STAFF REPORT

Council Meeting Date: August 22, 2023

Subject: Addendum to the Tax Collection Agreement with Buncombe County, Annual Property Tax Settlement for fiscal year 2023 and Order of Collection to Tax Collector for the current fiscal year, and appointment of a Municipal Tax Collector.

Staff Resource(s): Tony McDowell, Finance Director

Action Requested: Adoption of (1) a resolution authorizing the City Manager to sign an addendum to the 2019 tax collection agreement with Buncombe County to conform to the provisions of Chapter 105 of the N.C. Gen. Statutes, entitled The Revenue Act; and (2) a resolution approving the fiscal year 2023 Annual Tax Settlement; adopting the Order of Collection for fiscal year 2024; and appointing City Finance Director Tony McDowell as the Municipal Tax Collector.

Background:

- Buncombe County has billed and collected City property taxes, including the City's fee charged for motor vehicles licenses, for many years.
- In 2019, Buncombe County and the City of Asheville entered into an updated agreement for the County to continue billing and collecting property taxes under a revised fee structure.
- The 2019 agreement is currently valid through June 30, 2025.
- Legal staff at the University of North Carolina School of Government recently encouraged local governments across the State to review tax collection agreements to ensure that they fully conform to the provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.
- Upon this review, City and County staff recommended adoption of the attached addendum to the 2019 agreement.
- In addition, pursuant to NCGS § 105-373, the Tax Collector must provide to City Council an annual settlement of property tax collected in the previous fiscal year for approval; and pursuant to NCGS § 105-321, following approval of the Tax Collector's Annual Settlement for the preceding year an Order of Collection to the Tax Collector must be adopted authorizing the collection of the current fiscal year property taxes.
- Staff is recommending approval of both the attached Annual Settlement and the new year Order of Collection.
- Finally, the resolution includes the appointment of the Finance Director as the Municipal Tax Collector.

Council Goal(s):

- A Financially Resilient City

Pro(s):

- Allows the City to continue receiving tax revenue proceeds from the County while ensuring compliance with provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.

Con(s):

- None

Fiscal Impact:

- There is no direct fiscal impact to approving this resolution. Under the terms of the agreement, the City will pay the County a flat fee of approximately $899,000 in fiscal year 2024 for tax collection services.
- The fee for these services increases annually with an automatic annual escalation rate of 2.5% for each successive fiscal year of the agreement.

Suggested Motion:

- Motion to adopt a resolution authorizing the City Manager to sign an addendum to the 2019 tax collection agreement with Buncombe County to conform to the provisions of Chapter 105 of the N.C. Gen. Statutes, entitled The Revenue Act.
- Motion to adopt a resolution approving the fiscal year 2023 Annual Tax Settlement; adopting the Order of Collection for fiscal year 2024; and appointing City Finance Director Tony McDowell as the Municipal Tax Collector.

Attachment(s)

- Resolutions
- Addendum to Collection Agreement
- Fiscal year 2023 Annual Tax Settlement
- Fiscal year 2024 Order of Collection

RESOLUTION NO. 23-____

RESOLUTION AUTHORIZING THE CITY MANAGER TO EXECUTE AN ADDENDUM TO THE 2019 TAX AGREEMENT WITH BUNCOMBE COUNTY TO CONFORM TO THE PROVISIONS OF CHAPTER 105 OF THE N.C. GEN. STATUTES, ENTITLED THE REVENUE ACT

WHEREAS, the City of Asheville has authority pursuant to N.C. Gen. Stat. § 160A-461 to enter into contracts or agreements with other units of local government in order to execute any undertaking; and

WHEREAS, on January 8, 2019 the City entered into an agreement with Buncombe County to bill and collect real estate, business personal, personal property taxes, including the City's fee charged for motor vehicles licensed within the City, any taxes related to motor vehicles, and any lien for special assessments made and confirmed by the City; and

WHEREAS, the Agreement is currently valid through June 30, 2025; and

WHEREAS, the County and the City desire to modify the Agreement to conform to the provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

Paragraph 9 of the Agreement shall be replaced with the following:

The City will adopt the same optional collection procedures that govern the collection of taxes by the County, including but not limited to:

- the adoption of any County discount rate that may be afforded to citizens who pay their taxes early;
- the adoption of a resolution to forgo collection of ad valorem tax bills that do not exceed five dollars ($5.00) pursuant to N.C.G.S. § 105-321(f);
- the adoption of a resolution regarding small overpayments and underpayments of one dollar ($1.00) or less pursuant to N.C.G.S. § 105-357(c); and
- the adoption of a resolution directing the tax collector to apply overpayments of up to fifteen dollars ($15.00) as a credit against the tax liability for taxes due the next succeeding year pursuant to N.C.G.S. § 105-321(g).

That the following provisions will be added to the Agreement:

21. The City will appoint a tax collector ("City Tax Collector") pursuant to N.C.G.S. § 105-349(a)-(b).

22. The City Tax Collector shall take the oath prescribed in N.C.G.S. § 105-349(g)

23. The City Tax Collector, by this Agreement, delegates all of his/her duties to the County Tax Collector. By and through this delegation, all duties of the of the City Tax Collector for the collection of taxes, fees and assessments to be collected by the City pursuant to N.C.G.S. § 105-349 through 378 are transferred to the County Tax Collector, specifically, including settlements as provided in N.C.G.S. § 105-373. The delegation of duties by the City Tax Collector to the County Tax Collector shall apply to any and all subsequent City Tax Collectors and County Tax Collectors.

24. Upon the delegation of duties by the City Tax Collector to the County Tax Collector, the County Tax Collector shall take the same oath required of the City Tax Collector.

25. The City Tax Collector shall have furnished a bond pursuant to N.C.G.S. § 105-349. Such bond shall cover the City Tax Collector and any person to whom the City Tax Collector has delegated his/her duties and authority.

26. Each year, pursuant to N.C.G.S. 105-321, the Asheville City Council shall adopt and enter in its minutes an order directing the City Tax Collector to collect the taxes charged in the tax records and receipts. The City Tax Collector shall deliver a copy of this order to the County Tax Collector within five days of its adoption.

That each and every other of the terms and conditions of the Agreement remain in full force and effect except as modified herein

Read, approved and adopted this 22nd day of August, 2023.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney

RESOLUTION NO. 23-____

RESOLUTION APPROVING THE FISCAL YEAR 2023 ANNUAL TAX SETTLEMENT REPORT; AUTHORIZING THE MAYOR TO EXECUTE AN ORDER OF COLLECTION FOR FISCAL YEAR 2024; AND APPOINTING CITY FINANCE DIRECTOR TONY MCDOWELL AS THE MUNICIPAL TAX COLLECTOR

WHEREAS, pursuant to NCGS § 105-373, the Tax Collector must provide to City Council an annual settlement of property tax collected in the previous fiscal year for approval; and

WHEREAS, pursuant to NCGS § 105-321, following approval of the Tax Collector's Annual Settlement for the preceding year an Order of Collection to the Tax Collector must be adopted authorizing the collection of the current fiscal year property taxes; and

WHEREAS, Pursuant to N.C.G.S. § 105-349(a)-(b)The City must appoint a tax collector ("City Tax Collector") ; and

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ASHEVILLE THAT:

The fiscal year 2023 annual Tax Settlement Report is approved; the fiscal year 2024 Order of Collection is adopted, and Finance Director Tony McDowell is appointed the Municipal Tax Collector.

Read, approved and adopted this 22nd day of August, 2023.

_____ _____

City Clerk Mayor

Approved as to form:

_____

City Attorney

STATE OF NORTH CAROLINA COUNTY OF BUNCOMBE

ADDENDUM TO TAX COLLECTIONS AGREEMENT

This Addendum to the Tax Collections Agreement ("Agreement") made and entered into January 8, 2019, by and between Buncombe County, a political subdivision of the State of North Carolina ("County") and the City of Asheville, a North Carolina Municipal Corporation ("City"):

Witnesseth:

Whereas, the County and City previously entered into an Agreement for the County to bill and collect real estate, business personal, personal property taxes, including the City's fee charged for motor vehicles licensed within the City, any taxes related to motor vehicles, and any lien for special assessments made and confirmed by the City;

Whereas, the Agreement is currently valid through June 30, 2025:

Whereas, the County and the City desire to modify the Agreement to conform to the provisions of Chapter 105 of the North Carolina General Statutes, entitled The Revenue Act.

Now therefore, in consideration of the mutual covenants of the parties hereto and for the purposes aforesaid, it is hereby agreed between the County and City as follows:

A. That paragraph 9 of the Agreement shall be <u>replaced</u> with the following:

The City will adopt the same optional collection procedures that govern the collection of taxes by the County, including but not limited to:

a. the adoption of any County discount rate that may be afforded to citizens who pay their taxes early;
b. the adoption of a resolution to forgo collection of ad valorem tax bills that do not exceed five dollars ($5.00) pursuant to N.C.G.S. § 105-321(f);
c. the adoption of a resolution regarding small overpayments and underpayments of one dollar ($1.00) or less pursuant to N.C.G.S. § 105-357(c); and
d. the adoption of a resolution directing the tax collector to apply overpayments of up to fifteen dollars ($15.00) as a credit against the tax liability for taxes due the next succeeding year pursuant to N.C.G.S. § 105-321(g).

B. That the following provisions will be <u>added</u> to the Agreement:

21. The City will appoint a tax collector ("City Tax Collector") pursuant to N.C.G.S. § 105-349(a)-(b).

22. The City Tax Collector shall take the oath prescribed in N.C.G.S. § 105-349(g)

23. The City Tax Collector, by this Agreement, delegates all of his/her duties to the County Tax Collector. By and through this delegation, all duties of the of the City Tax Collector for the collection of taxes, fees and assessments to be collected by the City pursuant to N.C.G.S. § 105-349 through 378 are transferred to the County Tax Collector, specifically, including settlements as provided in N.C.G.S. § 105-373. The delegation of duties by the City Tax Collector to the County Tax Collector shall apply to any and all subsequent City Tax Collectors and County Tax Collectors.

24. Upon the delegation of duties by the City Tax Collector to the County Tax Collector, the County Tax Collector shall take the same oath required of the City Tax Collector.

25. The City Tax Collector shall have furnished a bond pursuant to N.C.G.S. § 105-349. Such bond shall cover the City Tax Collector and any person to whom the City Tax Collector has delegated his/her duties and authority.

26. Each year, pursuant to N.C.G.S. 105-321, the Asheville City Council shall adopt and enter in its minutes an order directing the City Tax Collector to collect the taxes charged in the tax records and receipts. The City Tax Collector shall deliver a copy of this order to the County Tax Collector within five days of its adoption.

C. That each and every other of the terms and conditions of the Agreement remain in full force and effect.

[signature pages follow]

SIGNATURE PAGE 1 OF 2 TO ADDENDUM TO TAX COLLECTION AGREEMENT BETWEEN BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE

IN WITNESS WHEREOF, the parties have caused this Addendum to the Tax Collection Agreement to be executed in their corporate names, by their duly authorized officers, all by authority of their governing bodies of each of their taxing units duly adopted, this the day and year first above written.

BUNCOMBE COUNTY

By: _____
Avril Pinder, County Manager

ATTEST:

_____
Lamar Joyner, Clerk to the Buncombe County Board of Commissioners

APPROVED BY:

_____
Jennifer Pike
Buncombe County Tax Collector

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, Notary Public for said County and State, have personal knowledge of the identity of Lamar Joyner, and hereby certify that said Lamar Joyner, Clerk to the Buncombe County Board of Commissioners, personally appeared before me this day and acknowledged that he is Clerk to the Buncombe County Board of Commissioners and that Avril Pinder is the Buncombe County Manager, and that by the authority duly given and as the act of the County of Buncombe, the foregoing instrument was signed in its name by said County Manager, sealed with its official seal, and voluntarily attested to by himself as its Clerk as the act and deed of the County of Buncombe, all by authority duly given by its governing body.

Witness my hand and notarial seal, this the _____ day of _____, 2023.

_____
Notary Public
Printed Name:
My commission expires:

SIGNATURE PAGE 2 OF 2 TO ADDENDUM TO TAX COLLECTION AGREEMENT BETWEEN BUNCOMBE COUNTY AND THE CITY OF ASHEVILLE

IN WITNESS WHEREOF, the parties have caused this Addendum to the Tax Collection Agreement to be executed in their corporate names, by their duly authorized officers, all by authority of their governing bodies of each of their taxing units duly adopted, this the day and year first above written.

CITY OF ASHEVILLE

By: _____
Debra Campbell, City Manager

ATTEST:

_____
Magdalen Burleson, City Clerk

APPROVED BY:

_____
City of Asheville Tax Collector

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

I, _____, Notary Public for said County and State, do hereby certify that Magdalen Burleson, City Clerk, personally appeared before me this day and acknowledged that she is Clerk to the City of Asheville and that Debra Campbell is the Asheville City Manager, and that by the authority duly given and as the act of the City of Asheville, the foregoing instrument was signed in its name by said City Manager, sealed with its official seal, and voluntarily attested to by herself as its Clerk as the act and deed of the City of Asheville, all by authority duly given by its governing body.

Witness my hand and notarial seal, this the _____ day of _____, 2023.

_____
Notary Public
Printed Name:
My commission expires:

Pursuant to NCGS § 105-321, ORDER OF COLLECTION

State of North Carolina
City of Asheville

To the Tax Collector of City of Asheville and by delegated authority, the Tax Collector for Buncombe County:

You are hereby authorized, empowered, and commanded to collect the taxes set forth in the tax records filed in the office of the Buncombe County Tax Department and the Information Technology Office and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth. Such taxes are hereby declared to be a first lien upon all real property of the respective taxpayers in the City of Asheville, and this order shall be a full and sufficient authority to direct, require, and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law. Tax records for the City of Asheville are delivered to you for collection. You are further authorized to call upon the Sheriff to levy upon and sell personal property under execution for the payment of taxes.

Witness my hand and official seal, this ____ day of _____, 2023

_____(Seal)
Esther Manheimer, Mayor
City of Asheville

Attest:

_____
Magdalen Burleson, Clerk
City of Asheville