

**MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF BUNCOMBE AND THE
UPPER HOMINY FIRE DEPARTMENT**

THIS MEMORANDUM OF UNDERSTANDING is made and entered into this __ day of July 2024 by and between the County of Buncombe, North Carolina, a body politic and corporate of the State of North Carolina (the "County") and The Upper Hominy Fire Department, of North Carolina, (hereinafter "Fire Department")

WITNESSETH

WHEREAS, on March 3, 2023 Buncombe County approved the use of funding from the American Rescue Plan Act (ARPA) to assess the feasibility for solar PV systems on fire departments within Buncombe County and the installation of solar PV systems on all feasible facilities within contracted budget limits (the "Project[s]");

WHEREAS, Eagle Solar and Light LLC provided the winning bid for the projects which should take 6 months to complete;

WHEREAS, the Project sites identified on Upper Hominy Fire Department properties are to be located on buildings identified as: 1795 Pisgah Highway Candler, NC 28715

WHEREAS, the Project is anticipated to cost \$74,319

WHEREAS, the average annual electric utility costs for the Upper Hominy Fire Department Projects comes to \$6,522 and the savings for the first full year with solar are anticipated to be \$2,043 which would mean estimated savings of over \$100,643 over the thirty year life of the Projects;

NOW THEREFORE, for and in consideration of the promises and covenants contained in this Memorandum of Understand, the County and Upper Hominy Fire Department agree as follows:

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

Section 2. Upper Hominy Fire Department hereby grants to County, its contractors, and their duly authorized personnel access to and from the above-referenced Project sites for purposes of construction and installation of the Projects, with the understanding that Upper Hominy Fire Department must approve the schedule for the installation of the Project. In performing all its functions on the Projects, the County hereby agrees to consult with, and keep Upper Hominy Fire Department informed of construction activities through the involvement of the County's Construction Administrator. The County shall make Upper Hominy Fire Department aware of any and all construction meetings held with the County's contractor and a Upper Hominy Fire Department representative may attend such meetings. Upper Hominy Fire Department representative will also be included on any communications with the Contractor regarding the Upper Hominy Fire Department project. In any contract between the County and its contractor, the contractor shall agree to indemnify and defend Upper Hominy Fire Department for any damage, injury, claim, or suit resulting from the acts or omissions by the contractor. At any time during construction, Upper Hominy Fire Department may temporarily terminate construction if it reasonably determines that any action by the Contractor compromises the integrity of a Upper Hominy Fire Department building's roof or the safety of any occupants in the building.

Section 3. The County will satisfy any and all costs for said construction and installation of the Projects.

Section 4. The parties recognize that the solar panels installed on Upper Hominy Fire Department buildings will become a part of the premises and will be owned by the Upper Hominy Fire Department. The County will assure that any and all warranties are listed and issued in the name of Upper Hominy Fire Department. Upper

Hominy Fire Department will be responsible for insurance for these systems. The Upper Hominy Fire Department will be responsible for maintenance costs beyond that of any operations and maintenance agreement purchased by the County.

Section 5. Upper Hominy Fire Department agrees to allow the County to track and report its solar kilowatt per hour (kWh) generation on an annual basis. Such reports shall be based on the data generated from (1) the monitoring system provided by the contractor as specified in the County's RFP; and (2) to the extent applicable, the utility net metered utility invoices received by Upper Hominy Fire Department.

Section 6. Entire Agreement. This Agreement sets forth and constitutes the entire agreement and understanding of the parties with respect to the subject matter hereof. This agreement supersedes any and all prior agreements, negotiations, correspondence, undertakings, promises, covenants, arrangements, communications, representations, and warranties, whether oral or written, of any party to this agreement.

Section 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.

Section 8. 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 Page Follows}

SIGNATURE PAGE 1 OF 2

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

BUNCOMBE COUNTY

By:

Brownie Newman
Chair, Buncombe County Commission

Attest:

Sarah Gross
Clerk to the Board of Commissioners

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

Melissa Moore,
Buncombe County Finance Director

Approved as to form:

Michael C. Frue
Buncombe County Senior Staff Attorney

Upper Hominy Fire Department

By: 

Chair to the Board