

**NORTH CAROLINA  
BRUNSWICK COUNTY**

**INTERLOCAL AGREEMENT  
[For Services Only]**

**THIS INTERLOCAL AGREEMENT** (hereinafter referred to as the “Agreement”) is made and entered into by and between Brunswick County, a body politic and corporate of the State of North Carolina, (hereinafter referred to as “County”), party of the first part and the Town of Shallotte, a municipality organized and existing pursuant to the laws of the State of North Carolina and located in Brunswick County, (hereinafter referred to as “Municipality”), party of the second part.

**WITNESSETH:**

**WHEREAS**, County and Municipality desire to establish an inter-governmental approach for the provision of services or resources, as more fully described herein;

**WHEREAS**, County and Municipality each agree that the cooperative endeavor contemplated hereby will be beneficial to both entities; and

**WHEREAS**, County and Municipality, in order to set out the provisions and conditions under which said services or resources will be provided, have entered into this Agreement as authorized by Article 20, Part 1 of Chapter 160A of the North Carolina General Statutes.

**NOW, THEREFORE**, in consideration of the foregoing and the mutual covenants and promises contained herein, County and Municipality do hereby agree as follows:

**1. SERVICES**

County will provide fire code administration and enforcement services (hereinafter referred to collectively as “Services”) in accordance with applicable North Carolina laws and regulations.

Any exhibits or attachments referenced herein are hereby incorporated by reference and made a part of this Agreement. Any conflict between the language in an exhibit or attachment and the main body of this Agreement shall be resolved in favor of the main body of this Agreement.

In no event shall Services provided by County under this Agreement include legal services, which shall be provided by Municipality at its own expense.

**2. TERM OF AGREEMENT**

The initial term of this Agreement begins on December 1, 2024 the (“Effective Date”) and continues in effect until June 30, 2027, unless earlier terminated pursuant to any of the terms and conditions contained herein. It is expressly agreed that this Agreement shall automatically and without further action on the part of either party be extended from year to year unless one of the parties gives written notice to the other party at least sixty (60) days before the end of the then current term of its intention not to renew the Agreement by delivering or mailing such notice to the other party at the address(es) below.

### **3. TERMINATION**

- a. **FOR CAUSE.** Notwithstanding the foregoing, County may terminate this Agreement upon fifteen (15) calendar days' written notice to Municipality if Municipality is in material breach of any provision herein and fails to cure the breach during the notice period.
- b. **WITHOUT CAUSE.** County may terminate this Agreement at any time without cause by giving sixty (60) calendar days' written notice to Municipality.

### **4. NONAPPROPRIATION**

If the Board of County Commissioners does not appropriate the funding needed by County to fulfill its financial obligations, if any, under this Agreement for a given fiscal year, County will not be obligated beyond the end of the last fiscal year for which funds were appropriated. In such event, County will promptly notify Municipality of the non-appropriation and this Agreement will be terminated at the end of the last fiscal year for which funds were appropriated. No act or omission by County which is attributable to non-appropriation of funds shall constitute a breach of or default under this Agreement.

### **5. COMPENSATION**

All Services provided under this Agreement shall be performed at no cost to Municipality. County shall charge and collect all fees associated with said Services per the associated fee schedules adopted by the Board of County Commissioners. Said fees shall be the sole property of County, and no part thereof shall be payable to Municipality.

### **6. FIRE PREVENTION ORDINANCE**

Municipality acknowledges that its Fire Prevention Ordinance must conform in all respects and at all times with County's Fire Prevention Ordinance. Any changes to County's Fire Prevention Ordinance must be made to Municipality's Fire Prevention Ordinance within forty-five (45) days.

### **7. RELATIONSHIP OF PARTIES**

Both County and Municipality agree that County is acting as an independent contractor under this Agreement. Control of County personnel, standards of performance, discipline and all other aspects of performance shall be governed entirely by County. No joint agency is established by this Agreement. This Agreement does not create a partnership, joint venture, other joint endeavor, joint ownership, joint operations or personnel sharing of any kind. No joint personnel are needed by the parties in order to carry out the obligations under this Agreement.

### **8. REPRESENTATIONS**

Each party to this Agreement represents to the other party each of the following as of the Effective Date of this Agreement and covenants with the other party that each such representation will remain true and correct:

- a. It is a duly organized entity or corporation qualified to do business and in good standing under the laws of the State of North Carolina;
- b. It has all requisite corporate power and authority to execute, deliver and perform its obligations under this Agreement;
- c. No approval, authorization or consent of any governmental or regulatory authority is required to be obtained or made by it in order for it to enter into and perform its obligations under this Agreement;
- d. It shall comply with all applicable federal, state and local laws and regulations and shall obtain all applicable permits and licenses;
- e. It shall not violate any agreement with any third party by entering into or performing the obligations under this Agreement;
- f. In fulfilling its obligations under this Agreement, it will not violate, infringe or misappropriate any patent, copyright, trademark or trade secret rights of any third party, or any other third-party rights (including without limitation non-compete agreements); and
- g. No elected or appointed official or employee has any interest (financial, employment or other) in the transactions contemplated by this Agreement.

## **9. INDEMNITY**

- a. To the extent permitted by law, County shall indemnify and hold harmless Municipality and its officers, agents and employees from and against any and all claims, actions, suits, liabilities, losses, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent action or omission of County, its officers, agents and employees or any of them, in fulfilling its obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against Municipality, County shall defend the same at its sole cost and expense; provided that, Municipality retains the right to participate in said suit if any principal of government or public law is involved. If final judgment is to be rendered against Municipality and its respective officers, agents, employees or any of them, or jointly against Municipality and County and its respective officers, agents and employees, or any of them, County shall satisfy same.
- b. To the extent permitted by law, Municipality shall indemnify and hold harmless County and its officers, agents and employees from and against any and all claims, actions, suits, liabilities, losses, costs, expenses and damages of any nature whatsoever, by reason of or arising out of any negligent action or omission of Municipality, its officers, agents and employees or any of them, in fulfilling its obligations pursuant to this Agreement. In the event that any suit based upon such a claim, action, loss or damage is brought against County, Municipality shall defend the same at its sole cost and expense; provided that, County retains the right to participate in said suit if any principal of

government or public law is involved. If final judgment is to be rendered against County and its respective officers, agents, employees or any of them, or jointly against County and Municipality and its respective officers, agents and employees, or any of them, Municipality shall satisfy same.

- c. By executing this Agreement, County does not assume liability or responsibility for or in any way release Municipality from any liability or responsibility which arises in whole or in part from the existence or effect of Municipality ordinances, rules or regulations. If any cause, claim, suit, action or administrative proceeding is commenced in which the enforceability and/or validity of any such Municipality ordinance, rule or regulation is at issue, Municipality shall defend the same at its sole cost and expense and if judgment is entered or damages are awarded against Municipality, County or both, Municipality shall satisfy the same, including all chargeable costs and attorneys' fees.

## **10. REMEDIES**

If Municipality is in default of any payment obligation hereunder and such default is not cured by remittance of the amount owed within thirty (30) days following written notice from County of the right to cure, then County shall be entitled to specific performance under this Agreement, injunctive relive and/or direct, incidental or consequential money damages, which may include attorneys' fees.

## **11. NON-DISCRIMINATION IN EMPLOYMENT**

Neither party shall discriminate against any employee or applicant for employment because of race, ethnicity, gender, gender identity, sexual orientation, age, religion, national origin, disability, color, ancestry, citizenship, genetic information, political affiliation or military/veteran status, or any other status protected by federal, state or local law or other unlawful form of discrimination. The parties shall take affirmative action to ensure that applicants are employed and that employees are treated fairly during employment.

## **12. COMPLIANCE WITH E-VERIFY PROGRAM**

To the extent E-Verify rules apply to this Agreement, the parties agree to comply with the requirements of Article 2 of Chapter 64 of the North Carolina General Statutes.

## **13. CONFIDENTIAL INFORMATION**

For purposes of this Agreement, the party disclosing Confidential Information is the "Discloser," and the party receiving Confidential Information is the "Recipient." "Confidential Information" shall mean any nonpublic information concerning the parties' respective businesses including, but not limited to, all tangible, intangible, visual, electronic, present or future information such as: (a) trade secrets; (b) financial information, including pricing; (c) technical information, including research, development, procedures, algorithms, data, designs and know-how; (d) business information, including operations, planning, marketing interests and products; and (e) the terms of any agreement between the parties and the discussions, negotiations and proposals related to that

agreement. Confidential Information disclosed to the other party must be clearly identified. Written Confidential Information must be clearly marked in a conspicuous place with an appropriate legend identifying the information as “Confidential.” Confidential Information that is not written must be identified as confidential at the time of disclosure and confirmed in writing delivered to Recipient within fifteen (15) days of disclosure.

The restrictions regarding the use and disclosure of Confidential Information do not apply to information that is:

- a. in the public domain through no fault of the Recipient;
- b. within the legitimate possession of the Recipient, with no confidentiality obligations to a third party;
- c. lawfully received from a third party having rights in the information without restriction, and without notice of any restriction against its further disclosure;
- d. independently developed by the Recipient without breaching this Agreement or by parties who have not had, either directly or indirectly, access to or knowledge of the Confidential Information;
- e. disclosed with the prior written consent of the Discloser; or
- f. required to be disclosed by law, regulation or court or governmental order, specifically including requests pursuant to the Public Records Laws of North Carolina contained in Chapter 132 of the North Carolina General Statutes. In the event Recipient receives such a request, it shall notify Discloser and Discloser shall have the opportunity to defend against production of such records at Discloser’s expense.

#### **14. NO ASSIGNMENT WITHOUT CONSENT**

Neither party shall assign this Agreement (or assign any right or delegate any obligation contained herein whether such assignment is of service, of payment or otherwise) without the prior written consent of the other party hereto. Any such assignment without the prior written consent of the other party hereto shall be void. An assignee shall acquire no rights, and County shall not recognize any assignment in violation of this provision.

#### **15. GOVERNING LAW AND VENUE**

This Agreement shall be governed by applicable federal law and by the laws of the State of North Carolina, without regard for its choice of law provisions. All actions relating in any way to this Agreement shall be brought in the General Court of Justice of the State of North Carolina in Brunswick County or in the Federal District Court for the Eastern District of North Carolina, Wilmington division.

## **16. DISPUTE RESOLUTION**

Should a dispute arise as to the terms of this Agreement, both parties agree that neither may initiate binding arbitration. The parties may agree to non-binding mediation of any dispute prior to the bringing of any suit or action.

## **17. GOVERNMENTAL IMMUNITY**

To the extent applicable, neither party waives its governmental immunity by entering into this Agreement and fully retains all immunities and defenses provided by law with regard to any action based on this Agreement.

## **18. NON-WAIVER**

Failure by County at any time to require the performance by Municipality of any of the provisions of this Agreement shall in no way affect County's right hereunder to enforce the same, nor shall any waiver by County of any breach be held to be a waiver of any succeeding breach or a waiver of this Section.

## **19. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement between the parties with respect to the subject matter herein. There are no other representations, understandings or agreements between the parties with respect to such subject matter. This Agreement supersedes all prior agreements, negotiations, representations and proposals, written or oral.

## **20. HEADINGS**

The headings in this Agreement are for convenience of reference only and shall not define or limit any of the terms or provisions hereof.

## **21. SEVERABILITY**

The invalidity of one or more of the phrases, sentences, clauses or sections contained in this Agreement shall not affect the validity of the remaining portion of the Agreement so long as the material purposes of this Agreement can be determined and effectuated. If a provision of this Agreement is held to be unenforceable, then both parties shall be relieved of all obligations arising under such provision, but only to the extent that such provision is unenforceable, and this Agreement shall be deemed amended by modifying such provision to the extent necessary to make it enforceable while preserving its intent.

## **22. AMENDMENTS**

No amendments or changes to this Agreement, or additional Proposals or Statements of Work, shall be valid unless in writing and signed by authorized agents of both Municipality and County.

## 23. NOTICES

- a. **DELIVERY OF NOTICES.** Any notice, consent or other communication required or contemplated by this Agreement shall be in writing, and shall be delivered in person, by U.S. mail, by overnight courier, by electronic mail or by facsimile to the intended recipient at the address set forth below.
- b. **EFFECTIVE DATE OF NOTICES.** Any notice shall be effective upon the date of receipt by the intended recipient; provided that any notice which is sent by facsimile or electronic mail shall also be simultaneously sent by mail deposited with the U.S. Postal Service or by overnight courier.
- c. **NOTICE ADDRESS.** Communications that relate to any breach, default, termination, delay in performance, prevention of performance, modification, extension, amendment or waiver of any provision of this Agreement shall be sent to:

- i. For the County: Brunswick County Manager  
P.O. Box 249  
Bolivia, NC 28422  
Fax: 910-253-2022

- ii. For the Municipality: Mayor – Town of Shallotte  
106 Cheers Street  
Shallotte, NC 28470

## 24. SIGNATURES

This Agreement, together with any amendments or modifications, may be executed in one or more counterparts, each of which shall be deemed an original and all of which shall be considered one and the same agreement. This Agreement may also be executed electronically. By signing electronically, the parties indicate their intent to comply with the Electronic Commerce in Government Act (N.C.G.S § 66-58.1 et seq.) and the Uniform Electronic Transactions Act (N.C.G.S § 66-311 et seq.). Delivery of an executed counterpart of this Agreement by either electronic means or by facsimile shall be as effective as a manually executed counterpart.

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ATTEST:

**BRUNSWICK COUNTY**

\_\_\_\_\_  
Clerk to the Board

By: \_\_\_\_\_  
Chairman, Board of Commissioners

[SEAL]

**TOWN OF SHALLOTTE**

By: \_\_\_\_\_  
Walter Eccard, Mayor

Date: \_\_\_\_\_

“This instrument has been preaudited in the manner required by the Local Government Budget and Fiscal Control Act.”

**BRUNSWICK COUNTY**

**TOWN OF SHALLOTTE**

\_\_\_\_\_  
Aaron C. Smith, Director of Fiscal Operations  
Brunswick County, North Carolina

\_\_\_\_\_  
Mimi Gaither  
Town Manager

APPROVED AS TO FORM

\_\_\_\_\_  
Bryan W. Batton, County Attorney