INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF BUNCOMBE AND THE CITY OF ASHEVILLE TO CREATE A REGIONAL AIR QUALITY PROGRAM

WHEREAS, the County of Buncombe and the City of Asheville have determined that it is in their mutual best interest to establish a regional air quality program pursuant to the provisions of North Carolina General Statutes Section 143-215.112; and

WHEREAS, these parties do hereby enter into an interlocal agreement pursuant to the provisions of North Carolina General Statute Sections 160A-461, 160A-464, and 143-215.112 (c) (3) to create the Western North Carolina Regional Air Quality Agency for the purpose of developing and administering an air quality program in their respective jurisdictions.

NOW THEREFORE, pursuant to North Carolina General Statutes Section 143-215.112 and 160A-464 the parties hereto do hereby covenant and agree as follows:

(1) PURPOSE OF AGREEMENT: The purpose of this Agreement is to establish, administer, and enforce a local air quality program for the County of Buncombe and City of Asheville in accordance with the provisions of North Carolina General Statutes Section 143-215.112. To that end and not inconsistent with the applicable law, the County and City approve the Mission Statement attached hereto as Exhibit A.

(2) DURATION OF AGREEMENT: This Agreement shall become effective upon the later of July 1, 2000 or the date of certification by appropriate State agencies. It shall be automatically renewed for successive one year terms on July 1st of each calendar year unless terminated by either party giving written notice of its intention to terminate to the other party no later than the first day of March of the year in which said termination is to become effective.

(3) JOINT AGENCY ESTABLISHED: There is hereby established a joint agency to be known as the Western North Carolina Regional Air Quality Agency. The composition, organization, nature, and powers conferred on the Board of this Agency are set forth as follows:

(a) The Board shall consist of five members, three of whom shall be appointed by the Buncombe County Board of Commissioners and two of whom shall be appointed by the Asheville City Council. Members shall be appointed for six-year staggered terms. Initially, one County appointee and one City appointee shall be appointed for two-year terms. One County appointee and one City appointee shall be appointed for four-year terms, and one County appointee shall be appointed for a six-year term. At the expiration of said terms, all members thereafter shall be appointed for six-year terms. Initial appointments shall be made within thirty days of ratification of this Agreement by both parties.

(b) The Board shall be responsible for its own internal organization such as the selection of a Chair, Vice Chair, and Secretary. The Board shall have authority to appoint a hearing officer who shall hear appeals on violations not settled during the "just cause" process with Agency staff. He or she shall make a recommendation to the full board (or majority) to settle the violation. The entity issued the citation will have the opportunity to appear before the full Agency board and present the entity's information and case on the violation in question.

(c) The Board shall have the following duties and responsibilities:

1. To select the Director according to the merit system rules of the State Personnel Commission.

2. To advise the Buncombe County Board of Commissioners and Asheville City Council in developing policies and plans to improve air quality programs.

3. To consult with the Director about problems relating to management of the Agency and to approve the budgets for the Agency.

4. To perform the functions and responsibilities enumerated in N.C. G.S. 143-215.112 (c) (1).

5. To have such other duties and responsibilities as these parties may assign to it.

(4) FACILITIES: From and after July 1, 2000, the Western North Carolina Air Quality Agency shall continue to operate from its current location at 49 Mount Carmel Road in Buncombe County, and shall continue to use the offices and facilities thereon until such time as the facilities are no longer appropriate for Agency staffing needs.

(5) PERSONNEL:

A. Staff

The parties hereto agree that since the Agency will not have a personnel office nor a personnel plan, that all Agency staff shall follow Buncombe County personnel policies and procedures and become employees of Buncombe County. To that end, the parties further agree:

1. That the Agency Board will adopt by reference the rules, regulations and procedures applicable to Buncombe County employees for the purpose of personnel administration.

2. Buncombe County's personnel department will administer the position classification plan, leave policies, compensation and benefits and personnel records and reporting requirements of the Agency at the direction of the Agency Director.

3. The Director of the Agency shall have the authority to employ and discharge staff in keeping with the rules, regulations and procedures referenced in subparagraph (1) above.

B. Director

The Director shall be hired by the Board. The entire Board must be present and vote to hire or fire the Director. The Director of the Agency shall be subject to the Buncombe County personnel plan in all respects except for the fact that he or she shall be hired by the Board and shall serve at the pleasure of the Board.

(6) FINANCES: Buncombe County will provide all bookkeeping, financial, and payroll services for the Agency, which shall be administered through the Buncombe County Finance Office and the Buncombe County Personnel Office. The Agency will reimburse the County for personnel and financial services in accordance with the County's cost allocation plan. The Agency's annual budget shall reflect and maintain a fund balance at least equal to 8% of the Agency's total annual operating budget. The parties hereto anticipate that the Agency will generate sufficient revenues from inspection fees, permits, and federal grants to be self-supporting; but in the event that it is not self-supporting, the Board shall provide the parties hereto at least ninety days notice of any expected shortfall. Each party shall determine if funding is to be made to the Agency from their respective budgets in proportion to their representation on the Board. If either party declines to provide such funding, this failure to contribute shall be considered withdrawal of that party to this Agreement subject to the notice requirements in Paragraphs (2) and (10).

(7) CLEAN AIR COMMUNITY TRUST: The parties hereto agree that there will be created herewith a non-profit trust pursuant to Title 26 United States Code §501(c)(3); which shall administer a trust fund consisting of any revenues that accrue to these parties as a result of termination of the predecessor agency which heretofore existed under the interlocal agreement between these parties and Haywood County dated January 13, 1995, any non – Title Five revenues generated by the Agency in excess of what is required to be self-supporting in accordance with Paragraph (5) of this Agreement, and any grants which the trust is able to obtain from government or charitable sources for the development of air quality programs. The purpose of the trust will be to leverage grants and other revenues to improve environmental quality in Buncombe County and the City of Asheville. The City of Asheville will name two trustees to the Trust Board, and

Buncombe County will name three trustees, including Professor Rick Maas, who shall be the convening and the initial chair of the Trust Board. No later than ninety days following their appointment, the initial board of trustees shall unanimously elect two additional persons to serve on the board of trustees and the entire Board shall elect officers, except for the initial chair whose appointment is provided for above. Terms of the trustees will be for three years, and no person may serve more than two consecutive terms. Terms of officers will run concurrent with their terms as trustees. Except as heretofore provided, the organization, structure, and operation of the trust shall be as specified in the Section 501 (c)(3) instrument creating said trust.

(8) OWNERSHIP OF PROPERTY: The parties hereto agree that the Agency shall not become the owner of any real property and in the event of termination of this Agreement the personal property owned by the Agency will become the property of these parties on a per capita basis.

(9) AMENDMENTS: This Agreement may be amended by consent of both parties.

(10) TERMINATION: This Agreement may be terminated as heretofore provided in Paragraphs (2) and (6), above.

(11) ADDITIONAL REGULATIONS SHALL BE SUBMITTED TO BOTH GOVERNING BODIES: If the Board should determine that additional regulations not mandated by United States or North Carolina law are necessary for the effective control of air quality, the Board shall submit its recommendation concerning such proposed regulations to the Buncombe County Board of Commissioners and Asheville City Council for their review at least 30 days prior to the Board holding a public hearing to consider adopting said regulations.

This the 6th day of June, 2000.

ATTEST:

Magdalen Bamieson
Clerk to the City Council

CITY OF ASHEVILLE

Leni Sitnick
Mayor

ATTEST:

Kathryn H. Hughes
Clerk to the Board of Commissioners

COUNTY OF BUNCOMBE

Chairman
Board of Commissioners

RESOLUTION NO. 06-11-09

RESOLUTION AMENDING INTERLOCAL AGREEMENT FOR REGIONAL AIR QUALITY PROGRAM - CLEAN AIR COMMUNITY TRUST

WHEREAS, in June of 2000, the City of Asheville and County of Buncombe, acting pursuant to N.C.G.S. 143-215.112 and Article 20 of N.C.G.S. Chapter 160A, entered into an interlocal agreement establishing the Western North Carolina Regional Air Quality Agency (WNCRAQA) (herein "2000 Agreement"); and

WHEREAS, the 2000 Agreement also provided for the establishment of the Clean Air Community Trust (Trust), a non-profit corporation, as set forth in Paragraph 7 of the above-referenced interlocal agreement; and

WHEREAS, the funds available to the Trust have not been as substantial as anticipated, but the Trust desires to continue its efforts within the community; and

WHEREAS, the officers and board members of the Trust have requested that the City and County amend the interlocal agreement to remove the provisions relating to the Trust, in order to provide the Trust with a greater degree of flexibility as to its structure and activities; and

WHEREAS, the County Commissioners have determined that it is in the public interest to amend the 2000 Agreement to relinquish control over the structure and activities of the Trust, but to retain accountability with respect to the disposition of public money.

NOW, THEREFORE, BE IT RESOLVED BY The Board of Commissioners for the County of Buncombe as follows:

1. The 2000 Agreement be amended as set forth in Exhibit A, attached hereto, effective January 1, 2007, subject to compliance with paragraph 3, below, and that the Chairman be and he is hereby authorized to execute the attached amendment on behalf of the Board of Commissioners, which amendment shall only be effective upon similar action by Asheville City Council;

2. The County Manager is authorized to sign any other documents that may be required for this purpose, subject to approval by the County Attorney;

3. On or before December 15, 2006, the Trust shall provide to Buncombe County Commissioners and Asheville City Council an accounting of its finances and a report of its activities since its establishment.

4. That this resolution shall be effective upon its adoption.

Read, approved, and adopted this 14th day of November, 2006.

Kathy Hyler
County Clerk

Chairman

Approved as to form:

Joe A. Connolly
County Attorney

EXHIBIT A

FIRST AMENDMENT TO INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF BUNCOMBE AND THE CITY OF ASHEVILLE TO CREATE A REGIONAL AIR QUALITY PROGRAM

The above-referenced Agreement is hereby amended as follows:

(a) Paragraph (3)(c)1. is revised to read:

"(c) The Board shall have the following duties and responsibilities:

1. To select the Director according to the Buncombe County personnel policies."

(b) Paragraph (5)B. is revised to read:

"B. Director

The Director shall be hired by the Board. The entire Board must be present and vote to hire or fire the Director. The Director of the Agency shall be subject to the Buncombe County personnel plan in all respects except for the fact that he or she shall be hired by the Board and shall serve at the pleasure of the Board, and the Board shall establish his or her terms of employment."

(c) Paragraph (7) is deleted in its entirety and replaced with the following:

"(7) CLEAN AIR COMMUNITY TRUST; The parties acknowledge that the Clean Air Community Trust ("Trust") was established in May of 2001 pursuant to this Agreement as adopted in June of 2000. The Trust may continue to operate, but the parties hereto do hereby relinquish any authority they have with respect to the appointment or approval of members of the Trust Board, or to otherwise control the structure activities, and operations of the Trust; provided, that the Western North Carolina Regional Air Quality Agency Board shall require the Trust to provide an accounting not less frequently than annually for any public money received by the Trust by or through the Agency."

RESOLUTION NO. 21-10-08

RESOLUTION AUTHORIZING THE EXECUTION OF AMENDMENTS TO THE INTERLOCAL AGREEMENT BETWEEN THE CITY OF ASHEVILLE AND THE COUNTY OF BUNCOMBE FOR THE REGIONAL AIR QUALITY AGENCY

WHEREAS, the Parties are authorized to execute and enter into this Interlocal Agreement pursuant to N.C. Gen. Stat. § 160A-461;

WHEREAS, the WNC Regional Air Quality Agency ("Agency") was initially formed effective July 1, 1970 and was comprised of the Counties of Buncombe and Haywood and the City and Asheville;

WHEREAS, Haywood County withdrew from the arrangement in early 2000 and the program carries on under an Interlocal Agreement between Buncombe County and the City of Asheville;

WHEREAS, a five member board ("Air Quality Board") is appointed by the member entities to oversee the administration and enforcement of the local air pollution control program pursuant to GS §143-215.112;

WHEREAS, three members of the Air Quality Board are appointed by the County and two by the City;

WHEREAS, the Air Quality Board is requesting certain limited amendments to the current Interlocal Agreement due to changes in membership, office location, and obligations;

WHEREAS, the proposed amendments would change the name of the Agency to "Asheville-Buncombe Air Quality Agency," deletes paragraphs that are no longer applicable, updates the mission statement, and corrects minor typographical errors; and

WHEREAS, this Board of Commissioners feels that it is in the best interest of the citizens and residents of Buncombe County to enter into this Interlocal Agreement with the City of Asheville, a copy of which is attached.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS FOR THE COUNTY OF BUNCOMBE AS FOLLOWS:

1. The Chairman and County Manager, or either of them, are hereby authorized to execute the attached Interlocal Agreement.

2. The Chairman and County Manager, or either of them, are hereby authorized, empowered and directed to do any and all other acts and to execute any and all other documents, which they, in their discretion, deem necessary and appropriate in order to consummate the transactions contemplated by this Resolution, except that none of the

above shall be authorized or empowered to do anything or execute any document which is in contravention, in any way, of the specific provisions of this Resolution.

3. All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.

4. That this Resolution shall be upon its adoption.

Adopted this 19th day of October, 2021.

ATTEST:

Lamar Joyner, Clerk to the Board

BOARD OF COMMISSIONERS
FOR THE COUNTY OF BUNCOMBE

By: _____
Brownie Newman, Chairman

APPROVED AS TO FORM:

County Attorney

CHAPTER 1 - INTERLOCAL AGREEMENT, ORGANIZATION, ADMINISTRATION

.0101 INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF BUNCOMBE AND THE CITY OF ASHEVILLE TO CREATE A REGIONAL AIR QUALITY PROGRAM. This section, signed June 6, 2000, replaces all previous resolutions regarding the establishment of a regional air agency in Buncombe County and the City of Asheville.

WHEREAS, the County of Buncombe and the City of Asheville have determined that it is in their mutual best interest to establish a regional air quality program pursuant to the provisions of North Carolina General Statutes Section 143-215.112; and

WHEREAS, these parties do hereby enter into an interlocal agreement pursuant to the provisions of North Carolina General Statute Sections 160A-461, 160A-464, and 143-215.112 (c) (3) to create the I Asheville Buncombe Air Quality Agency for the purpose of developing and administering an air quality program in their respective jurisdictions.

NOW THEREFORE, pursuant to North Carolina General Statutes Section 143-215.112 and 160A-464 the parties hereto do hereby covenant and agree as follows:

a) **PURPOSE OF AGREEMENT:** The purpose of this Agreement is to establish, administer, and enforce a local air quality program for the County of Buncombe and City of Asheville in accordance with the provisions of North Carolina General Statutes Section 143-215.112. To that end and not inconsistent with the applicable law, the County and City approve the Mission Statement attached hereto as Exhibit A.

b) **DURATION OF AGREEMENT:** This Agreement shall become effective upon the later of July 1, 2000 or the date of certification by appropriate State agencies. It shall be automatically renewed for successive one year terms on July 1st of each calendar year unless terminated by either party given written notice of its intention to terminate to the other party no later than the first day of March of the year in which said termination is to become effective.

c) **JOINT AGENCY ESTABLISHED:** Therefore is hereby established a joint agency to be known as the Asheville Buncombe Air Quality Agency. The composition, organization, nature, and powers conferred on the Board of this Agency are set forth as follows:

(1) The Board shall consist of five members, three of whom shall be appointed by the Buncombe County Board of Commissioners and two of whom shall be appointed by the

Asheville City Council. Members shall be appointed for six-year staggered terms. Initially, one County appointee and one City appointee shall be appointed for two-year terms. One County appointee and one City appointee shall be appointed for four-year terms, and one County appointee shall be appointed for a six-year term. At the expiration of said terms, all members thereafter shall be appointed for six-year terms. Initial appointments shall be made within thirty days of ratification of this Agreement by both parties.

(2) The Board shall be responsible for its own internal organization such as the selection of a Chair, Vice Chair, and Secretary. The Board shall have authority to appoint a hearing officer who shall hear appeals on violations not settled during the "just cause" process with Agency staff. He or she shall make a recommendation to the full Board (or majority) to settle the violation. The entity issued the citation will have the opportunity to appear before the full Agency Board and present the entity's information and case on the violation in question.

(3) The Board shall have the following duties and responsibilities:

A) To select the Director according to the Buncombe County personnel policies.

B) To advise the Buncombe County Board of Commissioners and Asheville City Council in developing policies and plans to improve air quality programs.

C) To consult with the Director about problems relating to management of the Agency and to approve the budgets for the Agency.

D) To perform the functions and responsibilities enumerated in N.C.G.S. 143-215.112(c)(1).

E) To have such other duties and responsibilities as these parties may assign to it.

d) **PERSONNEL:**

(1) Staff: The parties hereto agree that since the Agency will not have a personnel office nor a personnel plan, that all Agency staff shall follow Buncombe County personnel policies and procedures and be employees of Buncombe County. To that end, the parties further agree:

A) That the Agency Board will adopt by reference the rules, regulations and procedures applicable to Buncombe County employees for the purpose of personnel administration.

B) Buncombe County's personnel department will administer the position classification plan, leave policies, compensation and benefits and personnel records and reporting requirements of the Agency at the direction of the Agency Director.

C) The Director of the Agency shall have the authority to employ and discharge staff in keeping with the rules, regulations and procedures referenced in subparagraph (1) above.

(2) Director: The Director shall be hired by the Board. The entire Board must be present and vote to hire or fire the Director. The Director of the Agency shall be subject to the Buncombe County personnel plan in all respects except for the fact that he or she shall be hired by the Board and shall serve at the pleasure of the Board, and the Board shall establish his or her terms of employment.

e) **COUNTY SUPPORT SERVICES:** Buncombe County will provide all bookkeeping, financial, payroll, and other services as necessary for the Agency. The Agency will reimburse the County in accordance with the County's indirect cost allocation plan that is approved for use for grant funds. The Agency's annual budget shall reflect and maintain a fund balance at least equal to 8% of the Agency's total annual operating budget. The parties hereto anticipate that the Agency will generate sufficient revenues from inspection fees, permits, and federal grants to be self-supporting: but in the event that it is not self-supporting, the Board shall provide the parties hereto at least ninety days notice of any expected shortfall. Each party shall determine if funding is to be made to the Agency from their respective budgets in proportional to their representation on the Board. If either party declines to provide such funding this failure to contribute shall be considered withdrawal of that party to this Agreement subject to the notice requirements in Paragraphs (2) and (10).

f) **OWNERSHIP OF PROPERTY:** The parties hereto agree that the Agency shall not become the owner of any real property and in the event of termination of this Agreement the personal property owned by the Agency will become the property of these parties on a per capita basis.

g) **AMENDMENTS:** This Agreement may be amended by consent of both parties.

h) **TERMINATION:** This Agreement may be terminated as heretofore provided in Paragraph b).

i) **ADDITIONAL REGULATIONS SHALL BE SUBMITTED TO BOTH GOVERNING BODIES:** If the Board should determine that additional regulations not mandated by United States or North Carolina law are necessary for the effective control of air quality, the Board shall summit its recommendation concerning such proposed regulations to the Buncombe County Board of Commissioners and Asheville City Council for their review at least 30 days prior to the Board holding a public hearing to consider adopting said regulations.

WNCRAQA History Note *Effective date: from and after September 15, 2000.*
Amended Eff. November 9, 2021; January 1, 2007.