now in existence or hereafter amended) with respect to the listing, appraisal,

assessment of property, refunds and releases, and collection of taxes, except for establishment of the City's tax rate, which shall remain the City's sole responsibility.

IN WITNESS WHEREOF, the parties hereto have caused this instrument to be signed on the day and year first above written, in their respective names by their proper officials by authority of resolutions duly adopted by the governing bodies of each of the taxing units.

ATTEST

CITY OF DURHAM

\_\_\_\_\_

BY: \_\_\_\_\_  
THOMAS J. BONFIELD  
CITY MANAGER

ATTEST

COUNTY OF DURHAM

\_\_\_\_\_

BY: \_\_\_\_\_  
MICHAEL M. RUFFIN  
COUNTY MANAGER

ACKNOWLEDGEMENT BY THE CITY OF DURHAM

NORTH CAROLINA  
COUNTY OF DURHAM

I, \_\_\_\_\_, a Notary Public for \_\_\_\_\_ County, certify that \_\_\_\_\_ personally came before me this day and acknowledged that she is City Clerk to the City Council of the City of Durham, and that by authority duly given and as the act of the City, the foregoing instrument was signed in its name by its City Manager, sealed with its seal, and attested by herself as its City Clerk to the Council.

Witness my hand and notarial seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

\_\_\_\_\_  
Notary Public  
My commission expires: \_\_\_\_\_

(SEAL)

ACKNOWLEDGMENT BY THE COUNTY OF DURHAM

STATE OF NORTH CAROLINA  
COUNTY OF DURHAM

I, \_\_\_\_\_, a Notary Public for \_\_\_\_\_ County, certify

that \_\_\_\_\_ personally came before me this day and acknowledged that she is Clerk to the Board of the County of Durham, and that by authority duly given and as the act of the County, the foregoing instrument was signed in its name by its County Manager, sealed with its seal, and attested by himself as its Clerk to the Board.

Witness my hand and official seal, this the \_\_\_\_\_ day of \_\_\_\_\_, 2012.

(SEAL)

\_\_\_\_\_  
Notary Public

My commission expires: \_\_\_\_\_

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

\_\_\_\_\_  
FINANCE OFFICER

\_\_\_\_\_  
DATE