STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

INTERLOCAL AGREEMENT BETWEEN BUNCOMBE COUNTY & THE TOWN OF BLACK MOUNTAIN

This Interlocal Agreement ("Agreement") is entered into effective November 27, 2024, by and between the COUNTY OF BUNCOMBE, a body politic and corporate, organized and existing under the laws of the State of North Carolina ("County") and the TOWN OF BLACK MOUNTAIN, a municipal corporation of the State of North Carolina ("Town").

WITNESSETH:

WHEREAS, on September 25, 2024, Governor Roy Cooper issued Executive Order 315 declaring a statewide State of Emergency and on September 26, 2024, President Joseph R. Biden approved a federal disaster declaration for Buncombe County;

WHEREAS, on or about September 27-28, 2024, Tropical Storm Helene ("storm") devastated portions of Buncombe County and the incorporated municipalities, yielding approximately 10 million cubic yards of debris countywide;

WHEREAS, much of the debris is on private property, including commercial property, and within waterways (collectively, "private property debris") and constitutes a threat to public health, safety, and welfare;

WHEREAS, many residents and some businesses will qualify for no-cost private property debris removal by a third-party debris-removal entity and the Federal Emergency Management Agency, but in order to qualify, property owners will be required to participate in detailed intake process;

WHEREAS, this private property debris removal intake process, including application and right-of entry, will require a coordinated effort between Buncombe County, the incorporated municipalities, and state and Federal agencies to ensure that proper procedures are followed and that residents receive clear and consistent information;

WHEREAS, waterway debris removal may also require a coordinated right-of-entry process involving property owners and governmental entities;

WHEREAS, to achieve orderly and efficient removal of debris from private property and waterways, the Town desires that Buncombe County coordinate the private property debris removal intake process within the territorial jurisdiction of the Town; and

WHEREAS, cities and counties are authorized to enter into joint undertakings as authorized by N.C. Gen. Stat. §153A-445 and Ch. 160A, Art. 20, Part 1, Joint Exercise of Powers.

NOW, THEREFORE, in consideration of the mutual promises made in this Interlocal Agreement and the mutual reliance placed by each party on the responsibilities of each other, and such other good and valuable consideration as the Parties agree is sufficient, it is agreed as follows:

1. Purpose. The purpose of this Interlocal Agreement (Agreement) is to establish the terms and conditions under which the County will facilitate the private property and waterway debris removal intake process for Town of Black Mountain property owners.

2. Duration. This Agreement shall commence on November 16, 2024, and shall terminate on May 23, 2025, or upon the completion of the PPDR and waterway debris removal intake process for private property owners within the Town of Black Mountain.

3. Responsibilities.

   a. Buncombe County. Buncombe County shall:
      i. Administer the PPDR and waterway debris removal intake process by through its consultant Tetra Tech, Inc. as described in subtasks 3.1 and 3.2 of Exhibit A, which is incorporated by reference as if fully set forth herein; and
      ii. Provide the Town with access, upon request, to Tetra Tech's database, daily reporting, and any other data that pertains to the debris removal within the Town

   b. Town of Black Mountain. The Town shall:
      i. Identify personnel to coordinate with the County and the County's contractors in the PPDR and waterway debris removal intake process;
      ii. Cooperate in good faith with the County and the County's contractors in the PPDR and waterway debris removal intake process;
      iii. Cooperate with the County and provide information as necessary to the County for the purposes of receiving federal reimbursement for storm-related debris removal in the Town;
      iv. Reimburse the County for the Town's actual costs associated with subtasks 3.1 and 3.2 that are not reimbursed by the federal government.

4. Hold Harmless. To the extent permitted by North Carolina law, the Town agrees to hold harmless the County and its officers, agents, employees, and contractors against all liability, loss, and costs arising from actions, suits, claims, or demands attributable solely and exclusively to acts or omissions of Buncombe County or its contractors for any damages that result from the County's negligence in removing storm-related debris within the Town of Black Mountain. The County is self-insured for tort claims. This notice of self-insurance does not waive any defense the County may raise to such a claim, including but not limited to governmental immunity.

5. Amendments. This Agreement constitutes the entire agreement between the Parties. This Agreement may be amended, supplemented, or modified only by duly executed written instruments as an amendment to this Agreement.

6. Termination. Either party may terminate this Agreement for any reason, or for no reason, by giving the other party at least thirty (30) days written notice.

7. Governing Law. This Agreement is entered into in North Carolina and shall be construed under the statutes and laws of the State of North Carolina.

8. Mediation. Any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the

institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the Buncombe County Resident Superior Court Judge shall name a mediator to hear the matter. The parties shall equally share the mediator's fee. The mediation shall be held in Asheville at a location designated by the mediator selected to hear the matter.

9. Legal Proceedings. Claims, disputes and/or other matters in question between the parties that are not resolved by mediation shall be heard in the North Carolina General Courts of Justice in Asheville, Buncombe County, North Carolina, which said Court shall have jurisdiction to hear any dispute between the parties arising out of this agreement. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Buncombe County, North Carolina.

10. Severability. Should any provision(s) contained in this Agreement be declared, by a court of competent jurisdiction, to be void, unenforceable, or illegal, such provision(s) shall be severable and the remaining provisions hereof shall remain in full force and effect.

11. Notices. In the event either Party desires or is required to provide any notice to the other Party, the Party desiring or required to provide such notice shall provide it in writing by email to the other Party at the following address:

Town:
Jessica Trotman, Assistant Town Manager
160 Midland Ave.
Black Mountain, NC 28711
jessica.trotman@tobnc.org

County:
Kristy Smith, Solid Waste Manager
81 Panther Branch Road
Alexander, NC 28701
Kristy.Smith@BuncombeCounty.org

IN WITNESS WHEREOF, the individuals signing this Agreement warrant that they have the authority and power to enter into this Agreement on behalf of the County and the Town, to grant the rights granted under this Agreement, and to undertake the obligations undertaken in this Agreement.

TOWN OF BLACK MOUNTAIN

Josh Harrold, Town Manager

BUNCOMBE COUNTY

11/27/2024
Avril M. Pinder, County Manager