

**STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE**

**INTER-LOCAL AGREEMENT BETWEEN THE CITY OF ASHEVILLE
AND THE COUNTY OF BUNCOMBE**

This Agreement is entered into effective March 12, 2020 by and between the COUNTY OF BUNCOMBE, a body politic and corporate, organized and existing under the laws of the State of North Carolina (hereinafter referred to as "County") and the CITY OF ASHEVILLE, a municipal corporation of the State of North Carolina (hereinafter referred to as "City"). Collectively hereinafter referred to as " Party" or "Parties".

WITNESSETH:

WHEREAS, a State of Emergency was declared by the City, the County, and the State of North Carolina due to the COVID-19 Pandemic; and

WHEREAS, the City and the County negotiated this agreement for the public purposes of providing for the public health, safety, and welfare by utilizing City and County employees to be temporarily redeployed (hereinafter referred to as "Redeployment") to one another's work force at the request of the other Party for purposes related to Emergency Management responses to the COVID-19 Pandemic as well as to serve in established City and County employment positions to support City and County operations and service delivery when the City and County are able to meet the Redeployment requests; and

WHEREAS, the City and the County agree to be mutually accountable to carry out this agreement; and

WHEREAS, pursuant to N.C. General Statute 160A-461, the City and County may enter into agreements in order to execute a governmental undertaking; and

WHEREAS, City and County mutually wish to partner on this initiative and find that, under the terms of this Agreement, it is in the best interests of both parties and that the undertaking will benefit the public; and

WHEREAS, the City and County desire to set forth the terms and conditions of this Agreement.

NOW, THEREFORE, in consideration of the mutual promises made in this Agreement and the mutual reliance placed by each party on the responsibilities of the other, and such other considerations as the parties agree are good and sufficient, it is agreed as follows:

1. Description: Per approval by the City Manager or their designee, the City agrees to provide City employees to serve on a temporary basis via Redeployment in County positions to support continuity of County operations and service delivery. Per approval by the Chair of the County Commission or their designee, the County agrees to provide County employees to serve on a temporary basis via Redeployment in City positions to support continuity of City operations and service delivery.

2. Responsibilities: The City and the County hereby agree to the following:

The City will:

1. Allocate qualified City employees to serve at the request of the County if the City has the capacity to do so and chooses to; and
2. Designate a City Point of Contact to work with the County Redeployment Coordinator to facilitate and track County Redeployment assignments within the County and City as necessary; and
3. Maintain a record of all City employees assigned Redeployed assignments, including but not limited to: dates specific Redeployment requests are received, dates upon which employee Redeployment assignment are agreed, dates employee Redeployment assignments begin, including: shift hours and days, primary County assignment location, projected duration of the Redeployment assignment, and Redeployment assignment compensation.
4. Ensure at all times, all County employees Redeployed to serve in City positions are provided Centers for Disease Control and Prevention (CDC) advised and Occupational Health and Safety Administration (OSHA) compliant personal protective equipment (PPE) and training per CDC and OSHA regulation as may be appropriate for the job function(s) the City seeks the Redeployed employee to perform; and
5. Immediately notify County Human Resources Redeployment Coordinator if: a County Redeployed employee does not report to their City job assignment, complaints are received or sought to be reported regarding the County Redeployed employee, or other personnel concerns arise; and
6. Immediately notify County Risk Management at 828-250-4185 if a County Redeployed employee is injured while performing a City job assignment or communicates an alleged workplace injury occurred while performing a City job assignment. Upon notice of said alleged workplace injury.

The County will:

1. Provide qualified County employees at the request of the City if the County has the capacity to do so and chooses to; and
2. Designate a County Point of Contact to work with the City Redeployment Coordinator to facilitate coordinate and track City Redeployment assignments within the County and City as necessary; and
3. Maintain a record of all County employees assigned Redeployed assignments, including but not limited to: dates specific Redeployment requests are received, dates upon which employee Redeployment assignment are agreed, dates employee Redeployment assignments begin, including: shift hours and days, primary City assignment location, projected duration of the Redeployment assignment, and Redeployment assignment compensation.
4. Ensure at all times, all City employees Redeployed to serve in County positions are provided Centers for Disease Control and Prevention (CDC) advised and Occupational Health and Safety Administration (OSHA) compliant personal protective

equipment (PPE) and training per CDC and OSHA regulation as may be appropriate for the job function(s) the County seeks the Redeployed employee to perform; and

5. Immediately notify City Human Resources Redeployment Coordinator at 828-767-3633 if: a City Redeployed employee does not report to their County job assignment, complaints are received or sought to be reported regarding the City Redeployed employee, or other personnel concerns arise; and
6. Immediately notify City Risk Management at 828-259-5687 if a City Redeployed employee is injured while performing a County job assignment or communicates an alleged workplace injury occurred while performing a County job assignment. Upon notice of said alleged workplace injury, direct City Redeployed employee to the City Health Services Clinic for evaluation; and

Each party will:

Provide to the other Party the name and title of managers and/or those responsible, or their designee(s), to ensure accountability of the agreement and Redeployment assignments.

Daily contact person for the City: Larisa Lowman, Benefits and Compensation Manager: 828-767-3633 / llowman@ashevillenc.gov

Daily contact person for the County: Sharon Burke, Human Resources Director: o:828-250-4014 c: 716-307-3706 / sharon.burke@buncombecounty.org

3. Payment: No payments will be made as a result of this agreement. No reimbursements will be requested by either Party. The Parties reserve the right to request FEMA Reimbursement for their respective employee Redeployment compensation for COVID-19 services provided to each Party. The parties agree that this Agreement is being made pursuant to a declaration of emergency and that the undertakings associated herewith constitute emergency management functions.

4. Term/Renewal/Termination: The term of this Agreement shall begin on the day and year first above written, and shall conclude on at such time as the Parties hereto have lifted their respective States of Emergency, or such other time as may be delineated in the future to fulfill the purpose and intent of this agreement.. The agreement may be terminated by either party for cause and /or violation of the Agreement upon thirty (30) days written notice.

5. Remedy to Return Agreement to Compliance: In the event that a remedy is necessary for either party to ensure that the outcome measures described in **Section 2 “Responsibilities”** are realized the Parties agree to meet and agree to an Action Plan that describes action to be taken by each party to bring the agreement into compliance.

6. Indemnification and Hold Harmless for Third-Party Claims

Indemnification: The City agrees, to the extent permitted by North Carolina law, to indemnify and hold harmless the County and their officers, agents and employees from any third party claims arising from negligent acts or omissions of the County

employees and/or County in connection with the performance pursuant to this Agreement.

The County agrees, to the extent permitted by North Carolina law, to indemnify, defend, and hold harmless the City and their officers, agents and employees from any third party claims arising from negligent acts or omissions of the City employees and/or City in connection with the performance pursuant to this Agreement.

7. Workers' Compensation Claims

In the event a City employee claims a workers' compensation injury during a period of Redeployment, the City and County agree that any workers' compensation claim filed by such City employee during a period of Redeployment shall be handled and administered by the City's Risk Manager and the City's third-party workers' compensation administrator in the same manner as if no Redeployment had occurred.

In the event a County employee claims a workers' compensation injury during a period of Redeployment, the City and County agree that any workers' compensation claim filed by a County employee during a period of Redeployment shall be handled and administered by the County's Risk Manager and the County's third-party workers' compensation administrator in the same manner as if no Redeployment had occurred.

Indemnification and Hold Harmless for Workers' Compensation Claims

In the event a County employee claims a workers' compensation injury during a period of Redeployment against the City, the County agrees, to the extent permitted by North Carolina law, to indemnify and to hold harmless the City for any costs, payments or losses of the City arising from said workers' compensation claim. To the extent permitted by North Carolina law, the City will provide notice to the County of the filing of any such claims and the status of such claims during the pendency of the claim.

In the event a City employee claims a workers' compensation injury during a period of Redeployment against the County, the City agrees, to the extent permitted by North Carolina law, to indemnify and to hold harmless the County for any costs, payments or losses of the County arising from said workers' compensation claim. To the extent permitted by North Carolina law, the County will provide notice to the City of the filing of any such claims and the status of such claims during the pendency of the claim.

8. Insurance:

The City is self-insured for general liability and maintains excess general liability coverage up to \$15,000,000 per occurrence: Including coverage for bodily injury and property damage. In addition, the City is self-insured for workers' compensation and maintains excess workers' compensation coverage per statutory requirement and carries \$1,000,000 of employer's liability insurance. Further, this provision shall specifically include auto liability as County employees may be directed by the City to operate City vehicles as Permissive Users.

The County is self-insured for general liability up to \$500,000 and maintains excess general liability coverage up to \$7,000,000 per occurrence: Including coverage for bodily

injury and property damage. In addition, the County is self-insured for workers' compensation and maintains excess workers' compensation coverage per statutory requirement and carries \$1,000,000 of employer's liability insurance. Further, this provision shall specifically include auto liability as City employees may be directed by the County to operate County vehicles as Permissive Users.

- (a) Maintaining the types and amounts of insurance or self-insurance specified in this paragraph is a material obligation of the City and County.
- (b) The City and County shall comply at all times with all lawful terms and conditions of each of its insurance policies and all lawful requirements of its insurer.
- (c) The City and County shall each demonstrate compliance with the requirements of this paragraph by submitting Certificates of Insurance to each other upon request.
- (d) Nothing in this Agreement is intended to affect or abrogate either Party's governmental immunity.

7. Employment Classification: Redeployed City employees shall remain City employees and shall not be considered employees, agents or representatives of the County. Redeployed City employees are not employees of the County. The County is not liable directly to the Redeployed City employee for any workers' compensation claim occurring during a period of Redeployment. In the event a Redeployed City employee files a workers' compensation claim jointly against the City and County, the City shall be responsible for handling and administering said claim; if workers' compensation benefits are due to the Redeployed City employee, the City shall be responsible for satisfying the amounts due pursuant to the claim.

Redeployed County employees shall remain County employees and shall not be considered employees, agents or representatives of the City. Redeployed County employees are not employees of the City. The City is not liable directly to the Redeployed County employee for any workers' compensation claim occurring during a period of Redeployment. In the event a Redeployed County employee files a workers' compensation claim jointly against the City and County, the County shall be responsible for handling and administering said claim; if workers' compensation benefits are due to the Redeployed County employee, the County shall be responsible for satisfying the amounts due pursuant to the claim.

8. Required Reporting: When this agreement is fully executed each party shall ensure compliance with all applicable Federal, State, and local government regulations, respectively.

9. Damages: Each party shall be responsible for any damage, theft, and/or vandalism of their own materials, equipment and supplies.

10. Amendments: This Agreement (including **Exhibit A** to be executed for each City employee Redeployment assignment) constitutes the entire Agreement between the Parties. This Agreement may be amended, supplemented or modified only by duly executed written instruments as an amendment to this agreement.

11. Compliance with Laws: Each party shall comply with all state, federal, or local laws, or ordinances, codes, rules or regulations governing performance of this Agreement.

12. Assignability: This agreement is not assignable by either party without the prior written consent of the other party.

13. Budgetary Limitations: Nothing stated in this Agreement shall be construed as requiring either party to make any budgetary appropriations.

14. Non-Discrimination: In accordance with State and Federal laws, each party shall not discriminate against any person on the basis of sex, national origin, race, ethnic background, color, religion, age or disability in its program activities related to this Agreement.

15. E-Verify Employer Compliance: Employers and their subcontractors with 25 or more employees as defined in Article 2 of Chapter 64 of the NC General Statutes must comply with E-Verify requirements to contract with governmental units. E-Verify is a Federal program operated by the United States Department of Homeland Security and other federal agencies, or any successor or equivalent program used to verify the work authorization of newly hired employees pursuant to federal law. E-verify can be accessed via this link: <http://www.uscis.gov/e-verify/employers>

16. Governing Law: This Agreement is entered into in North Carolina and shall be construed under the statutes and laws of North Carolina.

17. 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.

18. Notices: In the event either party hereunder desires or is required to provide any notice to the other party, the party desiring or requiring to provide such notice shall provide it in writing, by email to the other party at the address listed below:

The City: City of Asheville
Special Assistant to the City Manager / Human Resources Director
Peggy Rowe
Phone: 828-778-8936 email: prowe@ashevillenc.gov

Buncombe County Sharon Burke
Human Resources Director
828-250-4015 email: sharon.burke@buncombecounty.org

19. Both parties agree that this contract shall follow the requirements under 2 C.F.R. § 200.326 and 2 C.F.R. Part 200, Appendix II, and those terms contained in Exhibit B attached hereto.

NOW THEREFORE, the parties hereby make, agree, and execute this Agreement by the below signatures of duly authorized officials or agents.

CITY OF ASHEVILLE

BUNCOMBE COUNTY

Debra Campbell, City Manager

Avril M. Pinder, County Manager

Date

Date

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

DATE
City of Asheville Chief Financial Officer

This instrument has been pre-audited in the manner required by the Local Government Budget and Fiscal Control Act.

DATE
Buncombe County Chief Financial Officer

EXHIBIT A - page 1 of 2

**City of Asheville - County of Buncombe
Temporary COVID-19 Redeployment Duty Assignment Form**

From: City/County _____ Department and _____ Division
To: City/County _____ Department and _____ Division

This temporary redeployment duty assignment (Redeployment) is temporary and is not a permanent job assignment, re-assignment, transfer, termination, or any other discipline based employment change. You are responsible for complying with the terms and conditions of Redeployment and all applicable City/County Personnel policies remain in force. Failure to comply with Redeployment terms, conditions and personnel policies, and/or applicable City/County job performance expectations may result in the termination of Redeployment.

Redeployment may be terminated or altered at any time by City/County direction. The City and/or County Redeployment Coordinators will communicate Redeployment details and expectations.

Redeployment hours and responsibilities may change based on the needs of the City and County guidance, including availability of work. While on Redeployment, all timesheets, absences and leave requests must be approved by City and County Redeployment Coordinators. During Redeployment, you are expected to perform the work prescribed by Redeployment.

While on Redeployment, you remain subject to all applicable City/County and department policies.

City/County Employee Name:

City/County Job Title:

City/County Redeployment Supervisor's Name:

Redeployment Start Date:

Specified Work Function:

Summary of Redeployment Assignment: Assigned Duties and responsibilities will include, but are not limited to (list specific duties):

Scheduled Days:

Scheduled Shift Start & End Times & Hours (include if lunch break is required):

EXHIBIT A - page 2 of 2

City of Asheville - County of Buncombe Temporary COVID-19 Redeployment Duty Assignment Form

Dress/Uniform while on Redeployment assignment, if applicable:

(City/County to provide all necessary uniform, materials, CDC and OSHA-required personal protective equipment and training for employee compliance and competency to perform Redeployment job assignment)

City/County Redeployment Supervisor Name

City/County Redeployment Supervisor Signature

Date

I have read, understand, and accept the City-County Temporary COVID-19 Redeployment Duty Assignment terms and conditions of the Redeployment assignment:

City/County Employee Name

City/County Employee Signature

Date

**City Human Resources Representative Approving
Employee Redeployment Assignment**

Date

**County Human Resources Representative Approving
Employee Redeployment Assignment**