

**INTERLOCAL AGREEMENT BETWEEN THE COUNTY OF BUNCOMBE AND THE TOWN OF WEAVERVILLE
FOR DESIGN AND CONSTRUCTION SERVICES FOR GREENWAYS**

THIS INTERLOCAL AGREEMENT is made and entered into this ____ day of October, 2018, by and between the County of Buncombe, North Carolina (sometimes herein "County") and the Town of Weaverville (sometimes herein "Weaverville").

WITNESSETH

WHEREAS, Buncombe County has been a destination for outdoor enthusiasts who have enjoyed the region's trails and outdoor recreation for more than a century; and

WHEREAS, all of Buncombe County is experiencing a growing expectation for facilities that provide for movement of pedestrians and bicyclists, not just for recreational purposes but for transportation, running errands, relieving stress and offsetting the effects of obesity, attracting new businesses and making communities more livable and marketable; and

WHEREAS, Weaverville believes that the creation of a greenway and park system throughout the County will enhance property values, encourage investment and improve the lives of its citizens; and

WHEREAS, preliminary studies are completed, and Reems Creek 's greenway is expected to run from the western edge of the Town of Weaverville property located just west of I-26 and extends an approximate 2.25 miles to the Karpen Soccer Fields; and

WHEREAS, in June of 2016, the Buncombe County Board of Commissioners authorized the execution of a grant agreement with the French Broad River Metropolitan Planning Organization in the amount of six hundred thousand and 00/100 dollars (\$600,000) with \$60,000 of the required matching funds being contributed by Buncombe County and \$60,000 of the required matching funds being contributed by the Town of Weaverville (Hereinafter "Grant Funds") for the pre engineering and design of the Reems Creek Greenway and will be part of a 25 mile-plus network of greenways within Buncombe County (hereinafter referred to as the "Project") and, further, authorized the execution of an interlocal agreement between Buncombe County and the Town of Weaverville allowing Buncombe County to aid the Town of Weaverville in, and manage the Project utilizing the Grant Funds; and

WHEREAS, Weaverville now desires to take advantage of the County's collective experience for pre-engineering and design services to complete Phase 1 of the Reems Creek Greenway and to begin and pursue funding and accessing feasibility of further greenways expansions; and

WHEREAS, the County has agreed to act as agent for Weaverville to conduct, oversee and manage the project; and

WHEREAS, the Parties have agreed that the design of all improvements shall conform to the programming needs as identified by Weaverville with County participation, subject to budget constraints; and

WHEREAS, this Agreement is in addition to an Agreement related to use of funding provided to the County by the French Broad River Metropolitan Planning Organization for the project; and

WHEREAS, N.C. Gen. Stat. §160A-461 allows units of local government to enter into agreements to execute such an undertaking.

NOW, THEREFORE, the parties hereto, for and in consideration of the promises and covenants contained herein agree to enter into the Interlocal Agreement for the pre-engineering and design of the Reems Creek Greenway and agree as follows:

1. The Recitals set forth above, along with the definitions of certain terms, are incorporated herein by reference as if fully restated.

2. Appointment of Agent. The Parties hereby agree that the County shall act as agent for Weaverville and shall be designated as the "owner's representative" in all documents requiring such a designation. Such agency authority shall be exercised by County in its sole discretion, except as set forth above, and shall apply to pre-engineering and design activities as necessary, including but not limited to, the following:

- a) Engaging in design review and coordination with applicable regulatory agencies of State and Local Government;
- b) any property acquisition or negotiation for the use of any property relative to the project;
- c) Directing any preconstruction conferences and approving the issuance of a Notice to Proceed;
- d) Approving or denying change orders;
- e) Engaging in dispute resolution as required by law; and
- f) pursue funding and accessing feasibility of further greenways expansions.
- g) to abandon the undertaking if Weaverville fails to secure funding or breaches any part of this Agreement and/or if the County deems wise, in the County's sole discretion.

In performing all its duties as agent on the design and pre-engineering of the Greenway, the County hereby agrees to consult with, and keep the Weaverville project representative informed of pre-engineering and design activities.

3. Weaverville Funding of Projects. Weaverville shall conduct the following activities as required for the pre-engineering and design of the Greenway:

- a) Pass any and all necessary reimbursement resolutions;
- b) Collect taxes as authorized by law;
- c) Borrow for the project as authorized by law and; and
- d) Satisfy any and all debt for pre-engineering and design.

4. Budget and Billing. The budget for the design and preliminary engineering of the Reems Creek Greenway shall not exceed \$600,000, with \$60,000 of the required matching funds being contributed by Buncombe County and \$60,000 of the required matching funds being contributed by the Town of Weaverville, as approved by the Weaverville Town Council and contained in the grant agreement with the French Broad River Metropolitan Organization. Weaverville will provide its portion of the matching funds

prior to an agreement being entered with the North Carolina Department of Transportation regarding initiation of the project.

5. Insurance and Indemnity. The County of Buncombe is hereby self-insured for tort claims. The County hereby agrees to indemnify and hold harmless Weaverville and its officers, agents, and employees against all liability, loss and costs arising from actions, suits, claims, or demands attributable solely and exclusively to acts or omissions of the County for any damages that result from the County's primary negligence involving the pre-engineering and design of the Greenway. 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.

6. Entire Agreement. This Agreement contains the entire agreement between the Parties and supersedes and replaces any and all prior or contemporaneous agreements or understandings, written or oral, with regard to the matters set forth herein. The terms of this Agreement are contractual and not merely a recital. This Agreement may not be altered or amended except by an amendment in writing duly executed by the Parties.

7. Invalid Provision to Affect no Others. If any provisions of this Agreement is held, determined or adjudicated to be invalid, unenforceable or void for any reason, each such provision shall be severed from the remaining provisions of this Agreement and shall not affect the validity and enforceability of such remaining provisions.

8. This Agreement may only be modified by the written consent of the Parties.

9. 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.

[Signature Pages Follow]

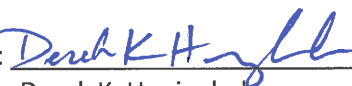
IN WITNESS WHEREOF, the Parties hereto have executed this instrument as of the day and year written below.

TOWN OF WEAVERVILLE

By: 
Allan P. Root, Mayor

9/17/18
Date

Attest:

By: 
Derek K. Huninghake
Clerk to the Board

9-17-2018
Date

COUNTY OF BUNCOMBE

By: _____
Brownie Newman, Chair

Date

Attest:

By: _____
Lamar Joyner
Clerk to the Board

Date