STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

INTERLOCAL AGREEMENT
BUNCOMBE COUNTY & THE TOWN OF BLACK MOUNTAIN

This Interlocal Agreement ("Agreement") is entered into effective February ____, 2025, 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 ("Town") a municipal corporation of the State of North Carolina.

W I T N E S S E T H

WHEREAS, the Federal Emergency Management Agency's ("FEMA") Hazard Mitigation Grant Program ("HMGP"), available to communities that have experienced a federally recognized disaster, provides funding to state, local, tribal, and territorial governments to develop hazard mitigation plans and rebuild in a way that reduces future losses arising from such events;

WHEREAS, the HMGP authorizes, in part, the acquisition of real property located in high flood risk areas that have experienced substantial flood damage by local governments which then remove structures and maintain, in perpetuity, the property as deed-restricted open space;

WHEREAS, on September 27-28, 2024, Tropical Storm Helene, devastated portions of Buncombe County and the incorporated municipalities;

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

WHEREAS, North Carolina has adopted a "state centric" HMGP model whereby the North Carolina Department of Public Safety- Division of Emergency Management ("NCEM") acts as an intermediary between the property-owners, FEMA and local governments; it is the preference of NCEM that the HMGP applications are organized by County; accordingly, municipalities and counties must work together with respect to the HMGP;

WHEREAS, to facilitate a strong and sustainable recovery, Buncombe County, the City of Asheville, the Town of Black Mountain, the Town of Weaverville, and the Town of Woodfin desire to participate in the Hazard Mitigation Grant Program;

WHEREAS, to achieve orderly and equitable management of HMGP applicant properties, the Town desires that Buncombe County coordinate the HMGP acquisition process for real property owners located within the territorial jurisdiction of the Town;

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; and

WHEREAS, pursuant to Town Council Resolution No. _____ adopted on _____ and Buncombe County Commission Resolution No. _____, adopted on February 18, 2025, the Town and County agree to cooperate in the HMGP program as stated in this Agreement.

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 the 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 is to establish the terms and conditions under which the County will facilitate HMGP applications submitted by Town residents and approved by FEMA.

2. Term. This Agreement shall commence on February ____, 2025, and shall terminate on DATE, unless terminated sooner in accordance with the terms of this Agreement.

3. Responsibilities.

    a. County.
        i. Accept FEMA approved HMGP applications from NCEM for properties located within the territorial jurisdiction of the Town;
        ii. Using objective criteria(Exhibit A), evaluate each FEMA-approved applicant property to determine if purchasing the property will fulfill the Town's recovery and disaster loss-prevention goals; and
        iii. Advise the Town of the County's determination with respect to each applicant property.

    b. Town.
        i. Identify Town personnel to coordinate with County personnel concerning the subject matter of this Agreement;
        ii. Cooperate with the County and provide information as required by the County to fulfill its responsibilities enumerated in Section 3(a), above;
        iii. Notify the County with respect to its decision to acquire, or not acquire, each FEMA-approved applicant property;
        iv. Comply with the requirements of Hazard Mitigation Grant Program, including, but not limited to 44 CFR Part 80 and more specifically, 44 CFR 80.5(c), 44 CFR Part 80 Subpart C, and 44 CFR Part 80 Subpart D;
        v. Comply with all NCEM HMGP property acquisition and maintenance requirements.

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 processing FEMA approved HMGP applications. 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. Data Sharing. The parties processing data shall consider the applicability of all State, Federal and Programmatic regulations that govern the confidentiality and security of information created, accessed, transmitted, maintained or processed in any manner under the terms of this agreement. Information may be sourced as permitted from data provided by North Carolina Emergency Management and other resources. The Town shall agree to use appropriate administrative, physical, procedural, and technical safeguards, including encryption to protect data in transit and at rest and to protect the data from misuse and unauthorized access or disclosure, including, without limitation, (i) maintaining adequate physical controls and password protections for any server, system, or device on which the data may reside, and (ii) taking any other measures reasonably necessary to prevent any use or disclosure of the data other than as provided in conjunction with this Agreement. In the event of a breach or suspicion of a breach of shared data including the impermissible use or disclosure of any form of PII, the Town shall notify the County within 24 hours and take immediate action to mitigate the situation.

6. 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.

7. 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.

8. 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.

9. Dispute Resolution.

    a. 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.

b. 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: Town

{signatures on the following page}

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	BUNCOMBE COUNTY
_____	_____
Joshua Harrold, Town Manager	Avril M. Pinder, County Manager