

INTERLOCAL AGREEMENT

This **INTERLOCAL AGREEMENT** dated as of February 15, 2014 (the “*Interlocal Agreement*”) between the **COUNTY OF BUNCOMBE, NORTH CAROLINA**, a political subdivision of the State of North Carolina (the “*County*”), the **TOWN OF WOODFIN, NORTH CAROLINA**, a municipal corporation organized under the laws of the State of North Carolina (the “*Town*”) and **WOODFIN FIRE DISTRICT**, a [] (the “*Fire District*”);

WITNESSETH

WHEREAS, under Article 20 of Chapter 160A of the North Carolina General Statutes, as amended (the “*Interlocal Act*”), municipalities and counties are authorized to enter into interlocal cooperation undertakings with other local governments for the joint exercise of any power, function, public enterprise, right, privilege, or immunity of local governments in North Carolina;

WHEREAS, pursuant to Article 1 of Chapter 158 of the North Carolina General Statutes, as amended (the “*Local Development Act*”), the Town authorized the creation of the Woodfin Downtown Corridor Financing District, a project development financing district (the “*District*”), under a resolution adopted by the Board of Aldermen of the Town on November 21, 2006, within which the Town, the County and Reynolds Mountain Partners, LLC (the “*Developer*”), as agent for and on behalf of the Town, developed and constructed certain public improvements (the “*Public Project*”) located within the District in order for the Developer to develop and construct a mixed-use project containing residential, retail office and, perhaps, civic components (collectively, the “*Private Project*”) located within the District;

WHEREAS, the County and the Town have previously executed and delivered an Interlocal Agreement dated as of August 1, 2008 (the “*2008 Interlocal Agreement*”) in connection with the issuance by the County of Project Development Financing Bonds (Woodfin Downtown Corridor Financing), Series 2008 (the “*2008 Bonds*”), pursuant to which both the Town and the County pledged all or any part of the taxes received or to be received on the incremental valuation accruing to the District to the repayment of the 2008 Bonds;

WHEREAS, the County plans to purchase all or a portion of its installment obligations relating to the 2008 Bonds pursuant to an Amendment Number Two to an Installment Financing Contract dated as of February 15, 2014 (the “*Second Amendment*”) with the Buncombe Financing Corporation (the “*Corporation*”), further amending an Installment Financing Contract dated as of December 1, 2010 (the “*2010 Contract*”), as previously amended by Amendment Number One to an Installment Financing Contract dated as of July 1, 2012 (the “*First Amendment*”) and together with the 2010 Contract and the Second Amendment, the “*Contract*”), each between the County and the Corporation;

WHEREAS, the County, the Town and the Fire District agree that all or any part of the taxes received or to be received on the incremental valuation accruing to the District are to be applied to both the repayment of the 2008 Bonds and to the portion of the County’s installment obligations under the Second Amendment that are allocable to the purchase of all or a portion of the 2008 Bonds;

WHEREAS, the parties to this Interlocal Agreement desire to set forth their agreement herein;

NOW THEREFORE, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

Except as provided herein, all defined terms contained in the 2008 Interlocal Agreement have the same meanings in this Agreement. In addition, the following words and terms, unless the context otherwise requires, have the following meanings:

“Bonds” means, collectively, (1) the 2008 Bonds and (2) the allocable portion of the County’s installment obligation with respect to the Second Amendment related to the purchase of all or a portion of the 2008 Bonds, as set forth in Appendix A to this Agreement.

“Incremental Revenues” means tax revenues generated from the incremental ad valorem tax valuation inside the District (including incremental revenues collected within the Fire District, as permitted under Section 159-111(b) of the North Carolina General Statutes), as set forth in the 2008 Interlocal Agreement.

ARTICLE II

STATEMENT OF PURPOSE

In furtherance of the 2008 Interlocal Agreement, the Town, the Fire District and the County agree that the Incremental Revenues are to be used for repayment of the Bonds and any obligations arising with respect to the 2008 Bonds.

ARTICLE III

INCREMENTAL REVENUES

Section 3.1. ***Use of Incremental Revenues.*** Pursuant to the Project Development Financing Act, the Town, the Fire District and the County agree to contribute their respective allocations of the Incremental Revenues in each Fiscal Year to the repayment of the Bonds and any obligations arising with respect to the 2008 Bonds. The County (1) will transfer the portion of the Incremental Revenues required for repayment of the 2008 Bonds to be deposited in a revenue increment fund held by the Trustee for the 2008 Bonds (the *“Revenue Increment Fund”*) and (2) hold the remaining Incremental Revenues to be applied as set forth in Section 3.2(a)(2)-(4).

Section 3.2 ***Disposition of Excess Revenues.***

(a) Unless otherwise agreed to by the Town and the County, Incremental Revenues are to be used in each Fiscal Year in the following order or priority: (1) to pay debt service on the 2008 Bonds, (2) to meet any other requirements imposed under the documentation under which the 2008 Bonds were issued, (3) to pay debt service on the portion of the Bonds related to the allocable portion of the County’s installment obligation with respect to the Second Amendment related to the purchase of all or a portion of the 2008 Bonds, and (4) on or after the first day of each Fiscal Year, to the General Fund of the County,

the Town and the District in proportion to their rates of *ad valorem* tax on taxable property located in the District to the extent any Incremental Revenues remained at the end of the preceding Fiscal Year.

(b) To the extent that the Incremental Revenues in a Fiscal Year are insufficient to meet the obligations set forth in Section 3.2(a)(1)-(3) and the County advances money from its general fund to meet those obligations, the Town and the Fire District agree that the Incremental Revenues otherwise owing to either of them under Section 3(a)(4) are to be applied to reimburse the County for any such advances until the County is fully repaid.

(c) The County Finance Director will send the Town and the Fire District a written report of the application of the Incremental Revenues in each Fiscal Year within 90 days after the end of each Fiscal Year.

ARTICLE IV

MISCELLANEOUS

Section 4.1. **Amendment.** This Interlocal Agreement may be amended through a supplement approved in writing by the Town and the County.

Section 4.2. **Severability.** If any section of this Interlocal Agreement is deemed to be illegal or otherwise unenforceable, it is the intent of the parties hereto that all other provisions of this Interlocal Agreement shall remain in full force and effect.

Section 4.3. **Governing Law.** This Interlocal Agreement is to be governed by and interpreted in accordance with the laws of the State of North Carolina.

Section 4.4. **Time is of the Essence.** Time is of the essence in this Interlocal Agreement.

Section 4.5. **Execution in Multiple Counterparts.** This Interlocal Agreement may be executed in multiple counterparts, each of which constitutes a completed document.

Section 4.6. **Effective Date.** This Interlocal Agreement takes effect on its execution by the Town, the Fire District and the County.

Section 4.7. **Termination.** This Interlocal Agreement terminates on the earlier of (1) the date on which both the Bonds are no longer outstanding and the County has been fully reimbursed for money advanced under Section 3.2(b) or (2) the date on which the Town, the Fire District and the County agree to terminate this Interlocal Agreement.

[SIGNATURES CONTINUE ON THE FOLLOWING PAGE]

IN WITNESS WHEREOF, the Mayor of the Town, on behalf of the Town and the Fire District, and the Chairman of the Board of Commissioners of the County have each executed this Interlocal Agreement to evidence the agreement of the parties hereto and the Town Clerk and the Clerk to the Board of County Commissioners have affixed the seal of the Town and the County, as applicable, this Interlocal Agreement.

TOWN OF WOODFIN, NORTH CAROLINA

[SEAL]

By: _____
Mayor

ATTEST:

Town Clerk

COUNTY OF BUNCOMBE, NORTH CAROLINA

[SEAL]

By: _____
Chairman

ATTEST:

Clerk to the Board of County Commissioners

ACKNOWLEDGED AND AGREED TO:

WOODFIN FIRE DISTRICT

By: _____

Its: _____