

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

THIS AMENDMENT is made and entered into this ____ day of _____, 2013, 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 County and City entered into an Interlocal Cooperation Agreement for the collection of taxes, which Agreement was effective July 1, 2012, for the provision of (hereinafter the “Original Agreement”); and

WHEREAS, changes to the motor vehicle tax system brought about by House Bill 1779, adopted in the 2005 session of the General Assembly have been implemented by the State this year. These taxes will, under the new procedure, be accounted for by the State through the DMV State Titling and Registration System (STARS) and distributed to counties one month in arrears through the Department of Transportation (DOT) finance department. The new system, marketed to taxpayers as “Tag and Tax Together,” eliminates tax collections in arrears by the County and requires the taxpayer to pay the property tax at the time of registration; and

WHEREAS, the new system for motor vehicle taxes requires the parties to change the manner in which administrative costs are apportioned and paid amongst the City and County; and

WHEREAS, the County and City desire to amend the Original Agreement, while keeping in effect all terms and conditions of the Original Agreement not inconsistent with the terms and conditions set forth below.

NOW THEREFORE, for and in consideration for the mutual covenants and agreements made herein, the parties agree to amend the Original Agreement as follows:

1. Paragraph 1(c), the definition of Revenues, is amended to read:
 - 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, **but not Tax and Tag Together as defined herein**, and fees levied by the County or the 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.

2. Paragraph 1, Definitions, is amended to add the following definition:
 - d. **Tax and Tag Together shall refer to motor vehicle taxes processed and collected by the State under the program known as “Tax and Tag Together”. See attachment 1,**

Memorandum #2013-16 and 2014-04 from NC Dept. of State Treasurer regarding Implementation of the New Motor Vehicle Property Tax Collection System.

3. Paragraph 2, Purpose, is amended to read:

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 **and distributes** for the City and County all Revenues, as defined in Section 1(c), of this Agreement.

4. Paragraph 5, Finances, is amended to read:

5. FINANCES:

- a. **Administrative Costs for Collection of Revenues.** 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. **Administrative Costs for Tax and Tag Together. Pursuant to NCGS all collections of Tax and Tag Together revenues will be remitted to the County from DOT Fiscal. The County will then allocate Tax and Tag Together revenues to the City and other taxing jurisdictions. The administrative collection cost charged by the State will be allocated to the City and other taxing jurisdictions on a pro-rata basis; each jurisdiction will be assessed a percentage of the total administrative costs which is equal to their percentage of the tax revenues received. The administrative costs associated with each transaction will be deducted by the State prior to the revenue being remitted to the County. The County is not responsible for any dispute between the State and the City regarding the deduction of administrative costs associated with a transaction.**
- c. **Technology Resources.** 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.

In prior years, ~~the City paid as an additional consideration that has been part of prior Interlocal Cooperation Agreements, the City has paid an incentive~~ 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. ~~It is expected that~~ **Any and all outstanding balances in the technology account will be spent in a manner**

~~jointly agreed upon by the~~ after the City Manager and County Manager ~~have jointly discussed and agreed upon the appropriate use of these funds~~ prior to the allocation of additional funding by the City.

- d. Audit Fees: The County utilizes services to assist in the auditing of businesses which are non-compliant with listing all assets, which audits may result in additional tax revenues for the City and County. ~~that are potential tax revenues for the City and the County~~ In the event that services are utilized, then ~~those~~ the cost to have the audit fees performed, which is made on a flat rate basis, shall be apportioned between the City and County on a *pro rata* basis based on the respective tax rates in effect at the time of invoice¹. 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 that will be deducted from the City's payment. 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.

5. Paragraph 7, General Provisions, is amended to read:

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 Tax Collector and County Manager to be resolved as the Tax Collector and County Manager deems appropriate.

6. Paragraph 7, General Provisions, is amended to add a new subsection (i) to read as follows:

- i E-Verify Compliance. Each of the parties covenants that if it enters into any subcontracts in order to perform any of its obligations under this contract, it shall require that the contractors and their subcontractors comply with the requirements of NC Gen. Stat. Article 2 of Chapter 64. In this E-Verify Compliance section, the words contractors, subcontractors, and comply shall have the meanings intended by applicable provisions of NC Gen. Stat. Chapters 153A and 160A.

7. Except for the changes made herein, the Original Agreement shall remain in full force and effect to the extent not inconsistent with this Amendment. In the event that there is a conflict between the Original Agreement and this Amendment, this Amendment shall control.

¹ In FY 14', the split is 55%/45% County/City respectively.

IN WITNESS WHEREOF, the parties hereto have caused this First Amendment to The Interlocal Cooperation Agreement for the Collection of Taxes between Durham County and The City of Durham 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