WM-0394

MEMORANDUM OF AGREEMENT

BETWEEN

NORTH CAROLINA WILDLIFE RESOURCES COMMISSION

AND

BUNCOMBE COUNTY

This Memorandum of Agreement ("**Agreement**") is entered into between the North Carolina Wildlife Resources Commission, hereinafter designated "**the Commission**," and Buncombe County, a local government with its headquarters at 35 Woodfin Street, Asheville, NC 28801, hereinafter designated "**Buncombe County,**" which may also be referred to herein as a "**Party,**" or collectively as the "**Parties,**" to manage a conservation planning project titled the "**Swannanoa Partners for Green Growth Project.**"

A. BACKGROUND

This project is a Small Area Plan for the Swannanoa area of Buncombe County. Swannanoa is one of a handful of communities identified by the County's Comprehensive Plan as needing more in-depth planning effort. Tropical Storm Helene has necessitated that the plan use a resilience and recovery lens. The Swannanoa River and its tributaries were a major source of flooding and there was substantial loss of the built and natural habitat along the river and streams that feed into it from the mountains. The Swannanoa River runs along Old US Hwy 70 and US Hwy 70 through the central transportation corridor of Swannanoa. This area is designated as a growth area by the Buncombe 2043 Comprehensive Plan. Through the engagement process and the discussion of environmental protection, hazard mitigation, and resilience, the community will evaluate options for greater protection of the river. This is one area where the county can use the support of the Partners for Green Growth funds and technical assistance to understand best practices and drafting recommendation options for the community to choose from that are feasible and within the County's purview. PGG funds would be used to pay for a portion of the Planning Consulting fee related to recommendation drafting and Vision mapping for the creation of the plan. Aspects of the recommendations will be related to conservation, environmental protection, and resiliency in both the natural and built environment.

B. CONTACTS

Commission – Technical Contact
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Buncombe County – Technical Contact
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Commission – Administrative Contact
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C. THE COMMISSION AGREES TO:

1. Reimburse Buncombe County for the performance of work described in **Attachment A,** which is attached hereto and incorporated by reference, in an amount not to exceed **10,000.00**.
2. Pay properly submitted invoices within 90 days.

D. BUNCOMBE COUNTY AGREES TO:

1. Provide the Deliverables in accordance with the timeline, as outlined in Attachment A.
2. Host three (3) public comments events in accordance with the timeline, as outlined in Attachment A.
3. Submit invoices on or before May 15, 2027, for reimbursable expenses as indicated in the Budget in Attachment A, not to exceed $10,000.00 in total. No more than two (2) invoices may be submitted during the period of performance.
4. Report on progress towards deliverables on April 30, 2026.
5. Fulfill all deliverables on or before April 30, 2027.
6. Document and submit the non-federal match, at the amount described in the Budget in Attachment A, that Buncombe County incurs in the development of the rural land use plan, ordinance language, and conservation subdivision brochure.
7. Not discriminate against any employees or applicant for employment because of physical or mental handicap in regard to any position for which the employees or applicant is qualified. Buncombe County agrees to take affirmative action to employ, advance in employment, and otherwise treat qualified handicapped individuals without discrimination based upon their physical or mental handicap in all employment practices.

E. BOTH PARTIES MUTUALLY AGREE

1. Period of Performance: The period of performance shall be October 1, 2025 – April 30, 2027.
2. Access To Persons And Records: During and after the term hereof, the State Auditor and any using agency's internal auditors shall have access to persons and records related to this Agreement to verify accounts and data affecting fees or performance under this Agreement for a period of 3 years from date of final expenditure report.
3. Availability Of Funds: Any and all payments to Buncombe County are dependent upon and subject to the availability of funds to the Commission for the purpose set forth in this Agreement.
4. Compliance With Laws: Buncombe County shall comply with all laws, ordinances, codes, rules, regulations, and licensing requirements that are applicable to the conduct of its business and performance in accordance with this Agreement, including those of federal, state, and local agencies having jurisdiction and/or authority.
5. Certifications: Buncombe County certifies each of the following:
   - that none of its officers, directors, or controlling owners has been convicted of any violations of state or federal securities act violations in the last ten years;

- that it has not refused to collect use tax on sales delivered to North Carolina, and it is not incorporated in a tax haven country;
- that no employee or agent of Buncombe County has offered, and no State employee has accepted, any gift or gratuity in connection with this Agreement;
- that Buncombe County, if it has more than 25 employees in North Carolina, verifies the work authorization of such employees through the federal E-Verify system; and
- that Buncombe County is not identified on the Final Divestment List of entities that the North Carolina State Treasurer has determined engages in investment activities in Iran. This list is available at: https://www.nctreasurer.com/inside-the- department/OpenGovernment/Pages/Iran-Divestment-Act-Resources.aspx.

6. Publicity and Acknowledgement of Support: The Commission gives Buncombe County the right and authority to publicize the Commission's financial support for this Project and the Parties shall mutually agree on press releases, publications, and other public communications regarding this Agreement or any of the associated project deliverables. Each Party must obtain prior approval for the use of the other Party's logo relating to this Agreement.
7. Termination: Either Party may terminate this Agreement by written notice to the other at least ninety (90) days in advance of the date on which termination is to become effective. Upon termination, a final invoice for reimbursable expenses must be submitted and shall be paid as all other properly submitted invoices.
8. Amendments: This Agreement may be amended only by a written amendment duly executed by the Parties.
9. Invalid or Unenforceable Provisions: The invalidity or unenforceability of any particular provision of this Agreement shall not affect the other provisions hereof, and this Agreement shall be construed in all respects as if such invalid or unenforceable provision was omitted.
10. Force Majeure: Neither Party shall be deemed to be in default of its obligations hereunder if and so long as it is prevented from performing such obligations as a result of events beyond its reasonable control, including without limitation, fire, power failures, any act of war, hostile foreign action, nuclear explosion, riot, strikes or failures or refusals to perform under subcontracts, civil insurrection, earthquake, hurricane, tornado, or other catastrophic natural event or act of God.
11. Sovereign Immunity: Notwithstanding any other term or provision in this Agreement, nothing herein is intended nor shall be interpreted as waiving any claim or defense based on the principle of sovereign immunity that otherwise would be available to the Parties under applicable law.
12. Situs and Governing Laws: This Agreement is made under and shall be governed and construed in accordance with the laws of the State of North Carolina. The Parties agree that the proper venue of this Agreement, its situs and forum, shall be Raleigh, North Carolina, where all matters, whether sounding in contract or tort, relating to the validity, construction, interpretation, and enforcement of this Agreement shall be determined. The Parties agree and submit, solely for matters relating to this Agreement, to the jurisdiction of the courts of the State of North Carolina.
13. Entire Agreement: This Agreement, any exhibits and attachments affixed hereto, and any documents specifically incorporated by reference represent the entire agreement of the Parties as to the subject matter hereof. There are no promises, terms, conditions, or obligations other than those contained in this Agreement, and this Agreement shall supersede all previous communications, representations, or agreements between the Parties as to the subject matter hereof. Any previous agreement, understanding, representation, or covenant that may have existed between the Parties as to the subject matter hereof, of any kind, nature or description, expressed or implied, oral or written, which has not been set forth in this Agreement, is of no effect and shall not be considered in the interpretation of this Agreement.

The Parties here to have executed this agreement on the day and year of the last signatory.

Approved and agreed to by:

North Carolina Wildlife Resources Commission

_____ _____
Shannon Deaton, Chief Date
Habitat Conservation Division

_____ _____
Shamekia Gales Date
Purchasing Officer

Buncombe County

_____ _____
Nate Pennington Date
Director of Planning and Development

ATTACHMENT A. Scope of Work

Need

Due to the impacts and the aftermath of Tropical Storm Helene, the Swannanoa Small Area, Resiliency, and Recovery Plan will need to address conservation and resiliency as it relates to the floodplain, debris flow pathways, steep slopes, and streams. Along with the built environment, the community recognizes that natural resources and wildlife habitat have also been destroyed and displaced. Part of this planning effort will focus on restoring, protecting, and planning with the natural systems in the Swannanoa area. The Planning team will explore the concept of the river corridor that goes beyond just the regulated flood hazard areas. At the design charrette the planning team will have a Vision Map that highlights the areas that will focus on wildlife conservation, environmental protection, and green tools for hazard mitigation.

As part of the existing conditions study, planners will analyze large forest tracks and the fragmentation of habitats to determine if there are remaining connections points that should be recommended for protection. This will mainly focus within the rural community land use designation, but there may also be some opportunities for identifying wildlife habitat connectivity along the Swannanoa River, which is located in the 'Mixed Use Neighborhood' and 'Mixed Use I' designations on the future land use Vision map.

Project goals:

The goal of the project is to work with the residents and other stakeholders to develop a Small Area, Recovery, and Resilience plan that can be used by community members, local organizations, and Buncombe County Government to identify needs and opportunities, prioritize projects and funding, and act as a tool for decision-makers and leaders to direct the future growth and conservation for the area.

Deliverables. Buncombe County shall provide the following deliverables to the Commission:

- An Existing Conditions Study of the Swannanoa community which, including a vulnerability assessment and post-Hurricane Helene conditions of infrastructure, housing, amenities, etc., illuminates important wildlife habitat, environmentally sensitive areas, and hazard vulnerabilities
- A Recovery plan for Swannanoa, which outlines the impacts from Tropical Storm Helene and recommends next steps for recovery and specific actions related to rebuilding or conserving important areas. These shall include recommendations for riparian buffers that can improve and preserve the river, streams, and watershed ecology.
- A Small Area & Resilience Plan, which outlines the Vision, Goals, Policies, and Actions related to long-term growth and conservation in the Swannanoa Township, as well as specific resiliency recommendations to mitigate future disaster impacts. An example recommendation would be incentivizing conservation subdivisions to promote more wildlife corridors.

As part of the design charrette, multiple vision maps will be created once priorities are identified to specifically highlight areas for conservation, environmental protection, wildlife habitat, and green tools for hazard mitigation. The number of maps created will be determined by project need.

Timeline

Timeline below is approximate.

Target Timeline	Action	Description
October 2025-January 2026	**Deliverable: Existing Conditions Study**	**Complete Existing Conditions Study and submit report**
December 2025-February 2026	4th Public Engagement Event	Public comment event to solicit comments on design charette
January 2026-April 2026	5th Public Engagement Event	Public comment event to solicit comments of recommended policies, actions, and vision map
April 2026	**Deliverables: Vision Map and mid-term progress report**	**Complete vision map and submit a mid-term progress report**
May 2026-August 2026	6th Public Engagement Event	Public comment event to present draft Recovery Plan and Small Area & Resilience Plan for final input.
August 2026-April 2027	**Deliverable: Recovery Plan and Small Area & Resilience Plan**	**Complete and submit Recovery Plan and Small Area & Resilience Plan**
April 2027	Agreement closeout	Submit reimbursment requests.

Budget

Description	Buncombe County (non-federal match)	The Commission NCWRC PGG funds	Sub-Total
Personnel	$3,500	$0	$3,500
Fringe Benefits	$0	$0	$0
Travel	$0	$0	$0
Equipment	$0	$0	$0
Supplies	$0	$0	$0
Contractual	$0	$10,000	$10,000
Construction	$0	$0	$0
Other	$0	$0	$0
Total Direct Charges	$3,500	$10,000	$13,500
Overhead/Indirect	$0	$0	$0
Total	$3,500	$10,000	$13,500