

# Board of Commissioners' Agenda

## December 5, 2022

Commission Meetings are held at 200 College Street, Room 326 in downtown Asheville beginning at 5:00 p.m.

Public Comment is taken at the beginning of the meeting.

\*\*\*The meeting will broadcast via Facebook Live @Buncombegov.\*\*\*

### Call To Order

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### Discussion / Adjustment / Approval To Follow Agenda

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### Consent Agenda [▲top](#)

- [Approval of November 15, 2022 Special Meeting Minutes](#)
- [Approval of November 15, 2022 Briefing Meeting Minutes](#)
- [Approval of November 15, 2022 Regular Meeting Minutes](#)
- [Tax Collection Report](#)
- [Approval of Technical Corrections to Leave Policy](#)
  - [Leave Policy](#)
- [Resolution to Approve the Bonding of County Officials](#)
  - [Resolution](#)
- [Approval of Design Consultant Contract with Civil Design Concepts, P.A., for the demolition of the Haynes Tower on the A-B Tech Enka Campus](#)
- [Approval of Affordable Housing Services Program Description, Requirements & Guidelines](#)
  - [More Information](#)
- [Approval of Settlements Report](#)
  - [More Information](#)
- [Resolution Authorizing Execution of Easement Agreement for a New Sewer Line to be Connected to Existing Metropolitan Sewerage District Lines](#)

- [Resolution](#)
- [Easement](#)
- [More Information](#)
- [Budget Amendment for NC USAR Task Force 2 Reimbursement - Jackson County Deployment](#)
- [Ordinance](#)

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## Public Comment

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## Good News [▲top](#)

- [2022 Dogwood Awards](#)

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## Presentations [▲top](#)

- [Fiscal Year End 2022 Audit Presentation](#)
- [More Information](#)

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## Public Hearings [▲top](#)

- [FY 2024 Annual Section 5311 Capital Grant Application](#)
- [Authorizing Resolution](#)
- [More Information](#)

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## County Manager's Report [▲top](#)

- New Superintendent Introduction - Dr. Jackson

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## Old Business [▲top](#)

- [Resolution Declaring the Results from the Special Bond Referendum on the Bond Orders](#)
  - [Resolution](#)
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## New Business [▲top](#)

- Selection of Vice Chair
  - [Meeting Schedule - 2023](#)
  - [Budget Amendment for Reissuance of AA716 CDC COVID-19 Vaccination Program](#)
    - [Ordinance](#)
  - [Budget Amendment for Safer Together Grant Extension](#)
    - [Ordinance](#)
  - [Budget Amendment for Local Assistance & Tribal Consistency Funding](#)
    - [Ordinance](#)
- 

## Board Appointments [▲top](#)

- Audit Committee
    - Patrick Fitzsimmons
    - William Christy
  - Home & Community Care Block Grant Advisory Committee
    - Daniel Beerman
    - Susan Schiemer
    - Meg White
  - Juvenile Crime Prevention Council
    - Philip Cooper
  - [Boards & Commissions with Commissioners as Members](#)
- 

## Announcements [▲top](#)

- December 13 @ 10 a.m. - Commissioners' Budget Retreat at East Asheville Library, 3 Avon Road, Asheville, NC 28805.

- January 3 @ 3 p.m. - Commissioners' Briefing at 200 College Street, Room 326 in downtown Asheville.
- January 3 @ 5 p.m. - Commissioners' Regular Meeting at 200 College Street, Room 326 in downtown Asheville.

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**Closed Session / Open Session**

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**Adjournment**

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**MINUTES OF BUNCOMBE COUNTY BOARD OF COMMISSIONERS'  
REGULAR MEETING OF DECEMBER 5, 2022 AT 5 P.M.**

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**BE IT REMEMBERED:** That the Board of Commissioners met in regular session on December 5, 2022, in the Commission Chambers, 200 College Street, Room 326 in downtown Asheville, North Carolina at 5 p.m. where and when the following business was transacted:

The Chairman called the meeting to order with the following members present:

Brownie Newman, Chairman  
Jasmine Beach-Ferrara, Commissioner  
Amanda Edwards, Vice Chair  
Martin Moore, Commissioner  
Parker Sloan, Commissioner  
Terri Wells, Commissioner  
Al Whitesides, Commissioner

Staff present: Avril Pinder, County Manager; Sybil Tate, Assistant County Manager; Donald Warn, Finance Director; John Hudson, Budget Director; Taylor Jones, Emergency Services Director; Jennifer Pike, Tax Collector; Sheriff Quentin Miller; Tim Love, Intergovernmental Relations; Nathan Pennington, Planning Director; Lamar Joyner, Clerk to the Board; Michael Frue, Senior Staff Attorney; Brandon Freeman, Staff Attorney

## **PLEDGE OF ALLEGIANCE**

## **CONSENT AGENDA**

Commissioner Wells motioned to approve the Consent Agenda and the remainder of the agenda. Vice Chair Edwards seconded and the motion passed 7-0.

- Approval of November 15, 2022 Special Meeting Minutes
- Approval of November 15, 2022 Briefing Meeting Minutes
- Approval of November 15, 2022 Regular Meeting Minutes
- Tax Collection Report
- Approval of Technical Corrections to Leave Policy
  - Leave Policy
- Resolution to Approve the Bonding of County Officials
  - Resolution
- Approval of Design Consultant Contract with Civil Design Concepts, P.A., for the demolition of the Haynes Tower on the A-B Tech Enka Campus
- Approval of Affordable Housing Services Program Description, Requirements & Guidelines
  - More Information
- Approval of Settlements Report
  - More Information
- Resolution Authorizing Execution of Easement Agreement for a New Sewer Line to be Connected to Existing Metropolitan Sewerage District Lines
  - Resolution
  - Easement
  - More Information
- Budget Amendment for NC USAR Task Force 2 Reimbursement - Jackson County Deployment
  - Ordinance

## **PUBLIC COMMENT**

Scott Kuhlman and Mignon Durham expressed their concerns and disapproval for the Pinners Cove (rezoning) new construction project by KLP Pinners EAT, LLC.

Ben Williamson, Andrew Paul, Jen Hampton, Nina Tovish, and Peggy Crowe stated their support for the changes to the use of the occupancy tax fund.

## **GOOD NEWS**

- **2022 Dogwood Awards**

Sheriff Quentin Miller recognized Sarah Gayton and Maia Hughes as recipients of the 2022 Dogwood Awards for their work fighting the opioid crisis.

## **PRESENTATIONS**

- **Fiscal Year End 2022 Audit Presentation**

Chris Kessler of CliftonLarsonAllen LLP (CLA) presented the results of the FY22 audit to the Board. The results were an examination of financial statements, processes, and federal and state compliance.

Commissioner Whitesides moved to accept the audit results as presented. Commissioner Wells seconded and the motion passed 7-0.

## **PUBLIC HEARINGS**

- **FY 2024 Annual Section 5311 Capital Grant Application**

Matt Cable, Planning & Development, explained that the County is a designated applicant/recipient of state and federal transportation funds made available through North Carolina Department of Transportation (NCDOT). Designated applicants/recipients must possess the technical and financial capacity to: (1) apply for, administer, operate, and carry out transportation projects; and (2) comply with all applicable state and federal laws, regulations, and guidelines. The FY 2024 Section 5311 Capital Grant application requires a public hearing. The Board, at its September 20, 2022 meeting, approved the necessary associated authorizing resolutions for Section 5311 Grant applications.

The Chairman opened the hearing at 5:55 p.m.

The hearing was closed at 5:56 p.m.

Commissioner Whiteside moved to authorize the Chairperson to execute an application for FY 2024 Section 5311 Capital Grant Funding. Vice Chair Edwards seconded and the motion passed 7-0.

## **COUNTY MANAGER'S REPORT**

- **New Superintendent Introduction - Dr. Jackson**

Avril Pinder, County Manager, introduced and welcomed Dr. Rob Jackson, Buncombe County Schools Superintendent. Dr. Jackson expressed his appreciation and looked forward to working with the County.

## **OLD BUSINESS**

- **Resolution Declaring the Results from the Special Bond Referendum on the Bond Orders**

Don Warn, Finance Director, explained that the County held a special bond referendum on the bond orders authorizing issuance of \$30 million General Obligation Open Space Bonds and authorizing the issuance of \$40 million General Obligation Affordable Housing Bonds with both ballot items passing.

Commissioner Wells moved to approve the resolution certifying and declaring the results of the election. Commissioner Sloan seconded and the motion passed 7-0.

## **NEW BUSINESS**

- **Selection of Vice Chair**

Vice Chair Edwards nominated and moved to elect Commissioner Wells as vice chair. Commissioner Beach-Ferrara seconded the motion and it passed 7-0.

- **Meeting Schedule - 2023**

The Board discussed the proposed meeting schedule and decided to cancel the first meeting in July. The updated meeting will be part of the consent agenda for the next regular meeting.

- **Budget Amendment for Reissuance of AA716 CDC COVID-19 Vaccination Program**

John Hudson, Budget Director, explained the budget amendment.

Vice Chair Wells moved to approve the budget amendment as presented. Commissioner Whitesides seconded and the motion passed 7-0.

- **Budget Amendment for Safer Together Grant Extension**

John Hudson, Budget Director, explained the budget amendment.

Vice Chair Wells moved to approve the budget amendment as presented. Commissioner Moore seconded and the motion passed 7-0.

- **Budget Amendment for Local Assistance & Tribal Consistency Funding**

John Hudson, Budget Director, explained the budget amendment.

Vice Chair Wells moved to approve the budget amendment as presented. Commissioner Edwards seconded and the motion passed 7-0.

BOARD APPOINTMENTS

Chairman Newman moved to appoint **Patrick Fitzsimmons** and **William Christy** to the **Audit Committee**. Commissioner Sloan seconded and the motion passed 7-0.

Chairman Newman moved to reappoint **Daniel Beerman**, **Susan Schiemer**, and **Meg White** to the **Home & Community Care Block Grant Advisory Committee**. Commissioner Edwards seconded and the motion passed 7-0.

Commissioner Edwards moved to reappoint **Philip Cooper** to the **Juvenile Crime Prevention Council**. Commissioner Moore seconded and the motion passed 7-0.

- Boards & Commissions with Commissioners as Members**

Chairman Newman moved to appoint, by general consensus, the commissioners to corresponding boards as indicated below in the table.

|                                                           |                                                                        |
|-----------------------------------------------------------|------------------------------------------------------------------------|
| A-B Tech Joint Advisory Committee                         | Martin Moore <i>(replaces Terri Wells)</i>                             |
| Audit Committee                                           | Terri Wells <i>(replaces Robert Pressley)</i>                          |
| Early Childhood Education & Development Committee         | Martin Moore <i>(replaces Robert Pressley)</i>                         |
| Health & Human Services Board                             | Jasmine Beach-Ferrara <i>(replaces Amanda Edwards)</i>                 |
| Juvenile Crime Prevention Council                         | Martin Moore <i>(no previous appointment)</i>                          |
| French Broad Metropolitan Planning Organization (MPO) TAC | Amanda Edwards<br>Brownie Newman-alternate <i>(switched positions)</i> |
| MSD Board                                                 | Martin Moore <i>(replaces Robert Pressley)</i>                         |
| School Capital Fund Commission                            | Amanda Edwards <i>(replaces Brownie Newman)</i>                        |
| Tourism Development Authority                             | Terri Wells <i>(replaces Robert Pressley)</i>                          |
| Vaya County Commissioner Advisory Board                   | Jasmine Beach-Ferrara <i>(replaces Brownie Newman)</i>                 |

ANNOUNCEMENTS

The Chairman made the following announcements:

- December 13 @ 10 a.m. - Commissioners' Budget Retreat at East Asheville Library, 3 Avon Road, Asheville, NC 28805.*
- January 3 @ 3 p.m. - Commissioners' Briefing at 200 College Street, Room 326 in downtown Asheville.*
- January 3 @ 5 p.m. - Commissioners' Regular Meeting at 200 College Street, Room 326 in downtown Asheville.*

CLOSED SESSION

Commissioner Beach-Ferrara moved to go into closed session pursuant to NCGS 143-318.11(a) (3) to hear legal matters and NCGS 143-318.11(a) (5) hear real property negotiation matters with no possible action anticipated following the closed session. Commissioner Edwards seconded and the motion passed 7-0.

The Board heard the update and had discussion regarding the matters. No action was taken.

Commissioner Moore moved to go back into open session. Commissioner Beach-Ferrara seconded and the motion passed 7-0.

Commissioner Moore moved to adjourn the meeting. Commissioner Beach-Ferrara seconded and the motion passed 7-0. The meeting was adjourned at 8:03 p.m.

  
LAMAR JOYNER, CLERK  
BOARD OF COMMISSIONERS

  
BROWNIE NEWMAN, CHAIRMAN  
BOARD OF COMMISSIONERS



## Buncombe County Tax Collections

*Jennifer Pike*  
Tax Collector

### CONSENT

**DEPARTMENT:** Tax Collections

**PRESENTER:** Jennifer Pike

**CONTACT:** Jennifer Pike

**SUBJECT:** Approval of October 2022 Tax Collection Report

### BRIEF SUMMARY:

NCGS 105-350 requires the Tax Collector to submit a report showing the amount of taxes collected.

In the month of October, Public service company property taxes were billed. The settlement for Mission Health/HCA for prior tax years will continue to be reported as a reduction for prior year collections. Adjustments to the total levy through the remainder of fiscal year 2023 will be due to registered motor vehicle levy and regular property value discoveries or releases.

As of October 31, 2022, the total levy billed for fiscal year 2023 is 18.81% collected, as compared to 18.41% for fiscal year 2022.

Below is Buncombe County year to date reporting for fiscal year 2023, as of October 31, 2022.

### Current Year Collections

| Fiscal Year 2023         | Personal Property | Public Service  | Real Estate       | Motor Vehicles  | Total             |
|--------------------------|-------------------|-----------------|-------------------|-----------------|-------------------|
| Total Levy               | \$ 14,242,346.74  | \$ 4,749,004.93 | \$ 209,518,587.59 | \$ 5,315,854.89 | \$ 233,825,794.15 |
| Amount Collected         | \$ 2,946,321.47   | \$ -            | \$ 35,740,583.23  | \$ 5,297,258.30 | \$ 43,984,163.00  |
| Unpaid Balance           | \$ 11,296,025.27  | \$ 4,749,004.93 | \$ 173,778,004.36 | \$ 18,596.59    | \$ 189,841,631.15 |
| Interest Collected       | \$ -              | \$ -            | \$ 33,205.91      | \$ 39,089.13    | \$ 72,295.04      |
| <b>FY23 Collection %</b> | <b>20.69%</b>     | <b>0.00%</b>    | <b>17.06%</b>     | <b>99.65%</b>   | <b>18.81%</b>     |
| <b>FY22 Collection %</b> | <b>20.57%</b>     | <b>0.00%</b>    | <b>16.66%</b>     | <b>99.70%</b>   | <b>18.41%</b>     |

**Total fiscal year 2023 year to date collections, property tax and interest**

**\$ 44,056,458.04**

### Prior Year Collections

| Prior Years 2013-2022 | Personal Property | Real Estate     | Total           |
|-----------------------|-------------------|-----------------|-----------------|
| Amount Collected      | \$ 36,175.28      | \$ (427,161.56) | \$ (390,986.28) |
| Interest Collected    | \$ 4,877.28       | \$ 14,653.03    | \$ 19,530.31    |

**Total prior year collections, fiscal year to date**

**\$ (371,455.97)**

**\*Total property tax released October 2022 due to taxable value adjustments**

**\$ 79,437.08**

**\*Total refunds processed October 2022**

**\$ 28,706.00**

**\*Detailed information for releases and refunds is available in Tax Collections.**



**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Consent Agenda**

**Department: Strategy & Innovation**

**Presenter/Contact: Rafael Baptista, Strategy & Innovation Director**

**Subject: Technical Corrections to Leave Policy**

**Brief Summary:** Staff review of the Leave Policy adopted in May of 2022, identified the need for edits to the policy.

Namely, staff identified several items that had been in the Personnel Ordinance but were not transferred to the Leave Policy when it was removed from the Ordinance. No material content changes have been made from prior Leave Policy and language within the ordinance. The state retirement system requires that the County have a policy for rolling over annual leave above a certain threshold to sick leave by January 1<sup>st</sup>. The language that was not carried over was the required rollover policy.

**County Manager's comments and Recommendation:** Approve the policy as proposed.



## Leave Policy

### Contents

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### 1. Purpose

The purpose of this policy is to provide employees with information regarding eligibility, accrual and use of leave for Buncombe County.

### 2. Applicability

This policy applies to all Buncombe County departments and employees. Where there is conflict with any department-specific policy, this document will supersede.

### 3. Policy

#### 3.1. Absence from Duty

- 3.1.1. An employee shall promptly, and no later than thirty minutes prior to the start of the workday, notify their Supervisor when they will be absent from duty for any reason. Failure to do so, may be cause for disciplinary action up to and including separation.
- 3.1.2. An employee who is absent from duty for three days without notification to the immediate supervisor shall be considered to have resigned unless failure to notify was demonstrably beyond the employee's control.

#### 3.2. Annual Leave – Annual leave provides employees an opportunity to relax for an extended period and to return to the job with renewed interest and vitality. The County encourages employees to take annual leave each year, with at least one week of leave being 5 days in duration.

All employees are expected to use their annual leave responsibly. **Annual leave may be taken only with the prior approval of the employee's immediate Supervisor.** Supervisors have the discretion to decide when and in what amount annual leave may be approved. The approval decision should weigh the needs of the workplace and the frequency of requests with the **desires needs** of the employee.

- 3.2.1. Annual leave is allocated to employees based on years of service with Buncombe County.

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- 3.2.1.1. Full-time regular employees are eligible to earn annual leave at the following rates, accrued pro-rata on a bi-weekly basis:

| YEARS OF SERVICE          | DAYS EARNED PER YEAR<br>IF HIRE DATE IS |                         |                          |
|---------------------------|-----------------------------------------|-------------------------|--------------------------|
|                           | BEFORE<br>8/1/2002                      | ON OR AFTER<br>8/1/2002 | ON OR AFTER<br>2/15/2011 |
| Less than 2 years         | 12 days                                 | 10 days                 | 10 days                  |
| 2 but less than 5 years   | 14 days                                 | 12 days                 | 12 days                  |
| 5 but less than 10 years  | 18 days                                 | 16 days                 | 14 days                  |
| 10 but less than 15 years | 21 days                                 | 19 days                 | 16 days                  |
| 15 but less than 20 years | 24 days                                 | 22 days                 | 18 days                  |
| 20 or more years          | 27 days                                 | 25 days                 | 20 days                  |

- 3.2.1.2. Part-time employees that work at least 20 hours in a payroll period are eligible to earn annual leave on a pro-rata basis. The leave will be computed as a percentage of total amounts earned by full-time regular employees as listed in the chart above.
- 3.2.2. Employees whose positions are set at 12 hours or more per shift (equivalent to one shift), will accrue annual leave as stated below.
- 3.2.2.1. This does not apply to employees who have created a flexible work schedule beyond an 8-hour shift or who work on-call shifts.

| YEARS OF SERVICE          | SHIFTS EARNED PER YEAR<br>IF HIRE DATE IS |                      |
|---------------------------|-------------------------------------------|----------------------|
|                           | BEFORE 8/1/2002                           | ON OR AFTER 8/1/2002 |
| Less than 2 years         | 12 shifts                                 | 10 shifts            |
| 2 but less than 5 years   | 14 shifts                                 | 12 shifts            |
| 5 but less than 10 years  | 18 shifts                                 | 16 shifts            |
| 10 but less than 15 years | 21 shifts                                 | 19 shifts            |
| 15 but less than 20 years | 24 shifts                                 | 22 shifts            |
| 20 or more years          | 27 shifts                                 | 25 shifts            |

- 3.2.3. Transfer and Payout - Buncombe County does not transfer accrued or unused annual leave from any other county, municipality or state government into the employee's annual leave bank. ~~When an employee terminates their employment with Buncombe County, they are eligible to receive pay for their accumulated annual leave. In the event of death, payment of annual leave credit shall be made to the employee's estate.~~
- Employees shall receive pay for their accumulated annual leave upon resignation, dismissal, retirement, or layoff unless the employee elects to transfer the leave balances to another accepting jurisdiction. Should an employee die, payment of annual leave credit shall be made to the employee's estate. Should an employee die, resign, retire, or be laid off with a debt to the County, the County may withhold the

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amount of the debt from the employee or their estate in its final payment to the employee or estate.

No more than two years of earned annual leave accumulation shall be paid.

- 3.2.4. **Maximum Accrual** – Any employee with more than two (2) years of annual leave (based on their existing accrual rate on January 1 of each year) will have the excess leave converted to sick leave on January 1.
- 3.2.5. **Cash Conversion** - With the approval of the Departmental Director and subject to the following conditions, regular employees may convert up to 40 annual leave hours to cash. With the approval of the Departmental Director and the Grant Manager, grant-funded positions may convert up to 40 annual leave hours, if the grant budget and terms allow.
- 3.2.5.1. **Conditions:**
- The employee must have taken at least 5 (consecutive) days of annual leave in ~~the past 12 months~~ the calendar year the conversion is requested. No other leave type may be used to meet the 5-day requirement.
  - Only one conversion request will be approved for any employee in a calendar year.
  - Any request is limited to a maximum of 40 hours per regular employee per calendar year.
  - A minimum of 40 annual leave hours must be sold in any transaction.
  - A balance of at least 40 annual leave hours must be retained.
  - If an employee has participated in Parental Leave or Paid Family Leave, they are not eligible for a cash conversion for 12-months from the last day of their leave.
- 3.3. **Aggregate Service** - The employee's combined total period of countable service of employment within a regular position as an employee of Buncombe County, exclusive of any time allowed as transfer credit from another jurisdiction, for the purpose of determining entitlement to the particular benefit in question.

Aggregate service for retirement purposes refers to total length of service under which retirement contributions are paid into the N.C. Local Governmental Employees' Retirement System by the employee.

Aggregate service for determining the rates at which longevity and annual leave are earned by an employee is determined from the total years of service with Buncombe County only.

Rehired employees **after October 30, 2018**, or new hires from other government employers will be eligible for Annual Leave Accrual at rates commensurate with total years in service of Buncombe County plus other government employer(s) consistent with the Personnel Ordinance at the date as a new hire as described above.

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Except as otherwise provided, rehired employees, and new hires from other North Carolina government employers, will be eligible only for the existing benefits at the time they are rehired, e.g., current health insurance plan, current 401K plan, etc. In addition, rehired employees will be eligible for a longevity rate with said accrual calculated based on the date of rehire (previous years of service will not be counted). For an employee hired on or after July 1, 2016, the employee shall not be eligible for a pro-rated longevity payment upon separation by retirement if the employee retires before December 1.

- 3.4. **Community Service Leave** – All regular employees are eligible to receive 16 hours of paid community service leave annually for use to volunteer at an elections site, a community service organization or school.
- 3.5. **Conference Attendance** – A regular employee may be permitted leave with pay for the purposes of attending professional conferences, workshops, or educational meetings or classes when directly related to the employees' field of work. Request for such leave shall be submitted in writing to the Supervisor for his/her approval and final approval by the Department Head prior to the leave being taken. The County shall reimburse the employee for approved fees of the conferences, provided the employee submits proper receipts.
- 3.6. **County Holidays** – The County Manager develops and implements holiday pay administration procedures consistent with applicable federal and state laws. The Board of Commissioners must approve the offerings of all County observed holidays.
- 3.6.1. **Eligibility:** The following employees are eligible to receive Holiday Pay:
- Full-time regular and grant funded employees and officers of the County working the standard workweek.
  - Each holiday equals no more than one normally scheduled shift.
  - Should an employee work additional hour on the holiday, that have been pre-approved by the Department Director, they will not earn additional holiday pay.
  - Part-time regular and grant funded employees are eligible to receive paid holidays on a pro-rata basis. This calculation will be based on their annually scheduled hours.
  - Temporary employees are not eligible to receive holiday pay.
- 3.6.2. **Banked Holiday:** Employees scheduled to work or who have received prior permission from their supervisor to work on a holiday, will receive banked holiday time for the hours actually worked on a county holiday.
- 3.6.3. **Approved County Holidays:**
- New Year's Day
  - Martin Luther King Jr. Birthday (Observed)
  - Easter
  - Memorial Day
  - Juneteenth (the Friday on or before Juneteenth)
  - Independence Day
  - Labor Day
  - Veteran's Day
  - Thanksgiving (2 days: Thanksgiving and the following Friday)

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- Christmas (3 days)

3.7. **Educational Leave with Pay** – A leave of absence at full or partial pay during regular working hours may be granted to a regular employee to take a course or courses which shall better equip the employee to perform assigned duties upon approval of the department head. The County shall reimburse the employee for tuition and fees for the course, provided the employee submits a receipt of course expenses and a notice of successful completion (passing grade or better) of the course. An employee on educational leave with full pay shall continue to earn leave credits and any other benefits to which the employee is entitled.

3.8. **Emergency Leave - Whenever the County Manager determines that the health and safety of the community would be placed at risk or that conditions or events prevent performance of regular operations, a decision will be made regarding the office hours of County offices.**

The County manager shall develop and implement procedures for this leave status.

3.9. **Family and Medical Leave (FMLA) and Paid Family Medical Leave (PFML)** – Family and medical leave shall be provided in compliance with the Family and Medical Leave Act of 1993, as amended (“FMLA”) and the rules and regulations of the U.S. Department of Labor concerning FMLA. The County manager shall develop and implement family and medical leave policies and procedures consistent with the FMLA.

3.10. **Funeral/Bereavement Leave** – Employees are eligible for funeral leave in the event of a death of an immediate family member not to exceed three (3) days. The three (3) days may not be consecutive or immediate due to funeral or internment circumstances. Requested leave exceeding the maximum days, in aggregate, may be charged to sick leave or leave without pay.

Immediate family members are defined as:

- the employee’s spouse
- the employee’s children or stepchildren, parents, grandparents, grandchildren, brothers, or sisters
- the employee’s spouse’s parents

Leave for death of other relatives may be charged to sick leave, annual leave, PTO or leave without pay.

The County manager shall develop and implement procedures for this leave status.

3.11. **Leave without Pay (LWOP)** – Regular employees may be granted a leave of absence without pay for compelling personal reasons for up to thirty (30) calendar days per year.

3.11.1. LWOP requests must be **submitted** to the department director and approved by the Human Resources Director using the **proper request form in Workday**.

3.11.1.1. If leave without pay is for a department director, the request should be submitted to the Human Resources Director and approved by the County Manager.

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- 3.11.2. Approval of leave will be based on many factors, including but not limited to, department needs, staffing levels, reason for the leave, employee's use of previous leave, performance history, and tenure with the County.
- 3.11.3. The employee is obligated to return to duty within or at the end of the time determined appropriate by the appointing authority. Upon returning to duty after being on leave without pay, the employee shall be entitled to return to the same position held at the time leave was granted or to one of like classification, seniority, and pay.
  - 3.11.3.1. If the employee decides not to return to work, the supervisor must be notified immediately of this decision, in writing.
  - 3.11.3.2. The supervisor/department director is then required to notify Human Resources.
- 3.11.4. Failure to report at the expiration of a leave of absence, unless an extension has been granted by the County Manager, shall be considered a voluntary resignation.
- 3.11.5. Retention and Continuation of Benefits
  - 3.11.5.1. An employee ceases to earn leave credits when their LWOP is 51% or more in a pay period.
  - 3.11.5.2. The employee may continue to be eligible for benefits under the County's group insurance plans, subject to any regulations adopted by the Board of County Commissioners and the regulations of the respective insurance carriers.
  - 3.11.5.3. While an employee is on paid leave, Buncombe County will continue the employee's insurance benefits during the leave period at the same level, and under the same conditions as if the employee had continued to work.
  - 3.11.5.4. While on paid leave, the employer will continue to make payroll deductions to collect the employee's share of the premium. If the employee is using unpaid leave, then the employee's portion of the benefit will be taken out of the employee's paycheck upon his/her return to work.
  - 3.11.5.5. If the employee chooses not to return to work for reasons other than a continued serious health condition of the employee or the employee's family member or a circumstance beyond the employee's control, Buncombe County will require the employee to reimburse Buncombe County the amount it paid for the employee's insurance premiums during the leave period.
  - 3.11.5.6. Buncombe County may recover the costs incurred for paying the employee's share of any premiums, whether or not the employee returns to work.

The County manager shall develop and implement procedures for this leave status.

- 3.12. Mandatory Court Appearances** – Leave with pay is provided to employees when serving on a jury or when subpoenaed as a witness in a case in connection with his/her official duties. At the completion of jury duty or as a witness, the employee is expected to immediately return to work. **While on jury duty or when subpoenaed as a witness in connection with the employee's official duties, benefits and leave shall accrue as though the employee were on regular duty.**

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- 3.12.1. Jury Duty –Regular employees called for jury duty in State or Federal Court shall receive leave with pay for such duty during the required absence.
  - 3.12.1.1. The employee must code this time on their timesheet as Jury Duty.
  - 3.12.1.2. The employee will not be required to account for any fee or compensation received for jury service.
  - 3.12.1.3. Temporary employees are not eligible for jury duty leave.
- 3.12.2. Witness – A regular employee subpoenaed as a witness in a case in State or Federal Court in connection with his/her official duties shall receive regular compensation for said court appearance. All witness fees received by the employee must be submitted to the County upon receipt.
- 3.12.3. Subpoena – employees who are subpoenaed as a witness in State or Federal Court in a case which is not related to their official duties must use annual leave or PTO leave during this absence.
  - 3.12.3.1. Witness fees and travel expenses are to be retained by the employee.

The County manager shall develop and implement procedures for this leave status

- 3.13. **Military Leave** – In accordance with federal and state laws, the County provides military leave to employees who are members of the uniformed services for absences to perform military duty, whether voluntary or involuntary. Absences to perform any military duty (including active duty, active-duty training inactive duty training such as scheduled drills and summer camp, full-time duty, fitness-for-duty examination, and funeral honors duty) are covered in the Military Leave Procedures document, unless the employee reaches the five-year maximum of military leave as established by the Uniformed Services Employment and Reemployment Rights Act (USERRA).

The County manager shall develop and implement procedures for this leave status.

- 3.14. **Parental Leave** – Regular employees of school aged children may take up to four hours of unpaid leave for participation in their child's school events and conferences. The leave must be planned with the Supervisor in advance. The supervisor may ask for written confirmation that the employee has attended the school event as planned.
- 3.15. **Personal Time Off (PTO)** – Full-time regular employees are granted two PTO days after they complete their first day of work and then on the first day of each calendar year. Any unused PTO at the end of the calendar year shall be forfeited. Part-time regular employees shall receive PTO on a pro-rata basis computed as a percentage of the total amount received by a full-time employee.

The County will not transfer PTO from another county, municipality, or state government. Upon an employee's resignation or termination, no payment shall be made for any remaining PTO and such PTO is forfeited.

The County manager shall develop and implement procedures for this leave status.

- 3.16. **Sick Leave** – All employees subject to the Local Government Employees' and Law Enforcement Officers' Retirement Systems who are in a pay status for ten (10) or more

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workdays are eligible for sick leave time that can be used to recover from physical/mental illness or injury.

- 3.16.1. Full time employees who work 40 hours or more each week earn sick leave at the rate of 3.6923 hours per payroll period or 12 days per year.
- 3.16.2. Part time employees whose normal work week is less than forty (40) hours per week shall earn sick leave proportionally on a pro-rata basis.
- 3.16.3. For employees that are scheduled to work twelve-hour (12) shifts, sick leave will be accrued based on twelve (12) shifts per year.

Sick leave may be used for:

- Physical or mental illness or injury which prevents an employee from performing usual duties and for the actual period of temporary disability
- Medical appointments
- Illness of a member of the employee's immediate family. For purposes of this section, immediate family shall be as defined under the Family and Medical Leave Act.

The employee must notify their supervisor no later than thirty (30) minutes before the beginning of the employees scheduled work shift. Emergency Services and Public Communication/911 employees must notify their supervisor no later than an hour and a half (90) minutes before the beginning of the employees scheduled work shift.

Sick leave shall be authorized in minimum increments of one-quarter ( $\frac{1}{4}$ ) hour periods.

The department director (or designee) may require a statement from a health care provider or other acceptable proof that the employee was unable to work due to personal illness, family illness, or medical appointment.

- Only scheduled workdays shall be charged in calculating the amount of leave taken. Holidays shall not be counted as sick leave unless that day is their normally scheduled shift.
- No payment shall be made for accumulated sick leave credits at the time of the employee's separation.

Unused sick leave shall be accepted for employees hired, rehired or reinstated within three (3) years of their last workday provided the employee earned sick leave while under the North Carolina's Employees' and Teachers' Retirement System, North Carolina Local Government Employees' Retirement System, or North Carolina Law Enforcement Officers' Retirement System. In consultation with the Human Resources Office, the Risk Manager will ensure that employees are credited with sick leave accrued during time lost due to on-the-job injuries.

After completion of the first six months of continuous employment, the County of Buncombe may allow a new County regular employee to transfer all days of previously accumulated sick leave accrued while employed by a State of North Carolina, County, or Municipal jurisdiction. Sick leave is allowed creditable service at the time of retirement to employees who are members of the N.C. Local Governmental Employees' Retirement System. One month of credit is allowed for each twenty days of unused sick leave when the employee retires and an additional month for any part of twenty days left over. Any conflict between this section and the LGERS regulations, the LGERS regulations shall prevail.

The County manager shall develop and implement procedures for this leave status.

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- 3.17. **Voluntary Shared Leave** – In catastrophic cases where an employee is without leave due to a prolonged medical condition, they may receive donated annual leave from other Buncombe County employees.

The County manager shall develop and implement procedures for this leave donation program.

**4. Policy Non-Compliance**

Employees willfully violating the terms and conditions of this policy may be subject to appropriate disciplinary action, up to and including dismissal.

**5. Audit**

All policies for Buncombe County may be subject to audit or review as outlined in the [Internal Auditor's Statement](#).

**6. Definitions**

- 6.1. Community Service Organization - A non-profit, non-partisan community organization that is designated as an IRS Code 501(c)(3) agency, or a human service organization licensed or accredited by the State of North Carolina to serve citizens with special needs including children, youth, and the elderly.
- 6.2. Family and Medical Leave (FMLA) - The Family and Medical Leave Act (FMLA) is a federal regulation that provides eligible employees with up to twelve (12) weeks of unpaid, job-protected leave per year.
- 6.3. Full time employee – for this policy, a full-time employee is defined as working at a minimum of forty (40) hours a week.
- 6.4. Immediate Family – is defined as the employee's spouse; the employee's children or stepchildren, parents, grandparents, grandchildren, brothers, or sisters; or the employee's spouse's parents. Regarding FMLA, the definition of immediate family member is defined by the US DOL.
- 6.5. Part time employee – for this policy, a part-time employee is defined as working a minimum of 20 - 39 hours a week.
- 6.6. Pro-rata accrual – Is where leave is calculated for accrual purposes proportionally based on the number of days/hours the employee works in a year.
- 6.7. School - An elementary school, a middle school, a high school, or a childcare program that is authorized to operate under the laws of the State of North Carolina
- 6.8. Uniformed Services Employment and Reemployment Rights Act (USERRA) is a federal law that protects military service members and veterans from employment discrimination on the basis of their service and allows them to regain their civilian jobs following a period of uniformed service.
- 6.9. Volunteer – A person who willingly chooses to perform hours of service for civic, charitable, or humanitarian reasons without promise or expectation of compensation for services provided

**7. Approval and Revision History**

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|                          |                                                                                                                                                                                                                                                                                                                                                 |
|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Policy Origination Date: | May 9, 2022                                                                                                                                                                                                                                                                                                                                     |
| Requires Board Approval: | <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No                                                                                                                                                                                                                                                                             |
| Board Approval Date:     | November 2, 2022                                                                                                                                                                                                                                                                                                                                |
| Revision History:        | 11/01/2022 - edited Community Service Leave<br>12/06/2022 – Added maximum accrual language, changed inclement weather leave to emergency closure leave. Added language regarding accruing annual leave, the manner of taking annual leave and annual leave payout upon separation. Adding language regarding the transferability of sick leave. |

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**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Consent Agenda**

**Department:** Legal & Risk  
**Presenter(s):** Michael Frue  
**Contact(s):** Michael Frue  
**Subject:** Resolution to Approve the Bonding of County Officials

**Brief Summary:** Various statutes come into play requiring bonding of County officials as a prerequisite to the performance of their duties. The applicable positions are tax collector, finance director, register of deeds, and sheriff. A blanket bond is included as a system of coverage for risks not protected against by individual bonds. The anniversary dates for County bonds is on or about the first Monday in December of each year. The only change this year is the statutory increase in the minimum amount of the performance bond for finance officers. Due to the amount of Buncombe County's annual budget the finance officer's bond is increased to \$1,000,000 from \$50,000. The remaining bonds will stay at previous levels.

**Recommended Motion & Requested Action:** Approve the Resolution to Approve the Bonding of County Officials.

**County Manager's comments and Recommendation:** Approve as presented.

Resolution # 22-12-01

RESOLUTION TO APPROVE THE BONDING OF COUNTY OFFICIALS

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- WHEREAS, North Carolina General Statutes § 105-349(c) requires a tax collector to provide a performance bond in such amount as the governing body may prescribe;
- WHEREAS, NCGS §159-29(a) requires the finance officer to provide a performance bond with sufficient sureties in an amount to be fixed by the governing board fixed by the governing board which may not be less than the greater of the following: (1) Fifty thousand dollars (\$50,000); or (2) an amount equal to ten percent (10%) of the unit's annually budgeted funds, up to one million dollars (\$1,000,000);
- WHEREAS, NCGS §159-29(b) requires each officer, employee or agent of a local government who handles or has in his custody more than one hundred dollars (\$100) of the unit's funds at any one time to provide a performance bond in an amount to be determined by the governing board;
- WHEREAS, NCGS §159-29(c) authorized a local government to adopt a system of blanket faithful performance bonding as an alternative to individual bonds;
- WHEREAS, this Board is of the opinion that it is more efficient and economical and in the best interest of the County to have a system of blanket bonding rather than individual bonds and to include in the blanket bond coverage for risks not protected against by the individual bond for elected officials, finance officers and tax collectors;
- WHEREAS, NCGS §161-4 requires every register of deeds to provide a performance bond with sufficient surety to be approved by the board of county commissioners, in the sum of not less than \$10,000 nor more than \$50,000;
- WHEREAS, NCGS §162-8 requires the sheriff to provide a performance bond in an amount determined by the board of county commissioners, but shall not to exceed \$25,000;
- WHEREAS, NCGS §58-72-55 requires the clerk of the board of commissioners to record in the proceedings the names of those commissioners who are present at the time of approval of official bonds and who voted for such approval; and
- WHEREAS, NCGS §58-72-55 further provides that any commissioner may cause their written dissent to an official bond to be entered into the records of the board.

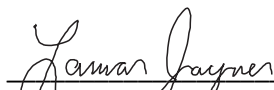
NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

1. That this Board hereby accepts and approves bonds for public officials as follows:
  - a. Jennifer Lea Pike, Tax Collector \$100,000.00 with Cincinnati Insurance Company;
  - b. Donald P. Warn, Finance Director \$1,000,000.00 with Cincinnati Insurance Company;
  - c. Andrew Mark Reisinger, Register of Deeds, \$10,000.00 with Cincinnati Insurance Company;
  - d. Quentin Edward Miller, Sheriff, \$20,000.00 with Western Surety Company; and
  - e. Blanket bond covering all officers, employees and agents \$250,000.00 with Travelers Casualty & Surety Co. of America.
2. That pursuant to NCGS 58-72-55, the Clerk is hereby instructed to record the names of all Commissioners present at this meeting and who voted in favor of this resolution.
3. That pursuant to NCGS 58-72-55, any Commissioner who votes against this resolution may cause their written dissent to be entered into the record of the Board.
4. All acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.
5. Any prior resolutions or parts thereof of the Board in conflict with the provisions herein contained are, to the extent of such conflict, hereby superseded and repealed.
6. That this resolution is effective upon adoption.

This the 5<sup>th</sup> of December, 2022.

ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

  
Lamar Joyner, Clerk

By:   
Brownie Newman, Chairman

APPROVED AS TO FORM

  
County Attorney



**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Consent Agenda**

**Department:** General Services

**Presenter(s):** Ronnie Lunsford

**Contact(s):** Ronnie Lunsford, General Services

**Subject:** Design Consultant Contract with Civil Design Concepts, P.A., for the demolition of the Haynes Tower on the A-B Tech Enka Campus

**Brief Summary:** The A-B Tech Board of Trustees, the Joint Advisory Committee, and the Buncombe County Commissioners previously approved funding for the demolition of the Haynes Tower building on A-B Tech's Enka Campus. To successfully demolish the building, the County and A-B Tech released a request for qualifications (RFQ) to seek candidates interested in preparing demolition documents for the project. From that RFQ, Civil Design Concepts was selected. The documents and work provided by the firm will include:

- Facilitating a report to identify, and guide remediation for, hazardous materials such as asbestos and mold.
- Ensuring all utilities are disconnected properly and in accordance with applicable laws and codes.
- Preparation of engineered demolition documents.
- Preparation of bid document and facilitation of a formal bid to select a demolition contractor.
- Working with A-B Tech Emergency Services Division to assist with training opportunities before demolition.
- Work with the County and the contractor to develop a plan for maximizing the recycling of materials and minimizing the material going to the landfill.
- Ensuring the owner is left with a safe and sustainable site once demolition is complete.

**Recommended Motion & Requested Action:** Approve the contract with Civil Design Concepts, P.A.

**County Manager's comments and Recommendation:** County Manager recommends as presented

**AGREEMENT FOR  
DESIGN CONSULTANT SERVICES**

This Agreement for Design Consultant Services is made, and entered into this the 31st day of October 2022, by and between the **COUNTY OF BUNCOMBE**, a political subdivision of the State of North Carolina, (hereinafter "OWNER"), and Civil Design Concepts, P.A., (hereinafter "DESIGNER" or "DESIGN CONSULTANT"), whose principal place of business is: 168 Patton Avenue, Asheville, NC 28801.

For Professional Services in connection with the Project known as:  
Buncombe County Government  
AB Tech Enka Campus Demolition Project

The Owner and the Design Consultant hereby agree as set forth below:

**1. ARTICLE 1  
DEFINITIONS**

The following words and phrases where appearing in initial capitalization, shall for the purposes of this Agreement have the following meanings:

- 1.1. Project. The Project shall be as described above.
- 1.2. Services. The Services to be performed by the Design Consultant under this Agreement shall consist of the Basic Services described in Article 3 and Article 7 and any other services in the Contractor Documents as part of the Basic Services, and include normal structural, mechanical and electrical architectural design services.
- 1.3. Construction Contract Documents. The Construction Contract Documents shall consist of the plans and specifications prepared by the Design Consultant, and any addenda and change orders thereto, and the Construction Contract between Owner and Contractor, all of which shall be compatible and consistent with this Agreement, which shall Control if there is a conflict.
- 1.4. Construction Costs. The Construction Costs shall be the total cost or estimated cost to the Owner of all elements of the Project designed or specified by the Design Consultant. The Construction Cost shall include the cost at current market rates of labor and materials furnished by the Owner and equipment designed, specified, selected or specially provided for by the Design Consultant, plus a reasonable allowance for the Contractor's overhead and profit. In addition, a reasonable allowance for contingencies shall be included for market conditions at the time of bidding and for changes in the Work during construction. Construction Costs do not include the compensation of the Design Consultant and its consultants, the costs of the land, rights-of-way, financing or other costs which are the responsibility of the Owner as provided in Article 6.
- 1.5. Contractor. The Contractor is the person or entity which enters into an agreement with the Owner to perform the construction of any or all of the Project, including, without limitation, the providing of labor, materials, and equipment incorporated or to be incorporated into the Project. The term "Contractor" means the Contractor or its authorized representative, but excludes the Owner's Representative and the Design Consultant.

- 1.6. Basic Services Compensation. Basic Services Compensation shall be the lump sum fee designated in Article 4 to be paid by the Owner to the Design Consultant in connection with the performance of the Basic Services by the Design Consultant.

## **2. ARTICLE 2 RELATIONSHIP OF THE PARTIES**

- 2.1. Design Consultant Services. The Design Consultant shall provide professional engineering services for the Project in accordance with the terms and conditions of this Agreement and all applicable codes and laws. The Design Consultant's performance of services shall be as professional consultant to the Owner to carry out the activities of Project design and construction administration and to provide the technical documents and supervision to achieve the Owner's Project objectives.
- 2.2. Owner Representation. The Owner shall designate a Project Manager to serve as the Owner's Representative. The Owner's Representative has no design responsibilities of any nature. None of the activities of the Owner's Representative supplant or conflict with the design, budget or any other services and responsibilities customarily furnished by the Design Consultant or sub-consultants in accordance with generally accepted architectural/engineering practices except as otherwise modified by this Agreement. Instructions by the Owner to the Design Consultant relating to services performed by the Design Consultant will be issued or made by or through and in accordance with procedural, organizational, and documentation standards established by the Owner's Representative. Communications and submittals of the Design Consultant to the Owner and Contractor shall be in writing and issued or made in accord with similar procedural and documentation standards established by the Owner's Representative. The Owner's Representative shall have the authority to establish procedures, consistent with this Agreement, to be followed by the Design Consultant and Contractor and to call periodic conferences to be attended by the Design Consultant, and his sub-consultants, throughout the term of this Agreement.
- 2.3. Other Consultants. The Owner may provide drawings, consultation, recommendations, suggestions, data and/or other information relating to the Project from other Consultants under separate contract with the Owner, including but not limited to: Surveyor, Utility Locating Service, Geo-technical Consultant, CMARs, and/or Materials Testing Consultant. The Design Consultant is responsible for the coordination of survey, existing utility location, geo-technical services, and/or material testing, including all coordination with surveyor, soils engineers, utility locating contractor, City and/or County officials, and CMARs, if any, required for Project.
- 2.4. Design Consultant Representation.
  - 2.4.1. The Design Consultant shall provide a list of all consultants (and sub-consultants if applicable) which the Design Consultant intends to utilize on the Project prior to commencing work on the Project. The list shall include such information on the qualifications of the consultants as may be requested by the Owner. The Owner will review the consultants proposed. The Design Consultant shall not retain a consultant to which the Owner has a reasonable objection. The Design Consultant shall use individuals or firms that are licensed and regularly engaged in the fields of expertise required for this Project.
  - 2.4.2. All agents and workers of the Design Consultant and its sub-consultants shall be prepared to provide identification at all times they are on the Owner's property including, at a minimum, the company name and telephone number and name. The County reserves the right to require identification badges that contain the information above.

- 2.4.3. The Design Consultant shall receive, compile and report all M/WBE participation of all of its sub-consultants and vendors of this project in a format acceptable to Owner at the commencement of design, and on a monthly basis, should any change from the preliminary submission occur.
- 2.5. Division of Responsibilities/Services. The Design Consultant understands and agrees that should the Owner's Representative or other consultant provide the Design Consultant with any estimating assistance, cost or time control recommendations or other consultation, recommendations or suggestions, any or all such activities on the part of the Owner's Representative, consultant, or any other representative of the Owner shall in no way relieve the Design Consultant of the responsibility of fulfilling its obligations and responsibilities under this Agreement.
- 2.6. Compliance with Laws. Design Consultant represents that it is in compliance with all applicable Federal, State, and local laws, regulations or orders, as amended or supplemented, including Chapter 64 Article 2 of the North Carolina General Statutes regarding the verification of work authorization. The implementation of this Contract shall be carried out in strict compliance with applicable Federal, State, or local laws.

### 3. ARTICLE 3 BASIC SERVICES

#### 3.1. Scope of Services.

- 3.1.1. The Basic Services to be provided by the Design Consultant shall be performed in the phases described hereinafter which have as their objective design and construction administration of the Project. The Basic Services shall be performed in accordance with the standard of care set forth in this Agreement. The final product shall be suitable for the Owner's purposes, satisfy the Owner's requirements, comply with all applicable codes and laws, and be completed on a timely basis and within the approved budget.
- 3.1.2. The Design Consultant's services shall be performed as expeditiously as necessary for the orderly progress of the Work. The Design Consultant shall submit for the Owner's approval a schedule for the performance of the Design Consultant's services which may be adjusted as the Project proceeds, and shall include allowances for periods of time required for the Owner's review and for approval of submissions by authorities having jurisdiction over the Project. Time limits established by this schedule approved by the Owner shall not, except for reasonable cause, be exceeded by the Design Consultant.
- 3.1.3. Upon authorization from the Owner to proceed, and based on the approved Design Narrative, the Design Fee, and Preliminary Programming, the Design Consultant shall prepare **Schematic Design Documents** consisting of drawings and other documents illustrating the design concept, scale and relationship of the Project components, for approval by the Owner.

#### 3.2. **Design Development Phase.**

- 3.2.1. Based on the approved Schematic Design Documents and any adjustments authorized by the Owner in the program, schedule or construction budget, the Design Consultant shall prepare, for approval by the Owner, Design Development Documents consisting of drawings and other documents to fix and describe the size and character of the project as to, structural, mechanical and electrical systems, materials and such other elements as may be appropriate.

- 3.2.2. The Design Consultant shall advise the Owner of any adjustments to the preliminary estimate of Construction Costs

**3.3. Construction Document Phase.**

- 3.3.1. Upon written authorization from the Owner to proceed, the Design Consultant shall prepare from the approved Design Documents, working drawings and Specifications setting forth in detail the requirements for the construction of the entire Project. The Design Consultant shall assist the owner in the preparation of the necessary bidding information, bidding forms, the Conditions of the Contract, and the form of Agreement between the Owner and Contractor.
- 3.3.2. The Design Consultant shall assist the Owner in connection with the Owner's responsibility for filing documents required for the approval of governmental authorities having jurisdiction over the Project.
- 3.3.3. The Design Consultant shall be responsible for, and shall hold the Owner harmless for, any and all claims or damages due to the negligence of the Design Consultant or his employees in the preparation of the Construction Documents.

**3.4. Permitting and Bidding/Negotiation.**

- 3.4.1. The Design Consultant, following the Owner's approval of the Construction Documents and of the latest preliminary estimate of Construction Costs, shall assist the Owner in obtaining bids or negotiated proposals and assist in awarding and preparing contracts for construction.
- 3.4.2. The Design Consultant shall coordinate and document the reproduction, distribution and retrieval of the bidding documents. Further, the Design Consultant shall coordinate and document the collection and return of deposits or payments. In addition to the bidders, documents shall be issued to all required code authorities, contractors, plan room, services, and others, as the Owner designates.
- 3.4.3. *Intentionally left blank for numbering purposes.*
- 3.4.4. The Design Consultant shall request, expedite and submit all information necessary to obtain all necessary permits, licenses and approvals, required for the Project.
- 3.4.5. The Design Consultant shall prepare such clarifications and addenda to the bidding documents as may be required. The Design Consultant will provide these to the Owner for review prior to issuance to all holders of bid documents.
- 3.4.6. The Design Consultant will schedule and conduct a Pre-Bid Conference with prospective bidders to review the Project. The Design Consultant shall provide knowledgeable representatives, including representatives of its consultants, to participate in these conferences to explain and clarify Bidding Documents. Within two (2) days after the Pre-bid Conference the Design Consultant shall deliver to the Owner, if needed, a final Addendum.

- 3.4.7. The Design Consultant shall prepare a certified bid tabulation and recommendation to the Owner concerning the Contract Award.
- 3.4.8. If the estimated Construction Costs are exceeded by the lowest bona fide bid or negotiated proposal, the Owner shall, i) give written approval of an increase in such fixed limit, ii) authorize rebidding or renegotiating of the project within a reasonable time, iii) abandon the Project and terminate in accordance with Article 12, OR iv) participate with the Design Consultant in such re-bidding, re-negotiation, and re-design, at no additional expense to the Owner, as may be necessary to obtain price(s) within the approved budget or price(s) acceptable to the Owner. All re-design must be approved by the Owner. The Design Consultant, without additional charge, shall modify the Contract Documents as necessary to comply with the fixed limit, if established as a condition of this Agreement
- 3.4.9. Should the Design Consultant re-design or conduct re-bidding under its responsibilities set out in the preceding paragraph, its' Construction Phase and Post Construction Phase services shall be extended to take re-design/re-bid delays into account at no additional expense to the Owner.
- 3.4.10. The Design Consultant shall assist the Owner's Representative in the preparation of the Agreement(s) between Owner and Contractor(s) for the Owner's execution. The Owner's Representative will coordinate award(s) and Notice(s) to Proceed for the Owner.

### **3.5. Construction Phase.**

- 3.5.1. The Construction Phase for each portion of the Project will commence with the award of the Construction Contract and will terminate when the Owner makes the Final Completion payment to the Contractor.
- 3.5.2. The Design Consultant shall consult with the Owner and participate in all decisions as to the acceptability of subcontractors and other persons and organizations proposed by the Contractor for various portions of the work.
- 3.5.3. The Design Consultant shall receive, compile, track and report all W/MBE participation of all contractors, sub-contractors and vendors of this project in a format acceptable to Owner. Reports will be made to the Owner on a monthly basis, utilizing a pay application cover sheet to be supplied and certified by the contractor (format to be provided by Owner).
- 3.5.4. The Design Consultant shall review and approve the Work performed by the Contractor(s) for conformance with Contract Documents.
- 3.5.5. The Design Consultant shall provide necessary Project drawings, in electronic format, to the electrical or data contractor for creation of data "as built" submittal and approval drawings, and to the general contractor for site layout/staking.
- 3.5.6. The Design Consultant shall conduct Pre-installation meetings to review the installation procedures prior to the placement of the work.
- 3.5.7. The Design Consultant shall, when requested by the Owner's Representative, prepare Change Order documentation.

- 3.5.8. The Design Consultant shall render to the Owner's Representative, within two (2) working days unless otherwise authorized by the Owner's Representative, interpretations of requirements of the Contract Documents. The Design Consultant shall make all interpretations consistent with the intent of and reasonably inferable from the Contract Documents.
- 3.5.9. Should errors, omissions or conflicts in the specifications or other Contract Documents by the Design Consultant be discovered, the Design Consultant will prepare and submit to the Owner's Representative, within two (2) working days unless otherwise authorized by the Owner's Representative, such amendments or supplementary documents and provide consultation as may be required, for which the Design Consultant shall make no additional charges to the Owner.
- 3.5.10. The Owner's Representative shall be the point of contact for the Owner, except when the Owner shall direct otherwise. All instructions to the Contractor(s) shall be issued by the Design Consultant except when is directed otherwise by the Owner's Representative.
- 3.5.11. The Design Consultant will have access to the Work at all times. All site visits, observations and other activities by the Design Consultant shall be coordinated with the Owner's Representative and written report of such visits made promptly to the Owner's Representative.
- 3.5.12. The Design Consultant shall make such periodic visits to the Project sites as may be necessary to familiarize themselves generally with the progress and quality of the Work and to determine in general if the Work is proceeding in accordance with the Contract Documents. On the basis of such on-site observations, the Design Consultant and its consultants shall take the appropriate steps to guard the Owner against defects and deficiencies in the Work of the Contractor. If the Design Consultant observes any work that does not conform to the Contract Documents, the Design Consultant shall immediately make an oral and written report of all such observations to the Owner's Representative. The Design Consultant shall not be required to make exhaustive or full-time on-site observations to check the quality or quantity of the Work, but shall make as many observations as may be reasonably required to fulfil their obligations to the Owner. The Design Consultant shall not be responsible for construction means, methods, techniques, sequences or procedures, or safety precautions and programs in connection with the Work.
- 3.5.13. The Design Consultant shall immediately notify the contractor and Owner in writing if the Project falls more than fourteen (14) days (or the number of days set by the County in the preconstruction meeting, which number shall be recorded in the minutes of said meeting) behind schedule. The Design Consultant shall immediately request a recovery plan from the contractor and make appropriate written recommendation to the Owner.
- 3.5.14. Based upon observations at the site and upon the Contractor's applications for payment, the Design Consultant shall determine the amount owing to the Contractor(s), pursuant to the terms of the Owner/Contractor Agreement, and shall issue Certificates for Payment to the Owner in such amounts. The Design Consultant's signing of a Certificate of Payment shall constitute a representation by the Design Consultant to the Owner, based upon the Design Consultant's observations at the site and the data comprising the Application for Payment, that the Work has progressed to the point indicated, that to the best of the Design Consultant's knowledge, information and belief, the quality of the Work appears to be in accordance with the Contract Documents (subject to: an evaluation of the Work for

conformance with the Contract Documents upon Substantial Completion; the results of any subsequent tests required by the Contract Documents; minor deviations from the Contract Documents correctable prior to completion; and to any specific qualifications stated in the Certificate for Payment), and that the Contractor is entitled to payment in the amount certified. By signing a Certificate for Payment to the Owner, the Design Consultant shall not be deemed to represent that it has made any examination to ascertain how and for what purpose the Contractor has used the monies paid on account of the Construction Contract Sum.

- 3.5.15. If, in accordance with its duty, the Design Consultant advises the Owner's Representative of non-conforming work as stated in subparagraph 3.5.12, the Design Consultant shall confirm the non-conformance in writing to the Owner's Representative within two (2) days of observation.
- 3.5.16. The Design Consultant and the Owner's Representative jointly shall have authority to condemn or reject Work on behalf of the Owner when in the Owner's Representative's or the Design Consultant's opinion the Work does not conform to the Contract Documents. Whenever in the Owner's Representative's or the Design Consultant's reasonable opinion it is considered necessary or advisable to insure the proper implementation of the intent of the Contract Documents, the Owner's Representative shall have the authority to require special inspection or testing of any Work in accordance with the provisions of the Contract Documents whether or not such Work is fabricated, installed or completed.

### **3.6. Final Completion of Design Services.**

- 3.6.1. When the Contractor notifies the Design Consultant that the Work is substantially complete, the Design Consultant and its consultants shall inspect the Work and prepare and submit to the Owner's Representative lists of the Work of the Contractor(s) which is not in conformance with the Contract Documents. The Design Consultant shall transmit such lists to the Contractor(s). The Owner may request that the Design Consultant inspect and prepare a list on any portion of the Work.
- 3.6.2. The Design Consultant shall receive, compile, and report all W/MBE participation of all contractors, sub-contractors and vendors of this project, utilizing a pay application cover sheet to be supplied and certified by the contractor (format to be provided by Owner).
- 3.6.3. The Design Consultant and its consultants shall conduct up to two (2) comprehensive Final Completion inspections at the request of the Owner. If more than two (2) Final Completion inspections are required, through no fault of the Design Consultant, the additional inspections shall be deemed additional services.
- 3.6.4. The Design Consultant shall obtain from the Contractor(s) drawings, prints, and other data necessary for the accurate preparation of the record drawings.
- 3.6.5. The Design Consultant shall make a recommendation in writing to the Owner regarding liquidated damages for each contractor, as may be applicable.
- 3.6.6. Upon correction of the deficiency reports and acceptance of all other close-out submittals and certificates of the Contractor, the Owner's Representative and the Design Consultant shall review and approve the Application for Final Payment and forward it to the Owner

for execution. In addition, the Design Consultant shall certify in writing that the work conforms to the Contract Documents. The Design Consultant shall issue AIA Substantial Completion Certificates for each Contractor.

**3.7. Serving as Witness.**

3.7.1. The Design Consultant shall provide testimony in public hearings, arbitration proceedings, and legal proceedings, and such testimony shall be provided without additional fee or charge to the Owner unless said testimony is requested by the Owner and consists of expert testimony not related to this Project or Work.

**3.8. Construction Warranty.**

3.8.1. The Design Consultant and its consultants shall assist the Owner in resolution of warranty issues as may be required to determine responsibility for deficiencies. The Design Consultant and its consultants shall conduct an inspection of the project one (1) month prior to warranty expiration and provide to the Owner a written report specifying any warranty deficiencies which may exist.

**4. ARTICLE 4  
COMPENSATION**

**4.1. Basic Services Compensation.**

The Owner shall compensate the Design Consultant in accordance with the terms and conditions of this Agreement, including the following:

4.1.1. For the Basic Services of the Design Consultant, Basic Services Compensation shall be in the amount of \$210,500.00.

4.1.2. In the event the Owner requests changes to the Project or elects not to complete the work or any portion thereof, which would decrease the most recently approved CCAP, basic compensation due the Design Consultant, as to such deletion or decrease, shall be adjusted downwards for remaining services to be performed but not for services already performed to the date of receipt by the Design Consultant of the written requested change or notice of the intent not to complete part or all of the work, in accordance with the basic payment schedule set forth in Paragraph 4.2 hereof.

4.1.3. The Basic Services Compensation stated in Paragraph 4.1.1 includes all compensation and other payments due the Design Consultant (manpower, overhead, profit, direct costs, travel, copies, postage, telephone and facsimile service, etc.) in the performance of the Basic Services.

**4.2. Payments to the Design Consultant.**

Payments on account of the Design Consultant shall be made as follows:

4.2.1. Payments for Basic Services, including any design phase change orders, shall be made in proportion to services performed so that the compensation at the completion of each Phase shall equal the following percentages of the Basic Services Compensation.

Payment shall be made upon presentation of the Design Consultant's statement of services, fully supported by invoices, time cards, and certifications that all sub-consultants have been paid, and other documentation as requested by the Owner.

|                                                              |      |
|--------------------------------------------------------------|------|
| Schematic Design Phase                                       | 15%  |
| Design Development Phase                                     | 20%  |
| Construction Documents Phase                                 | 40%  |
| Permitting and Bidding/Negotiation Phase                     | 5%   |
| Construction Administration (to include Close Out Documents) | 20%  |
| Final Completion of Design Services Phase                    | 100% |

4.2.2. No deductions shall be made from the Design Consultant's Basic Services Compensation on account of penalty, liquidated damages, retainage or other sums withheld from payments to Contractor.

4.2.3. Deductions may be made from the Design Consultant's Basic Services Compensation on account of errors and omissions in the drawings, specifications and other documents prepared by the Design Consultant or in the Design Consultant's performance of its obligations under this Agreement.

4.3. Additional Services Compensation.

4.3.1. With respect to any Additional Services, as described in Article 7 herein, performed by the Design Consultant hereunder, the Design Consultant and Owner shall negotiate an equitable adjustment to the Basic Services Compensation. However, if negotiations are not successful prior to the time the additional services are needed, the Owner may direct the Design Consultant to proceed with the Additional Services on a time spent basis with Additional Services Compensation to be computed as follows:

4.3.2. Principals' time at the fixed rate as stated in the proposal submitted by the designer and attached as Exhibit A.

4.3.3. Payments for Additional Services of the Design Consultant shall be made upon presentation of the Design Consultant's statement of services, fully supported by invoices, time cards, and other documentation as requested by the Owner.

4.4. Accounting Records.

4.4.1. Records of the Design Consultant with respect to Additional Services and payroll, and consultant and other expenses (including Reimbursable Expenses) pertaining to the Project, shall be kept according to generally accepted accounting principles and shall be available to the Owner or its authorized representative for inspection and copying at mutually convenient times.

## **5. ARTICLE 5 PERIOD OF SERVICE**

5.1. Unless earlier terminated as provided in Article 12 hereof, this Agreement shall remain in force for a period which may reasonably be required for the Basic Services and Additional Services hereunder. However, the provisions of the Agreement relating to Professional Responsibility

Construction Warranty; Professional Liability coverage; Indemnification; and Ownership of Documents/Confidential Information shall remain in effect after termination of the other provisions of the Agreement.

- 5.2. Time is of the essence in this Agreement.

## **6. ARTICLE 6 OWNER'S RESPONSIBILITIES**

- 6.1. The Owner shall provide full information regarding the requirements for the Project.
- 6.2. The Owner shall examine documents submitted by the Design Consultant and shall render decisions pertaining thereto promptly, to avoid unreasonable delay in the progress of the Design Consultant's Services.
- 6.3. If required for this Project, the Owner shall furnish a certified land survey of the Project sites, giving as applicable, grades and lines of streets, alleys, pavements and adjoining property; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and data pertaining to existing buildings, other improvements and trees; and full information concerning available service and utility lines, both public and private, above and below grade, including inverts and depths. All associated work will be coordinated by Design Consultant as part of the Basic Services.
- 6.4. The Owner shall pay for the services of a soils engineer or other consultant, when such services are deemed necessary by the Design Consultant or Owner's Representative, to provide reports, test borings, test pits, soil bearing values, percolation tests, air and water pollution tests, ground corrosion and resistivity tests and other necessary operations for determining subsoil, air and water conditions, with appropriate professional interpretations thereof. All associated work will be coordinated by Design Consultant as part of the Basic Services.
- 6.5. All services, information, surveys and reports required of the Owner shall be furnished at the Owner's expense.
- 6.6. If the Owner so directs, the Owner shall pay for and the Design Consultant shall request, expedite, and obtain all necessary permits, licenses, approvals, easements, assessments, and charges required for the construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

## **7. ARTICLE 7 ADDITIONAL SERVICES**

- 7.1. If any of the following Additional Services are authorized in advance by the Owner in writing, the Design Consultant shall furnish or obtain from others the authorized Additional Services. If authorized in advance, in writing by the Owner, the Design Consultant shall be paid for these Additional Services by the Owner pursuant to Article 4.3, to the extent they exceed the Basic Services under this Agreement. Additional Services may include:
- 7.1.1. Providing fully detailed presentation models or presentation renderings, not included in Basic Services.
- 7.1.2. Providing financial feasibility or other special studies, not included in Basic Services.

- 7.1.3. Providing planning surveys or alternative site evaluations.
- 7.1.4. Providing services after payment by the Owner of the Final Payment to the Design Consultant other than services called for in the Basic Services.
- 7.1.5. Providing any other services not otherwise included in this Agreement or not customarily furnished in accordance with generally accepted architectural practices consistent with the terms of this Agreement.

## 8. ARTICLE 8

### NOTICES

- 8.1. Any notice required by this Agreement or other communications to either party by the other shall be in writing and deemed given when delivered personally or when deposited in the United States Post Office, first class, postage prepaid, addressed as follows, or to such other address as shall be duly given by notice meeting the requirement of this Article.

To Owner: Buncombe County  
Attn: General Services Department  
40 McCormick Place  
Buncombe, NC 28801

To Design Consultant: Civil Design Concepts, P.A.  
168 Patton Avenue  
Asheville, NC 28801

## 9. ARTICLE 9 INSURANCE

- ### 9.1. Insurance

- 9.1.1. Design Consultant agrees their insurance policies shall be endorsed evidencing the minimum insurance coverage and limits set forth below prior to the Owner's signing of this Agreement. The insurance coverage and limits set forth below shall be deemed minimum coverage limits and shall not be construed in any way as a limitation on Design Consultant's duty to carry adequate insurance. The insurance coverage and limits set forth below shall not act as, be construed, or deemed to be a limitation on the liability of Design Consultant, for losses or damages under this Agreement. The minimum insurance coverage which the Design Consultant shall procure and maintain at its sole cost and expense during the term of the Agreement is as follows:

**Worker's Compensation.** Coverage at the statutory limits in compliance with applicable State and Federal laws. Design Consultant shall ensure that any subcontractors also have workers compensation coverage at the statutory limits.

**Employer's Liability.** Coverage with minimum limits of \$1,000,000 each employee accident and \$1,000,000 each employee disease.

**Commercial General Liability.** Insurance covering all operations performed by the Design Consultant with a minimum limit of \$1,000,000 per occurrence with a \$2,000,000 aggregate.

**Professional Liability.** Insurance covering the Design Consultant for acts, errors, or omissions in performance of the Agreement with a minimum limit of \$1,000,000 per claim for projects under \$15,000,000 and a minimum limit of \$2,000,000 per claim for projects over \$15,000,000.

**Business Automobile Liability.** Insurance covering all owned, non-owned, and hired vehicles used in performance of this Agreement. The minimum combined single limit per occurrence shall be \$1,000,000 and shall include uninsured/underinsured motorist coverage per N.C. Gen. Stat. § 20-279.21.

**Umbrella/Excess Liability.** If the underlying liability policy limits are less than those required, Design Consultant may provide an excess or umbrella policy to meet the required limits of insurance. The excess or umbrella policy shall extend coverage over the underlying professional liability policy. Any additional insured under any policy of the underlying insurance will automatically be an additional insured under this insurance.

#### **Additional Insurance Provisions.**

If the Design Consultant maintains higher limits than the minimums shown above, the County requires and shall be entitled to coverage for the higher limits maintained by the Design Consultant. Any available insurance proceeds in excess of the specified minimum limits of insurance and coverage shall be available to the County.

The Design Consultant shall provide the County with certificates of insurance evidencing the above amounts. Buncombe County and General Services Department shall be named as additional insureds under the commercial general liability and business automobile liability policy(s). Before commencing work and for any subsequent renewals, the Design Consultant shall furnish the County with certificates of insurance on an approved form.

Each insurance policy required above shall state that coverage shall not be canceled, except with written notice to the County, delivered in accordance with the policy provisions. All insurance shall be procured from reputable insurers authorized and qualified to do business in North Carolina and in a form acceptable to the County.

Design Consultant shall require and verify that all subcontractors maintain insurance meeting all the requirements stated herein, and Design Consultant shall ensure that Buncombe County and General Services Department are additional insureds on insurance required from subcontractors.

The Design Consultant shall maintain in force during the performance of this contract and for six (6) years after final completion of the Project, the Professional Liability insurance coverage referenced above.

**Waiver of Subrogation:** Design Consultant hereby grants to County a waiver of any right to subrogation which any insurer of said Design Consultant may acquire against the County by virtue of payment of any loss under such insurance. Design Consultant agrees to obtain any endorsement that may be necessary to affect this waiver of subrogation.

The limits of coverage under each insurance policy maintained by the Design Consultant shall not be interpreted as limiting the Design Consultant's liability and obligations under this Agreement.

- 9.2. Notwithstanding the foregoing, nothing contained in this Article 9, nor this Contract, shall be deemed to constitute a waiver of the sovereign immunity of the Owner, which immunity is hereby reserved by the Owner.

#### **10. ARTICLE 10 INDEMNIFICATION**

- 10.1. Notwithstanding anything to the contrary contained herein, the Design Consultant shall indemnify and hold harmless the Owner and their agents and employees from and against all claims, damages, losses and expenses, including but not limited to attorney's fees, arising out of or resulting from (1) the Design Consultant's negligent performance or failure to perform its obligations under this Agreement and (2) any claim, damage, loss or expense attributable to bodily injury, sickness, disease or death, or to injury to or destruction of personal and/or real property including the loss of use resulting wherefrom and caused by any negligent act or omission of the Design Consultant, anyone directly or indirectly employed by the Design Consultant or anyone for whose acts the Design Consultant may be liable. Such obligation shall not be construed to negate, abridge or otherwise reduce any other right or obligation of indemnity which would otherwise exist as to any party or person described in this Article.
- 10.2. Except as otherwise set forth in this Agreement, the Design Consultant and the Owner shall not be liable to each other for any delays in the performance of their respective obligations and responsibilities under this Agreement which arise from causes beyond their control and without their fault or negligence, including but not limited to, any of the following events or occurrences: fire, flood, earthquake, epidemic, atmospheric condition of unusual severity, war, and strikes. Owner shall not be liable to the Design Consultant for acts or failures to act by the Contractor.

#### **11. ARTICLE 11 DISPUTE RESOLUTION PROCEDURE**

- 11.1. To prevent disputes and litigation, it is agreed by the parties that any claim or dispute between the Owner and the Design Consultant, that any claim, dispute, or other matter in question arising out of or related to this Agreement shall be subject to voluntary non-binding mediation as a condition precedent to the institution of legal or equitable proceedings by either party. If the parties are unable to agree upon a certified mediator to hear their dispute, the President of the Buncombe County Bar Association shall name a mediator to hear the matter. During the pendency of any dispute and after a determination thereof, the parties to the dispute shall act in good faith to mitigate any potential damages including utilization of construction schedule changes and alternate means of construction. The costs of the process shall be divided equally between the parties to the dispute.
- 11.1.1. The mediation session shall be private and shall be held in Buncombe County, North Carolina or in another North Carolina County agreed upon by both parties. Mediation under this Article 11 shall not be the cause for a delay of the Project which is the focus of the dispute.
- 11.2. If, as a result of mediation, a voluntary settlement is reached and the parties to the dispute agree that such settlement shall be reduced to writing, the Mediator shall be deemed appointed and constituted an arbitrator for the sole purpose of signing the mediated settlement agreement. Such agreement shall be, and shall have the same force and effect as an arbitration award, and judgment may be entered upon it in accordance with applicable law in any court of competent jurisdiction.

- 11.3. If the disputed issue cannot be resolved in mediation or either party disagrees with the results of the mediation, the parties may seek resolution in the General Court of Justice in the County of Buncombe and the State of North Carolina. If a party fails to comply in strict accordance with the requirements of this Article, the non-complying party specifically waives all of its rights provided hereunder, including its rights and remedies under State law.

## **12. ARTICLE 12 TERMINATION, SUSPENSION OR ABANDONMENT**

- 12.1. If either party shall substantially fail to perform in accordance with the terms of this Agreement through no fault of the other party, the non-breaching party may terminate this Agreement by delivering seven (7) days' written notice of termination.
- 12.2. If the project is suspended by the Owner for more than thirty (30) consecutive days, the Design Consultant shall be compensated for services performed prior to notice of such suspension.
- 12.3. This Agreement may be terminated by the Owner upon not less than seven (7) days' written notice to the Design Consultant in the event that the project is permanently abandoned. If the Project is abandoned by the Owner for more than ninety (90) consecutive days, the Design Consultant may terminate this Agreement by giving written notice.
- 12.4. If the Owner fails to make payment when due the Design Consultant for services and expenses, the Design Consultant may, upon seven (7) days' written notice to the Owner, suspend performance of services under this Agreement. Unless payment in full is received by the Design Consultant within seven days of the date of the notice, the suspension shall take effect without further notice. In the event of a suspension of services, the Design Consultant shall have no liability to the Owner for delay or damage caused the Owner because of such suspension of services.
- 12.5. In the event of termination not the fault of the Design Consultant, the Design Consultant shall be compensated for services performed prior to termination, together with Reimbursable Expenses then due. This shall be the exclusive remedy for termination.
- 12.6. Owner shall have no liability to the Design Consultant for any delay or damage caused the Design Consultant due to suspension of the work, or due to any other delay, interruption, hindrance, or interference.
- 12.7. Should the Owner terminate this agreement for any reason under this Article, the Owner will acquire such drawings, including the ownership and use of all drawings, specifications, documents and materials relating to the Project prepared by or in the possession of the Design Consultant. The Design Consultant will turn over to the Owner in a timely manner and in good unaltered condition all original drawings, specifications, documents, materials, and computer files related to the project.

## **13. ARTICLE 13 SUCCESSORS/ASSIGNMENT**

- 13.1. This Agreement shall inure to the benefit of and be binding on the heirs, successors, assigns, trustees and personal representatives of the Owner, as well as the permitted assigns and trustees of the Design Consultant.

- 13.2. The Design Consultant shall not assign, sublet or transfer its interest in this Agreement without the written consent of the Owner, except that the Design Consultant may assign accounts receivable to a commercial bank or financial institution for securing loans, without prior approval of the Owner.

**14. ARTICLE 14  
OWNERSHIP OF DOCUMENTS/CONFIDENTIAL INFORMATION**

- 14.1. The Drawings, Specifications and other documents prepared by the Design Consultant for this Project are for use solely with respect to this Project, the Owner shall be the owner of these documents and shall have all common law, statutory and other reserved rights, including the copyright. The Design Consultant's Drawings, Specifications or other documents shall not be used by the Owner or others on other projects, except by agreement in writing by the Design Consultant.
- 14.2. Submission or distribution of documents to meet official regulatory requirements or for similar purposes in connection with the project is not to be construed as publication in derogation of the Owner's reserved rights.

**15. ARTICLE 15  
ADDITIONAL PROVISIONS**

- 15.1. Unless otherwise provided in this Agreement, the Design Consultant shall have no responsibility for the discovery, presence, handling, removal or disposal of or exposure of persons to hazardous materials in any form at the Project site, including but not limited to asbestos, asbestos products, polychlorinated biphenyl (PCB) or other toxic substances.
- 15.2. The Design Consultant shall not discriminate against any employee or applicant for employment because of age, gender, race, creed, national origin, or disability. The Design Consultant shall take affirmative action to ensure that applicants are employed and that employees are treated fairly and legally during employment with regard to their age, sex, race, creed, national origin, or disability. In the event the Design Consultant is determined by the final order of an appropriate agency or court to be in violation of any non-discrimination provision of federal, state or local law or this provision, this Agreement may be canceled, terminated or suspended in whole or in part by Owner, and the Design Consultant may be declared ineligible for further Owner contracts.
- 15.3. The Design Consultant shall follow all applicable federal, state, and local laws.
- 15.4. The Owner and Design Consultant agree to endeavor to provide written notification and to negotiate in good faith prior to litigation concerning claims, disputes, and other matters in question arising out of or relating to this Agreement or the breach thereof.
- 15.5. The payment of any sums by the Owner shall not constitute a waiver of any claims for damages by the Owner for any breach of the Agreement by the Design Consultant.
- 15.6. This Agreement and its Exhibits and Attachments represent the entire and integrated agreement between the Owner and the Design Consultant and supersede all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Design Consultant.
- 15.7. This Agreement shall be governed by the laws of the State of North Carolina. All actions relating in any way to this Contract shall be brought in the General Court of Justice in the County of Buncombe and the State of North Carolina.

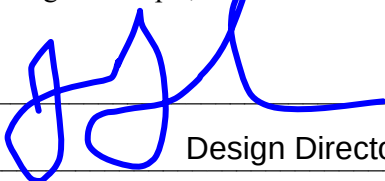
- 15.8. If any one or more of the provisions contained in this Agreement, for any reason, are held to be invalid, illegal, or unenforceable in any respect, such invalidity, illegality or unenforceability shall not affect any other provisions thereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
- 15.9. Except where specifically stated otherwise, all periods of time stated in terms of days shall be considered periods calculated in calendar days.
- 15.10. The headings or captions within this Agreement shall be deemed set forth in the manner presented for the purposes of reference only and shall not control or otherwise affect the information set forth therein or interpretation thereof.
- 15.11. For the purpose of this Agreement unless the context clearly indicates otherwise, the singular includes the plural, and the plural includes the singular.
- 15.12. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, and the counterparts shall constitute one and the same instrument, which shall be sufficient evidence by any one thereof.
- 15.13. **E-VERIFY.** As a condition of payment for services rendered under this agreement, CONTRACTOR shall comply with the requirements of Article 2 of Chapter 64 of the General Statutes. Further, if CONTRACTOR provides the services to the County utilizing a subcontractor, CONTRACTOR shall require the subcontractor to comply with the requirements of Article 2 of Chapter 64 of the General Statutes as well. CONTRACTOR shall verify, by affidavit, compliance of the terms of this section upon request by the COUNTY.

In witness whereof, each individual executing this agreement acknowledges that he/she/it is authorized to execute this agreement and further acknowledges the execution of this agreement the day and year first written above.

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

**Don Warn, Buncombe County Chief Financial Officer**

**DESIGN CONSULTANT:**  
Civil Design Concepts, P.A.

By:  \_\_\_\_\_  
Title: Design Director  
Date: 11/18/22

**OWNER:**  
**COUNTY OF BUNCOMBE**

By: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_



October 12, 2022

## **PROPOSAL FOR SERVICES – EXHIBIT A**

**SUBMITTED TO:** Ronnie Lunsford, PEM  
Buncombe County  
40 McCormick Pl. Asheville, NC 28801

**SUBMITTED FOR:** Civil Design Services for AB Tech Enka Campus Demolition Project  
Enka, North Carolina Project # TBD

### **I SCOPE OF SERVICES:**

Thank you for allowing us to provide you this proposal with anticipated services and projected fees for the AB Tech Enka Campus Demolition Project project. The following is an anticipated Scope of Services detailing services anticipated by Civil Design Concepts, P.A., and its consultants.

Information provided in this Scope of Services is based on our experience with past projects and our understanding of this project based on the information we have been provided to date.

#### **A. Topographic, Location Survey: (sub-consultant)**

1. Prepare a location / topographic survey of the existing site (approximately +/- 4 acres) suitable for site design purposes.
2. Elevation certificates, ALTA surveys, subdivisions and as-builts are not included in this scope of services but can be provided at an additional cost upon request.
3. Through a qualified subconsultant, identify to the extent practical and provide mapping for those private utilities that can be reasonably located on the subject property and that are not publicly owned or under the ownership of the respective utility as they will not be included or marked as part of the NC One Call locate request. These utilities may include water services, sewer services, phone / data services, power lines, gas lines and other improvements that are deemed as private and are not the responsibility of the respective utility.

#### **B. Design Development/ ACM, LBP & Hazmat Surveys:**

1. Coordinate available information and determine needs for additional information necessary to prepare plans for the proposed demolition.
2. Evaluate existing infrastructure to remain after placement of the demo material including water, sewer, storm drainage, steam and communications.
3. Identify any improvements that may be necessary to accommodate future development and or project phasing.

4. Preliminary analysis of the project as it relates to the proposed demolition debris, construction traffic control and debris placement.
5. Develop conceptual layout of proposed access points to the demolition site, truck routing, and other conceptual planning
6. Develop quantity take off and preliminary cost estimate for proposed demolition, related site work and any proposed site utility modifications.
7. Correlate the existing infrastructure information collected during our preliminary investigations with the survey information generated by the project surveyor.
8. **Asbestos Containing Material Survey**
  - a. Terracon will mobilize State of North Carolina licensed asbestos building inspectors to conduct an asbestos evaluation of the structure as required by US Environmental Protection Agency (USEPA) regulation 40 CFR Part 61, National Emissions Standards for Hazardous Air Pollutants (NESHAP). Terracon will conduct a visual assessment of the structure to identify materials suspected of containing asbestos (suspect ACM) such as thermal system insulation, surfacing materials, and miscellaneous materials (e.g., floor tiles, mastics, caulks). Suspect materials will be physically assessed for friability and evidence of damage or degradation. Samples of suspect ACM will be collected for laboratory analysis.
  - b. As this structure is slated for demolition, Terracon will utilize destructive techniques to identify materials that may be present behind walls, in plenum spaces, beneath flooring, or potentially concealed by other materials, including newer construction. This means that we may knock holes in walls and/or ceilings and remove large sections of flooring to survey for additional materials. Terracon will not be responsible for repair or touch-up of sample locations. Reasonable efforts to access suspect materials within known areas of restricted access (e.g., crawl spaces) will be made provided these areas are not determined to be permit-required confined spaces or to pose a health or safety risk to Terracon personnel. Suspect materials that cannot be safely reached will be assumed to contain asbestos.
  - c. Roofing will be sampled unless directed by the Client to assume the materials contain asbestos. Terracon will apply temporary patching to roof sample locations, but the Client is advised to obtain a roofing contractor to repair areas damaged by client-requested roof sampling. Regardless of the decision, by virtue of authorizing our services described herein, the Client agrees to indemnify and hold Terracon harmless from any damages that may ensue as a result of our sampling of roofing materials.
  - d. A laboratory accredited by the National Voluntary Laboratory Accreditation Program (NVLAP) will analyze bulk material samples by visual estimation using polarized light microscopy (PLM). If PLM results merit re-analysis by the more quantitative point counting technique or if loose fill vermiculite insulation is encountered, Terracon will contact the Client for authorization if additional costs will be incurred.
  - e. Samples may be submitted for a “positive stop” analysis, which means once a sample is analyzed to contain asbestos, the remaining samples in the same homogenous group are not analyzed and assumed to contain asbestos in similar content. Additionally, Terracon may elect to presume materials to be asbestos-containing based on our experience or

identification of labeled materials in the facility. Materials assumed to contain asbestos will also be documented in our report. It is assumed that up to 225 bulk samples will be collected for PLM analysis.

## 9. Lead- Based Paint

- a. Terracon will visually assess the structure and perform a lead-based paint (LBP) evaluation by collecting a representative number of paint chip samples for analysis by an Environmental Laboratory Accreditation Program (ELAP) approved laboratory for analysis of lead by Atomic Absorption. Representative building component surfaces that may be tested include but are not necessarily limited to: door jambs and trim, window sills and sashes, cabinets, walls, stairs, floors, structural steel, railings, exterior siding, concrete, and roofing. LBP sampling will be limited to readily observable and accessible surfaces in the building. Terracon cannot guarantee a building or property to be LBP free as the possibility exists that LBP coated surfaces may be hidden from sight or in inaccessible locations, or the homogeneous construction areas identified may not be truly homogeneous. It is assumed that up to 40 paint chip samples will be collected for analysis.

## 10. Regulated/Universal Materials

- a. A walkthrough assessment of the building will be performed to identify other hazardous materials which may be present, including: polychlorinated biphenyl (PCB)-containing equipment such as pre-1979 magnetic lighting ballasts and transformers; mercury-containing equipment such as fluorescent light bulbs, high intensity discharge lamps, switches, thermostats, and manometers; air conditioning equipment which may contain chlorofluorocarbons (CFCs); tanks, piping, and sumps associated with chemical and petroleum storage; and, batteries. The findings of this survey will be based solely on visual observations; no samples will be collected as part of this assessment except as noted below.
- b. When assessing chemical storage containers (if present), Terracon will attempt to determine the approximate volume of material stored inside based upon container labeling or by using sight tubes. Terracon will not attempt to open containers or valves for the purpose of assessing volume and/or contents.
- c. In addition to the above inventory, Terracon will visually assess the building for the presence of caulking and/or glazing compounds which, in the judgment of our field personnel, may contain PCBs. It is assumed that up to eight representative samples of these materials will be collected and submitted to a North Carolina-certified laboratory for PCB analysis using EPA Method 8082A.

## 11. Reporting

- a. Terracon will prepare a singular report capturing the results of our Scope of Services. In general, our report will describe the sampling methodology and the results of the evaluations. The report will describe the number, type, and location of suspect ACM samples, the analytical results, the estimated quantity, and the condition of materials identified as ACM. Drawings depicting the location and extent of ACM and/or estimates of ACM removal costs can be provided upon request. The report will document the results of LBP analysis and will identify building component surface coatings identified as LBP. Hazardous building materials observed will be listed, along with estimated

quantities, in the report. Unless otherwise directed, we will provide an electronic copy (PDF) of the report to the Client.

**C. Construction Documents: (This section indicates each of the permits that will be applied for and final plans to be issued).**

**1. Site Access**

- a. Refine demolition phase site plan to incorporate changes requested by Owner and any comments received from the NC State Construction Office. These plans will include any temporary parking modifications, pedestrian route improvements or other measures as may be needed to coordinate the removal of the demolished material from the current site and transport the same to alternate site.

**2. Grading / Erosion Control / Storm Drainage Plan**

- a. Prepare grading, erosion control and storm drainage plans for the proposed waste area to accommodate requirements of Buncombe County and the NCDENR Regional Office. Plan will include any required additions or modifications to the existing storm drainage system.
- b. Submittal of Erosion Control and Storm Water Management Plan with supporting design calculations to the NCDENR Regional Office to secure Erosion Control Permit and Construction Storm Water Discharge Permit.

**3. Site Utility Plan**

- a. Prepare design documents showing either the removal and/or abandonment of any existing utilities to either 1) remain, 2) be removed or 3) be abandoned in place within the limits of the proposed waste site, including specific guidance to prospective bidders for each condition and relevant termination points.

**D. Contract Administration Services:**

**1. Bidding/Contract Execution**

- a. Submit bid documents to the Owner for approval prior to bidding the project and incorporate any identified revisions accordingly.
- b. Prepare a final engineer's construction cost estimate.
- c. Prepare Bid Documents and Contract Documents necessary to complete the bidding process.
- d. Coordinate contract review and approval by Owner's attorney, as required, and coordinate bid advertisement.
- e. Coordinate and conduct Pre-bid meeting.
- f. Address questions from bidders and issue any required addenda to plan holders during bidding process.
- g. Conduct bid opening at the time & location specified.
- h. Review bids for accuracy, prepare certified bid tabulation, confirm bidders' qualifications and licensing, and make recommendation of award to the Owner.
- i. Assist in assuring contract documents are completed and executed completely including

bonding and insurance requirements.

- j. Assist in execution of Contract and issuance of Notice to Proceed.

2. **Administering Contract through Project Completion.**

- a. Review Applications for payment for concurrence with approved schedule of values and make recommendation to approve or deny.
- b. If change order requests are made, review for legitimacy and accuracy and make recommendation to owner to deny or approve.
- c. Upon Project completion assist owner in finalizing contract (Once all punch list items are completed) and releasing retainage along with securing final lien waivers.

**E. Construction Observation:**

The following is a list of construction observation services, which will be provided as required and on an as needed basis.

- 1. Attend construction meetings as requested including required pre-construction, monthly and other meetings. Estimated number of meetings: twelve (12)
- 2. Review shop drawings and other submittals for compliance with approved plans.
- 3. Periodic Inspections to determine general compliance of the work with the plans and specifications, which inspection and/or approval shall not constitute a guarantee that the work complies with the plans and specifications and will not relieve the contractor of its primary obligation to adhere to the plans and specifications. Engineer shall have no obligation as to Contractor's means or methods or compliance with OSHA or other health and safety regulations. Estimated number of visits: fifty (50).
- 4. Erosion Control Biweekly observations: In order to receive a Land Disturbance Permit the City of Asheville requires that the developer provide a completed and notarized Certificate of Inspection Agreement they have made with a licensed professional. This agreement requires the professional to conduct erosion control compliance inspections on a bi-weekly basis. The observations are required until such time that the site is considered stabilized by the city. CDC will make these observations and provide the reports to the city in conjunction with our observations of the site work. Since CDC does not control the construction schedule, these observations will be billed on an hourly basis.
- 5. Attendance at one final inspection for each utility (water, sewer, and storm water detention) to determine that the items have been installed in general conformance with the plans and specifications to prepare for final agency inspection. Estimated number of visits: three (3).

**F. Closeouts / Record Drawings and Final Report**

- 1. Incorporate Contractor's documented field mark-ups and other record drawings into a comprehensive set of record drawings suitable for submittal to the NC State Construction Office. No field survey or as-builts are included under this scope of services.

**II CLIENT RESPONSIBILITIES:**



The Client shall provide Civil Design Concepts, P.A., with base site information in AutoCAD format, building plans, program descriptions, budget or other information as may be required to complete the work, or shall agree to reimburse Civil Design Concepts, P.A. for the cost of obtaining the information required. The Client shall hold harmless and indemnify Civil Design Concepts, P.A. against injury loss or damage arising out of the negligent acts, errors or omissions arising from information supplied by others.

Further, the Client shall identify and designate one individual to act on behalf of the Client for reviews and approvals. The Client shall identify any special definitions or conditions required for invoicing for services rendered.

### III ADDITIONAL SERVICES

All additional work requested by the Owner will be billed on an hourly basis or a negotiated lump sum fee. Extra work will include, but not be limited to:

1. Multiple phases of construction. (This proposal assumes single-phase construction.)
2. Design of off-site utility extensions necessary to serve the project other than described.
3. Change in scope of services as defined within this proposal.
4. Corps of Engineers / Environmental permitting.
5. Changes required due to contractor error.
6. Design modifications requested by Owner after submittals.
7. Design changes due to error in base survey information.
8. Flood study/ Permitting Services.
9. No structural designs included.
10. No geotechnical investigation or designs included.
11. Please note that this scope assumes that we will be provided adequate base information to develop design documents and required footprint information, which includes but is not limited to:
  - a. Topographic data in two-foot intervals provided by professional land surveyor.
  - b. Finalized footprints from the architect including accessible entrance, routes, etc.
  - c. Other information determined to be necessary to complete this project's requirements.
12. Water feature, mechanical or structural engineering design; fees will be negotiated as necessary.
13. Coordination and/or design documentation for any exterior lighting.
14. Site retaining wall permitting or any other structural designs.
15. Traffic Studies, Traffic Impact Analyses, or any required off-site roadway improvements
16. Preliminary Geotechnical / Soils Evaluations or any Construction Materials Testing during construction
17. Dry Utility Coordination for power, phone, cable, gas or other related items
18. Topographic, location, property, subdivision, construction layout or other survey services
19. Easement acquisition assistance for any off-site easements that may be required.
20. Private utility location or coordination for any utilities that are not publicly owned.
21. Wetland delineation, stream identification or jurisdictional determinations as may be required for permitting through the US Army Corps of Engineers.

### IV SCHEDULE

Upon acceptance of this proposal Civil Design Concepts, P.A. will work with client to establish a project schedule.



## V COST FOR SERVICES

Fees for the above scope of services are as follows:

|                                                              |                        |
|--------------------------------------------------------------|------------------------|
| <b>A. Topographic, Location Survey:</b>                      | <b>\$ 17,500</b>       |
| <b>B. Design Development/ ACM, LBP &amp; Hazmat Surveys:</b> | <b>\$ 62,500</b>       |
| <b>C. Construction Documents:</b>                            | <b>\$ 52,000</b>       |
| <b>D. Contract Administration:</b>                           | <b>\$ 25,500</b>       |
| <b>E. Construction Observation:</b>                          | <b>\$ 44,500</b>       |
| <b>F. Utility Closeouts/Certifications:</b>                  | <b><u>\$ 8,500</u></b> |
| <b>TOTAL:</b>                                                | <b>\$210,500</b>       |

**Actual costs at hourly rates of Civil Design Concepts, P.A. personnel assigned to project as follows:**

|                                  |            |
|----------------------------------|------------|
| Principal Engineer               | \$240/hour |
| Project Manager                  | \$175/hour |
| Senior Project Engineer          | \$140/hour |
| Associate project Engineer       | \$110/hour |
| Construction Administrator       | \$100/hour |
| Senior Civil Engineer Technician | \$100/hour |
| Civil Engineer Technician        | \$ 90/hour |
| Construction Inspector           | \$ 85/hour |
| Office Administrator             | \$ 60/hour |

Any work in addition to that outlined in the Scope of Services listed above will be billed on an hourly basis according to the rate schedule shown or a negotiated lump sum fee. Additional Services will only be performed under written authorization from the client. These rates are valid through December 31, 2022, at which time the client will be notified in writing of any rate changes.

Reimbursable expenses are not included in the cost of services. Reimbursable expenses shall include the following: postage and travel @ \$0.60/mi., meals, and other incidental expenses shall be a direct charge per receipt.

Printing and reproduction of plans and specifications will be billed at a 1.1 multiplier of cost.

Payment for services rendered shall be made monthly, due within ten days of the receipt of invoice, for all work completed through the last pay period in the preceding month or according to a schedule provided by the Client. Any invoice outstanding for more than 30 days after receipt will be subject to an interest charge of 1-1/2% per month.

## VI PROPOSAL DURATION

This proposal shall be valid for thirty- (30) days. Upon acceptance, it shall become an agreement between the Client and Civil Design Concepts, P.A.

## ~~VII ADDITIONAL TERMS AND CONDITIONS~~

~~Included is a copy of our Consulting Services Agreement and this Proposal for Services. If the terms of the Agreement and the Proposal are acceptable, please execute the agreement and return to our office.~~



~~When executed this Agreement may be terminated for convenience within 30 days of written notice by Civil Design Concepts, P.A. or Buncombe County, or if either party fails substantially to perform through no fault of the other and does not commence correction of such non-performance within 15 days of written notice and diligently complete the correction thereafter. In the event of termination, Civil Design Concepts, P.A. shall be paid for all authorized services performed and reimbursable expenses incurred to the date of notification. Any expenses incurred by Civil Design Concepts, P.A. due to termination of project by Client shall be paid by Client.~~

## CONSULTING SERVICES AGREEMENT

This contract entered into October 12, 2022 by & between Buncombe County, hereinafter called the Client, & Civil Design Concepts, P.A.; Witnesseth that: Whereas the Client desires to engage Civil Design Concepts (sometimes referred to as "CDC") to provide consulting services; and, Whereas the Client finds that the attached Scope of Services and terms of this agreement are acceptable; and, Whereas Civil Design Concepts desires to provide said services and agrees to do so for the compensation and upon the terms and conditions as hereinafter set forth,

Now, therefore, the parties hereto do mutually agree as follows:

**1. Scope of Services:** Civil Design Concepts shall provide the services attached hereto in the Exhibit A "Proposal for Services", dated October 12, 2022 to this Agreement, hereinafter called services. Additional services will be invoiced in accordance with the attached rate and fee schedule.

**2. Standard of Care:** Civil Design Concepts will perform its services using that degree of skill and diligence normally employed by professional engineers or consultants performing the same services at the time these services are rendered. CDC shall have the right to rely on any and all information furnished by Client without any requirement to verify same.

**3. Authorization to Proceed:** Execution of this Consulting Services Agreement will be considered authorization for Civil Design Concepts to proceed unless otherwise provided for in this Agreement or as otherwise modified by the attached project schedule.

**4. Changes in Scope:** The Client may request changes in the Scope of Services provided in this Agreement. If such changes affect Civil Design Concepts cost of or time required for performance of the services, an equitable adjustment will be made through an amendment to this Agreement. Any additional services resulting from a change in scope of services will be pre-approved by the client.

**5. Compensation:** The Client shall pay the compensation to Civil Design Concepts set forth in the Exhibit "A", Section V, "Cost for Services", as described in the proposal attached hereto. Unless otherwise provided in the Cost for Services, Civil Design Concepts shall submit invoices to the Client monthly (by the 15<sup>th</sup> day of the month) for work accomplished under this agreement and the Client agrees to make payment to Civil Design Concepts within thirty (30) days of receipt of the invoices. Client further agrees to pay interest on all accounts invoiced and not paid or objected to for a valid cause in writing within said time period at a rate of 1-1/2 percent per month (18 percent per annum), until paid. Client agrees to pay Civil Design Concepts' cost of collection of the amounts due and unpaid after sixty (60) days, including but not limited to, court costs and attorney's fees. Civil Design Concepts shall not be bound by any provision such as contained in a purchase order or wherein Civil Design Concepts waives any rights to a mechanic's lien or any provision conditioning Civil Design Concepts' right to receive payment for its work upon payment to the Client by any third party. These general conditions are notice, where required, that Civil Design Concepts shall file a lien whenever necessary to collect past due amounts. The Client agrees that failure to make payment in full within thirty (30) days or raise any specific objection to the services rendered or charge therefore shall constitute a waiver of any such objection or claim as to any issue Client may have and the failure to make payment or raise any objection as herein required shall bar any claim against CDC in tort or contract. It is also mutually agreed that should the Client fail to make prompt payments as described herein, Civil Design Concepts reserves the right to immediately stop all work under this agreement until all accounts are brought current or terminate this agreement, in the sole discretion of CDC.

**6. Personnel:** Civil Design Concepts represents that it has, or will secure at their own expense, all personnel required to perform the services under this agreement and that such personnel will be fully qualified and adequately supervised to perform such services. It is mutually understood that should the scope of services require outside subcontracted services; Civil Design Concepts may employ those services at their discretion.

**7. Opinions or Estimates of Cost:** Any costs estimates provided by Civil Design Concepts shall be considered opinions of probable costs. These along with project economic evaluations provided by Civil Design Concepts will be on a basis of experience and judgment, but, since Civil Design Concepts has no control over market conditions or bidding procedures, Civil Design Concepts cannot warrant that bids, ultimate construction cost, or project economics will not vary from these opinions. Based thereon, Client waives any and all claims against CDC which arise out of any opinion of probable construction cost provided.

**8. Termination:** This Agreement may be terminated for convenience by either the Client or Civil Design Concepts with 15 days written notice or if either party fails substantially to perform through no fault of the other and does not commence correction of such nonperformance within 5 days of written notice and diligently complete the correction thereafter. On termination, Civil Design Concepts will be paid for all authorized work performed up to the termination date plus reasonable project closeout costs.

**9. Limitation of Liability:** Civil Design Concepts liability for Client's damages will, in aggregate, not exceed \$1,000,000 for the Scope of Services referenced herein. This provision takes precedence over any conflicting provision of this Agreement, or any documents incorporated into it or referenced by it. This limitation of liability will apply whether Civil Design Concepts liability arises under breach of contract or warranty; tort, including

negligence; strict liability; statutory liability; or any other cause of action, and shall include Civil Design Concepts' directors, officers, employees, and subcontractors. Limits of liability may be increased upon request by Client for additional fees paid.

**10. Assignability:** This agreement shall not be assigned or otherwise transferred by either Civil Design Concepts or the Client without the prior written consent of the other. Assignability of this contract will not unreasonably be withheld.

**11. Severability:** The provisions of this Consulting Services Agreement shall be deemed severable, and the invalidity or enforceability of any provision shall not affect the validity or enforceability of the other provisions hereof. If any provision of this consulting services agreement is deemed unenforceable for any reason whatsoever, such provision shall be appropriately limited, and given effect to the extent that it may be enforceable.

**12. Ownership of Documents:** CDC shall retain all ownership and common-law property rights in all documents, calculations, drawings, maps (together the "Documents"). Upon full and final payment to CDC pursuant to this contract, CDC will grant a one-time, nonexclusive license in the Documents for Client's use on this Project. Client agrees that the deliverables are intended for the exclusive use and benefit of and may be relied upon for this project only by the Client and will not be used otherwise. In the event Client fails to pay all sums when due, CDC reserves the right to withdraw its Documents from any governmental agency to which same have been submitted for the purpose of obtaining approvals or permits and Client acknowledges that it shall have no right to make any use of the Documents whatsoever unless payments are made to CDC in accordance with this Agreement. Client agrees that CDC shall have the right to obtain an injunction to restrain such use if at any time Client fails to make payments to CDC.

**13. Excusable Delay:** If performance of service is affected by causes beyond Civil Design Concepts control, project schedule and compensation shall be equitably adjusted.

**14. Indemnification:** Client agrees to indemnify, defend and hold Civil Design Concepts, its agents, employees, officers, directors and subcontractors harmless from any and all claims, and costs brought against Civil Design Concepts which arise in whole or in part out of the failure by the Client to promptly and completely perform its obligations under this agreement, and as assigned in the Exhibit A, or from the inaccuracy or incompleteness of information supplied by the Client and reasonably relied upon by Civil Design Concepts in performing its duties or for unauthorized use of the deliverables generated by Civil Design Concepts.

**15. Choice of Law:** This Agreement shall be governed by the internal laws of the State of North Carolina.

**16. Entire Agreement:** This Agreement contains all of the agreements, representations and understandings of the parties hereto and supersedes any previous understandings, commitments, proposals, or agreements, whether oral or written, and may only be modified or amended as herein provided; and as mutually agreed.

**17. Attachments to this document:** Exhibit A, "Proposal for Services"

**Client:** Buncombe County

**Client Authorized Signature:** \_\_\_\_\_  
**Print Name:** Ronnie Lunsford, PEM  
**Address:** 40 McCormick Pl. Asheville, NC 28801

**Signature:**  \_\_\_\_\_  
Jesse Gardner (Oct 12, 2022 14:50 EDT)

**Name:** Jesse Gardner, P.E.

**Civil Design Concepts, P.A.**  
168 Patton Avenue 52 Walnut Street – Suite 9  
Asheville, NC 28801 Waynesville, NC 28786



## **Buncombe County Board of Commissioners**

### **Request for Board Action**

**Meeting Date: 12/5/2022**

#### **Consent Agenda**

**Department:** Planning, Community Development Division

**Presenter(s):** Matthew Cable

**Contact(s):** Matthew Cable & Matt Card

**Subject:** Affordable Housing Services Program Description, Requirements and Guidelines

**Brief Summary:** Buncombe County developed an Affordable Housing Services Program (AHSP) in 2004. The AHSP's Description, Requirements and Guidelines were amended, reviewed, and approved by the Board of Commissioners during regular annual cycles from FY 04 through FY 19.

The Affordable Housing Committee was formed in 2019 and lead amendments to the AHSP in advance of the issuance of annual request for proposals for FY 21 through FY 23. The Board of Commissioners later acted to approve Committee recommended funding allocations and projects through its annual budgeting process (FY 21 through FY 23).

At its regularly scheduled meeting on November 1, 2022 the Affordable Housing Committee recommended the Board of Commissioners adopt a revised AHSP Description, Requirements, and Guidelines in advance of the release of the request for proposals associated with potential FY 2024 funds. At its November 15, 2022 briefing, the Board of Commissioners reviewed the Committee recommended AHSP Description, Requirements, and Guidelines and requested the removal of all language authorizing waivers to standard loan terms for construction, conversion and rehabilitation loan agreements. A revised AHSP Description, Requirements, and Guidelines is provided.

**Recommended Motion & Requested Action:** Recommend the Board of Commissioners adopt the attached Affordable Housing Services Program (AHSP) Description, Requirements, and Guidelines.

**County Manager's Comments and Recommendation:** County Manager recommends as presented.



## **BUNCOMBE COUNTY**

### **AFFORDABLE HOUSING SERVICES PROGRAM (AHSP)**

#### **PROGRAM DESCRIPTION**

##### **I. PRIORITY**

Ensure comprehensive opportunities for affordable and safe housing as a foundation for healthy and thriving families and neighborhoods.

##### **II. BACKGROUND**

Buncombe County's Affordable Housing Services Program (AHSP) is intended to ensure comprehensive opportunities for affordable and safe housing are available. AHSP supports the:

- Construction Loan Program (Loan);
- Downpayment Assistance Program (Loan);
- Tenant-Based Rental Assistance Program (Grant);
- Construction Grant Program (Grant);
- Emergency Repair Program (Grant);
- New Start Program (Grant); and
- Administrative Support Program (Grant).

##### **III. ADMINISTRATION**

The Affordable Housing Committee (the Committee) may review AHSP applications and make recommendations regarding funding allocations to the Board of Commissioners. The Committee may recommend AHSP contract terms, including loan interest rates and loan deferral, to the Community Development (CD) Division.

The Committee is authorized to:

- Finalize loan interest rates and deferral of loan terms.

The CD Division is authorized to:

- Administer funds budgeted by the Board of Commissioners for the AHSP;
- Contract with community partners, including AHSP applicants and recipients, on behalf of Buncombe County consistent with the spirit and intent of the guidelines contained herein and after consideration of the recommendations from the Committee; and
- Finalize scope, lien position, and/or other specific aspects of AHSP agreements consistent with the spirit and intent of the guidelines contained herein.

Agreements for the expenditure of AHSP funds may be executed and or amended as follows:

- \$0 - \$29,999 Planning Director or Designee;
- \$30,000 - \$499,999 Assistant County Manager or Designee; and
- \$500,000 or greater County Manager or Designee with the Board of Commissioners Notified.

##### **IV. APPLICATION PROCESS**

CD Division staff will advertise a request for proposals (RFP) to solicit project applications from qualified entities and organizations to administer and deliver AHSP supported affordable housing projects. CD Division staff will contact applicants who have requested notification and notify them of the AHSP funding opportunity. The AHSP application will be made available online with a prescribed deadline for submittal. CD Division staff

will review applications and prepare a summary report for each project, which will be provided to the Committee for review. The Committee will make recommendations to the Board of Commissioners to approve, through the budget process, funding allocations.

## **V. AFFORDABLE HOUSING GOALS**

- Increase the supply of Affordable Housing for rent
- Increase the supply of Affordable Housing for homeownership, especially for BIPOC households
- Preserve the supply of Naturally Occurring Affordable Housing (NOAH)
- Support activities that achieve functional zero Homelessness
- Support activities that encourage the use of all vouchers

## **VI. AFFORDABLE HOUSING OBJECTIVES**

Buncombe County will impact 2,800-3,150 affordable housing units by 2030.

- 1,500-1,850 rental units for households at  $\leq 80\%$  AMI
  - average at  $\leq 60\%$  AMI across all households
  - 1,200-1,480 units should leverage the LIHTC program
  - 200 units for  $< 30\%$  AMI
- 400 ownership units for households at  $< 80\%$  AMI
- 500 repair units for households at  $< 80\%$  AMI
- 400 ownership or rental units for households at  $> 80\%$  to  $< 120\%$  AMI (noting that funding available through the AHSP may not be used to accomplish this goal)

## **VII. PROJECT PRIORITIES & PREFERENCES**

Funding constraints, individual project merits, and achievement of the desired mix of project types will all factor into project prioritization. Strong preference will be given to projects that demonstrate intent to leverage other sources of debt, equity, or other funding prior to and beyond the AHSP request. Strong preference will be given to projects that include deferred developer fees. Strong preference will be given to projects that accept vouchers. Applicants seeking only program administrative support or applications where the proportion of administrative support is high relative to project costs are less preferred.

## PROGRAM REQUIREMENTS AND GUIDELINES

### I. APPLICANTS

Applicants may be:

- For-profit corporations, partnerships, or sole proprietors;
- Private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or
- Public non-profit agencies and governmental agencies, including Buncombe County (which may directly operate AHSP projects).

Applicants may not be individuals seeking to build an individual unit for their family.

### II. INSTRUCTIONS FOR SUBMITTING APPLICATIONS

Applicants may apply online at [www.buncombecounty.org/apply](http://www.buncombecounty.org/apply). Applicants should be familiar with all program requirements and guidelines described below at the time of application.

### III. ACTIVITIES

The following activities are eligible:

- Construction (including site work and soft costs) of new affordable single-family or multifamily housing units for sale or rent (or non-revenue generating) which must meet state and local building codes and must be stick-built or system-built (modular);
- Conversion of existing non-residential structure(s) for affordable single-family or multifamily housing units for sale or rent (or non-revenue generating) which must meet state and local building codes and must be stick-built or system-built (modular);
- Rehabilitation of existing affordable single-family or multifamily housing units for sale or rent (or non-revenue generating) which must meet state and local building codes and must be stick-built or system built (modular);
- Downpayment assistance for income eligible homebuyers;
- Tenant-based rental assistance in connection with homelessness prevention;
- Emergency repair of single-family units for income eligible clients; and
- New start programs which provide opportunities for affordable and safe housing for healthy and thriving families and neighborhoods which are innovative in approach.

Eligible activities must take place within Buncombe County.

### IV. DEFINITION OF AFFORDABILITY

To be considered affordable units, units for sale must be:

- Sold as affordable (not to exceed 30% of the buyer's income);
- Sold to an eligible homebuyer (a household income at or below 80% of Area Median Income (AMI) adjusted for household size as described in HUD's Income Limits Summary Table available at the time of the opening of the RFP process); and
- Have a maximum sales price as described in HUD's 2021 HOME and Housing Trust Fund Homeownership Sales Price Limits Table available at the time of the opening of the RFP process; or sell at a higher price but only the first mortgage is affordable to the buyer based on their income.

To be considered affordable rental units, units for rent must be:

- Rented at a rate not to exceed HUD's Fair Market Rent as described in HUD's Fair Market Rent Documentation System available at the time of the opening of the RFP process; and

- Rented to eligible tenants (a household income at or below 80% of Area Median Income (AMI) adjusted for household size as described in HUD's Income Limits Summary Table available at the time of the opening of the RFP process).

## V. PROJECT AND REIMBURSEMENT TIMEFRAME

Construction and conversion projects must be scheduled to break ground by June 30 of the calendar year following the year of application and begin requesting reimbursement by July 31 of the calendar year following the year of application. All other projects must complete expenditures and request reimbursement by July 31 of the calendar year following the year of application.

## VI. CONSTRUCTION LOAN PROGRAM

### TERMS APPLICABLE TO ALL CONSTRUCTION LOANS

- Eligible Applicants: For-profit corporations, partnerships, or sole proprietors; private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies.
- Maximum Loan Amount: 10% of the cost per affordable unit (for conversion construction the cost per unit shall be based on a licensed contractor's estimate of required repairs to bring the units up to building code and including service delivery and administrative costs in the estimates); 20% of the cost per unit for 4% low-income housing tax credit projects (for conversion construction the cost per unit shall be based on a licensed contractor's estimate of required repairs to bring the units up to building code and including service delivery and administrative costs in the estimates); applicants with projects solely targeting households at  $\leq 30\%$  AMI may request loans exceeding the maximum loan amounts prescribed herein (10%/20%).
- Uses: Affordable unit construction, infrastructure improvements, professional services, and costs of permitting.
- Form: Loan secured by a lien on the property being assisted, provided the County takes or shares a first lien position, or where the County accepts a lower lien position subject to the amount of loan funds financed.

### ADDITIONAL LOAN TERMS APPLICABLE TO NEW AND CONVERSION CONSTRUCTION AND REHABILITATION: UNITS FOR SALE

- Term and Interest Rate: Five (5) years or until the property is transferred or sold, whichever occurs first. Fully amortizing at an interest rate of 2.00%.

### ADDITIONAL LOAN TERMS APPLICABLE TO NEW AND CONVERSION CONSTRUCTION AND REHABILITATION: UNITS FOR RENT

- Term and Interest Rate:

Standard terms and interest rates are considered to be the default term and interest rates offered. An applicant may request from among the following standard terms and interest rates:

- 7 year term, fully amortizing at an interest rate of 2.50%, annual principal and interest payment;
- 10 year term, fully amortizing at an interest rate of 2.75%, annual principal and interest payment;
- 15 year term, fully amortizing at an interest rate of 3.25%, annual principal and interest payment;
- or
- 20 year term, fully amortizing at an interest rate of 3.75%, annual principal and interest payment.

An applicant may request the *option* of annual payments from cashflow with principal balloon provided the applicant indicates such at the time of application and demonstrates a need for such

terms for project viability. An applicant may request from among the following interest only payments with principal balloon:

- 7 year term, at an interest rate of 3.00%, annual interest payment and principal balloon;
- 10 year term, at an interest rate of 3.25%, annual interest payment and principal balloon;
- 15 year term, at an interest rate of 3.75%, annual interest payment and principal balloon; or
- 20 year term, at an interest rate of 4.25%, annual interest payment and principal balloon.

An applicant may request the *option* of interest only payments from cashflow with principal balloon provided the applicant: (1) is pursuing low-income housing tax credits and/or is a project targeting households at  $\leq 30\%$  AMI; (2) indicates that such terms are desired at the time of application; and (3) demonstrates a need for such terms for project viability. An applicant may request the following interest only payments from cashflow with principal balloon:

- 20 year term, at an interest rate of 2.00%, annual payment from cashflow with principal balloon.

Requests for payments from cashflow with principal balloon does not guarantee award of a loan on those terms. Applicants should have a willingness to consider various approaches that support project viability including, but not limited to, deferring developer fees as appropriate.

## CONSTRUCTION, CONVERSION AND REHABILITATION LOAN AGREEMENTS

Loan agreements shall be executed between the County and applicant with specific conditions dependent on the project type. Loan agreements shall include the following requirements:

- Submittal of regular progress reports;
- Provision of record access to Buncombe County staff;
- Abidance by Fair Housing and Equal Rights Opportunity principles adherence requirements (which prohibit discrimination based on race, color, age, sex, sexual orientation, gender, religion, national origin, disability, or family status);
- Provision of open marketing to ensure fair housing choices;
- Description of income limits of occupants/owners;
- Annual verification of affordable rent levels for the lifetime of the loan (where constructed for rent);
- Provision of statements of project cashflows with the annual repayment (where constructed for rent) consistent with those provided to all other investors;
- Provision of a detailed project scope including project completion time limits;
- Prohibition against obtaining property tax exemption with Buncombe County or the State of North Carolina regarding property associated with the project; and
- Prohibitions of conflict of interest.

## VII. DOWNPAYMENT ASSISTANCE PROGRAM

- Eligible Applicants: For-profit corporations, partnerships, or sole proprietors; private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies. The applicant must either coordinate homebuyer's education classes or require participants complete a homebuyer's education course. An applicant who is also seeking a construction loan may submit a single application that includes both the construction loan and downpayment assistance loan budgets.
- Maximum Loan Amount: 10% of the cost per affordable unit
- Uses: Downpayment assistance must:
  - Benefit an eligible homebuyer (a homebuyer with a household income at or below 80% of Area Median Income (AMI) adjusted for household size);
  - Benefit a homebuyer that has completed a homebuyer's education course; and
  - Be for an affordable unit for sale, as defined above.

- Form: Non-forgivable loan, secured with a lien on the property being assisted, provided the County takes or shares a first lien position, or where the County accepts a second lien position, subject to the amount of loan funds financed.
- Term: Due in the event the homeowner no longer lives in the unit, sells the unit, or refinances the unit
- Interest Rate: 0%
- Loan Agreements: Loan agreements shall be executed between the County and applicant for the project

#### **VIII. TENANT BASED RENTAL ASSISTANCE PROGRAM**

- Eligible Applicants: Private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies. The applicant must specialize in working with homeless families or those at risk of homelessness and must provide housing stabilization services and after placement follow up for clients.
- Maximum Assistance: \$2,500 per household. Where assistance exceeds \$1,500 per household, such assistance shall be for the purposes of eviction prevention.
- Uses: Security and utility deposits, moving expenses, first month's rent, and eviction prevention.

#### **IX. CONSTRUCTION GRANT PROGRAM**

- Eligible Applicants: Private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies. The applicant must specialize in working with homeless families or those at risk of homelessness and must provide housing stabilization services and after placement follow up for clients.
- Maximum Assistance: \$25,000 per non-revenue generating unit.
- Uses: Unit construction

#### **X. EMERGENCY REPAIR PROGRAM**

- Eligible Applicants: For-profit corporations, partnerships, or sole proprietors; private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies. The applicant must have no financial interest in the unit(s) to be repaired.
- Maximum Assistance: \$25,000 per unit
- Repairs Under \$15,000:
  - Must benefit an eligible homeowner (a homeowner with a household income at or below 80% of Area Median Income (AMI) adjusted for household size as described in HUD's Income Limits Summary Table available at the time of the opening of the RFP process);
  - Must be performed on units where the applicant has no financial interest;
  - May include repairs for life safety issues; and
  - May be used for retrofitting units for needs of individuals with disabilities.
- Repairs at \$15,000 and up to \$25,000:
  - Must be forgivable loan, secured with a Note and Deed of Trust which reduces \$15,000 in year one and by \$5,000 each successive year until such time as the loan is forgiven. The forgivable loan may be transferred to a new and verified income qualified household. If the eligible homeowner sells to a non-income qualified household or no longer occupies the unit during the repayment period, the balance of the note shall be due;
  - Must benefit an eligible homeowner (a homeowner with a household income at or below 80% of Area Median Income (AMI) adjusted for household size as described HUD's Income Limits Summary Table available at the time of the opening of the RFP process);
  - Must be performed on units where the applicant has no financial interest;
  - May include repairs for life safety issues; and

- May be used for retrofitting units for needs of individuals with disabilities.

#### **XI. NEW START PROGRAM**

- Eligible Applicants: Private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies. The applicant may only request funding a single time for a specific new start program.
- Maximum Assistance: \$50,000
- Uses: Costs associated with the development and implementation of a new program which provides opportunities for affordable and safe housing for healthy and thriving families and neighborhoods and which is innovative in approach. Funding may include administrative and program implementation costs.

#### **XII. ADMINISTRATIVE SUPPORT PROGRAM**

- Eligible Applicants: Private incorporated non-profit agencies with IRS 501(c)(3) or similar designation; or public non-profit agencies.
- Maximum Assistance: \$50,000
- Uses: Costs associated with administrative activities including specific project management, oversight, and coordination and may be for personnel, non-personnel, direct or indirect expenses. Administrative activities should support affordable and safe housing for healthy and thriving families and neighborhoods and have a measurable and identifiable impact on affordable housing goals and objectives.



**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Consent Agenda**

**Department: LEGAL**

**Presenter(s): MICHAEL FRUE**

**Contact(s): MICHAEL FRUE**

**Subject: SETTLEMENTS - FY2021**

**Brief Summary:** General Statutes require settlements of any claim, judicial action, mediation, arbitration, or administrative procedure be entered into the minutes of the public body. NCGS §143-318.11(a)(3) reads, in part, "If the public body has approved or considered a settlement, other than a malpractice settlement by or on behalf of a hospital, in closed session, the terms of that settlement shall be reported to the public body and entered into its minutes as soon as possible within a reasonable time after the settlement is concluded."

Please note that not all matters come to the Board. The Board delegates authority for settlements of amounts up to \$30,000 to the Small Claims Committee. That team includes the Manager, Finance Director and Legal. Total amount of settlements for July 1, 2022 through June 30, 2023 is \$161,586.27.

**Recommended Motion & Requested Action:** No action required.

**County Manager's comments and Recommendation:** Approval as presented.

**Risk Management - Settlements by Category**  
**Fiscal Year 2023**  
**July 1, 2022 through June 30, 2023**

| DATE      | DEPT    | EMPLOYEE OR CLAIMANT | PROVIDER                     | DESCRIPTION                                                                                          | WORKERS COMPENSATION AMOUNT | AUTO LIABILITY AMOUNT | GENERAL LIABILITY AMOUNT |
|-----------|---------|----------------------|------------------------------|------------------------------------------------------------------------------------------------------|-----------------------------|-----------------------|--------------------------|
| 8/1/2022  | Sheriff | Roberts, Timothy     | Joe Hudsons Collision Center | Damages to other party's vehicle from motor vehicle accident                                         |                             | \$ 926.96             |                          |
| 8/1/2022  | Sheriff | Roberts, Timothy     | Joe Hudsons Collision Center | Damages to other party's vehicle from motor vehicle accident                                         |                             | \$ 2,711.41           |                          |
| 8/8/2022  | Sheriff | Ernst, Todd          | Annemarie Pantazis           | WC Settlement                                                                                        | \$ 15,000.00                |                       |                          |
| 8/8/2022  | Sheriff | Ernst, Todd          | Todd Ernst                   | WC Settlement                                                                                        | \$ 90,000.00                |                       |                          |
| 8/12/2022 | Sheriff | Roberts, Timothy     | Enterprise Rent A Car        | Rental car for other party while their vehicle repaired (due to damages from motor vehicle accident) |                             | \$ 881.32             |                          |
| 8/16/2022 | EMS     | Rice, Mark           | Mark Rice                    | Compromise Settlement Agreement                                                                      | \$ 9,784.98                 |                       |                          |
| 8/16/2022 | EMS     | Rice, Mark           | C. David Gantt PA            | Compromise Settlement Agreement                                                                      | \$ 3,261.66                 |                       |                          |
| 8/18/2022 | Sheriff | Hunter, Christopher  | Pope McMillan PA             | Employment Settlement                                                                                |                             |                       | \$ 22,500.00             |
| 8/25/2022 | Sheriff | Roberts, Timothy     | Joe Hudsons Collision Center | Damages to other party's vehicle from motor vehicle accident                                         |                             | \$ 1,519.94           |                          |
| 8/24/2022 | Sheriff | Ernst, Todd          | Leah Broker                  | WC Settlement                                                                                        | \$ 15,000.00                |                       |                          |

|                       |           |                   |           |                 |           |                  |
|-----------------------|-----------|-------------------|-----------|-----------------|-----------|------------------|
| <b>TOTALS BY TYPE</b> | <b>\$</b> | <b>133,046.64</b> | <b>\$</b> | <b>6,039.63</b> | <b>\$</b> | <b>22,500.00</b> |
|-----------------------|-----------|-------------------|-----------|-----------------|-----------|------------------|

|                                   |           |                   |
|-----------------------------------|-----------|-------------------|
| <b>TOTALS FOR ALL SETTLEMENTS</b> | <b>\$</b> | <b>161,586.27</b> |
|-----------------------------------|-----------|-------------------|

**Risk Management - Settlements by Category**  
**Fiscal Year 2023**  
**July 1, 2022 through June 30, 2023**

| DATE    | DEPT    | EMPLOYEE<br>OR<br>CLAIMANT | PROVIDER                           | Date of<br>Service | WC<br>AMOUNT | Auto<br>AMOUNT | GL<br>AMOUNT | NOTE                                                           | AUTHORITY<br>Given By | NCIC<br>FILE # | Year of<br>Incident | Date of<br>Initial<br>Claim | County EE              | County<br>Veh # |
|---------|---------|----------------------------|------------------------------------|--------------------|--------------|----------------|--------------|----------------------------------------------------------------|-----------------------|----------------|---------------------|-----------------------------|------------------------|-----------------|
| 7/12/22 | Sheriff | Davis,<br>Pamela           | Subrogation                        | 6/22/22            |              | -1,245.50      |              | FY 2022 - Do not list                                          |                       |                |                     |                             |                        |                 |
| 8/1/22  | Sheriff | Roberts,<br>Timothy        | Joe Hudsons<br>Collision<br>Center |                    |              | 926.96         |              | Damages to other<br>party's vehicle                            | Sm Claims<br>Cte      | N/A            | 2022                | 5/11/22                     | Zabloudil,<br>Ryan     | 2445            |
| 8/1/22  | Sheriff | Roberts,<br>Timothy        | Joe Hudsons<br>Collision<br>Center |                    |              | 2,711.41       |              | Damages to other<br>party's vehicle                            | Sm Claims<br>Cte      | N/A            | 2022                | 5/11/22                     | Zabloudil,<br>Ryan     | 2445            |
| 8/8/22  | Sheriff | Ernst, Todd                | Annemarie<br>Pantazis              |                    | 15,000.00    |                |              | WC Settlement                                                  | BOC                   | 21-<br>731361  | 2020                | 3/31/20                     | Ernst, Todd            | N/A             |
| 8/8/22  | Sheriff | Ernst, Todd                | Todd Ernst                         |                    | 90,000.00    |                |              | WC Settlement                                                  | BOC                   | 21-<br>731361  | 2020                | 3/31/20                     | Ernst, Todd            | N/A             |
| 8/8/22  | Sheriff | Ernst, Todd                | Leah Broker                        |                    | 15,000.00    |                |              |                                                                |                       |                |                     |                             |                        |                 |
| 8/23/22 | Sheriff | Ernst, Todd                | Leah Broker                        |                    | -15,000.00   |                |              |                                                                |                       |                |                     |                             |                        |                 |
| 8/12/22 | Sheriff | Roberts,<br>Timothy        | Enterprise Rent<br>A Car           |                    |              | 881.32         |              | Rental care for other<br>party while their<br>vehicle repaired | Sm Claims<br>Cte      | N/A            | 2022                | 5/11/22                     | Zabloudil,<br>Ryan     | 2445            |
| 8/16/22 | EMS     | Rice, Mark                 | Mark Rice                          | 8/15/22            | 9,784.98     |                |              | CSA for WC - Still<br>employed                                 | Sm Claims<br>Cte      | 21-<br>008202  | 2020                | 12/20/20                    | Rice, Mark             | N/A             |
| 8/16/22 | EMS     | Rice, Mark                 | C. David Gantt<br>PA               | 8/15/22            | 3,261.66     |                |              | CSA for WC - Still<br>employed                                 | Sm Claims<br>Cte      | 21-<br>008202  | 2020                | 12/20/20                    | Rice, Mark             | N/A             |
| 8/18/22 | Sheriff | Hunter,<br>Christopher     | Pope McMillan<br>PA                |                    |              |                | 22,500.00    | Settlement (BCSO)                                              | Sm Claims<br>Cte      | N/A            | 2021                | 1/13/21                     | Hunter,<br>Christopher | N/A             |
| 8/25/22 | Sheriff | Roberts,<br>Timothy        | Joe Hudsons<br>Collision<br>Center |                    |              | 1,519.94       |              | Damages to other<br>party's vehicle                            | Sm Claims<br>Cte      | N/A            | 2022                | 5/11/22                     | Zabloudil,<br>Ryan     | 2445            |
| 8/24/22 | Sheriff | Ernst, Todd                | Leah Broker                        |                    | 15,000.00    |                |              | WC Settlement                                                  | BOC                   | 21-<br>731361  | 2020                | 3/31/20                     | Ernst, Todd            | N/A             |
|         |         |                            |                                    |                    |              |                |              |                                                                |                       |                |                     |                             |                        |                 |
|         |         |                            |                                    |                    |              |                |              |                                                                |                       |                |                     |                             |                        |                 |
|         |         |                            |                                    |                    | 133,046.64   | 4,794.13       | 22,500.00    |                                                                |                       |                |                     |                             |                        |                 |



**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Consent Agenda**

**Department:** Legal & Risk

**Presenter(s):** Michael Frue

**Contact(s):** Michael Frue

**Subject:** Resolution Authorizing Execution of Easement Agreement for a New Sewer Line to be Connected to Existing Metropolitan Sewerage District Lines

**Brief Summary:** Marion Associates is constructing a new building on the site of the old Schwan's facility on Jacob Holm Way. This property is adjacent to the Enka Intermediate School property which is currently owned by Buncombe County. Currently, there is a 6" private line crossing this County property and this construction necessitates an 8" line and a formal easement to MSD upon completion.

**Recommended Motion & Requested Action:** Approve the Resolution Authorizing Execution of Easement Agreement for a New Sewer Line to be Connected to Existing Metropolitan Sewerage District Lines.

**County Manager's comments and Recommendation:** Approve as presented.

RESOLUTION #22-12-02

RESOLUTION AUTHORIZING EXECUTION OF EASEMENT AGREEMENT FOR A NEW SEWER LINE TO BE  
CONNECTED TO EXISTING METROPOLITAN SEWERAGE DISTRICT LINES

- 
- WHEREAS, Marion Associates, LLC owns property on Jacob Holm Way adjacent to the Enka Intermediate School property which is currently owned by Buncombe County;
- WHEREAS, Marion Associates has requested an easement agreement to construct, operate and maintain a new 8" sewer line to cross the county property in order to accommodate increased capacity needs and to connect to an existing MSD sewer line;
- WHEREAS, pursuant to NCGS §160A-273 a county has the authority to grant easements over, through, under, or across any county property; and
- WHEREAS, this Board is of the opinion that it is in the best interests of the citizens and residents of the County to grant such an easement.

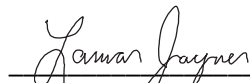
NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

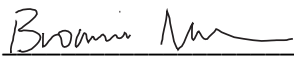
1. That by and with the approval of County Legal Services, the Chairman and County Manager, or either of them, are hereby authorized to execute the attached Easement Agreement.
2. That all acts and doings of officers, employees and agents of the County, whether taken prior to, on, or after the date of this Resolution, that are in conformity with and in the furtherance of the purposes and intents of this Resolution as described above shall be, and the same hereby are, in all respects ratified, approved and confirmed.
3. That this resolution shall be effective upon its adoption.

This the 5<sup>th</sup> of December, 2022.

ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

  
Lamar Joyner, Clerk

By:   
Brownie Newman, Chairman

APPROVED AS TO FORM

  
County Attorney

REPAIRED BY AND RETURN AFTER RECORDING TO:

STATE OF NORTH CAROLINA  
COUNTY OF BUNCOMBE

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT, made this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, by and between \_\_\_\_\_(Property Owner)\_\_\_\_\_, hereinafter referred to as Grantor, and \_\_\_\_\_(Developer)\_\_\_\_\_, hereinafter referred to as Grantee (the designations Grantor and Grantee as used herein shall include said parties, their heirs, successors and assigns and shall include singular, plural, masculine, feminine and neuter as required by context).

WITNESSETH:

THAT WHEREAS, the Grantor is the owner of certain property more particularly described in a Deed recorded in Deed Book \_\_\_\_\_ at Page \_\_\_\_\_, Buncombe County Registry; and

WHEREAS, the Grantee has requested that the Grantor grant and convey to the Grantee a permanent easement over, upon, across, under and through a portion of the property of the Grantor for purposes of constructing, operating, maintaining, repairing, inspecting and reconstructing sewer lines and accessories and the Grantor has agreed to do so.

NOW, THEREFORE, the Grantor, for and in consideration of the sum of One Dollar (\$1.00), and other good and valuable consideration, the receipt and adequacy of which is hereby acknowledged, has given, granted and conveyed, and by these presents does give, grant, and convey unto the Grantee, its successors and assigns, the permanent right, privilege and easement to construct, operate, maintain, repair, inspect and reconstruct sanitary sewer lines and accessories over, upon, across, under and through the above-referenced property of the Grantor, said temporary construction easement and permanent easement being described as follows:

PERMANENT EASEMENT: A nonexclusive permanent easement for purposes of constructing, operating, maintaining, repairing, inspecting and reconstructing sanitary sewer lines, together with such pipes, manholes, fittings, fixtures and other accessories as from time to time may be required, and for purposes of inspecting and performing appropriate tests within said permanent easement, including but not limited to, archaeological and environmental studies, and together with the full right of reasonable access to and egress from said permanent easement over and upon the above-referenced Property or other property of Grantor, said permanent easement being \_\_\_\_ feet in width centered on the proposed sewer line being more particularly described as follows:

*Legal Description*

Said permanent easement consisting of \_\_\_\_\_ square feet (\_\_\_\_ acre), more or less.

Said permanent easement being shown on the Sewer Line Location Drawing for

\_\_\_\_\_, entitled, "Easement Across the Property of \_\_\_\_\_, prepared by \_\_\_\_\_, PLS, dated \_\_\_\_\_, recorded in Plat Book \_\_\_\_\_ at Page \_\_\_\_\_, Buncombe County, NC Register of Deeds.

**IT IS UNDERSTOOD AND AGREED BETWEEN THE GRANTOR AND THE GRANTEE:**

- 1. That the Grantee shall have the right to clear the permanent easement described above and the right but not the obligation to keep the permanent easement clear at all times, and the right to remove from the permanent easement and temporary construction easement all brush, trees and other obstructions, and to go upon said easements whenever necessary for the purpose of clearing the same and removing therefrom all brush, trees and other obstructions of any kind.
- 2. That the Grantor shall at all times, other than while the sewer lines are under actual construction, have the right to use said permanent easement, in the same manner as has been heretofore done; provided such use shall in no manner interfere with or be inconsistent with the use thereof by Grantee as provided herein. Prohibited uses of the permanent easement by the Grantor include, but are not limited to, the following: the erection of a shed, building, structure or other obstruction within the permanent easement by the Grantor shall not be allowed; the planting of trees within the permanent easement by the Grantor shall not be allowed; additional fill cannot be placed within the permanent easement except after prior written consent from the Grantee; and other utility lines, including but not limited to, electric, gas, telephone, cable, or water lines, cannot be constructed within the permanent easement except after prior written approval by the Grantee.
- 3. That the Grantee agrees to restore the topography of said easement area after installation of the sewer lines and accessories to approximately the same condition as existed before said installation.
- 4. That the Grantor shall have the right to pass over and upon said permanent easement with appropriate roadways for the full use of their property, provided, however, that the construction, maintenance and use of said roadways shall in no way interfere with the sewer lines and accessories constructed within said permanent easement. As to future repairs or maintenance of said sewer lines and accessories, the Grantee shall be responsible for returning any area of disturbance to approximately the same condition as existed before such repairs or maintenance.
- 5. Permanent easement to be conveyed to the Metropolitan Sewerage District by Grantee upon completion of sewer line construction.

**TO HAVE AND TO HOLD** said easement and said permanent easement unto said Grantee, its successors and assigns, upon the terms and for the time periods set forth above.

The Grantor covenants to and with the Grantee, its successors and assigns, that the Grantor is lawfully seized in fee simple of said lands and premises and has full right and power to convey these easements to the Grantee, and that said lands and premises are free from any and all liens and encumbrances, and that they will and their successors and assigns shall forever warrant and defend the title to said easements unto the Grantee, its successors and assigns, against the lawful claims of all persons whomsoever.

**IN WITNESS WHEREOF**, the Grantor has hereunto set their hands and seals, or if corporate, have caused this document to be executed by its duly authorized officers and its seal to be hereunto affixed, as of the day and year first above written.

\_\_\_\_\_(SEAL)  
\_\_\_\_\_(SEAL)

By:\_\_\_\_\_

**ATTEST:**

Secretary  
(Corporate Seal)

**STATE OF NORTH CAROLINA**  
**COUNTY OF BUNCOMBE**

I, a Notary Public of the aforesaid State and County of \_\_\_\_\_, certify that \_\_\_\_\_ appeared before me and being personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity, and that by his/her/their signature(s) on the instrument the person(s), or entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official stamp or seal, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
NOTARY PUBLIC

\_\_\_\_\_  
(Type or Print Name of Notary Public)

My Commission Expires:  
\_\_\_\_\_

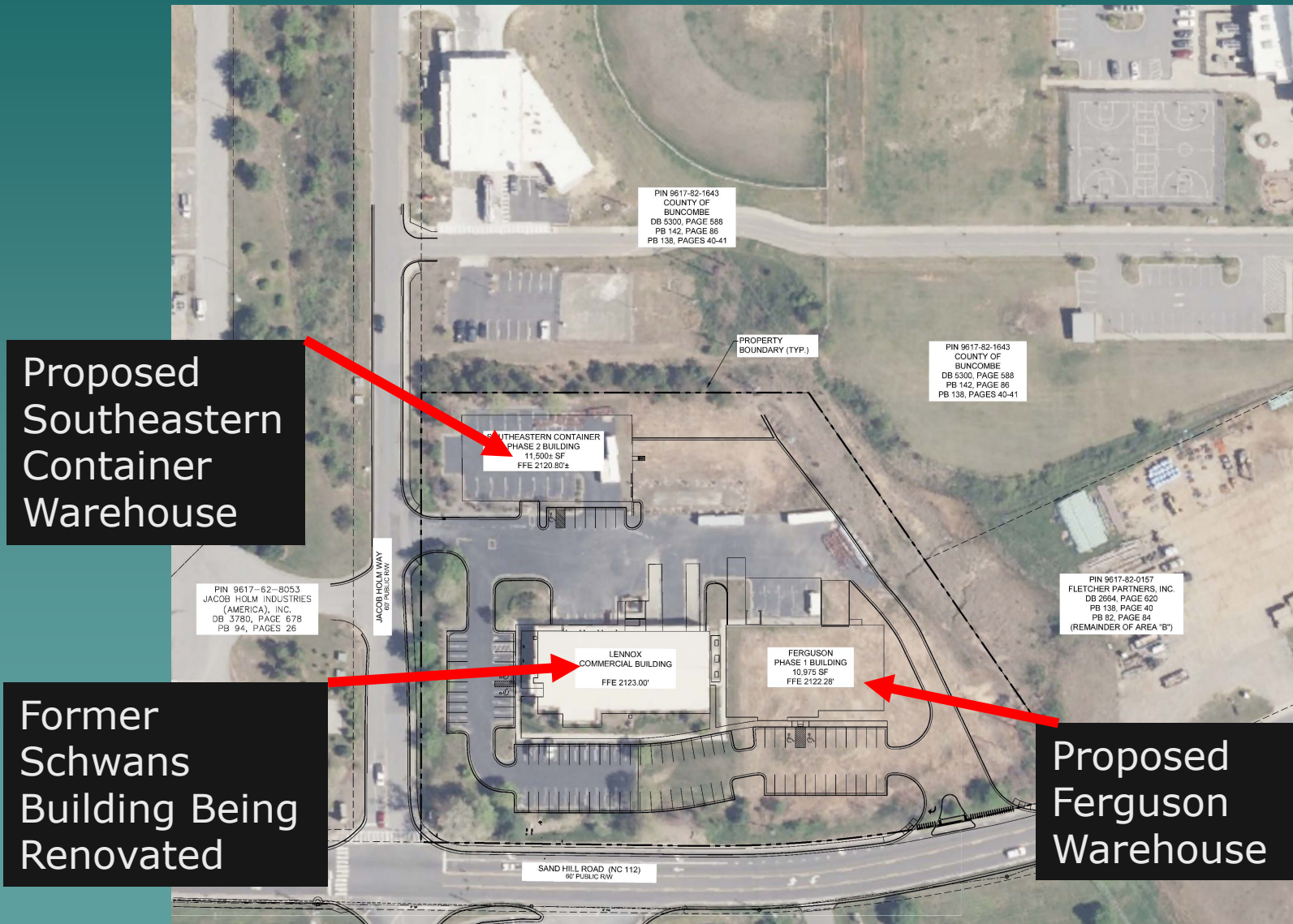
(NOTARIAL SEAL)

# Enka

## Existing Facilities



# Planned Expansion of Former Schwans Site



# Existing Sewer Service Location

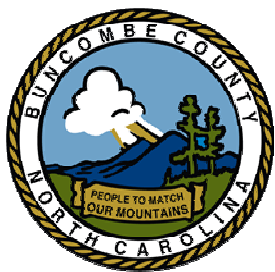


Existing Private  
Sewer Service  
Located on County  
Property

# Proposed Public Sewer Line

Replace Existing  
Service with New  
Public MSD Sewer  
Line





## Buncombe County Board of Commissioners

### Request for Board Action

**Meeting Date: December 5, 2022**

#### Consent Agenda

**Department:**  
Emergency Services

**Presenter(s):**  
John Hudson, Budget

**Contact(s):** Angela Ledford, Emergency Services

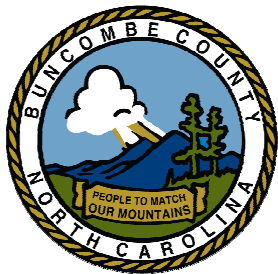
**Subject:** NC USAR Task Force 2 Deployment Reimbursement - Jackson County Deployment

**Brief Summary:** The North Carolina Urban Search and Rescue Task Force 2 (NCUSAR TF2) is hosted by Buncombe County Emergency Management and includes membership from Fire Departments throughout the County. This team is deployable as a State asset and costs for State Missions are reimbursed. NCUSAR TF2 deployed on State Mission #290809 5/26 - 5/27/2022 in response to flood warning in Jackson County. \$9,004 has been received from NCDPS to reimburse costs associated with this Mission. Of this amount \$457 was for Equipment Maintenance, \$234 was for Materials purchased and \$8313 was for the Fire Departments that supplied staff and vehicles for this mission. Reimbursement for deployments typically involves significant lag time and overlaps fiscal years.

**Recommended Motion & Requested Action:** Approve budget amendment

**County Manager's Comments & Recommendation:** County Manager recommends as presented

ORDINANCE #22-12-03



**BUNCOMBE COUNTY, NORTH CAROLINA**  
**General Fund**

**BOARD MEETING DATE: December 5, 2022**

**WHEREAS**, the Budget Director recommends and the Board now desires to amend the FY2022-2023 General Fund as outlined below in Exhibit "A" to the budget,

**NOW THEREFORE,**

**BE IT ORDAINED** by the Board of Commissioners for the County of Buncombe as follows:

1. That the FY2022-2023 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

**ADOPTED** this 5th day of December, 2022

|                               |                                                                |
|-------------------------------|----------------------------------------------------------------|
| <b>Requesting Department:</b> | Emergency Services                                             |
| <b>Budget Amendment Item:</b> | NC USAR Task Force 2 Reimbursement - Jackson County Deployment |

**Description:** The North Carolina Urban Search and Rescue Task Force 2 (NCUSAR TF2) is hosted by Buncombe County Emergency Management and includes membership from Fire Departments throughout the County. This team is deployable as a State asset and costs for State Missions are reimbursed. NCUSAR TF2 deployed on State Mission #290809 5/26 - 5/27/2022 in response to flood warning in Jackson County. \$9,004 has been received from NCDPS to reimburse costs associated with this Mission. Of this amount \$457 was for Equipment Maintenance, \$234 was for Materials purchased and \$8313 was for the Fire Departments that supplied staff and vehicles for this mission. Reimbursement for deployments typically involves significant lag time and overlaps fiscal years.

**Funding Source:**  
NC Department of Public Safety

| <b>Exhibit A:</b><br><b>Account Description</b>                      | <b>Increase (Decrease)</b> |                     |
|----------------------------------------------------------------------|----------------------------|---------------------|
|                                                                      | <b>Revenues</b>            | <b>Expenditures</b> |
| Fund 100 - Emergency Services - Emergency Management - State Revenue | \$ 9,004                   |                     |
| Fund 100 - Emergency Services - Expenditures                         |                            | \$ 9,004            |
| <b>TOTAL</b>                                                         | <b>\$ 9,004</b>            | <b>\$ 9,004</b>     |

**ATTEST:**

**BOARD OF COMMISSIONERS FOR  
THE COUNTY OF BUNCOMBE:**

  
Clerk to the Board

By:   
Chairman of the Board



**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Good News**

**Department:** County Manager's Office

**Presenter(s):** Sheriff Quentin Miller

**Contact(s):** Avril Pinder, County Manager

**Subject:** 2022 Dogwood Awards

**Brief Summary:** On Nov. 22, N.C. Attorney General Josh Stein announced Sarah Gayton and Maia Hughes as recipients of the 2022 Dogwood Awards. The two were recognized for their work fighting the opioid crisis. Gayton is an employee of the Buncombe County Sheriff's Office, and Hughes is with Sunrise Community for Recovery and Wellness. Together, they help provide medication assisted treatment for justice-involved individuals suffering from opioid use disorder. The Dogwood Awards recognize North Carolinians who help to make their communities safer, stronger, and healthier.



**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Presentation**

**Department: Finance**

**Presenter(s): Don Warn**

**Contact(s): Don Warn**

**Subject: Fiscal Year End 2022 Audit Presentation**

**Brief Summary:** The Board contracted with CliftonLarsonAllen LLP (CLA) to conduct the annual audit for the fiscal year ending June 30, 2022. The audit has been completed and CLA will be presenting the results of the audit to the Board and will answer any questions the Board may have.

**Recommended Motion & Requested Action:** Accept the audit as presented.

**County Manager's comments and Recommendation:** Accept the audit as presented.



# Buncombe County, North Carolina

## Presentation of 2022 Audit Results to the Board of County Commissioners

December 5, 2022

*We'll get you there.*

CPAs | CONSULTANTS | WEALTH ADVISORS

CLA (CliftonLarsonAllen LLP) is an independent network member of CLA Global.  
See [CLAGlobal.com/disclaimer](https://claglobal.com/disclaimer). Investment advisory services are offered through  
CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.  
©2022 CliftonLarsonAllen LLP

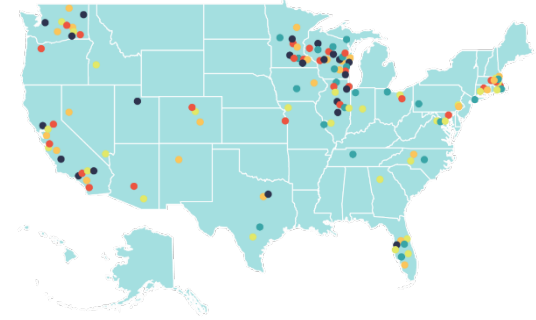
# Our Purpose

- CLA is the 8th largest public accounting firm in the country. **CLA exists to create opportunities for our clients, our people, and our communities** through industry-focused wealth advisory, digital, audit, tax, consulting, and outsourcing services.

7,500+  
PEOPLE

125+  
U.S. LOCATIONS

AN INDEPENDENT  
NETWORK MEMBER OF  
CLA Global



# Audit Services Performed

## Financial Statements

- Audit of the County's Annual Comprehensive Financial Report (ACFR) for the year ended June 30, 2022, in accordance with *Government Auditing Standards*

## Federal and State Compliance

- Single Audit in accordance with Uniform Guidance and the State Single Audit Implementation Act
- Includes audit of the Schedule of Expenditures of Federal and State Awards (SEFSA) and certification of the Data Collection Form



# Reports Delivered

Independent Auditors' Report

Independent Auditors' Report on  
Internal Control over Financial  
Reporting and on Compliance  
and Other Matters Based on an  
Audit of Financial Statements  
Performed in Accordance with  
*Government Auditing Standards*

Independent Auditors' Report  
on Compliance For Each Major  
Federal and State Program and  
Report on Internal Control Over  
Compliance Required by the  
Uniform Guidance and State  
Single Audit Implementation Act

Governance Communication  
Letter



# Required Communications to Governance

- Auditors' Opinion on Financial Statements
  - Unmodified opinion
  - Emphasis of Matter Paragraph
    - Implementation of GASB 87 – *Leases* – Our opinion was not modified as a result of this matter
- Auditors' Opinion on Compliance
  - Unmodified opinion
- Scope and timing of audit proceeded as planned
- Significant accounting policies
  - In accordance with generally accepted accounting principles and consistent with industry practices and standards
- Change in accounting policies
  - Required application of GASB Statement No. 87 – *Leases* during 2022



# Required Communications to Governance

- Significant risks identified and built into our audit plan
  - Management override of internal controls
  - Revenue recognition
- No material audit adjustments
- Uncorrected misstatements
  - Reconciling items in unearned revenue
  - Reconciling items in landfill post-closure liability
- No difficulties encountered in performing the audit
- No disagreements with management
- Management was very cooperative, helpful, and professional during the audit process — ***THANK YOU!***



# Financial Statement Reported Findings



- None reported
- Suggestions and comments related to process improvements were made verbally to County management. None rose to a level of reportable finding.



# Highlights of Financial Position as of June 30, 2022

- Management's Discussion and Analysis – Pages 7 through 17
- General Fund Financial Statements – Pages 24 and 26
  - Total Fund Balance of \$124.3 million
  - Components of Fund Balance:
    - Total Nonspendable Fund Balance of \$0.5 million
    - Total Restricted Fund Balance of \$32.0 million
    - Total Committed Fund Balance of \$1.8 million
    - Total Assigned Fund Balance of \$15.9 million
    - Total Unassigned Fund Balance of \$74.1 million
  - Increase in Fund Balance of \$7.7 million
- General Fund Schedule of Revenue, Expenditures and Changes in Fund Balance – Budget to Actual – Pg. 29
  - Revenues were \$13.6 million above budget
  - Expenditures were \$18.8 million less than budgeted
  - Increase in Fund Balance was \$7.7 million compared to a budgeted decrease of \$27.7 million



# Single Audit Results

- Major Federal Programs Tested
  - Coronavirus State and Local Fiscal Recovery Funds (CSLFRF)
  - Emergency Rental Assistance
  - Foster Care – Title IV-E
  - Medicaid Cluster
- Major State Programs Tested
  - Public School Building Programs
  - Juvenile Crime Prevention Council Programs



# Single Audit Results

- Single Audit Reports Issued
  - Independent Auditors' Report on Compliance for Each Major Federal Program and Report on Internal Control Over Compliance, In Accordance With OMB Uniform Guidance and the State Single Audit Implementation Act
    - Unmodified opinion
    - 1 finding reported
      - 2022-001 – Significant Deficiency in Internal Control – Missing documented verification of a vendor's suspension and debarment status – Coronavirus State and Local Fiscal Recovery Funds
  - Independent Auditors' Report on Compliance for Each Major State Program and Report on Internal Control Over Compliance, In Accordance With OMB Uniform Guidance and the State Single Audit Implementation Act
    - Unmodified opinion
    - No reported findings





Thank you to everyone who  
assisted during the audit!

*We'll get you there.*

CPAs | CONSULTANTS | WEALTH ADVISORS

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CliftonLarsonAllen Wealth Advisors, LLC, an SEC-registered investment advisor.  
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Questions?

Christopher Kessler, CPA  
Principal

[Chris.Kessler@CLAconnect.com](mailto:Chris.Kessler@CLAconnect.com)



CLAconnect.com



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## Buncombe County Board of Commissioners

### Request for Board Action

Meeting Date: 12/5/2022

#### Public Hearings

**Department:** Planning & Development, Community Development Division

**Presenter(s):** Matthew Cable    **Contact(s):** Matthew Cable, William High

**Subject:** FY 2024 Annual Section 5311 Capital Grant Application

**Brief Summary:** Buncombe County's Community Transportation System, Mountain Mobility, provides transportation to senior adults, persons with disabilities, clients of human service agencies, members of the general public (outside of the City of Asheville), clients of Medicaid (under contract), and citizens of the City of Asheville eligible for ADA Complimentary Paratransit (under contract).

Buncombe County is a designated applicant/recipient of state and federal transportation funds made available through North Carolina Department of Transportation (NCDOT). Designated applicants/recipients must possess the technical and financial capacity to: (1) apply for, administer, operate, and carry out transportation projects; and (2) comply with all applicable state and federal laws, regulations, and guidelines.

Section 5311 Capital Grant funds help offset costs of capital (transit vehicles, bi-fuel propane conversion kits, and on-board camera systems). The FY 2024 Section 5311 Capital Grant Application budget is summarized below.

| Section 5311 Capital Grant |         |             |
|----------------------------|---------|-------------|
| Source                     | Percent | Funding     |
| Federal Share              | 80%     | \$1,671,107 |
| State Share                | 10%     | \$208,888   |
| Local Share                | 10%     | \$208,889   |
| Total Expenditures         | 100%    | \$2,088,884 |

The FY 2024 Section 5311 Capital Grant application requires a public hearing. Notice of the public hearing were: (1) published in the Asheville Citizen-Times; (2) posted on the Buncombe County website; and (3) distributed to various organizations and groups with an interest in transportation services provided. The Board, at its September 20, 2022 meeting, approved the necessary associated authorizing resolutions for Section 5311 Grant applications.

**Recommended Motion & Requested Action:** The Board of Commissioners hold a public hearing and authorize the Chairperson to execute an application for FY 2024 Section 5311 Capital Grant Funding.

**County Manager's Comments and Recommendation:** Hold a public hearing and authorize the Chairperson as recommended.

**RESOLUTION NO. 22-09-14**

**RESOLUTION AUTHORIZING THE CHAIRMAN TO EXECUTE AN APPLICATION FOR  
FY 2024 PUBLIC TRANSPORTATION PROGRAM FUNDING,  
ENTER INTO AGREEMENT WITH THE NORTH CAROLINA DEPARTMENT OF TRANSPORTATION,  
AND TO PROVIDE THE NECESSARY ASSURANCES AND LOCAL MATCH**

- WHEREAS, Article 2B of Chapter 136 of the North Carolina General Statutes and the Governor of North Carolina have designated the North Carolina Department of Transportation (NCDOT) as the agency responsible for administering federal and state public transportation funds; and
- WHEREAS, the North Carolina Department of Transportation will apply for a grant from the US Department of Transportation, Federal Transit Administration and receives funds from the North Carolina General Assembly to provide assistance for rural public transportation projects; and
- WHEREAS, the program funding may include funding from Section 5311 (including ADTAP), 5310, 5339, 5307 and applicable State funding, or combination thereof; and
- WHEREAS, the purpose of these transportation funds is to provide grant monies to local agencies for the provision of rural, small urban, and urban public transportation services consistent with the policy requirements of each funding source for planning, community and agency involvement, service design, service alternatives, training and conference participation, reporting and other requirements (drug and alcohol testing policy and program, disadvantaged business enterprise program, and fully allocated costs analysis); and
- WHEREAS, the funds applied for may be Administrative, Operating, Planning, or Capital funds and will have different percentages of federal, state, and local funds; and
- WHEREAS, non-Community Transportation applicants may apply for funding for “purchase of service” projects under the Section 5310 program (required to be stated in this resolution but not applicable to Buncombe County/Mountain Mobility);
- WHEREAS, Buncombe County hereby assures and certifies that it will provide the required local matching funds; that its staff has the technical capacity to implement and manage the project(s), prepare required reports, obtain required training, attend meetings and conferences; and agrees to comply with the federal and state statutes, regulations, executive orders, Section 5333(b) Warranty, and all administrative requirements related to the applications made to and grants received from the Federal Transit Administration, as well as the provisions of Section 1001 of Title 18, U.S.C.; and
- WHEREAS, the applicant has or will provide all annual certifications and assurances to the State of North Carolina required for the project.

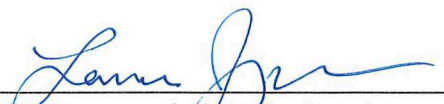
NOW, THEREFORE, BE IT RESOLVED by the Board of Commissioners for the County of Buncombe as follows:

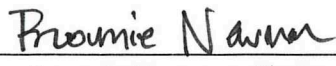
1. That the Chairperson of the Buncombe County Board of Commissioners is hereby authorized to submit grant application(s) for federal and state funding in response to NCDOT's calls for projects, make the necessary assurances and certifications, and be empowered to enter into an agreement with the NCDOT to provide rural, small urban, and urban public transportation services.
2. That this Resolution is effective upon its adoption.

Adopted this 20<sup>th</sup> day of September, 2022.

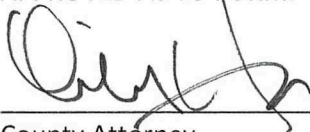
ATTEST:

BOARD OF COMMISSIONERS  
FOR THE COUNTY OF BUNCOMBE

  
Lamar Joyner, Clerk to the Board

By:   
Brownie Newman, Chairperson

APPROVED AS TO FORM:

  
County Attorney

Certifying Official's Statement

I, Lamar Joyner, Clerk to the Board, do hereby certify that a motion was made by AMANDA EDWARDS and seconded by ROBERT PRESSLEY for the adoption of the attached Resolution, and upon being put to a vote was duly adopted at a meeting duly held by the Buncombe County Board of Commissioners on November 17, 2020. I further certify that the attached Resolution is a true and correct copy of the Resolution adopted.



Lamar Joyner  
(Signature of Certifying Official)

Buncombe County Board of Commissioners  
(Name of Local Governing Board)

\*\*\*\*\*

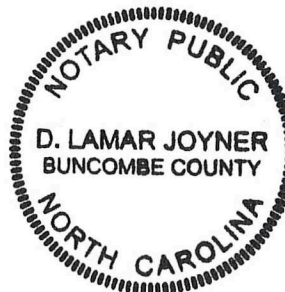
Subscribed and sworn to me this 20<sup>TH</sup> day of SEPTEMBER, 2022

D. Lamar Joyner  
Notary Public Signature

(NOTARY SEAL)

D. LAMAR JOYNER  
Printed Name  
200 COLLEGE STREET  
ASHEVILLE, NC 28801  
Address

8-30-2023  
Commission Expires



*\*Note that the official authorized to submit the grant application, the certifying official, and the notary public must be three (3) separate individuals.*



# FY24 SECTION 5311 CAPITAL GRANT APPLICATION

*Presented by*

Matthew Cable

Community Development Division



# FY24 5311 CAPITAL GRANT FUNDING SUMMARY

\$1,671,107 Federal Funds

\$208,888 State Funds

\$208,889 Local Match

---

\$2,088,884 Total



# GRANT PURPOSES

- 6 Raised Roof Van (Lift; Propane Conversion)
- 2 Raised Roof Van (Propane Conversion)
- 6 20' Light Transit Vehicle (Lift; Propane Conversion)
- 2 22' Light Transit Vehicle (Lift; Propane Conversion)
- Camera System Replacement (43 Vehicles)



# REQUEST FOR BOARD ACTION

- Hold a public hearing
- Authorize the Chairperson to execute an application for FY 2024 Section 5311 Capital Grant Funding





**Buncombe County Board of Commissioners**  
**Request for Board Action**  
**Meeting Date: 12/5/2022**

**Old Business**

**Department: Finance**

**Presenter(s): Don Warn**

**Contact(s): Don Warn/Michael Frue**

**Subject: Resolution Declaring the Results from the Special Bond Referendum on the Bond Orders**

**Brief Summary:** The County held a special bond referendum on the bond orders authorizing issuance of \$30 million General Obligation Open Space Bonds and authorizing the issuance of \$40 million General Obligation Affordable Housing Bonds and both ballot items passed.

For the issuance of General Obligation bonds, the Board of Commissioners it is required to approve a resolution certifying and declaring the results of the election.

**Recommended Motion & Requested Action:** Approve the resolutions as presented.

**County Manager's comments and Recommendation:** Approve the resolution as presented.

RESOLUTION # 22-12-04

EXTRACTS FROM MINUTES OF BOARD OF COMMISSIONERS

\* \* \*

A regular meeting of the Board of Commissioners of the County of Buncombe, North Carolina was duly held on December 5, 2022 at 5:00 p.m. the Commission Chambers, 200 College Street, Room 326, Asheville, North Carolina. Chairman Newman presiding.

The following members were present: Newman, Wells, Martin, Whitesides, Edwards, Sloan, and Beach-Ferrara

The following members were absent:

\* \* \* \* \*  
\* \* \*

Commissioner Wells introduced the following resolution, a summary of which had been provided to each Commissioner, a copy of which was available with the Clerk to the Board of Commissioners and which was read by title:

**RESOLUTION CERTIFYING AND DECLARING THE RESULTS OF THE SPECIAL BOND REFERENDUM ON THE BOND ORDERS AUTHORIZING THE ISSUANCE OF \$30,000,000 GENERAL OBLIGATION OPEN SPACE BONDS, AUTHORIZING THE ISSUANCE OF \$40,000,000 GENERAL OBLIGATION HOUSING BONDS HELD FOR THE COUNTY OF BUNCOMBE, NORTH CAROLINA ON NOVEMBER 8, 2022**

**WHEREAS**, the Board of the County of Buncombe, North Carolina has considered the Certificate of Canvass of the Buncombe County Board of Elections canvassing the referendum held for the County of Buncombe, North Carolina on November 8, 2022 and certifying the result thereof to the Board and has canvassed the result of said Referendum.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF COMMISSIONERS OF THE COUNTY OF BUNCOMBE, NORTH CAROLINA** that it be and hereby is certified and declared that the number of voters registered and qualified to vote at said Referendum was 209,476.

**BE IT FURTHER RESOLVED**, that it be and hereby is certified and declared that the total number of voters who voted “Yes” in answer to the question

“*SHALL* the order authorizing \$30,000,000 of bonds to pay the capital costs of acquisition and improvement of land or interests therein for conservation and protection of natural resources and preservation of farmland, including but not limited to, the development of greenways and trails for recreation purposes, and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?”;

was 79,365. The total number of voters who voted “No” in answer to such question was 35,859. The question in the form submitted was APPROVED by the affirmative vote of a majority of those who voted thereon at said referendum.

**BE IT FURTHER RESOLVED**, that it be and hereby is certified and declared that the total number of voters who voted “Yes” in answer to the question

“SHALL the order authorizing \$40,000,000 of bonds to pay the capital costs of housing for the benefit of persons of low or moderate income, including construction of related infrastructure improvements and the acquisition of related land and rights-of-way, and providing that additional taxes may be levied in an amount sufficient to pay the principal of and interest on the bonds be approved?”;

was 71,373. The total number of voters who voted “No” in answer to such question was 43,909. The question in the form submitted was APPROVED by the affirmative vote of a majority of those who voted thereon at said referendum.

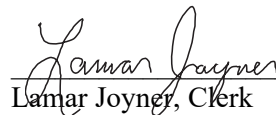
**BE IT FURTHER RESOLVED**, that a statement substantially in the form hereinafter set forth declaring the result of said referendum shall be prepared, delivered to the Clerk to the Board of Commissioners for filing and recordation and published in accordance with law.

**BE IT FURTHER RESOLVED**, that this Resolution shall become effective on the date of its adoption.

*PASSED, ADOPTED AND APPROVED* this 5th day of December 2022.

ATTEST

BOARD OF COMMISSIONERS FOR THE  
COUNTY OF BUNCOMBE

  
Lamar Joyner, Clerk

By:   
Brownie Newman, Chairman

APPROVED AS TO FORM

  
County Attorney

STATE OF NORTH CAROLINA                    )  
                                                          )  
COUNTY OF BUNCOMBE                    )           ss:

I, LAMAR JOYNER, the CLERK TO THE BOARD OF COMMISSIONERS of the County of Buncombe, North Carolina, ***DO HEREBY CERTIFY*** that the foregoing is a true and exact copy of a resolution entitled “**RESOLUTION CERTIFYING AND DECLARING THE RESULTS OF THE SPECIAL BOND REFERENDUM ON THE BOND ORDERS AUTHORIZING THE ISSUANCE OF \$30,000,000 GENERAL OBLIGATION OPEN SPACE BONDS, AND AUTHORIZING THE ISSUANCE OF \$40,000,000 GENERAL OBLIGATION HOUSING BONDS HELD FOR THE COUNTY OF BUNCOMBE, NORTH CAROLINA ON NOVEMBER 8, 2022**” adopted by the Board of Commissioners of the County of Buncombe, North Carolina, at a meeting held on the 5th day of December, 2022, the reference having been made in Minute Book \_\_\_\_\_, and recorded in full in Resolution Book \_\_\_\_\_, Page(s) \_\_\_\_\_.

***WITNESS*** my hand and the corporate seal of the County of Buncombe, North Carolina, this the \_\_\_\_ day of December, 2022.

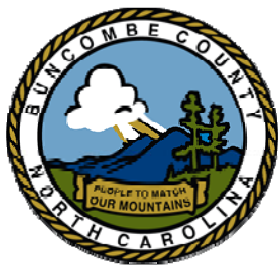
(SEAL)

  
\_\_\_\_\_  
LAMAR JOYNER  
Clerk to the Board of Commissioners  
County of Buncombe, North Carolina

### 2023 BOC Meeting Schedule (tentative)

Meetings occur the 1<sup>st</sup> and 3<sup>rd</sup> Tuesday of every month (unless specified) in the Commissioner's Chambers located at 200 College Street, 3<sup>rd</sup> floor.

| Meeting Date                                                                  | Meeting Time/Type                       |
|-------------------------------------------------------------------------------|-----------------------------------------|
| Jan 3 <sup>rd</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| Jan 17 <sup>th</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| Feb 7 <sup>th</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| Feb 21 <sup>st</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| March 7 <sup>th</sup>                                                         | 3pm- Briefing, 5pm- Regular BOC meeting |
| March 21 <sup>st</sup>                                                        | 3pm- Briefing, 5pm- Regular BOC meeting |
| April 4 <sup>th</sup>                                                         | 3pm- Briefing, 5pm- Regular BOC meeting |
| April 18 <sup>th</sup>                                                        | 3pm- Briefing, 5pm- Regular BOC meeting |
| May 2 <sup>nd</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| May 16 <sup>th</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| June 6 <sup>th</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| June 20 <sup>th</sup>                                                         | 3pm- Briefing, 5pm- Regular BOC meeting |
| July 5 <sup>th</sup> (Wednesday)                                              | 3pm- Briefing, 5pm- Regular BOC meeting |
| July 20 <sup>th</sup> (commissioners have cancelled this meeting in the past) | 3pm- Briefing, 5pm- Regular BOC meeting |
| Aug 1 <sup>st</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| Aug 15 <sup>th</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| Sept 5 <sup>th</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| Sept 19 <sup>th</sup>                                                         | 3pm- Briefing, 5pm- Regular BOC meeting |
| Oct 3 <sup>rd</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| Oct 17 <sup>th</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| Nov 7 <sup>th</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| Nov 21 <sup>st</sup>                                                          | 3pm- Briefing, 5pm- Regular BOC meeting |
| Dec 5 <sup>th</sup>                                                           | 3pm- Briefing, 5pm- Regular BOC meeting |
| Dec 19 <sup>th</sup> (commissioners have cancelled this meeting in the past)  | 3pm- Briefing, 5pm- Regular BOC meeting |



## Buncombe County Board of Commissioners

### Request for Board Action

**Meeting Date: December 5, 2022**

#### New Business

**Department:**

Health and Human Services

**Presenter(s):**

John Hudson, Budget

**Contact(s):**

Stoney Blevins, Health and Human Services Director  
Stacie Saunders, Public Health Director

**Subject:**

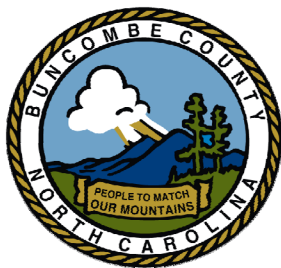
Reissuance of AA716 CDC COVID-19 Vaccination Program

**Brief Summary:** The state is issuing the second portion of the remaining balance of DHHS Agreement Addendum (AA) 716 Centers for Disease Control and Prevention COVID-19 Vaccination Program in the amount of \$309,269. The first portion was reviewed and approved in early September 2022. This funding will continue to carry over until all funds are spent or until June 30, 2024, whichever occurs first. The purpose of AA716 is to continue activities that focus on coordinating and expanding COVID-19 vaccine services, with an emphasis on reaching those disproportionately affected by COVID-19. HHS will use funds to support these services, including paying for such items as mobile outreach operations, contract nurse vaccination staff, medical supplies and marketing/advertising.

**Recommended Motion & Requested Action:** Approve budget amendment

**County Manager's Comments & Recommendation:** County Manager recommends as presented

ORDINANCE #22-12-05



**BUNCOMBE COUNTY, NORTH CAROLINA**  
**General Fund**

**BOARD MEETING DATE: December 5, 2022**

**WHEREAS**, the Budget Director recommends and the Board now desires to amend the FY2022-2023 General Fund as outlined below in Exhibit "A" to the budget,

**NOW THEREFORE,**

**BE IT ORDAINED** by the Board of Commissioners for the County of Buncombe as follows:

1. That the FY2022-2023 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

**ADOPTED** this 5th day of December, 2022

|                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |                                                      |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------|
| <b>Requesting Department:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Health and Human Services                            |
| <b>Budget Amendment Item:</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  | Reissuance of AA716 CDC COVID-19 Vaccination Program |
| <b>Description:</b> The state is issuing the second portion of the remaining balance of DHHS Agreement Addendum (AA) 716 Centers for Disease Control and Prevention COVID-19 Vaccination Program in the amount of \$309,269. The first portion was reviewed and approved in early September 2022. This funding will continue to carry over until all funds are spent or until June 30, 2024, whichever occurs first. The purpose of AA716 is to continue activities that focus on coordinating and expanding COVID-19 vaccine services, with an emphasis on reaching those disproportionately affected by COVID-19. HHS will use funds to support these services, including paying for such items as mobile outreach operations, contract nurse vaccination staff, medical supplies and marketing/advertising. |                                                      |

|                                                                                                                                                                                                                                                           |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <b>Funding Source:</b>                                                                                                                                                                                                                                    |
| DPH Aid to Counties: AA716 CDC COVID-19 Vaccination Program / Centers for Disease Control and Prevention-Women's and Children's Health Section/Immunization Branch; CFDA#93.269 - Coronavirus Response and Relief Supplemental Appropriations Act of 2021 |

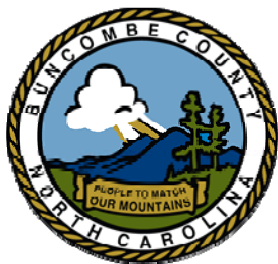
| <b>Exhibit A:</b>                             | <b>Increase (Decrease)</b> |                     |
|-----------------------------------------------|----------------------------|---------------------|
| <b>Account Description</b>                    | <b>Revenues</b>            | <b>Expenditures</b> |
| Fund 100 Restricted Intergovernmental Revenue | \$ 309,269                 |                     |
| Fund 100 Public Health AA716                  |                            | \$ 309,269          |
| <b>TOTAL</b>                                  | <b>\$ 309,269</b>          | <b>\$ 309,269</b>   |

**ATTEST:**

**BOARD OF COMMISSIONERS FOR  
THE COUNTY OF BUNCOMBE:**

  
Clerk to the Board

By:   
Chairman of the Board



## Buncombe County Board of Commissioners

### Request for Board Action

**Meeting Date: December 5, 2022**

#### New Business

**Department:**

Health and Human Services

**Presenter(s):**

John Hudson, Budget

**Contact(s):**

Stoney Blevins, Health and Human Services Director  
Stacie Saunders, Public Health Director

**Subject:**

Safer Together Grant Extension

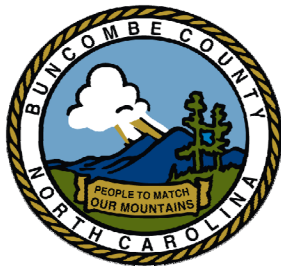
**Brief Summary:** The Safer Together Grant has been granted an extension to use the remaining funds of \$456,100 through 9/30/23. Funds will be used to continue Post-Overdose Response Team model to engage individuals who have overdosed within the past 24-72 hours through Behavioral Health counseling and peer support case management; provide Medication Assisted Treatment; and infectious disease prevention and intervention. The original ordinance budgeted the grant at the line level; this budget amendment adjusts the expenditure lines. Some of the funds will be used to continue one temporary fully grant funded Program Manager position. No new funding is being provided.

#### Recommended Motion & Requested Action:

- 1) Approve budget amendment.
- 2) Extend one (1) grant funded position, as long as grant funding is available.

**County Manager's Comments & Recommendation:** County Manager recommends as presented

## ORDINANCE #22-12-06



# BUNCOMBE COUNTY, NORTH CAROLINA

## Grant Projects Ordinance

BOARD MEETING DATE: December 5, 2022

**WHEREAS**, the Budget Director recommends and the Board now desires to amend the FY2022-2023 Grants Projects outlined below in Exhibit "A" to the budget,

**NOW THEREFORE**,

**BE IT ORDAINED** by the Board of Commissioners for the County of Buncombe as follows:

1. That the FY2022-2023 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

**ADOPTED** this 5th day of December, 2022

|                         |                            |
|-------------------------|----------------------------|
| <b>Granting Agency:</b> | U.S. Department of Justice |
| <b>Grant Name:</b>      | Safer Together Grant       |

**Description:** The Safer Together Grant has been granted an extension to use the remaining funds of \$456,100 through 9/30/23. Funds will be used to continue Post-Overdose Response Team model to engage individuals who have overdosed within the past 24-72 hours through Behavioral Health counseling and peer support case management; provide Medication Assisted Treatment; and infectious disease prevention and intervention. The original ordinance budgeted the grant at the line level; this budget amendment adjusts the expenditure lines. Some of the funds will be used to continue one temporary fully grant funded Program Manager position. No new funding is being provided.

**Funding Source:** U.S. Department of Justice FY 19 Comprehensive Opioid Abuse Site-based Program

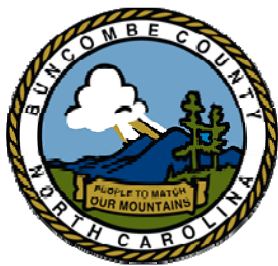
| Exhibit A:<br>Account Description                                                               | Increase (Decrease) |              |
|-------------------------------------------------------------------------------------------------|---------------------|--------------|
|                                                                                                 | Revenues            | Expenditures |
| Public Health Admin Projects/Grants 5000:Salaries and Wages-Salary                              |                     | \$ (205,385) |
| Public Health Admin Projects/Grants 5000:Salaries and Wages-Longevity                           |                     | \$ (200)     |
| Public Health Admin Projects/Grants 5030:Benefits-Employer 401(k)                               |                     | \$ (16,401)  |
| Public Health Admin Projects/Grants 5030:Benefits-Health Insurance                              |                     | \$ (73,000)  |
| Public Health Admin Projects/Grants 5030:Benefits-Life Insurance                                |                     | \$ (336)     |
| Public Health Admin Projects/Grants 5030:Benefits-Payroll Taxes                                 |                     | \$ (15,717)  |
| Public Health Admin Projects/Grants 5030:Benefits-State Retirement                              |                     | \$ (18,385)  |
| Public Health Admin Projects/Grants 6020:Travel and Training-Travel                             |                     | \$ (29,800)  |
| Public Health Admin Projects/Grants 6060:Office Expenses-Office Supplies                        |                     | \$ (109,185) |
| Public Health Admin Projects/Grants 6090:Contract and Professional Services-Contracted Services |                     | \$ (397,900) |
| Public Health Admin Projects/Grants 6110:Medical Supplies-Pharmaceuticals                       |                     | \$ (75,000)  |
| Public Health Admin Projects/Grants 6110:Medical Supplies-Medical Supplies                      |                     | \$ (10,500)  |
| Expenditures: Safer Together Grant                                                              |                     | \$ 951,809   |
| <b>TOTAL</b>                                                                                    | \$ -                | \$ -         |

**ATTEST:**

**BOARD OF COMMISSIONERS FOR  
THE COUNTY OF BUNCOMBE:**

*Lamar Jaynes*  
Clerk to the Board

By: *Brownie*  
Chairman of the Board



## Buncombe County Board of Commissioners

### Request for Board Action

**Meeting Date: December 5, 2022**

#### New Business

**Department:**

Strategic Partnerships

**Presenter(s):**

John Hudson, Budget Director

**Contact(s):**

John Hudson, Budget Director  
Rachael Nygaard, Strategic Partnerships Director

**Subject:**

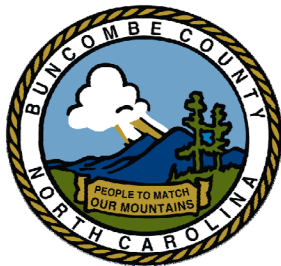
Local Assistance and Tribal Consistency Funding

**Brief Summary:** The US Department of the Treasury announced the release of Local Assistance and Tribal Consistency Fund (LATCF) payments to eligible counties under the American Rescue Plan Act (ARPA). Buncombe County is eligible for a total of \$153,438 which is paid in two equal payments. The first payment has been received and the second payment will be received in calendar year 2023. The funds may be used for any governmental purpose other than a lobbying activity. There is no expiration date for use of the funds. The County intends to utilize the LATCF to fund the Call for Equity Mural Project as well as additional public art projects with any remaining funds.

**Recommended Motion & Requested Action:** Approve budget amendment

**County Manager's Comments & Recommendation:** County Manager recommends as presented

ORDINANCE #22-12-07



**BUNCOMBE COUNTY, NORTH CAROLINA**  
**Special Projects Ordinance**

**BOARD MEETING DATE: December 5, 2022**

**WHEREAS**, the Budget Director recommends and the Board now desires to amend the FY2022-2023 Special Projects outlined below in Exhibit "A" to the budget,

**NOW THEREFORE,**

**BE IT ORDAINED** by the Board of Commissioners for the County of Buncombe as follows:

1. That the FY2022-2023 amendments listed in Exhibit A below be hereby adopted.
2. That this ordinance shall be effective upon adoption.

**ADOPTED** this 5th day of December, 2022

**Project Name:** Local Assistance and Tribal Consistency Funding

**Description:**

The US Department of the Treasury announced the release of Local Assistance and Tribal Consistency Fund (LATCF) payments to eligible counties under the American Rescue Plan Act (ARPA). Buncombe County is eligible for a total of \$153,438 which is paid in two equal payments. The first payment has been received and the second payment will be received in calendar year 2023. The funds may be used for any governmental purpose other than a lobbying activity. There is no expiration date for use of the funds. The County intends to utilize the LATCF to fund the Call for Equity Mural Project as well as additional public art projects with any remaining funds.

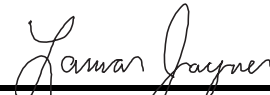
**Funding Source:**

US Treasury Department - American Rescue Plan Act, Local Assistance and Tribal Consistency Fund

| <b>Exhibit A:</b><br><b>Account Description</b>   | <b>Increase (Decrease)</b> |                     |
|---------------------------------------------------|----------------------------|---------------------|
|                                                   | <b>Revenues</b>            | <b>Expenditures</b> |
| Fund 224 - FY23 Public Art Project - Revenues     | \$ 153,438                 |                     |
| Fund 224 - FY23 Public Art Project - Expenditures |                            | \$ 153,438          |
| <b>TOTAL</b>                                      | <b>\$ 153,438</b>          | <b>\$ 153,438</b>   |

**ATTEST:**

**BOARD OF COMMISSIONERS FOR  
THE COUNTY OF BUNCOMBE:**

  
Clerk to the Board

By:   
Chairman of the Board

| Board                                                              | Commissioner                                                 | Appointed             | Expiration            | Meets                                                             |
|--------------------------------------------------------------------|--------------------------------------------------------------|-----------------------|-----------------------|-------------------------------------------------------------------|
| A-B Tech Joint Advisory Committee                                  | Al Whitesides<br>Terri Wells                                 | 1/5/2021              | <i>Serve at will</i>  | Various as needed                                                 |
| Affordable Housing Subcommittee                                    | Brownie Newman<br>Amanda Edwards<br>Parker Sloan             | 1/5/2021              | 1/5/2023              | 1 <sup>st</sup> Tuesday<br>1:00 – 2:30pm                          |
| Asheville Buncombe Regional Sports Commission                      | Amanda Edwards                                               | 3/15/2022             | 3/5/2025              | 3 <sup>rd</sup> Monday<br>noon<br>Explore Asheville Office        |
| Audit Committee                                                    | Al Whitesides<br>Robert Pressley                             | 1/5/2021<br>1/5/2021  | 1/5/2025<br>1/5/2025  | Various as needed                                                 |
| Early Childhood Education & Development Committee                  | Jasmine Beach-Ferrara<br>Robert Pressley<br>Al Whitesides    | 1/5/2021              | 1/5/2023              | 1 <sup>st</sup> Tuesday<br>1:00pm                                 |
| Economic Development Coalition                                     | Al Whitesides                                                | 1/15/2019             | 1/31/2023             | Last Thursday<br>8:00am                                           |
| Environmental & Energy Stewardship Subcommittee                    | Brownie Newman<br>Terri Wells<br>Parker Sloan                | 6/15/2021             | 6/15/2024             | 3 <sup>rd</sup> Friday<br>10:00am                                 |
| Blue Horizons Community Council (fka-Energy Innovation Task Force) | Brownie Newman                                               | 1/15/2019             | <i>Serve at will</i>  | 2 <sup>nd</sup> Friday every other month<br>10:00am               |
| Health & Human Services Board                                      | Amanda Edwards                                               | 1/15/2019             | 12/6/2022             | 4 <sup>th</sup> Friday<br>11:30am<br>(Lunch provided)             |
| Juvenile Crime Prevention Council                                  |                                                              |                       |                       | 3 <sup>rd</sup> Thursday<br>8:30 – 10:00am                        |
| Justice Resource Advisory Council                                  | Jasmine Beach-Ferrara                                        | 1/2/2019              | 6/12/2025             | 1 <sup>st</sup> Friday<br>12:30 – 2:00pm                          |
| Land of Sky Regional Council                                       | Terri Wells                                                  | 1/5/2021              | <i>Serve at will</i>  | 4 <sup>th</sup> Wednesday<br>1:00pm                               |
| Land of Sky (RPO) TAC Board                                        | Parker Sloan                                                 | 1/5/2021              | <i>Serve at will</i>  | 4 <sup>th</sup> Wednesday<br>11:30am<br>Feb, May, June, Aug, Sept |
| Local Emergency Planning Committee                                 | Amanda Edwards                                               | 2/16/2021             | 2/16/2023             | Bi-monthly next meeting March 2 @ 9:00am                          |
| French Broad Metropolitan Planning Organization (MPO) TAC          | Brownie Newman<br>Parker Sloan<br>Amanda Edwards (alternate) | 1/5/2021              | <i>Serve at will</i>  | 4 <sup>th</sup> Thursday<br>1:00pm                                |
| MSD Board                                                          | Robert Pressley<br>Al Whitesides                             | 1/21/2020<br>1/5/2021 | 1/21/2023<br>1/5/2024 | 3 <sup>rd</sup> Wednesday<br>2:00pm                               |
| Riverfront Redevelopment Commission (City Board)                   | Parker Sloan                                                 | 1/5/2021              | 1/5/2024              | 2 <sup>nd</sup> Thursday<br>4:00pm                                |
| School Capital Fund Commission                                     | Brownie Newman<br>Terri Wells                                | 1/5/2021              | 1/5/2023              | 2 <sup>nd</sup> Monday<br>3:00pm                                  |
| Tourism Development Authority                                      | Robert Pressley                                              | 1/5/2021              | 1/5/2024              | 4 <sup>th</sup> Wednesday<br>9:00am                               |
| Vaya County Commissioner Advisory Board                            | Brownie Newman                                               |                       | <i>Serve at will</i>  | quarterly                                                         |