

REQUEST FOR BOARD ACTION

HENDERSON COUNTY BOARD OF COMMISSIONERS

MEETING DATE: July 16, 2014

SUBJECT: Emergency Debris Site Agreement
WNC Ag Center and Buncombe County

PRESENTER: Marcus A. Jones, PE

ATTACHMENTS: Yes
1. Proposed Three Party Agreement

SUMMARY OF REQUEST:

Staff has worked with Buncombe County and the WNC Ag Center to permit the lower Ag Center, gravel parking as an emergency debris collection site for Henderson and Buncombe County in the event of a major storm. The site will require a permit from NCDENR with the first step being execution of a written agreement between the parties to use the property. The attached agreement will satisfy the requirement. After Henderson County's signature, the agreement will go to Buncombe County and then WNC Ag Center. This agreement will also be a requirement for FEMA funds to operate the site.

BOARD ACTION REQUESTED:

Approve the three party agreement between Henderson County, Buncombe County and the Western North Carolina Agriculture Center for use of the Center's parking lot as a emergency debris site.

Suggested Motions:

I move that the Board of Commissioners approve the three party agreement between Henderson County, Buncombe County and the Western North Carolina Agriculture Center for use of the Center's parking lot as an emergency debris site.

WESTERN NORTH CAROLINA
AGRICULTURAL CENTER

-AND-
HENDERSON COUNTY

-AND-
BUNCOMBE COUNTY

THREE PARTY

ENCROACHMENT AGREEMENT FOR EMERGENCY
DEBRIS SITE

THIS AGREEMENT, made and entered into this the ____ day of ____, 20____, by and between the Western North Carolina Agricultural Center, party of the first part; and Henderson County party of the second part; and Buncombe County party of the third part.

W I T N E S S E T H

THAT WHEREAS, the parties of the second and third part desires to encroach on the property of the first part designated as

Western North Carolina Agricultural Center property , located At 1301 Fanning Bridge Road, Fletcher, NC 28732

for use as an Emergency Disaster Debris Site. Vegetative disaster debris from within Buncombe County and Henderson County may be brought to the area of the property designated on the exhibit (Sheet C-101) in the event of a significant natural disaster. Buncombe County and Henderson County operating in conjunction with the Western North Carolina Agricultural Center may have the option to stage/store the accumulated material for subsequent removal for processing and/or disposal at an offsite permitted facility, or chipping the staged/stored debris to produce a mulch material prior to the removal of the product for further processing at an offsite permitted facility.

WHEREAS, it is to the material advantage of the parties of the second and third part to effect this encroachment, and the party of the first part in the exercise of authority conferred upon it by statute, is willing to permit the encroachment within the proposed limits, subject to the conditions of this agreement;

NOW, THEREFORE, IT IS AGREED that the party of the first part hereby grants to the parties of the second and third part the right and privilege to make this encroachment as shown on attached exhibit (Sheet C-101), specifications and special provisions which are made a part hereof upon the following conditions, to wit:

That the installation, operation, maintenance, and closure of the above described facility will be accomplished in accordance with all North Carolina Department of Environment and Natural Resources Division of Waste Management and Federal Emergency Management Agency requirements.

That the parties of the second and/or third part hereby agrees to indemnify and save harmless the party of the first part from all damages and claims for damage that may arise by reason of the installation, use, maintenance, and enclosure of this encroachment.

That the parties of the second and third part agrees to restore all areas disturbed during use of the site as an Emergency Disaster Debris Site to the satisfaction of the party of the first part. The parties of the second and third part agrees to exercise every reasonable precaution during use of the site to prevent eroding of soil; silting or pollution of rivers, streams, lakes, reservoirs, other water impoundments, ground surfaces or other property; or pollution of the air. There shall be compliance with applicable rules and regulations of the North Carolina Division of Environmental Management, North Carolina Sedimentation Control Commission, and with ordinances and regulations of various counties, municipalities and other official agencies relating to pollution prevention and control.

Activation of the proposed area of the property as an Emergency Disaster Debris Site shall be agreed upon by the Western North Carolina Agricultural Center prior to the second and/or third party's request to the North Carolina Department of Environment and Natural Resources Division of Waste Management. The party of the first part retains the right to deny access or activation of this property as an Emergency Disaster Debris site at times when it would not be feasible or safe to use it as such, including but not limited to, during the dates the property is host of the Mountain State Fair.

That in the case of noncompliance with the terms of this agreement by the party of the second part, the party of the first part reserves the right to stop all work until the site has been brought into compliance.

That when title to the subject that constitutes the aforesaid encroachment passes from the party of the second part and vests in the party of the third part, the party of the third part agrees to assume all responsibilities and rights and to perform all obligations as agreed to herein by the party of the second part.

IN WITNESS WHEREOF, each of the parties to this agreement has caused the same to be executed the day and year first above written.

WESTERN NORTH CAROLINA AGRICULTURAL
CENTER

BY: _____
MANAGER

WITNESS:

Henderson County

1 Historic Courthouse Square, Suite 6

Hendersonville, NC 28792

Second Party

WITNESS:

Buncombe County Emergency Management

164 Erwin Hills Road

Asheville, NC 28806

Third Party