

**AMENDMENT  
TO THE REVISED INTERLOCAL AGREEMENT  
BETWEEN  
WAKE COUNTY AND THE CITY OF RALEIGH  
RELATING TO ROOM OCCUPANCY AND PREPARED FOOD  
AND BEVERAGE TAX REVENUES**

This Agreement entered into this the 3<sup>rd</sup> day of December, 1996, by and between the County of Wake, North Carolina, hereinafter referred to as County, and the City of Raleigh, North Carolina, hereinafter referred to as City, pursuant to the provisions of Article 20 of Chapter 160A of the North Carolina General Statutes, and in accordance with the requirements of Chapter 594 of the Session Laws of North Carolina and Chapter 458 of the 1995 Session Laws of North Carolina.

**WITNESSETH:**

Whereas, the County has levied room occupancy and prepared food and beverage taxes as allowed by law; and

Whereas, as required by law, the County and the City have entered into agreements setting out the projects to receive funding from these taxes and, have further agreed on a schedule of funding setting out the amount of money to be received by each project and a schedule upon which the money will be disbursed; and

WHEREAS, the County and City are mutually agreed that a change in the funding agreement as the same relates to the Performing Arts Center and Five County Stadium funding set out in paragraphs 8 and 9 of the September 5, 1995, Revised Interlocal Agreement will be in the best interest of the citizens of the County and the City and will make for a more economical and efficient use of the tax revenue; and

WHEREAS, to effect this change the County and the City agree to amend the September 5, 1995 Revised Interlocal Agreement.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, the County and the City agree as follows:

1. Paragraph 8 of the Revised Interlocal Agreement of September 5, 1995, is deleted and a new Paragraph 8 is inserted to read as follows:

Notwithstanding any other provisions of this Agreement, funds accumulated in the Performing Arts Center Land Acquisition Reserve Fund shall be distributed to the City for use in constructing a Performing Arts Center adjacent to and on the same general land parcel or parcels as the existing Memorial Auditorium. These funds and any interest accumulated thereon may be used for any purpose connected with the planning, design, or construction of a new performing arts facility on City owned property at or adjacent to Memorial Auditorium. The total amount of disbursements to this project shall be no less than \$2,100,000. The estimated completion date of this project is January, 2000.

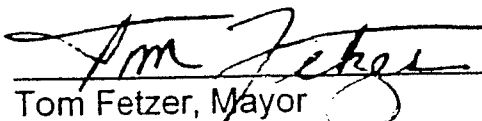
2. Paragraph 9 of the revised Interlocal Agreement of September 5, 1995 is deleted and a new Paragraph 9 is inserted to read as follows:

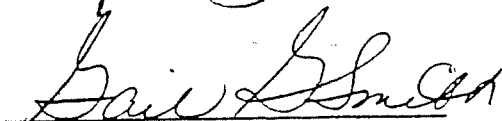
Funds accumulated in the Five County Stadium Reserve Fund may be disbursed, consistent with Schedule "A", to a public entity selected by the County to contract for the stadium improvements. It is contemplated that the improvements will be completed in 1998.

3. All other terms of the September 5, 1995 Revised Interlocal Agreement shall remain in the same force and effort.

IN WITNESS WHEREOF, the Agreement is executed the day and year first above written pursuant to resolutions adopting by the governing boards of the County and the City.

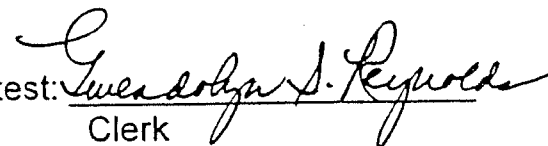
CITY OF RALEIGH

  
Tom Fetzer, Mayor

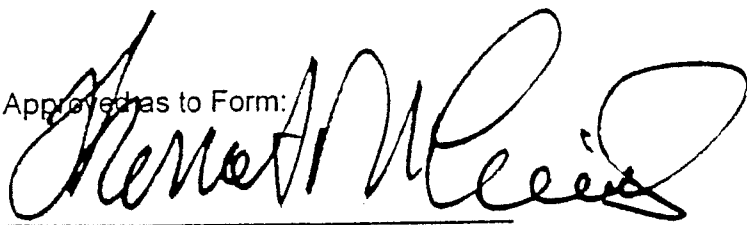
Attest:   
Clerk

COUNTY OF WAKE

  
Stewart Adcock, Chairman

Attest:   
Clerk

Approved as to Form:

  
City Attorney

  
County Attorney

REVISED  
INTERLOCAL AGREEMENT  
BETWEEN  
WAKE COUNTY AND THE CITY OF RALEIGH  
REGARDING  
USE OF COUNTYWIDE ROOM OCCUPANCY AND PREPARED FOOD AND  
BEVERAGE TAX REVENUES

This Agreement entered into this the 5<sup>th</sup> day of September,  
19 95, by and between the County of Wake, North Carolina, hereinafter referred to as the  
County, and the City of Raleigh, North Carolina, hereinafter referred to as the City, pursuant to  
the provisions of Article 20 of Chapter 160A of the North Carolina General Statutes, and in  
accordance with the requirements of Chapter 594 of the 1991 Session Laws of North Carolina  
and Chapter 458 of the 1995 Session Laws of North Carolina, hereinafter referred to as the  
Enabling Acts.

WITNESSETH:

Whereas, the County has levied a one percent (1%) prepared food and beverage tax in  
the County, and

Whereas, the County has levied a six percent (6%) room occupancy tax in the County,  
and

Whereas, Sections 4 and 5 of the Enabling Acts provide that the County and City shall  
enter into an interlocal agreement outlining 1) the type and general location of all capital projects  
to be funded in any way by the proceeds of said taxes and 2) a preliminary schedule for the  
completion of said projects, and

Whereas, by Agreement dated November 19, 1991, and amended September 1, 1992, the  
County and City entered into such an agreement, and

Whereas, the County and City have agreed to change significant portions of said  
agreement, and

Whereas, the County and City have agreed to substitute the terms of this Agreement for  
the terms of the November 19, 1991 amended Agreement.

Now therefore in consideration of the mutual covenants and promises contained herein,  
the County and City agree as follows:

1. The City shall administer and collect the Countywide room occupancy tax on behalf

of the County. The City shall design, print, and furnish on request to all taxable establishments the necessary forms for filing returns and instructions to ensure the full collection of the tax. The City shall be reimbursed for the actual direct costs incurred in performing this service, said reimbursement not to exceed three percent (3%) of the gross proceeds of the tax collected. The City shall, on or before the eighteenth day of each month, remit to the County the taxes collected for distribution in accordance with the provisions of the Enabling Acts and this Agreement.

3. The County shall, in accordance with the provisions of the Enabling Acts, administer and collect the one percent (1%) prepared food and beverage tax and shall, distribute the proceeds thereof in accordance with the provisions of the Enabling Acts and this Agreement.

4. Except as designated by the Enabling Acts all proceeds (hereinafter referred to as undesignated proceeds) generated from said taxes shall be expended only for the projects approved by this Agreement and only in accord with the provisions contained herein. The projects to be funded are as follows:

- A. Purchase of land for and construction of a Children's Museum to be located in the city of Raleigh;
- B. Renovations to the existing Raleigh Civic Center;
- C. Purchase of land in the city of Raleigh upon which a Performing Arts Center may be located;
- D. Additions to a sports facility, known as Five County Stadium, located near the town of Zebulon;
- E. Exhibits for the North Carolina State Museum of Natural Sciences;
- F. Construction of a sports facility composed of soccer and baseball fields and related structures; and
- G. Creation of a Future Projects Reserve Fund.

5. The amount of the undesignated proceeds estimated to be generated by said taxes from year of enactment through Fiscal Year 1999-00 is contained in Attachment "A" hereto, the contents of which are incorporated herein by reference. From said anticipated undesignated proceeds, the County and City agree to distribute the amounts shown on Attachment "A" to a reserve fund for the projects listed on said Attachment. In the event the actual proceeds collected in any year are less than the estimated proceeds, then the amount distributed shall be such that each project fund shall receive a percentage of the actual collections equal to the percentage of the estimated collections allocated to the project fund. In the event the actual undesignated proceeds are greater than estimated, the excess shall be distributed as follows:

- A. The first \$250,000 of such excess funds shall be distributed to any of the projects designated in Paragraph 4 of this Agreement, in the sole discretion of the City;
- B. The next \$250,000 of such excess funds shall be distributed to any of the projects designated in Paragraph 4 of this Agreement, in the sole discretion of the County; and
- C. Any such excess funds over \$500,000 shall be retained in the Future Projects Reserve Fund.

6. It is anticipated that the Children's Museum will be completed in 1997. Disbursement of funds accumulated in the Children's Museum Fund Reserve Fund is contingent upon the following:

- A. The facility shall be owned by the County; it shall be operated by an entity under contract with the County; the structure of the operating entity shall be subject to the approval of the County;
- B. Supporters of the facility shall have raised or have obtained commitments satisfactory to the County for the sum of seven million five hundred thousand dollars (\$7,500,000) by December 31, 1996, and
- C. The site for location of the facility shall be determined by the County and City.

7. Funds accumulated in the Renovations of Existing Civic Center Reserve Fund shall be distributed to the City for said renovations as required to make payments due for work performed pursuant to a construction schedule adopted by the City.

8. Funds accumulated in the Performing Arts Center Land Acquisition Reserve Fund shall be held and distributed as the necessary parcels of land are acquired. Selection of the site shall be subject to the approval of the City and County. The land shall be purchased and owned by the City; however, any proceeds realized from the use of the land prior to commencement of construction for the Performing Arts Center shall be retained in the Performing Arts Center Construction Fund to pay for interim improvements (if any) made on the site and subsequently for construction of the Center. It is anticipated that the land will be acquired by 1999.

9. It is anticipated that improvements to Five County Stadium will be completed in 1998. Disbursement of funds accumulated in the Five County Stadium Reserve Fund is contingent upon the following:

- A. The facility shall be owned and operated by a regional sports authority

created by or in which the County participates pursuant to the provisions of N.C. Gen. Stat. §160A-479, et seq.

- B. The Carolina Mudcats Professional Baseball Club, Inc., shall have renegotiated the sublease between the Carolina Mudcats Professional Baseball Club, Inc. And Triangle East Regional Sports Authority dated October 30, 1992, to incorporate payment terms satisfactory to the County insuring a reasonable rate of return for use of the facility.
- C. The Baitshp, Inc. shall have renegotiated the Management Agreement dated October 30, 1992, entered into between the Baitshop, Inc. And the Town of Zebulon, to incorporate financial arrangements satisfactory to the County to insure an adequate return to the Town of Zebulon for the use of the facility.
- D. Documentation shall be provided to the satisfaction of the County that all funds disbursed hereunder will be for actual improvements to the facility and none shall be used to reimburse any person, firm, or corporation for previous expenditures made for the facility.
- E. Documentation shall be provided to the satisfaction of the County that the improvement projects will not result in increased operating costs of the facility to the Town of Zebulon.
- F. Documentation shall be provided to the satisfaction of the County that sufficient funding or financing arrangement to pay for the proposed improvements have been met.
- G. Plans for the project are subject to approval by the County including estimates of all costs associated with the project.
- H. Supporters of the facility must obtain matching funds in an amount satisfactory to the County, and the County shall have entered into a contract with parties satisfactory to the County to assure payment of the matching funds.

10. It is anticipated that exhibits for the North Carolina State Museum of Natural Sciences will be constructed by 1998. Disbursement of funds accumulated in the Natural Science Museum Exhibit Reserve Fund is contingent upon the following:

- A. Supporters of the Natural Science Museum shall obtain commitments, satisfactory to the City and County, for two million dollars (\$2,000,000)

of additional funds for construction of exhibits in the Museum;

- B. There shall be placed at a location in the Museum acceptable to the City and County a plaque or other suitable permanent acknowledgement of the contribution made by the City and County.

11. It is anticipated that a sports facility consisting of soccer and baseball fields and related structures will be constructed by 1999. Disbursement of funds retained in the Sports Facility Reserve Fund for this project is contingent on the following:

- A. The City and County shall approve the site upon which the facility shall be located;
- B. The facility shall be constructed and operated by a non-profit corporation;
- C. The City and County shall approve design and construction plans for the facility;
- D. The non-profit corporation shall provide documentation satisfactory to the City and County of cash reserves, endowment or other source of income sufficient to provide all anticipated operation costs of the facility;
- E. The non-profit corporation shall provide documentation satisfactory to the City and County that all improvements purchased with proceeds from these taxes shall revert to the City and County if the non-profit corporation is unable to maintain the facility or if the non-profit corporation ceases to exist; and
- F. The non-profit corporation shall provide assurances acceptable to the City and County to secure public use of the facility.

12. The County and City shall agree on the disbursement of any monies from the Future Projects Reserve Fund by amendment to this Agreement as provided herein. Any funds not expended for a project approved by this Agreement for failure of any contingency or any other reason shall be deposited into the Future Projects Reserve Fund.

13. Any contingency established for the distribution of proceeds in any Fund may be waived or altered by amendment of this Agreement as provided herein.

14. All Funds created hereby shall be held and invested by the County until disbursement according to the terms of this Agreement. Interest earned on each Fund shall be credited to that Fund.

15. It is expressly understood that, by providing funding hereunder, neither the County nor the City is agreeing to provide operating funds for any of the projects included in this Agreement.

16. No project funded hereunder shall be financed in any manner which shall result in any payment obligation on behalf of the City and/or County; nor shall any project financing result in a lien or other indebtedness upon any real or personal property owned by the City and/or County. This Agreement is not intended to confer a benefit upon any third party.

17. This Agreement may, consistent with the provisions of the Enabling Acts, be terminated or amended at any time by the execution of an amendment to this Agreement adopted by resolution of the governing boards of both the County and City.

18. This Agreement shall remain in effect for a period of five years, concluding on June 30, 2000; however, in the event the Enabling Acts are amended to eliminate or decrease either of the taxes levied pursuant thereto or to alter the distributions of taxes collected thereunder, this Agreement shall be void and the City and County shall then re-negotiate the allocation of monies collected to that date and future expected revenues, if any.

IN WITNESS WHEREOF, this Agreement is executed the day and year first above written pursuant to resolutions adopted by the governing boards of the County and City.

CITY OF RALEIGH  
By: Tom Fetzer  
Tom Fetzer  
Mayor

COUNTY OF WAKE  
By: Gary Pendleton  
Gary Pendleton  
Chairman

Attest:  
Gail Smith  
Clerk

Attest:  
Gwendolyn F. Reynolds  
Clerk

Approval as to Form  
Henry A. McLeod  
City Attorney

Approval as to Form  
Michael R. Fennell  
County Attorney



# ATTACHMENT "A"

## WAKE COUNTY AND CITY OF RALEIGH OCCUPANCY AND PREPARED FOOD TAXES CAPITAL PROJECTS DISTRIBUTION

PROJECT	FY95-96	FY96-97	FY97-98	FY98-99	Totals
Raleigh Civic Center	\$12,500,000	\$0	\$0	\$0	\$12,500,000
N.C. Natural Science Museum	\$1,000,000	\$0	\$1,000,000	\$0	\$2,000,000
Children's Museum	\$0	\$6,000,000	\$6,000,000	\$0	\$12,000,000
Five County Stadium	\$0	\$500,000	\$4,500,000	\$0	\$5,000,000
Performing Arts Center land	\$0	\$0	\$0	\$2,100,000	\$2,100,000
Sports Facility (Soccer)	\$0	\$0	\$0	\$9,500,000	\$9,500,000
Total by fiscal year	\$13,500,000	\$6,500,000	\$11,500,000	\$11,600,000	\$43,100,000