STATE OF NORTH CAROLINA

SERVICE CONTRACT

COUNTY OF BUNCOMBE

THIS SERVICES CONTRACT, made and entered into this _____ day of _____, 2025, by and between the Buncombe County, a body politic and existing under the laws of the State of North Carolina (hereinafter sometimes referred to as "County"), and Buncombe County Tourism Development Authority, a North Carolina public authority (hereinafter sometimes referred to as "BCTDA").

RECITALS:

WHEREAS, pursuant to the North Carolina Statutes, including but not limited to House Bill 1057 Session Law 2022-40 (the "Legislation"), the County provides certain services to the BCTDA, including, but not limited to, administering the room occupancy tax it levies and providing its finance officer to serve as the ex officio finance officer of the BCTDA, ensuring its compliance as a public authority with the Local Government Budget and Fiscal Control Act (the "Statutory Services"); and,

WHEREAS, the County and BCTDA desire to set forth their agreement as to terms of the Statutory Services;

NOW THEREFORE, for a good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and the mutual agreements contained herein, the parties hereto do covenant and agree as follows:

I. TERMS AND CONDITIONS.

1. **Statutory Services – Tax Collection**. Consistent with the Legislation, the County will administer the occupancy tax it levies, including diligently collecting all occupancy tax due pursuant to statutory authority (the "Gross Occupancy Tax"). The County shall charge the Administrative Fee as described below to the Gross Occupancy Tax collected. The Gross Occupancy Tax less the Administrative Fee shall be the Net Occupancy Tax.

2. **Statutory Services – Tax Remittance**. The County shall remit to the BCTDA on a monthly basis the Net Occupancy Tax collected for the prior month. The BCTDA will then cause the disbursement of Net Occupancy Tax to be deposited into the appropriate accounts in accordance with the Legislation.

3. **Statutory Services – Tax Accounting**. The County will provide to the BCTDA a monthly account of its receipts and disbursements of the gross and net occupancy tax and such other financial information as the BCTDA may reasonably request.

4. **Statutory Services – Finance Officer**. The County shall provide its Finance Officer or designee to attend each meeting of the BCTDA. The County Finance Officer shall serve as Finance Officer of the BCTDA. The BCTDA shall provide the Finance Officer with such reports as are reasonably necessary for the Finance Officer to ensure the BCTDA's compliance with all applicable general statutes and local acts, including but not limited to the Local Government Budget and Fiscal Control Act.

5. **Statutory Services – Audit.** The County, in its role as Finance Officer ensuring compliance with the Local Government Budget and Fiscal Control Act, shall provide an annual audit and corresponding report to the BCTDA as prepared by the auditor chosen by the BCTDA. If requested by the BCTDA, the County may assist in selection of an audit firm for performance of audit services as approved by the BCTDA. The BCTDA will be responsible for providing all work papers and records to the audit firm for completion of the audit. The BCTDA shall be responsible for the cost of the audit and shall cooperate as required by the auditor and the County to enable the provision of this service and submittal of the annual audit no later than October 31 annually.

6. **Statutory Services – Pre-Auditing**. The BCTDA shall ensure, in accordance with the Local Government Budget and Fiscal Control Act, that contracts requiring pre-auditing will be pre-audited. These contracts shall include all contracts entered into by the BCTDA, including but not limited to, the agreement entered into between the BCTDA and the non-profit corporation, the Buncombe County Tourism Development Authority, Inc., d/b/a Explore Asheville, and all Tourism Product Development Fund and Legacy Investment in Tourism Fund grant agreements. The BCTDA shall ensure that all agreements with private organizations specify the purposes for which occupancy tax dollars will be spent and incorporate reasonable performance measures in accordance with any applicable law.

7. **Consideration for Statutory Services**. Consistent with its statutory authority, the County will charge and the BCTDA will compensate the County in an amount not to exceed five percent (5%) of the Gross Occupancy Tax collected each year, and which amount shall be retained by the County from the gross proceeds collected, as compensation for all of the Statutory Services provided.

8. **Independent Contractor**. In all matters relating to or concerning this agreement, County, its agents, contractors, subcontractors and other representatives are, and shall act as, independent parties acting within their own means and on their own behalf. County, its agents, contractors, subcontractors and other representatives, respectively, are not employees of the BCTDA. Nothing contained in this agreement shall be construed to establish a joint venture or partnership between the BCTDA and County, its agents, contractors, subcontractors or other representatives.

9. **Term of Agreement**. The term of the agreement shall begin on July 1, 2025 and end on June 30, 2026.

10. **Renewal Terms**. Provided the parties have complied with all terms, conditions, and provisions of this Agreement then the Agreement will automatically renew for successive terms of one (1) year each on the same terms and conditions as set forth herein, unless either Party provides the other Party at least 160 days written notice of its intention not to renew the Agreement.

II. GENERAL MATTERS.

1. **Notice.** The parties hereby acknowledge that all notices provided for in this agreement shall be in writing and shall be deemed to be given when sent by registered or certified mail, return receipt requested, facsimile transmission or overnight delivery addressed:

To County: Buncombe County Government
County Manager
200 College Street
Suite 300
Asheville, NC 28805

To BCTDA: Buncombe County Tourism Development Authority
President and CEO
27 College Place
Asheville, North Carolina 28801

Any party hereto may from time to time, by notices herein provided, designate a different address to which notices to it shall be sent.

2. **Governing Law.** This contract shall be governed by the laws of the State of North Carolina and should any claim or dispute arise between the parties that cannot be resolved amicably then any action to enforce or interpret its terms shall be brought in the General Court of Justice of Buncombe County, North Carolina which shall have venue and jurisdiction over the subject matter and the parties. All rights and remedies of County under this agreement shall be cumulative and none shall exclude any other rights or remedies allowed by law or by equity. The Parties hereby agree that this paragraph establishes exclusive and sole jurisdiction for any legal proceeding in Buncombe County, North Carolina.

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

4. **Entirety.** This contract contains the entire agreement of the parties with respect to the subject matter hereof and may not be modified, except by an instrument in writing and signed by both parties. This contract supersedes and cancels all prior agreements between the parties as to the subject matter hereof.

5. **Execution.** The individual signatories below have the expressed and implied authority on behalf of their respective Boards to execute this Agreement. The Parties may execute this Agreement in separate counterparts and the execution of a copy shall have the same effect as the execution of an original. Such execution may be by facsimile or PDF attachment to an email.

IN WITNESS WHEREOF, the parties have caused this Service Contract to be executed in their respective names by their duly authorized officers, all as of the date first above written.

Buncombe County

_____
Avril Pinder, County Manager

Date: _____

Buncombe County Tourism Development Authority

_____
Name:
Title:

Date: _____