

**ROWAN COUNTY CONTRACT MEMORANDUM**

**TO:** Aaron Church, Rowan County Manager  
**FROM:** Tonya Parnell  
**DEPT:** Tax Collections  
**DATE:** 04/21/2022  
**SUBJECT:** Kania Contract Amendment

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**PURPOSE OF CONTRACT:**

Contract amendment:

To revise pricing list from original contact.

**CONTRACT CERTIFICATION**

***By submitting this memorandum, I agree that I have:***

- 1. Read and understand the terms of the contract.***
- 2. To the best of my knowledge the terms, amount and activities surrounding this contract are compliant with North Carolina General Statutes, the Rowan County Purchasing Policy and any applicable regulations.***
- 3. I have secured and attached in MUNIS the Certificate of Insurance.***

*Tonya Parnell*

04/21/2022

**Signature of Director**

**DATE**

NORTH CAROLINA

ROWAN COUNTY

**FIRST AMENDMENT TO LEGAL SERVICES AGREEMENT**

THIS AGREEMENT is made and entered into effective the \_\_\_\_ day of \_\_\_\_\_, 2022, by and between ROWAN COUNTY, a body politic, hereinafter “Client”, and The Kania Law Firm, P.A., hereinafter “Firm”.

WITNESSETH:

WHEREAS, Client and Firm entered into that certain Agreement for Legal Services effective April 26, 2019 wherein Client hired Firm to perform foreclosure services for Client; and

WHEREAS, the parties have agreed to amend such Agreement, specifically Section 9 regarding the Fee Schedule.

NOW, THEREFORE, in consideration of the mutual promises and covenants herein contained and prior performance and tenure of Firm, the receipt and sufficiency of which is hereby acknowledged, the parties do hereby agree as follows:

1. **Section 9. Payment of Fees; Reimbursement of Costs**, shall be amended to substitute the attached Exhibit A new Schedule Of Fees.
2. This Agreement constitutes the amended understanding of the parties. It may not be changed or modified orally but only by an Agreement in writing signed by each party.
3. Except as amended herein, it is further specifically understood and agreed that all of the remaining terms, conditions and covenants set forth in the aforesaid Agreement shall remain in full force and effect.

{Signature Page Follows}

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals effective the day and year first above written.

ROWAN COUNTY, CLIENT  
BY:

Its: \_\_\_\_\_ County Manager

THE KANIA LAW FIRM, FIRM

*Richard J. Kania*  
Richard J. Kania (Apr 20, 2022 12:30 EDT)

By: Richard J. Kania  
\_\_\_\_\_  
Managing Partner

This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.

EXHIBIT A  
FEE SCHEDULE



**THE KANIA LAW FIRM, P.A.**

600-A Centrepark Drive  
Asheville, North Carolina 28805  
Phone: 828.252.8010  
Facsimile: 828.252.8760

**FEE SCHEDULE**

Listed below are some of the standard attorney's fees charged to clients by The Kania Law Firm for a tax foreclosure action under G.S. §105-374 and other related services up to the holding of the sale (please note that costs of sale, advertising fees, court costs, service fees and filing fees charged by the Court are not included):

• Demand/Pre-Foreclosure Letter:	\$ 75.00
• Demand letter w/o Foreclosure referral:	\$100.00
• Title Search (per tax parcel & chain of title):@	\$450.00
• Title Update	\$ 85.00
• Preparation of Complaint:	\$425.00
• Filing of Complaint w/Summonses	\$250.00
• Service by Publication*	\$150.00
• Motion for Guardian ad Litem*	\$150.00
• Default Judgment for Foreclosure	\$400.00
• Notice of Sale	\$150.00
• Motion and Order to Confirm	\$ 75.00
• Commissioner's Deed	\$125.00
• Final Report	\$150.00
• Forbearance Agreement (w/County approval) *	\$450.00
• Skip traces (for defendants who cannot either be located or are avoiding service)	\$20.00 to \$60.00
• Copies/faxes: No charge	

**BANKRUPTCY**

• Filing Proof of Claims	\$250.00
• Monitoring status of Bankruptcy Case	\$350.00

**MISCELLANEOUS SERVICES**

• Hourly rate-Attorney	\$250.00
• Hourly rate-Paralegal	\$110.00

\*\*\* When required-not required in all actions

@@@ Excessively Extensive or complicated titles may carry additional charges

**ALL OF THE ABOVE SERVICES ARE PAID BY THE PURCHASER OF THE PROPERTY, OR THE TAXPAYER,  
AND ARE NOT PAID BY THE TAXING UNIT UNLESS THE TAXING UNIT TAKES TITLE TO THE PROPERTY**

NORTH CAROLINA

ROWAN COUNTY

**AGREEMENT**

THIS AGREEMENT, made on ~~December~~ <sup>April</sup> 26, 201~~8~~<sup>9</sup>, by The Kania Law Firm, P.A. (Firm), and Rowan County, (Client).

**WITNESSETH:**

WHEREAS, The Firm has been in operation since 1985, and specializes in default services for lenders, tax assessors and creditors, including foreclosure, collections, forbearance agreements, creditor bankruptcy representation, and deeds-in-lieu, in addition to other specialties including residential and commercial real estate, and real estate litigation; and Whereas, the Client desires to make use of the Firm's knowledge and expertise in the enforcement of its tax liens on real properties located in Rowan County, North Carolina; and Whereas, the Firm is willing to provide such services to the Client, upon the terms and conditions set out in this Agreement.

Therefore, the Firm and Client hereby agree as follows:

1. **Scope of Work.** The Firm shall initiate and complete judicial foreclosures on behalf of Client in accordance with N.C.G.S. §105-374 for files as may be forwarded to Firm by Client. This work may also include the collection of taxes by Client on behalf of municipalities within Rowan County, and the Firm shall give equal priority to and efforts toward the collection of such municipal taxes.

In the event of any appeal from the judgment entered by District or Superior Court to the NC Court of Appeals, the Firm will assist Client in procuring counsel to handle such appeals, as the Firm does not engage in appeals work.

Contested hearings, as well as post-judgment motions, shall be handled by the Firm as part of its contract work, with no additional compensation due to the Firm unless billable time for work on contested hearings or post-judgment motions exceeds 15 hours.

Motions for relief in bankruptcy requested by Client shall be billed on a case-by-case basis on terms acceptable to both parties.

The Firm shall whenever possible and in a manner consistent with the requirements of N.C.G.S. §105-374, join multiple parcels in the same foreclosure action in order to minimize costs incurred by the Client as well as facilitate simultaneous sales of related properties.

2. **Timelines.** For any such files referred to Firm, the Firm shall adhere to the following performance schedules:



a. Demand Letters: The Firm shall send an initial demand letter to the owner as indicated by the Client's tax records within 10 days of referral of the file to the Firm. The cure period specified by the demand letter shall be for a period established by Client.

b. Title Search: The Firm shall conduct a title search on the property and complete the title search within 45 days, unless unusual circumstances with the title are present.

In the event the Firm is unable to complete the title search within 45 days due to special circumstances (such as difficulty of title, or prevalence of numerous estates in the chain of title), the Firm shall notify the Client of the special circumstances and the need for additional time to complete the search.

The Firm shall conduct a minimum 10 year search on all titles, or a full one-link search from the vesting deed into the current owner of record to the present, whichever is longer.

c. Complaint Draft: The Firm shall submit a draft complaint to Client for verification no later than 20 days after completion of the title search.

d. Complaint Filing: The Firm shall file the verified complaint with the Court of appropriate jurisdiction within 10 days of receipt of the verified complaint from Client.

e. Guardian ad Litem: In the event the Firm determines that it will be necessary for the Court to appoint a Guardian ad Litem to represent defendants who are either unknown or legally incompetent, the Firm shall notify the Client of such need before incurring any costs on behalf of the Client.

f. Sales: Upon obtaining an order from the court authorizing foreclosure sale of the property, the Firm shall notify Client that the property is ready for sale within 15 days of entry of the order.

3. **Payments Received from Taxpayers.** The Firm shall direct any taxpayer to remit payments for taxes and fees directly to the Firm. Payments received by the Firm shall be routed as follows:

a. Payments in Full: Payments received by the Firm representing full payment for taxes, collection costs and fees shall immediately be deposited to the Firm's Trust Account. Within 7 days of such funds being cleared for withdrawal by the bank, the Firm shall remit full payment to the Client for all delinquent taxes due.

b. Partial Payments: Any partial payment received by the Firm which is insufficient to pay all delinquent taxes, collection costs and fees due shall immediately be returned to the taxpayer with an explanation that nothing less than payment in full can be accepted by the Firm.

c. **Forbearance Agreements:** The Firm may negotiate Forbearance Agreements with taxpayers on behalf of the Client, unless otherwise prohibited by Client. As referenced in this Agreement, a Forbearance Agreement is a written agreement with the taxpayer or owner that permits the taxpayer to make monthly payments on their tax obligations owing to Rowan County over a period of time (not to exceed 8 months), with any foreclosure action against the taxpayer stayed as long as the taxpayer is current on his payments due under the Forbearance Agreement. Prior to the dismissal of any tax foreclosure action against the taxpayer, the Forbearance Agreement shall stipulate that all delinquent taxes, accrued interest, attorney's fees and costs must be paid in full.

The Client shall not be responsible for paying any associated fees or costs of a Forbearance Agreement.

4. **Monthly Reports.** The Firm shall provide the Client a monthly report, on or around the 1<sup>st</sup> of every month, which lists all active files referred to the Firm by Client, as well as a progress timeline which indicates to Client the current stage of each of the files.

5. **Points of Contact.** The Firm will notify the Client of the specific Attorney and Paralegal assigned to each referred file.

6. **Professional Liability Insurance.** The Firm shall maintain at all times a professional liability insurance policy which insures all attorneys of the Firm who conduct work on behalf of the Client, with a minimum \$2,000,000.00 coverage per claim and \$2,000,000.00 aggregate coverage. The Firm shall provide the Client a copy of such insurance, at the request of Client.

7. **Conflict of Interest.** The Firm shall conduct a conflicts check for any file referred to the Firm by Client. In the unlikely event a conflict is found, the Firm shall resolve this conflict in a manner that permits continued representation of the Client.

The Firm does occasionally represent residents of Rowan County in matters of real estate closings. In the rare instance where conflicts exist, this would occur due to the simultaneous representation of the taxpayer in a real estate transaction and representation of the Client in a tax collection matter, and in such cases, the Firm will either obtain a waiver from the taxpayer or withdraw from representation of the taxpayer in the real estate matter.

8. **Pre-Foreclosure Research of Defendant Parties.** Prior to the filing of any foreclosure action with the Court, the Firm shall conduct the following research on all defendant parties:

a. **PACER Search:** In the event it is found that a necessary defendant party is in bankruptcy, the Firm shall immediately notify the Client of the bankruptcy and place a file hold on the matter until the bankruptcy stay order has been lifted as to that defendant.



b. SCRA Search: The Firm shall review the records on file with the Department of Defense to insure that no necessary defendant party is currently on active military duty. In the event a necessary defendant party is found to be on active duty, the Firm shall not file the foreclosure complaint with the Court until authorized by the Client.

9. **Payment of Fees; Reimbursement of Costs.** The Firm shall advance all necessary costs including, but not limited to, court filing fees, service fees, motion fees, guardian ad litem fees, legal notice publication fees, advertising fees, and recording fees.

The Firm shall charge the Client legal fees in accordance with the fee schedule attached as EXHIBIT A and incorporated by reference. The Firm shall charge such fees only for work actually performed by the Firm.

The Firm shall not charge the Client any fees in excess of the fees as set out in EXHIBIT A, unless prior written consent from the Client is obtained.

The Fees set out in EXHIBIT A for judgments shall be deemed to include any additional work that may be required in an action due to issues that may be contested by a taxpayer. No additional fees shall be paid by the Client in order to defend against claims asserted by a taxpayer either in District or Superior Court.

The Firm shall be entitled to payment of all costs advanced, and all earned fees, as follows:

- a. Upon completion of the foreclosure sale and recordation of the Commissioner's deed; or
- b. If the matter is stayed due to a Chapter 11, 12 or 13 bankruptcy filing by a defendant prior to completion of the sale, the Client shall include any accrued costs and fees in a Proof of Claim filed with the Bankruptcy Court, and the Firm shall be paid by the Client as funds are received from the Bankruptcy Trustee; or
- c. If the matter is placed on hold by the Client for any other reason prior to completion of the foreclosure sale, the Firm shall be entitled to payment after the file has been on hold more than 6 months.
- d. The Firm may appoint a Commissioner from any licensed attorney with the Firm, in order to conduct the foreclosure sale and, subject to Court approval, the Commissioner may charge a Commissioner's fee not in excess of 5% of the sales price; Provided, that the Client shall not be responsible for the payment of any such commission, and that the Firm shall submit a request for payment of a commission to the Court only upon the sale of the property to a third-party bidder.

In the event the County elects to accept title from a tax foreclosure sale as the winning bidder, no commission shall be charged, and the County shall pay the expenses associated with a Commissioner's sale such as preparation of the Notice of

Sale, the Motion and Order to Confirm, the Commissioner's Deed, and the Final Report in accordance with the fee schedule as shown on EXHIBIT A.

Notwithstanding anything to the contrary in this Agreement, the Firm shall recover all fees and costs incurred in any completed foreclosure action solely from the sales proceeds of the foreclosure sale. In the event the sale is not completed, or Client elects to take title to any foreclosed property in lieu of a sale to a 3<sup>rd</sup> party bidder, Client shall pay the legal fees and costs in accordance with the fees shown on EXHIBIT A, unless otherwise approved by Client, in advance and in writing.

10. **Representations.** The Firm makes the following representations:

- a. All Attorneys who will work on files referred to the Firm will be members in good standing with the North Carolina State Bar at all times.
- b. The Firm has developed disaster recovery protocols, and has a remote server with remote access capability with backup data secured offsite, in the event of natural or man-made disaster.
- c. The Firm has attorneys who have been admitted to practice before the Western District of North Carolina, permitting bankruptcy representation in that district.
- d. Neither the Firm nor any of its principals has been involved in any bankruptcy filing or proceeding, other than as counsel for a client.

11. **Client Not Obligated to Refer Files.** Nothing herein shall obligate the Client to send the Firm any referrals. The Client shall retain the sole discretion to assign as little or as many files to the Firm that it deems advisable.

12. **Recall of files by Client.** Client may, at any time and at its sole discretion, direct the Firm to immediately cease work on any file for any reason, and at whatever stage of litigation, and the Firm in such cases shall immediately cease work. If directed to do so, the Firm will return any and all documentation concerning the file to Client.

13. **Termination.** This Agreement may be terminated by either party upon 60 days written notice to the other party.

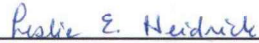
14. **Indemnification.** The Firm will at all times hereafter save harmless and keep indemnified Client, from and against all losses, costs, expenses and damages which may be incurred by or by reason of any action or proceeding which shall or may be brought and instituted by the Firm against a taxpayer, for or in respect of any action filed by the Firm for tax foreclosure pursuant to N.C.G.S. §105-374 et seq., including but not limited to court costs, attorney fees, or any other miscellaneous costs incurred in such a defense; provided, that such losses, costs, expenses and damages incurred by Client are the result of the Firm's failure to follow the requirements set out in N.C.G.S. §105-374 et seq. for prosecution of a tax foreclosure action.

SIGNED:

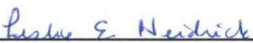
The Kania Law Firm, P.A.

Rowan County Tax Department

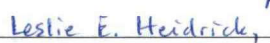
  
By: Richard J. Kania, Managing Partner

  
\_\_\_\_\_

This instrument has been pre-audited in the manner required by the local government Budget Fiscal Control Act.

Attested:   
\_\_\_\_\_

Name:

Title:  <sup>Asst.</sup> County Manager/Finance Director



# EXHIBIT A



THE KANIA LAW FIRM, P.A.

600-A Centrepark Drive  
Asheville, North Carolina 28805  
Phone: 828.252.8010  
Facsimile: 828.252.8760

## FEE SCHEDULE

Listed below are some of the standard attorney's fees charged to clients by The Kania Law Firm for a tax foreclosure action under G.S. §105-374 and other related services up to the holding of the sale (please note that costs of sale, advertising fees, court costs, service fees and filing fees charged by the Court are not included):

- |   |                    |
|---|--------------------|
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| • Demand letter w/o Foreclosure referral:   | \$100.00           |
| • Title Search (per tax parcel & chain of title): <sup>@</sup>                            | \$350.00           |
| • Title Update  | \$ 85.00           |
| • Preparation of Complaint:   | \$400.00           |
| • Filing of Complaint w/Summonses   | \$250.00           |
| • Service by Publication*   | \$125.00           |
| • Motion for Guardian ad Litem*   | \$150.00           |
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| • Motion and Order to Confirm   | \$ 75.00           |
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| • Final Report  | \$150.00           |
| • Forbearance Agreement (w/County approval) *   | \$450.00           |
| • Skip traces<br>(for defendants who cannot either be located or are<br>avoiding service) | \$20.00 to \$60.00 |
| • Copies/faxes: No charge   |                    |

### BANKRUPTCY

- |  |          |
|--|----------|
| • Filing Proof of Claims               | \$250.00 |
| • Monitoring status of Bankruptcy Case | \$350.00 |

### MISCELLANEOUS SERVICES

- |                         |          |
|-------------------------|----------|
| • Hourly rate-Attorney  | \$200.00 |
| • Hourly rate-Paralegal | \$100.00 |

\* \* \* When required-not required in all actions

@ @ @ Excessively Extensive or complicated titles may carry additional charges



## Workflow Acknowledgment

Purchasing Director

BOC Approval:

Insurance:

Comment:

CIO:

CIO Comment:

County Attorney:

Legal Comment: