



MEMORANDUM

To: Mayor and City Councilors
From: Rich Olson, City Manager
Date: September 19, 2013
Re: Consideration – Pasquotank County Agreement to Collect Taxes

BACKGROUND:

The City entered into an agreement with Pasquotank County to collect property taxes in 1989. The original agreement has been amended three times to reflect changes in state law, as well as to lower the percentage the City pays the County, when it was determined that the City was paying a disproportionate share of the County's tax department budget.

Due to recent changes in state law, the County will no longer collect motor vehicle taxes on behalf of the City. The collection will be done at the state level; and the state will remit the taxes collected to the County. The County will, in turn, write a check to the City. For this reason, the County is just handling the pass-through payment from the state.

The second reason the tax collection agreement is being rewritten deals with tax foreclosure sales conducted by the County. Periodically, the County needs to foreclose on property because the property owner has not paid their property taxes or a City-imposed special assessment.

ANALYSIS:

Several times a year, the City receives a memo or letter from the County tax office informing us that they will be having a tax foreclosure action; and requesting that the City submit a bid for the amount of City and County taxes owed on the property. Staff has refused to do this, since the City Council has not authorized staff to spend City funds for this purpose. The language, which has been included in the revised agreement, requires the County to provide City staff 30 days' notice prior to the foreclosure sale. The City has seven (7) days to notify the County if we are not interested in the property due to environmental or other potential liability issues for which the City does not want to be in the chain of custody for the property. If the City fails to notify the County, the County has the legal right to act as the City's agent and purchase the property. The County is limited to the amount of outstanding taxes owed on the property. The County would have the property titled in the City's name.

It is hard to determine what the City's potential liability would be; however staff estimates between \$15,000 and \$20,000 would be required, which would be offset by the revenue the City would receive from the sale of the property.

The Finance Committee discussed this matter during their meeting of September 19, 2013 and recommends approval.

STAFF RECOMMENDATION:

By motion, approve the agreement between the City and County for tax collection services contingent upon like action by Pasquotank County.

RCO/vdw

NORTH CAROLINA

PASQUOTANK COUNTY

This AGREEMENT, made and entered the _____ day of _____, 2013, by and between Pasquotank County (hereinafter referred to as County), and the City of Elizabeth City (hereinafter referred to as the City).

WITNESSETH:

WHEREAS, since July 1, 1989, the County has served as the tax collection agent for the City; and

WHEREAS, this contract is to provide for centralized and systemized collection of property taxes in Pasquotank County and the City of Elizabeth City, which will benefit each unit of government both in cost and information services, the parties to this agreement, pursuant to the authority contained in Article 20, Chapter 160A of the North Carolina General Statutes contract and agree as follows:

I. The County shall perform for itself and the City all of the tax collection functions prescribed in Subchapter II of Chapter 105 of the North Carolina General Statutes (hereinafter referred to as the Machinery Act). This activity shall hereinafter be referred to as the joint tax collection system.

The County shall perform for the City collection functions for special assessments or other assessments, (the "assessments"), which Chapter 160A of the North Carolina General Statutes provides are liens upon land or premises against which assessed and

may be collected as unpaid taxes or foreclosed under any procedure prescribed by law for the foreclosure of property tax liens. Other than assessment amounts due, inquiries regarding assessments will be forwarded to and answered by the City.

The County shall perform for itself and the City the administration and collection from operators of leasing and rental establishments the tax on gross receipts derived from retail short-term motor vehicle leases or rentals.

II. The City shall, in preparation of this joint collection function, provide at its expense, a system of transfer acceptable to the County programmer of all City tax records. Additionally, the City shall fund the County's programmer's cost for the incorporation of this information and for the programming of any additional reports which the City may require.

The City shall, in preparation for County's collection of City's assessments, provide at its expense, a system of transfer acceptable to the County, of all City assessment information. Additionally, the City shall fund the County's cost for the incorporation of this information and for the programming of any additional reports which the City may require.

III. The City shall provide, to the County, notification of all newly annexed property within one work week of the effective date of annexation. This information will be incorporated into the County's records for proper program and billing sequence.

The City shall provide, to the County, the notification of all new assessments or any action taken by City's governing board with regard to assessments in the manner required by the applicable provisions of Chapter 160A of the North Carolina General Statutes.

IV. Each fiscal year, as long as this contract is in effect, the governing bodies of the County and the City shall adopt an order pursuant to North Carolina General Statute 105-321(b) directing the Tax Collector to collect the taxes charged in the tax records and receipts. A copy of this order shall be delivered to the Tax

Collector. Thereafter, the Tax Collector shall deliver a copy of the City's Tax "Scroll" to the City.

The annual Settlement of the Tax Collector as detailed in Sections 105-352 and 105-373 of the North Carolina General Statutes shall be made to the governing body of the County.

V. The Pasquotank County Board of Commissioners shall have the sole and absolute authority to make any and all elections, determinations and decisions for the County and the City that the governing bodies of the County and the City are authorized to make pursuant to Articles 21, 26, 27 and 28 of Chapter 105 of the North Carolina General Statutes.

VI. When taxes are paid in full, tax receipts will be provided upon request by the taxpayer after verification of the transaction. Partial payments may be made and partial payment receipts will be provided upon request. Any such partial payment shall be identified where appropriate as to a particular parcel or tract of land and credited as prescribed by law as to collection expenses, interest, penalty and principal and to each governing body proportionately. Each government shall be credited by the Tax Collector with that portion of the payment received that bears the same relationship to the total amount received as the amount of taxes owed to each government for the property bears to the total amount of taxes owed for the property. Payments will be automatically applied to the oldest year first unless specific payment application is directed by the taxpayer.

All tax payments mailed to the City shall be forwarded along with the postmarked envelope to the County for processing.

When assessments are paid in full, receipts will be provided upon request by the assessment payer after verification of the transaction. Partial payments may be made and partial payment receipts will be provided upon request. Any such partial payment shall be identified

where appropriated as to a particular parcel or tract of land. Payments will be automatically applied to the oldest year first unless specific payment application is directed by the taxpayer. In any event, unless otherwise directed by the assessment payer, any payments less than the total amount due for City and County taxes and assessments shall first be applied to County and City taxes.

All assessment payments mailed to the City shall be forwarded along with the postmarked envelope to the County for processing.

VIII. All tax collections that are made pursuant to the joint tax collection system shall be deposited daily in an account specified by the County Finance Officer. Each unit's share of the daily collection shall be determined by computer distribution of all payments.

The collection information for each eight hour work period will be provided for each government by the Tax Collector at or before the set time each work day.

The County Finance Officer will provide payments and distribution information to the City Finance Officer. Interest on City taxes collected will be computed on an average monthly balance at the same interest rate afforded the County and paid at the end of each month. All taxes collected for the City by the County will be remitted to the City Finance Officer plus interest minus the 1 ½% fee by the third working day after the end of each month. Additionally, monthly reports will be provided which include a listing of any changes to the levy such as discoveries and taxes released, refunded, compromised or in any other way affected by actions of the County Board of Commissioners, Tax Collector or County Assessor.

All assessment collections that are made pursuant to the Agreement shall be deposited daily in an account specified by the County Finance Officer.

The County Finance Officer will provide assessment payments and distribution

information to the City Finance Officer. Interest on City assessments collected will be computed on an average monthly balance at the same interest rate afforded the County and paid at the end of each month. All assessments collected for the City by the County will be remitted to the City Finance Officer plus interest minus the 1 1/2% fee by the third working day after the end of each month. Additionally, monthly reports will be provided which include a listing of any changes to the assessment.

IX. The County shall receive as compensation from the City for operation of the joint tax collection system an amount equal to 1 1/2% of the tax, penalties and interest for all 2011 and prior City taxes, penalties and interest collected. The County shall receive as compensation from the City for operation of the joint tax collection system an amount equal to 1 1/2% of the real and personal property tax and from retail short term motor vehicle lease or rentals for all 2012 and subsequent City taxes, penalties and interest collected. The County shall be entitled to deduct all cost incurred in the collection of delinquent City real, personal property, and tax on gross receipts derived from retail short-term motor vehicle leases or rentals and to all advertising costs and expenses incurred with the collection of 2012 and subsequent year City real and personal property taxes and taxes on gross receipts derived from short-term motor vehicle leases or rentals; this shall include but not be limited to the cost of buying property that is foreclosed on for City taxes. The County will deduct the 1 1/2 % charge from the City payment at the end of each month. The County will be responsible for an annual independent audit of the joint tax collection system. This audit will be the only audit of the joint tax collection system and shall be the sole responsibility of the county. A copy of the auditor's report covering the joint tax collection system shall be provided to the City as a matter of course. Any special audit requested by the City shall be directed to the County finance officer and shall be paid for by the City

through a supplemental billing from the County. Due to the North Carolina Department of Motor Vehicles (NCDMV) now collecting motor vehicle taxes on behalf of the County and the City, the County agrees to forward all payments to the City from NCDMV without an associated fee.

X. Collection of all delinquent taxes on the effective date of this agreement and all taxes becoming delinquent thereafter shall be the sole responsibility of the County. The County will use the same diligence and effort to collect taxes owed to the City as it does to collect taxes owed to the County.

XI. When a property is being foreclosed for delinquent taxes within the City limits (or has a City associated lien) the County shall notify the City at least thirty (30) days prior to the sale. It is anticipated the City will bid on the foreclosed property. [Should the City desire to not bid on the foreclosed property because of an environmental issue or similar potential liability it shall notify the County at least seven (7) days prior to the sale. [In the event the City fails to bid on the property or notify the County that it does not desire to bid on the property because of a potential liability, the County may act as the City's agent and purchase the property at sale.] The County may not bid on a property in an amount higher than all taxes and liens owed. The property will then be titled in the City's name and the City will pay the County the County's share of taxes owed. Nothing in this section or agreement requires the City or County to purchase property at foreclosure or otherwise in situations where the market value of the property does not exceed the cost of extinguishing all liens on the property at the time of sale.

City and County covenant and agree that pursuant to the provisions of N.C. Gen. Stat. 105-367(b) the Tax Collector is authorized to direct an execution against personal property for taxes due on personal property located within City's jurisdiction to a City police officer. The

City police officer to whom the execution is directed shall proceed to levy on and sell the personal property subject to levy in the manner provided by applicable law.

The City shall hold County harmless from all liabilities, obligations, losses, claims, damages, actions, suits, proceedings, costs, and expenses including attorney's fees that arise from County's collection of City's assessments. Furthermore, City agrees that it shall defend County in all suits which may arise out of, are connected with, or result directly or indirectly from County's collection of City's assessments.

City warrants to County that to the best of its knowledge the City has complied with all applicable laws and regulations that relate to the assessment of special assessments or assessed expenses levied pursuant to Chapter 160A of the North Carolina General Statutes. City further warrants and represents to County that City has legal right to special assessments or assessed expenses levied prior to or subsequent to the date of this agreement.

The City shall hold County harmless from all liabilities, obligations, losses, claims, damages, actions, suits, proceedings, costs and expenses including attorney's fees that arise from County's collection of City's tax on gross receipts. Furthermore, City agrees that it shall defend County in all suits which may arise out of, are connected with, or result directly or indirectly from County's collection of City's tax on gross receipts.

City warrants to County that to the best of its knowledge the City has complied with all applicable laws and regulations that relate to the tax on gross receipts levied pursuant to 2000 N.C. Session Laws 2.

XII. This agreement may be terminated at the conclusion of any fiscal year. The governmental unit wishing to terminate the agreement may do so only after giving the other unit of government six months written notice of its decision to do so.

XIII. This agreement shall become effective when properly executed by all parties pursuant to resolutions adopted by the governing boards of each.

IN TESTIMONY WHEREOF, the parties hereto have caused this agreement to be executed in duplicate originals by their proper officials and their respective corporate seals affixed and attested to by their clerks, all by authority their boards duly given, this the day and year first above written.

[Signatures on Following Page(s)]

PASQUOTANK COUNTY

BY: _____
Chairman of the Board of County Commissioners
of Pasquotank County

(Corporate Seal)

ATTEST:

Clerk to the Board of County
Commissioners of Pasquotank County

STATE OF NORTH CAROLINA

PASQUOTANK COUNTY

I, _____, a Notary Public of the County of Pasquotank, State of North Carolina, hereby certify that Karen S. Jennings personally appeared before me this day and acknowledged that she is Clerk to the Board of County Commissioners of Pasquotank County, a political subdivision, and that by authority duly given and as the act of the county, the foregoing instrument was signed in its name by its Chairman of the Board of County Commissioners of Pasquotank County and attested by herself as its Clerk, all by authority of the Board of County Commissioners of Pasquotank County.

WITNESS my hand and notarial stamp or seal, this the _____ day of _____, 2013.

Notary Public

My Commission Expires:

CITY OF ELIZABETH CITY

BY: _____
Mayor

(Corporate Seal)

ATTEST:

City Clerk

STATE OF NORTH CAROLINA

PASQUOTANK COUNTY

I, _____, a Notary Public of the County of _____, State of North Carolina, hereby certify that _____ personally appeared before me this day and acknowledged that she is City Clerk of the City of Elizabeth City, a municipal corporation, and that by authority duly given, and as the act of the corporation, the foregoing instrument was signed in its name by its Mayor, and attested by herself as its City Clerk, all by authority of the City of Elizabeth City.

WITNESS my hand and notarial stamp or seal, this the _____ day of _____, 2013.

Notary Public

My Commission Expires:
