



TO: T.C. Broadnax, City Manager
FROM: Andy Cherullo, Finance Director
COPY: City Council and City Clerk
SUBJECT: Resolution – Washington Multi-City Business License and Tax Portal Agency Interlocal Agreement and Related Articles of Incorporation – November 26, 2013
DATE: November 15, 2013

SUMMARY:

Approval of an interlocal agreement (ILA) to establish an intergovernmental entity to oversee the management and operation of an online “Portal” and related Articles of Incorporation, that will authorize the creation of a governmental instrumentality in the form of a nonprofit corporation—the “Washington Multi-City Business License and Tax Portal Agency (“Portal Agency”)” – to be owned and governed jointly by the four cities of Bellevue, Everett, Seattle and Tacoma.

BACKGROUND:

The cities of Bellevue, Everett, Seattle and Tacoma have been working on this project for over two and a half years, with the goal of developing a locally controlled option to address stakeholder interests in streamlining B&O tax collection and licensing, and pre-empt proposals by some that the state Department of Revenue be charged with collecting city B&O taxes.

The cities team began the project by developing a set of technological requirements for the Portal, based on detailed exploration of each participating city’s internal financial operating systems and tax policies and practices. Subsequent to that, Seattle issued a Request for Proposals (RFP) for a vendor to develop, maintain, own and operate the Portal. Representatives from all four cities assisted in the ultimate selection of eGov Systems, a Louisiana Corporation as the winning vendor. eGov Systems is currently providing similar online tax services to over 300 governmental units nationwide in multiple states. eGov Systems is now under contract with Seattle and has begun work to develop the Portal. The Portal is anticipated to be ready for testing early in 2014 and to “go live” in the third calendar quarter of 2014.

Last year, the cities began discussing governance options for oversight of the Portal. They quickly reached consensus that a nonprofit corporation was the preferred governance structure, given the legal protections it affords for member cities through the creation of a separate legal entity with true joint oversight and decision-making, as well as providing needed operational flexibility. The nonprofit corporation structure is authorized by the Interlocal Cooperation Act (Ch. 39.34 RCW) and has been used multiple times in Washington by groups of cities or other local governments seeking to jointly undertake a project.

Over the last ten months, the Cities have worked through all the terms in the ILA, with the assistance of city attorneys from each city, consultants and outside legal counsel. A section-by-section summary of the ILA is provided as Exhibit C. Some of the key points include:

1. **Original Principals, Governance and Voting.** Each of the four original parties to the ILA—Bellevue, Everett, Seattle and Tacoma (the “Original Principals”) – will have a member on the Executive Board which governs the Portal Agency. Each Original Principal will have one vote.



It is contemplated that other cities may join the Portal Agency over time. As this happens, the size of the Executive Board will increase, to a maximum of 15 seats (with potential expansion thereafter), each seat having one vote. If membership grows beyond 15 cities, seats will be shared-- but the Original Principals will always have their own seat.

2. **Supermajority Vote Requirement.** Significant operating or budget decisions will require a two-pronged “Supermajority Vote” to approve: both 66% in number of votes on the Executive Board, and 66% in number of the Original Principals.
3. **Qualifications to be a Principals/Party to ILA.** Only Cities that impose B&O taxes may join the ILA as Principals, upon a Supermajority Vote of the Board.
4. **Principals Must Offer Portal to their Taxpayers.** All Principals must offer the Portal as a payment processing option for their taxpayers—but may also offer other options.
5. **Expansion of Portal Agency Services.** The Portal will be able to process business license applications and fees, as well as the payment of business and occupation (B&O) taxes and other gross receipts taxes. The Executive Board can, by Supermajority Vote, expand the scope to include processing of other city licenses and other city taxes, but the costs of that expansion cannot be charged to Principals who elect not to utilize the service.
6. **No Auditing or Enforcement by Portal Agency.** The Portal Agency will not audit tax collections by local taxpayers or perform any audit or enforcement activities against taxpayers.
7. **Subscribers.** Cities that would like to use the services of the Portal only for processing of business licenses may do so by entering into a separate contract with the Portal Agency. Such cities are referred to as “Subscribers.” Cities may also be Subscribers for processing of B&O and gross receipts taxes (they do not need to be a “Principal” to receive these services). Subscribers have a non-voting Board representative.
8. **Five year initial term.** To enable a steady launch of the new organization, the Original Principals agree to remain party to the ILA at least through the end of 2019.
9. **User Fees and Cost Allocation between Cities.** Costs of the Portal Agency will be covered in part by user fees on businesses using the Portal, and the balance (the majority of costs, for the foreseeable future) will come from participating cities. Cities will be charged the same whether they are Principals or Subscribers, and will pay based on the number of transactions processed for them on the Portal.
10. **Budgets.** Each year, the City Council will be asked to approve its share of the Portal Agency budget. Budgets require approval by Supermajority Vote of the Executive Board.



11. **Limitations on Growth of Budget.** Budgets are anticipated to be relatively stable, but as other cities join the Portal Agency the workload and costs will increase. Factors allowing for such growth will be calculated for each budget year, and if the proposed budget exceeds those limits, a unanimous vote of the Original Principals is required to approve the budget.

12. **Effective Date.** The effective date of the ILA is March 1, 2014.

ISSUE:

Shall the City Council approve an interlocal agreement (ILA), and related Articles of Incorporation, to establish an intergovernmental entity to oversee the management and operation of an online “Portal” that will make possible “one-stop” business license filings and business & occupation tax calculation and payment for businesses operating in multiple participating cities?

ALTERNATIVES:

- (1) Direct amendments to the proposed ILA or seek further information.
- (2) Reject the proposal and direct staff to seek other options for streamlining tax collection and business license filing for businesses operating in multiple cities.

RECOMMENDATION:

Approval of the Resolution will authorize the creation of a governmental instrumentality in the form of a nonprofit corporation—the “Washington Multi-City Business License and Tax Portal Agency (“Portal Agency”) – to be owned and governed jointly by the four cities of Bellevue, Everett, Seattle and Tacoma. Additional Cities may join the Portal Agency over time. The Portal Agency will be empowered to oversee the development and operation of the “Portal,” a vendor-owned and operated internet web application gateway that will afford taxpayers and businesses a single access point through which they may apply for business licenses from, and pay taxes and fees to, participating cities. Approval of the Resolution will also:

- Authorize the City’s funding of its share of the 2014 budget for the Portal Agency.
- Provide for the signing and filing of the Articles of Incorporation necessary as part of the statutory requirements to create the Portal Agency as a nonprofit corporation. (This will take place in Q1 2014.)
- Facilitate assignment of the Portal development vendor contract from Seattle to the Portal Agency.

Note that the ILA will go into effect if approved by all four cities. The ILA and Articles of Incorporation reflect the consensus work of the team of staff from all four cities over the last two and a half years. The effort has been led by the cities’ finance directors and assisted by other senior finance and tax staff as well as a team of outside consultants and legal advisors. The City of Bellingham was also involved in the early stages of the project and has indicated it wishes to subscribe to the Portal services once the system is launched. The project has been closely tracked by the business community, cities from around the state, the Association of Washington Cities, the State Department of Revenue, State Legislature, and the Governor’s office. Creation of the “Portal Agency” will respond to the concerns of business and other



stakeholders that cities imposing business and occupation taxes should make it simpler for businesses operating in multiple cities to file these taxes—while also responding to cities’ desire to maintain local control over local tax policy and collections.

FISCAL IMPACT:

The City’s share of the Portal Agency 2014 budget will be approximately \$60,000. (See Exhibit A to ILA).

Each year, the City will be asked to approve its share of the budget as part of the City’s regular budget process. The estimated Portal Agency budgets for years 2014-2020 are presented on Exhibit B to the ILA; these assume no additional cities join the Portal Agency.