

LEE COUNTY BOARD OF COUNTY COMMISSIONERS
AGENDA ITEM SUMMARY

BLUE SHEET NO: 20041329

1. REQUESTED MOTION:

ACTION REQUESTED: Approve a Uniform Collection Agreement between Lee County and the Lee County Tax Collector for collection of Solid Waste Assessments (MSBU and MSTU).

WHY ACTION IS NECESSARY: Establishes the duties and responsibilities of the County and the Tax Collector relative to the collection of solid waste assessments.

WHAT ACTION ACCOMPLISHES: Sets forth the duties and responsibilities of the Parties to the Agreement and provides for the collection of solid waste assessments and the schedule and disbursement of funds.

2. DEPARTMENTAL CATEGORY:
COMMISSION DISTRICT #: CW

C8A

3. MEETING DATE:

10-26-2004

4. AGENDA:

- CONSENT
- ADMINISTRATIVE
- APPEALS
- PUBLIC
- WALK ON
- TIME REQUIRED:

5. REQUIREMENT/PURPOSE:

- (Specify)
- STATUTE
 - ORDINANCE
 - ADMIN. CODE
 - OTHER

6. REQUESTOR OF INFORMATION:

- A. COMMISSIONER:
- B. DEPARTMENT: Lee County-Public Works
- C. DIVISION/SECTION: Solid Waste Division
- BY: Lindsey Sampson, Solid Waste Director
- DATE: 10/12/04

Lindsey Sampson

7. BACKGROUND:

On June 30, 1998, the County BOCC entered into an Interlocal Agreement with the Tax Collector and the Property Appraiser for the preparation and submission of the Lee County mandatory solid waste non-advalem assessment roll and its related uniform collection. The Tax Collector has submitted the attached Uniform Collection Agreement that further defines the duties and responsibilities of the Tax Collector and the County BOCC as they both relate to the establishment, administration, and collection of the MSBU/MSTU Solid Waste Assessments.

The previous agreement will remain in effect as it relates to the duties/responsibilities of the BOCC and the Property Appraiser.

Additional funds are not required.

8. MANAGEMENT RECOMMENDATIONS:

9. RECOMMENDED APPROVAL

A DEPARTMENT DIRECTOR	B PURCH. OR CONTRACTS	C HUMAN RESOURCES	D OTHER	E COUNTY ATTORNEY	F BUDGET SERVICES				G COUNTY MANAGER
					OA	OM	Risk	GC	
<i>J. Hunter</i> 10-12-04	<i>Cindy Jaga</i> 10/12/04	N.A.			<i>P.M.</i> 10/12/04	<i>AS</i> 10/12/04	<i>AS</i> 10/12/04	<i>AS</i> 10/12/04	<i>J. Hunter</i> 10-12-04

10. COMMISSION ACTION:

- APPROVED
- DENIED
- DEFERRED
- OTHER

Rec. by CoAtty
Date: 10/12/04
Time: 1:05 PM
Forwarded To:
Co. Admin
10/12/04

RECEIVED BY
COUNTY ADMIN: *PM*
COUNTY ADMIN
FORWARDED TO: *PL*
10-13-04
5PM

UNIFORM COLLECTION AGREEMENT

THIS AGREEMENT made and entered into this ____ day of _____, 2004, by and between Lee County, a political subdivision of the state of Florida ("County"), whose address is PO Box 398, Ft. Myers, Florida 33902, and the Office of the Lee County Tax Collector, by and through the Honorable Cathy Curtis, Lee County Tax Collector, whose address is Lee County Tax Collector's Office, 2480 Thompson Street, Ft. Myers, Florida 33901 ("Tax Collector").

SECTION I

Findings and Determinations

The parties find and determine:

1. The County is authorized to impose and levy, and by appropriate Resolution has expressed its intent to use the statutory uniform methodology of collection for certain non-ad valorem special assessments for Mandatory Garbage and Solid Waste Collection and Disposal ("Assessments"), as authorized by constitutional and statutory municipal home rule and by Section 197.3632, Florida Statutes (2002 Supp.), and Rule 12D-18, Florida Administrative Code, as amended.
2. The term "Assessments" means those certain levies by the County which purport to constitute non-ad valorem special assessments for Mandatory Garbage and Solid Waste Collection and Disposal. A non-ad valorem special assessment is lienable under Section 4, Article X, Florida Constitution, if it results in a special benefit peculiar to the parcels of property involved, over and above general community benefit, as a result of a logical connection to the property involved from the system, facility and service provided by the County and if it is apportioned to the property fairly and reasonably.
3. The uniform statutory collection methodology is provided in Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code ("uniform methodology"), with its enforcement provisions, including the use of tax certificates and tax deeds for enforcing against any delinquencies.
4. The uniform methodology is more fair to the delinquent property owner than traditional lien foreclosure methodology; and
5. The uniform methodology provides for more efficiency of collection by virtue of the "Assessment" being on the official tax notice issued by the Tax Collector which will produce positive economic benefits to the County and its citizens and taxpayers.

6. The uniform methodology, through use of the official tax notice, will tend to eliminate confusion and promote local government accountability; and
7. The Tax Collector, as the State Constitutional Officer for the Lee County Political Subdivision, is charged by general law in Chapter 197, Florida Statutes, and related rules and regulations, to function as the agent of the Florida Department of Revenue for purposes of the uniform methodology for the "Assessments".
8. The sole and exclusive responsibility to determine, impose and levy the "Assessments" and to determine that it is a legal, constitutional and lienable non-ad valorem special assessment for Mandatory Garbage and Solid Waste Collection and Disposal and related systems, facilities and services is that of the County and no other person, entity or officer.

SECTION II

1. Section 2, Article VIII, Florida Constitution; Section 166.021, Florida Statutes; Sections 197.3631, 3632 and 3635, Florida Statutes; Rule 12D-18, Florida Administrative Code, and all other applicable provisions of constitutional and statutory law govern the exercise by the County of its local self-government power to render and pay for municipal services.
2. Section 1(d), Article VIII, Florida Constitution; Chapter 197, Florida Statutes; Rule 12D-13, Florida Administrative Code; Rule 12D-18, Florida Administrative Code, and other applicable provisions of constitutional and statutory law apply to Tax Collector in her capacity as a state constitutional county officer and agent of the Florida Department of Revenue for the purpose of collecting and enforcing the collection of non-ad valorem special assessments levied by the County.
3. Section 197.3631, Florida Statutes, constitutes supplemental authority for County to levy non-ad valorem assessments including such non-ad valorem special assessments as the "Assessments" for Mandatory Garbage and Solid Waste Collection and Disposal and related systems, facilities and services.
4. Section 197.3632, Florida Statutes, and Rule 12D-18, Florida Administrative Code, have provisions that apply both to County and to Tax Collector in and for Lee County, as well as the Department of Revenue.

SECTION III

Purpose

The purpose of this Agreement under Rule 12D-18, Florida Administrative Code, is to establish the terms and conditions under which the Tax Collector shall collect and enforce the collection of those certain non-ad valorem special assessments, the "Assessments", levied by the County to include compensation by the County to the Tax Collector for actual costs of collection pursuant to Section 197.3632(8)(c), Florida Statutes; payment by the County of any costs involved in separate mailings because of non merger of any non-ad valorem special assessment roll as certified by the County or his or her designee, pursuant to Section 197.3632(7), Florida Statutes, and reimbursement by the County for necessary administrative costs, including, but not limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming which attend all of the collection and enforcement duties imposed upon the Tax Collector by the uniform methodology, as provided in Section 197.3632(2), Florida Statutes.

SECTION IV

Term

The term of this Agreement shall commence upon execution, effective for the 2004 tax notice purposes, and shall continue and extend uninterrupted from year to year, automatically renewed for successive periods not to exceed one (1) year each, unless the County shall inform the Tax Collector, as well as the Property Appraiser and the Department of Revenue by January 10 of each calendar year, if the County intends to discontinue to use the uniform methodology for such "Assessments" pursuant to Section 197.3632(6), Florida Statutes (1998 Supp.), and Rule 12D-18.006(3), Florida Administrative Code, using Form DR-412 promulgated by the Florida Department of Revenue.

SECTION V

Duties and Responsibilities of the County

The County agrees, covenants and contracts to:

1. Compensate the Tax Collector for actual collection costs incurred pursuant to Section 197.3632(8)(c), Florida Statutes, and 12D-18.004(2), Florida Administrative Code.
2. Reimburse Tax Collector for necessary administrative costs for the collection and enforcement of the "Assessments" by the Tax Collector under the uniform

methodology, pursuant to Section 197.3632(2), Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code, to include, but not be limited to, those costs associated with personnel, forms, supplies, data processing, computer equipment, postage and programming.

3. To pay for or alternatively to reimburse the Tax Collector for any separate tax notice necessitated by the inability of the Tax Collector to merge the non-ad valorem special assessment roll certified by the County pursuant to Section 197.3632(7), Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code.
4. The Tax Collector shall collect from the County all costs associated with the collection of the non-ad valorem special assessments for each year. Current estimated annual collection cost is \$1.50 per parcel and is subject to change based upon actual expenditures
5. The County shall be directly responsible for any requirements and costs associated with advertising relating to implementation of the uniform non-ad valorem special assessment law pursuant to Sections 197.3632 and 197.3635, Florida Statutes, and Rule 12D-18.004(2), Florida Administrative Code.
6. The County has elected to engage the services of the Property Appraiser to serve as agent of the County to specifically list, extend, prepare and submit the non-ad valorem assessment rolls of the County to the Tax Collector on an annual basis at the same time that the regular ad valorem roll is certified to the Tax Collector on compatible electronic medium as defined in section 197.3632(1)(f), Florida Statutes; designated by the property identification number, the Mandatory Garbage and Solid Waste Collection and Disposal, non-ad valorem special assessment rolls.
7. The County agrees to abide by and implement its duties under the uniform law pursuant to all the provisions of Sections 197.3632 and 197.3635, Florida Statutes, or its successor of statutory provisions and all applicable rules promulgated by the Department of Revenue and their successor rules.
8. The County acknowledges that the Tax Collector has no duty, authority or responsibility in the imposition and levy of any non-ad valorem special assessments, including the County's "Assessments" and that it is the sole responsibility and duty of the County to follow all procedural and substantive requirements for the levy and imposition of constitutionally lienable non-ad valorem special assessments, including the "Assessments".
9. To the extent permitted by law (Section 768.28, Florida Statutes), the County shall indemnify and hold harmless Tax Collector to the extent of any legal action which may be filed in local, state or federal courts against Tax Collector regarding the imposition, levy, roll preparation and certification of the "Assessments"; the County shall pay for or reimburse Tax Collector for fees for legal services rendered to Tax Collector with regard to any such legal action.

SECTION VI

Duties of the Tax Collector

1. The Tax Collector shall include the non-ad valorem special assessments on the combined notice of taxes, prepare a collection roll and prepare a combined notice (the tax notice) for both ad valorem taxes and non-ad valorem special assessments for all levying authorities (all the local governments) within the Lee County Political Subdivision, pursuant to sections 197.3632 and 197.3635, Florida Statutes, and its successor provisions and any applicable rules, and their successor rules, promulgated by the Department of Revenue, and in accordance with any specific ordinances or resolutions adopted by the County, so long as said ordinances and resolutions shall themselves each and every one clearly state intent to use the uniform method for collecting such assessments and so long as they are further not inconsistent with, or contrary to, the provisions of sections 197.3632 and 197.3635, Florida Statutes, and their successor provisions, and any applicable rules.
2. Tax Collector shall collect the "Assessments" of the County as certified by the duly authorized County representative, to the Property Appraiser no later than September 15 of each calendar year on compatible electronic medium, tied to the property identification number for each parcel, and in the format used in July by the Property Appraiser for the ad valorem rolls submitted to the Department of Revenue, using DR Form 408, and free of errors and omissions.
3. The Tax Collector shall disburse funds due to the County hereunder in accordance with the provisions of F.S. 197.383, as amended from time to time. All costs associated with the collection of the non-ad valorem special assessments shall be deducted from the second and third distributions prior to remittance of the proceeds to the County.
4. The Tax Collector agrees to cooperate with the County in implementation of the uniform methodology for collecting "Assessments" pursuant to sections 197.3632 and 197.3635, Florida Statutes, and any successor provisions and applicable rules. The Tax Collector shall not accept any non-ad valorem special assessment roll for the "Assessments" of the County that is not officially, timely and legally certified to the Tax Collector pursuant to Chapter 197, Florida Statutes, and Rule 12D-18, Florida Administrative Code.
5. If the Tax Collector discovers errors or omissions on such roll, the Tax Collector may request the County to file a corrected roll or a correction of the amount of any assessment and the County shall bear the cost of any such error or omission.
6. If Tax Collector determines that a separate mailing is authorized pursuant to section 197.3632(7), Florida Statutes, and any applicable rules promulgated by the

Department of Revenue, and any successor provision to said law or rules, the Tax Collector shall either mail a separate notice of the particular non-ad valorem special assessment (“Assessment”) or shall direct the County to mail such a separate notice. In making this decision, the Tax Collector shall consider all costs to the County and to the taxpayers of such a separate mailing as well as the adverse effect to the taxpayers of delay in multiple notices. Tax Collector shall have sole discretion in making such decision. If such a separate mailing is affected, the County shall bear all costs associated with the separate notice for the non-ad valorem special assessment that could not be merged, and all such costs shall be deducted from the second and third distributions prior to remittance of the proceeds to the County.

SECTION VII

1. The parties shall perform all their obligations under this Agreement in accordance with good faith and prudent practice.
2. This Agreement constitutes the entire agreement between the parties with respect to the subject matter contained herein and may not be amended, modified or rescinded unless otherwise provided in this Agreement, except in writing and signed by all the parties hereto. Should any provision of this Agreement be declared to be invalid, the remaining provisions of this Agreement shall remain in full force and effect, unless such provision is found to be invalid, altering substantially the benefits of the Agreement for either of the parties or rendering the statutory and regulatory obligations unperformable.
3. This Agreement shall be governed by the laws of the State of Florida.
4. Written notice shall be given to the parties at the following addresses or such other place or person as each of the parties shall designate by similar notice:

- a. As to Tax Collector:

Cathy Curtis
Lee County Tax Collector
2480 Thompson Street
Fort Myers, FL 33901

- b. As to the County:

Director, Lee County Solid Waste Division
10500 Buckingham Rd.
Ft. Myers, Fl. 33905

And:

County Attorney
P. O. Box 398
Ft. Myers, Fl. 33902

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals and such of them as are corporations have caused these presents to be signed by their duly authorized officers.

ATTEST:

LEE COUNTY TAX COLLECTOR

Joan L. Cayll

By: Catherine M. Curtis
Cathy Curtis

Date: 9/30/04

ATTEST:

BOARD OF COUNTY COMMISSIONERS
LEE COUNTY, FLORIDA

By: _____

APPROVED AS TO FORM

By: _____
Office of the County Attorney