

Item Title: Third Addendum to the Sales Tax Interlocal Agreement between the Wake County Board of Commissioners and the Wake County Board of Education

Specific Action Requested:

That the Board of Commissioners approves and authorizes the Chair to execute a Third Addendum to the Sales Tax Interlocal Agreement dated March 20, 2007.

Item Summary:

Purpose: To allow the Board of Commissioners to recoup additional sales tax expended on construction and renovation projects performed by the Wake County Board of Education.

Background: On March 20, 2007, the Wake County Board of Commissioners and Board of Education entered into a Sales Tax Interlocal Agreement (ILA) that allows Wake County to recoup sales tax expended on school system construction and renovation projects, as amended in 2008 and 2009. Wake County Public School System staff would like to expand the existing agreement to include school system guaranteed energy savings contracts and contracts for mechanical, electrical and plumbing systems, roof, and other life cycle projects. The expansion will increase the sales tax recouped on school system projects.

Board Goal: This action supports routine County operations.

Fiscal Impact: The approval of this item will not result in the expenditure of any additional Wake County funds.

Additional Information:

Currently public schools in North Carolina, unlike County governments, are not eligible for a rebate of sales taxes paid by or on behalf of the entity. On March 12, 2007, the Board of Commissioners approved an agreement that provided the ability for the Board of Education to construct new schools and undertake major renovations of existing facilities in collaboration with the Board of Commissioners, and that the sales tax saved thereby will be used for school capital purposes. Since Fiscal Year 2017, Wake County has saved \$29,923,833 in sales tax rebates.

The original Agreement required the Board of Education to convey ownership of the site to be constructed or renovated to Wake County. The Board of Education would then enter into a contract or contracts on behalf of the County for the construction or repair work. Pursuant to this agreement, the Board of Education is appointed by the County to be the County's agent for purposes of administering the construction and repair contracts.

In administering the contracts, the Board of Education is authorized to approve any change orders or project changes that are within the project budget approved by the Board of Commissioners. In February 2008, the Board of Commissioners and Board of Education entered into a First Addendum to the Sales Tax Interlocal Agreement in which the Board of Commissioners authorized the Superintendent of the Wake County Public School System to approve and execute contracts and change orders entered into under the interlocal agreement in amounts up to \$100,000, provided the Superintendent complied with relevant Board of Education policies regarding the execution of contracts.

In June 2009, the Boards of Education and Commissioners entered into a Second Addendum to the Sales Tax Interlocal Agreement to modify the method by which the real property interests are transferred by the Board of Education to the County for the duration of the construction projects. The second addendum changed the method of title transfer to lease rather than by deed. The lease method of transfer was approved in a letter from NC Department of Revenue (NCDOR) staff after the original interlocal agreement was executed by both Boards.

The purpose of this Third Addendum to the Sales Tax Interlocal Agreement is to clarify that the Board of Education, as agent for the Board of Commissioners, may enter into guaranteed energy savings contracts and contracts for mechanical, electrical and plumbing systems, roof, and other life cycle projects and recoup sales tax for the same. The original Sales Tax Interlocal Agreement and all amendments thereto as reflected in the prior addenda remain in full force and effect.

Attachments:

1. 2007 Sales Tax Interlocal Agreement
2. Proposed Third Addendum to the Sales Tax ILA