

**INTERLOCAL AGREEMENT BETWEEN ORANGE COUNTY AND THE TOWNS OF CARRBORO AND CHAPEL HILL REGARDING THE CURRENT AND FUTURE USE OF THE JOINTLY OWNED GREENE TRACT**

**THIS AGREEMENT**, made and entered into this \_\_\_\_\_ day of \_\_\_\_\_, 2021 between Towns of Carrboro and Chapel Hill, North Carolina municipal corporations, of Orange County, North Carolina (hereinafter referred to individually as the "Town" and jointly as "Towns"); and Orange County, a political subdivision of the State of North Carolina (hereinafter referred to as the "County"), regarding the use of the jointly owned Greene Tract, having approximately 104 acres and identified by PIN 9870739888 in the Orange County Registry (hereinafter referred to as the "Property") and the 60 acres owned exclusively by Orange County and identified by PIN 9870855283 in the Orange County Registry (hereinafter referred to as the "Headwaters Preserve"). (County and Towns may be referred to collectively as the "Parties").

**WITNESSETH**

**WHEREAS**, the Parties are public bodies, politic and corporate, under the laws of the State of North Carolina and are vested with the power and authority by Article 20 of North Carolina General Statutes Chapter 160A to enter into this Interlocal Agreement (hereinafter referred to as the "Agreement"); and

**WHEREAS**, the 164 acres, more or less, was purchased in 1984 for \$608,000 for use as a future landfill; and

**WHEREAS**, the Property and the Headwaters Preserve are located within the Chapel Hill's Extraterritorial Jurisdiction and subject to the Town of Chapel Hill's development regulations; and

**WHEREAS**, the Parties jointly own the Property with Orange County having a 43% interest, the Town of Chapel Hill having a 43% interest, and the Town of Carrboro having a 14% interest in 104 acres of the Greene Tract and Orange County owns 100% interest in the Headwaters Preserve (60 acres) ; and

**WHEREAS**, the Parties desire to establish procedures, rights, responsibilities, and uses of and for the Property; and

**WHEREAS**, the Parties agree that some portion of the Property should be dedicated to providing affordable and mixed income housing and other uses; and

**WHEREAS**, the Parties agree that some portion of the Property should be reserved for a future school site with public recreation; and

**WHEREAS**, the Parties agree that the 60 acres currently owned by Orange County should be reconfigured to preserve the most environmentally sensitive area and preserved as the Headwaters Preserve following evaluation of an Environmental

Assessment Report, opportunity for public engagement and further deliberation by the governing boards of the Parties

**WHEREAS**, the Parties desire to ensure their goals and principles for the use of the Property are followed and adhered to, including connectivity for example access, infrastructure, and environmental, and the preservation of some natural areas within the Property.

**WHEREAS**, the Parties on January 21 and 22, 2020 adopted resolutions to develop an agreement regarding the uses of the Greene Tract; and

**NOW, THEREFORE**, in consideration of the foregoing and on mutual promises and obligations set forth herein, the receipt and sufficiency of which is hereby acknowledged, the County and Towns agree as follows:

## **1. TERM AND TERMINATION**

The initial term of this Agreement shall be for a period of two (2) years from the date first above recorded.

This Agreement shall automatically renew for five (5) five-year terms unless sooner terminated.

This Agreement may be terminated by the Parties hereto upon mutual written agreement of all the Parties.

Any Party may withdraw from this Agreement without penalty or further obligation with 60 days' notice to the other Parties.

## **2. RESPONSIBILITIES OF THE PARTIES**

The Parties shall, in good faith, work together to determine the best uses of the Property. In no particular order this shall include:

- a. Jointly developing necessary Requests for Qualifications for professional services for any and all studies or plans for the Property;
- b. Review of and, to the extent practical, implementation of best practices pursuant to an environmental assessment and any other relevant study of the Property;
- c. Consideration of public input into the ultimate uses of the Property;
- d. Potential subdivision of the Property to more closely align with agreed upon uses and goals such as connectivity, access to services, and/or preservation;

- e. Preservation of the Headwaters Preserve, as it may be reconfigured;
- f. Respecting the rights of each of the other Parties as joint owners of the Property;
- g. Assigning the Mayors, Chair, and Managers to be the Representatives of the Parties for the purpose of negotiating the ultimate uses of the Property and working directly with staff to bring such negotiated results to the governing boards for final approval and determination;
- h. Maintaining financial responsibility for all costs associated with the implementation of this Agreement in direct proportion to each Party's ownership interest in the 104 acre portion of the Property (43/43/14);
- i. Jointly conducting all public engagement and conducting no individual public engagement regarding the Property;
- j. The Parties' staffs shall develop a work plan that includes, among other things, a decision point timeline regarding development of the Property;
- k. Reaching Final Determinations on the uses of the Property within 18 months of the execution of this Agreement.

### **3. PUBLIC PARTICIPATION AND DECISION-MAKING**

**Public Engagement.** It is the intent of the Parties to engage public participation in determining the final uses of the Property. The public engagement contemplated in this Agreement shall occur jointly. The Parties shall not engage in individual staff or individual governing board public engagement. This public input will be considered as part of the next steps.

**Affordable and Mixed Income Housing and other uses.** It is the present intent of the Parties that approximately 66 acres of the Property shall be used for the development of affordable and mixed income housing and other uses. The Parties' staffs shall consult with affordable housing stakeholders to seek input regarding preferred sites, special needs, connectivity, and any other information relevant to the ultimate selection of the site(s) for affordable and mixed income housing. The Parties shall work together to retain a developer(s) to develop that portion of the Property ultimately reserved for affordable and mixed income housing.

**School Site with Public Recreation.** It is the present intent of the Parties that approximately 16 acres of the Property are reserved for a future school site for a public school site with public recreation. The Parties' staffs shall consult with

school administration to seek input regarding preferred sites, special needs, and any other information regarding the ultimate selection and/or size of the site.

**Joint Preserve.** It is the present intent of the Parties that approximately 22 acres of the Property shall be reserved for preservation of environmentally sensitive areas in addition to the Headwaters Preserve. The Parties' will consider ownership, use, operation, and maintenance.

**Connectivity.** The parties will work together to draft a connectivity plans including vehicular, bicycle and pedestrian modes, public transportation, and utilities.

**Recombination.** The Property may be subdivided and/or recombined with neighboring parcels, including the Headwaters Preserve, to provide for better connectivity, access to services, and/or preservation.

**Development Agreement.** The present intent of the Parties is to draft a Development Agreement and to set forth parameters for development regulations applicable to the Property. The Parties shall work together ensure such development plans adhere to the intent of this Agreement.

#### **4. FINAL DETERMINATION**

The final number of and intended uses have not been finalized and are subject to change. Following receipt of the Environmental Assessment, any opportunities for public engagement directed by the local governments, and governing board comment staff of each Party will jointly examine the best uses of the Property and the number of acres for and locations of those uses on the Property, will jointly seek further public input on those issues, and will make recommendations to their governing boards for a final determination. Such Final Determination shall be evidenced by a written amendment to this Agreement to be executed within 18 months of its execution.

#### **5. DISPUTES**

During the first 18 months, should disputes arise regarding implementation of this Agreement during any intermediate or implementation responsibility phase or subsequent term resolution of such disputes shall include a Resolution Meeting as described in this Section 5, which may include third party facilitation. If the dispute is not resolved within 60 days of initial consideration at a Resolution Meeting the governing boards shall seek to resolve the dispute by mediation.

If, 18 months after this Agreement is executed by the Parties, disputes have emerged regarding the ultimate uses of the Property, the size of the portions of the Property for designated uses, or any other aspect of the Property such that a Final Determination of the uses and related decisions regarding the Property cannot be agreed upon the Parties shall attempt to resolve the disputes as follows:

**Resolution Meeting.** The Representatives shall notify each other of the specific disputes that need discussion and meet together with each Party's attorney to attempt to resolve the disputes. If discussion is successful, the proposed resolution will be submitted to each Party's governing board for approval of the Representatives' decision. If resolution is unsuccessful within 60 days the Parties shall mediate the disputes.

**Mediation.** The Representatives and the Parties' attorneys shall jointly agree on and select a mediator to assist in resolving the dispute. Mediation must occur and be concluded within three months of the notification required for a Resolution Meeting. The governing boards of the Parties must approve any mediated resolution.

## **6. DIVISION OR SALE**

No Party shall 1) file any legal action or proceeding to force sale or division of the Property without having engaged in all dispute resolution procedures set out herein, if applicable, and, subsequent thereto, without first providing 60 days' written notice to the other Parties, or 2) enter into any agreement to sell, mortgage, or otherwise transfer all or any part of its ownership interest in the Property without first offering the other Parties the option to receive, purchase, or otherwise obtain the selling Party's interest in the Property. If the other Parties fail to respond to such option within 60 days of the offer the transferring Party may divest itself of its ownership interest in the Property according to property divestiture laws of North Carolina.

## **7. NOTICE**

Any notice pursuant to this Agreement, or any amendment or renewal, shall be in writing and delivered by United States Mail to the following:

### **To the County:**

Orange County  
County Manager  
P.O. Box 8181  
Hillsborough, NC 27278

### **To Chapel Hill:**

Town of Chapel Hill  
Town Manager  
405 Martin Luther King, Jr. Blvd.  
Chapel Hill, NC 27514

### **To Carrboro:**

Town of Carrboro  
Town Manager  
301 West Main Street  
Carrboro, NC 27510

**8. ENTIRE AGREEMENT**

This Agreement constitutes the entire agreement of the Parties hereto and supersedes all prior agreements between or among the Parties regarding uses of the Property and any such agreements are hereby declared void. This Agreement is effective the date first above recorded.

[SIGNATURE PAGE TO FOLLOW]

In witness whereof, the Parties, by and through their authorized agents, have hereunder set their hands and seal as of the day and year first above written.

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Mayor, Town of Carrboro

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Mayor, Town of Chapel Hill

ATTEST:

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Town Clerk

ATTEST:

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Town Clerk

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Chair, Orange County

ATTEST:

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Clerk to the Board

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

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Carrboro Finance Director

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

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Chapel Hill Finance Director

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

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Orange County Finance Director