

STATE OF NORTH CAROLINA
COUNTY OF BUNCOMBE

INTERLOCAL AGREEMENT
Between
BUNCOMBE COUNTY
And
THE TOWN OF BLACK MOUNTAIN
For
BUILDING INSPECTION SERVICES

THIS INTERLOCAL AGREEMENT is dated the _____ of _____, 20____ (the “Agreement”), and is between the **BUNCOMBE COUNTY** (“Buncombe County”), a body politic and corporate organized and existing under the laws of the state of North Carolina and the **TOWN OF BLACK MOUNTAIN** (“Town of Black Mountain”), a political subdivision of the State of North Carolina a municipal corporation chartered and operating under the laws of the State of North Carolina (hereinafter, collectively, the “Parties”).

WITNESSETH:

WHEREAS, from time to time, it may become necessary for the Town of Black Mountain to request building inspection services from Buncombe County; and

WHEREAS, Buncombe County is willing to perform building, electrical, plumbing, and HVAC inspections on behalf of the Town of Black Mountain on an as-needed basis and upon request of the Town’s Building, Planning, and/or Zoning Department staff subject to the terms and conditions set forth herein; and

WHEREAS, N.C. Gen. Stat. § 160A-461 authorizes any unit of local government in North Carolina and any one or more other units of local government in North Carolina to enter into contracts or agreements with each other in order to execute any undertaking.

NOW THEREFORE, in consideration of the respective rights, powers, duties and obligations hereinafter set forth herein, the Parties agree as follows:

ARTICLE I
RECITALS and PURPOSE

1.01 Recitals

The Recitals are incorporated into this Agreement.

1.02 Purpose

The purpose of this agreement is to establish the terms and conditions under which the Town of Black Mountain may request building inspection services from Buncombe County. This will allow, among other things, the Town of Black Mountain to continue the building inspections and permitting process should the Town’s building inspector be unavailable. This Memorandum of

Agreement updates and replaces any prior building inspection services agreements between Buncombe County Permits and Inspections Department and the Town of Black Mountain.

ARTICLE II TERM, AMENDMENT, and TERMINATION

3.01 Term. This Agreement shall become effective upon the properly authorized execution of the Agreement by both Parties and shall continue until superseded or terminated by either Party (“Term”).

3.02 Amendment. This Agreement may only be amended by a writing signed by the Parties. To propose an amendment to Agreement either Party may submit the proposed amendment and the reasons for the proposed amendment in writing to the other Party per the Notice provisions in this Article II. If the Parties agree to the proposed amendment, a written amendment to Agreement shall be executed. The Parties may enter into amendments that do not have financial implications for either Party with the approval of and execution by their respective Managers. All other amendments shall require approval by the respective governing boards of the Parties.

3.03 Disputes. Notwithstanding any other provision of this Agreement, either Party may contest any decision, action or inaction of the other Party, or an alleged failure of the other Party to comply with the terms of this Agreement. If any such dispute cannot be informally resolved, then such dispute shall be resolved as provided in 7.08.

3.04 Termination. Either Party may terminate this Agreement for any reason, or for no reason, upon thirty (30) days written notice to the other Party per the Notice provisions in this Article II.

3.05 Notice. Any notice required by this Agreement shall be in writing and delivered to the Parties at the following addresses:

For Buncombe County: Buncombe County Permits and Inspections Director
30 Valley Street
Asheville, NC 28801.

For Town of Black Mountain: Town of Black Mountain Permits and Inspections Director
106 Montreat Road
Black Mountain, NC 28711

3.06 Prior Agreements Superseded. Upon the execution and delivery of this Agreement, this Agreement shall supersede any and all prior agreements, if any, and shall constitute the definitive Agreement between the Parties regarding all matters relating to the undertaking.

3.07 Survive Termination. Those obligations concerning enforcement of warranties and representations which by their nature should survive the termination of this Agreement, shall survive the termination of this Agreement.

3.08 Responsibilities of the Parties.

- a. Buncombe County agrees to:
 1. Perform building, electrical, plumbing, and HVAC inspections on behalf of the Town of Black Mountain on an as-needed basis within twenty four (24) hours of receiving a request for the same from the Building, Planning, and/or Zoning Department staff of the Town of Black Mountain.
 2. Promptly invoice the Town of Black Mountain for each inspection performed pursuant to this Agreement. Such an invoice shall include the type of inspection performed, the date of inspection, the fee and any applicable discounts on total fees, as well as a copy of any written notices, permits, or comments provided by the inspector.
- b. The Town of Black Mountain agrees to:
 1. Pay Buncombe County the rate contained in Buncombe County's fee schedule inspections, which both Parties understand may be increased or otherwise amended from time to time and impact the amount paid by the Town of Black Mountain under this Agreement, for each inspection conducted pursuant to this Agreement.
 2. The Town of Black Mountain agrees to remit payment to the Buncombe County Permits and Inspections Department within 30 days upon receipt of an invoice for services rendered.

ARTICLE V EXHIBITS AND RELATED DOCUMENTS

6.01 Exhibits

The following exhibits are attached hereto and incorporated by reference into this Agreement as if fully set forth herein:

- A. Exhibit "A" Buncombe County's Current fee schedule for inspections, which both Parties understand may be increased or otherwise amended from time to time and impact the amount paid by the Town of Black Mountain under this Agreement

6.02 Related Documents. The Parties acknowledge that the Indenture must be finalized and shall be executed as soon as reasonably possible and in no event later than the creation of the Trust.

ARTICLE VI OTHER PROVISIONS

7.01 No Third Party Beneficiaries. This Agreement is not intended for the benefit of any third party. The rights and obligations contained herein belong exclusively to the Parties hereto, and shall not confer any rights or remedies upon any person or entity other than the Parties hereto.

7.02 Ethics Provision. The Parties acknowledge and shall adhere to the requirements of N.C.G.S. 133-32, which prohibits the offer to, or acceptance by any state or local employee of any gift from anyone with a contract with the governmental entity or from a person seeking to do business with the governmental entity.

7.03 Governing Law, Venue. The Parties acknowledge that this Agreement shall be governed by the laws of the State of North Carolina. Venue for any disputes arising under this Agreement shall be in the courts of Buncombe County, North Carolina.

7.04 Entire Agreement. The terms and provisions herein contained constitute the entire agreement by and between the Parties hereto and shall supersede all previous communications, representations or agreements, either oral or written between the Parties hereto with respect to the subject matter hereof.

7.05 Severability. If any provision of this Agreement shall be determined to be unenforceable by a court of competent jurisdiction, such determination will not affect any other provision of this Agreement.

7.06 Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original.

7.07 Representations and Warranties. The Parties each represent, covenant and warrant for the other's benefit as follows:

A. Each Party has all necessary power and authority to enter into this Agreement and to carry out the transactions contemplated by this Agreement, and this Agreement has been authorized by Resolution spread upon the minutes of each Party's governing body. This Agreement is a valid and binding obligation of each Party.

B. Neither the execution and delivery of this Agreement, nor the fulfillment of or compliance with its terms and conditions, nor the consummation of the transactions contemplated by this Agreement, results in a breach of the terms, conditions and provisions of any agreement or instrument to which either Party is now a party or by which either is bound, or constitutes a default under any of the foregoing.

C. To the knowledge of each Party, there is no litigation or other court or administrative proceeding pending or threatened against such Party (or against any other person) affecting such Party's rights to execute or deliver this Agreement or to comply with its obligations under this Agreement. The Party's execution and delivery of this Agreement, and its compliance with its obligations under this Agreement, does not require the approval of any regulatory body or any other entity the approval of which has not been obtained.

7.08 Dispute Resolution. In the event of conflict or default that might arise for matters associated with this Agreement, the Parties agree to informally communicate to resolve the conflict. If any such dispute cannot be informally resolved, then such dispute, or any other matter arising under this Agreement, shall be subject to resolution in a court of competent jurisdiction.

Such disputes, or any other claims, disputes or other controversies arising out of, and between the Parties shall be subject to and decided exclusively by the appropriate general court of justice of Buncombe County, North Carolina.

7.09 No Waiver of Non-Compliance with Agreement. No provision of this Agreement shall be deemed to have been waived by any Party hereto unless such waiver shall be in writing and executed by the same formality as this Agreement. The failure of any Party hereto at any time to require strict performance by the other of any provision hereof shall in no way affect the right of the other Party to thereafter enforce the same. In addition, no waiver or acquiescence by a Party hereto of any breach of any provision hereof by another Party shall be taken to be a waiver of any succeeding breach of such provision or as a waiver of the provision itself.

7.10 Governing Law. The Parties intend that this Agreement be governed by the law of the State of North Carolina.

7.11 Assignment. No Party may sell or assign any interest in or obligation under this Agreement without the prior express written consent of the other Parties.

7.12 Liability of Officers and Agents. No officer, agent or employee of any Party will be subject to any personal liability or accountability by reason of the execution of this Agreement or any other documents related to the transactions contemplated hereby. Such officers, agents or employees will be deemed to execute such documents in their official capacities only, and not in their individual capacities. This section will not relieve any such officer, agent or employee from the performance of any official duty provided by law.

7.13 Execution in Counterparts/Electronic Version of Agreement. This Agreement may be executed in any number of counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument. Any Party may convert a signed original of the Agreement to an electronic record pursuant to a North Carolina Department of Natural and Cultural Resources approved procedure and process for converting paper records to electronic records for record retention purposes. Such electronic record of the Agreement shall be deemed for all purposes to be an original signed Agreement.

7.16 Headings. Section and paragraph headings contained in this Agreement are solely for the convenience of the Parties and shall not affect in any way the meaning or interpretation of this Agreement.

7.17 Regulatory Authority. Nothing in this Agreement shall restrict or inhibit a Party's police powers or regulatory authority.

7.18 Further Actions. The Parties agree to cooperate fully and execute any and all further documents and to take all further actions that may be necessary to give full force and effect to the intent of this Agreement.

7.19 Authority to Inspect. The Parties authorize their respective permits and inspections directors to conduct inspections according to their statutory powers and internal policies and to execute such documents necessary to effect the spirit and intent of this Agreement.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed in their corporate names by their duly authorized officers, all as of the date first above written.

{Signature Page Follows}

<p>BUNCOMBE COUNTY, NORTH CAROLINA</p> <p>By: _____ County Manager Buncombe County, North Carolina</p>	<p>This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.</p> <p>_____ Finance Officer Buncombe County, North Carolina</p>
<p>ATTEST:</p> <p>By: _____ Clerk to the Board of Commissioners Buncombe County, North Carolina</p> <p>[Seal]</p>	<p>This instrument is approved as to form and legal sufficiency.</p> <p>_____ County Attorney/County Staff Attorney Buncombe County, North Carolina</p>
<p>TOWN OF BLACK MOUNTAIN, NORTH CAROLINA</p> <p>By: _____ Town Manager</p>	<p>This instrument has been pre-audited in the manner required by The Local Government Budget and Fiscal Control Act.</p> <p>_____ Town Finance Director Black Mountain, North Carolina</p>
<p>ATTEST:</p> <p>By: _____ Clerk to the Board of Commissioners Buncombe County, North Carolina</p> <p>[Seal]</p>	<p>This instrument is approved as to form and legal sufficiency.</p> <p>_____ Town Attorney Black Mountain, North Carolina</p>

EXHIBIT A

Buncombe County's Current Fee Schedule for Inspections